

**MOTOR VEHICLE LEASE AGREEMENTS**

2006 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Mark B. Madsen**

House Sponsor: Patrick Painter

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**LONG TITLE**

**General Description:**

This bill modifies the Motor Vehicle Business Regulation Act by amending provisions related to dealer disclosures.

**Highlighted Provisions:**

This bill:

- ▶ provides that a dealer may not issue a temporary permit or release possession of a motor vehicle unless the dealer makes certain disclosures in a contract to enter into a lease agreement;
- ▶ provides that if a dealer does not properly execute the required disclosures or if the dealer is unable to secure financing arrangements as set forth in the disclosures, a prospective lessee shall return the motor vehicle and receive a refund of all money and consideration given;
- ▶ provides that if a dealer has sold or otherwise disposed of a motor vehicle or other property traded in, the dealer shall return the amount of money equivalent to the trade-in allowance disclosed in a contract to enter into a lease agreement;
- ▶ provides that if a dealer sends a notice to a prospective lessee that the dealer has not been able to secure financing arrangements within the terms disclosed, the contract is rescinded and the prospective lessee:
  - shall return the vehicle within 48 hours of receiving the notice; and
  - is liable for all physical damage and mileage for the cost of operating the motor vehicle;
- ▶ provides procedures for a dealer to mail a written notice;



58 dealer.

59 (2) The form to be used when the dealer contracts to enter into a lease agreement for  
60 the potential lease of a motor vehicle shall read as follows:

61 "(1) THE PROSPECTIVE LESSEE OF THE MOTOR VEHICLE DESCRIBED IN  
62 THIS CONTRACT TO ENTER INTO A LEASE AGREEMENT HAS EXECUTED THE  
63 CONTRACT IN RELIANCE UPON THE DEALER'S REPRESENTATION THAT THE  
64 DEALER CAN SECURE FROM A FINANCIAL INSTITUTION FINANCING  
65 ARRANGEMENTS FOR THE LEASE OF THE MOTOR VEHICLE. THE PRIMARY  
66 TERMS OF THE FINANCING ARRANGEMENT ARE TO BE AS FOLLOWS:

67 TERM BETWEEN \_\_\_\_\_ MONTHS AND \_\_\_\_\_ MONTHS. MONTHLY  
68 PAYMENTS BETWEEN \$ \_\_\_\_\_ PER MONTH AND \$ \_\_\_\_\_ PER MONTH BASED ON  
69 A DOWN PAYMENT OR TRADE-IN ALLOWANCE OF \$ \_\_\_\_\_.

70 (2) (a) IF THE DEALER IS NOT ABLE TO SECURE FINANCING  
71 ARRANGEMENTS WITHIN THE TERMS DISCLOSED, THEN THE DEALER MUST  
72 WITHIN SEVEN CALENDAR DAYS OF THE DATE OF THE CONTRACT TO ENTER  
73 INTO A LEASE AGREEMENT MAIL NOTICE TO THE PROSPECTIVE LESSEE THAT  
74 THE DEALER HAS NOT BEEN ABLE TO SECURE FINANCING ARRANGEMENTS IN  
75 ACCORDANCE WITH THE DISCLOSED TERMS AND THE CONTRACT TO ENTER  
76 INTO A LEASE AGREEMENT IS THEREFORE RESCINDED.

77 (b) IF THE DEALER IS NOT ABLE TO SECURE FINANCING ARRANGEMENTS  
78 WITHIN THE TERMS DISCLOSED, SUCH FAILURE DOES NOT UNDER ANY  
79 CIRCUMSTANCES REQUIRE THE DEALER TO PROVIDE THE FINANCING  
80 NECESSARY FOR THE PROSPECTIVE LESSEE TO LEASE THE VEHICLE.

81 (c) IF THE CONTRACT TO ENTER INTO A LEASE AGREEMENT IS  
82 RESCINDED, THE PROSPECTIVE LESSEE HAS 48 HOURS FROM RECEIPT OF THE  
83 NOTICE TO:

84 (i) RETURN TO THE DEALER THE MOTOR VEHICLE THE PROSPECTIVE  
85 LESSEE AGREED TO LEASE;

86 (ii) PAY THE DEALER AN AMOUNT EQUAL TO THE CURRENT STANDARD  
 87 MILEAGE RATE FOR THE COST OF OPERATING A MOTOR VEHICLE ESTABLISHED  
 88 BY THE FEDERAL INTERNAL REVENUE SERVICE FOR EACH MILE THE MOTOR  
 89 VEHICLE HAS BEEN DRIVEN WHILE IN THE PROSPECTIVE LESSEE'S POSSESSION;  
 90 AND

91 (iii) COMPENSATE THE DEALER FOR ANY PHYSICAL DAMAGE TO THE  
 92 MOTOR VEHICLE WHILE THE VEHICLE WAS IN THE PROSPECTIVE LESSEE'S  
 93 POSSESSION.

94 (3) IN RETURN, UPON RECEIPT OF THE ITEMS SET FORTH IN (2)(c)(i), (ii),  
 95 and (iii) THE DEALER SHALL RETURN TO THE PROSPECTIVE LESSEE ALL  
 96 PAYMENTS OR OTHER CONSIDERATION PAID BY THE PROSPECTIVE LESSEE,  
 97 INCLUDING ANY DOWN PAYMENT AND ANY MOTOR VEHICLE TRADED IN.

98 (4) IF THE TRADE-IN HAS BEEN SOLD OR OTHERWISE DISPOSED OF  
 99 BEFORE THE CONTRACT TO ENTER INTO A LEASE AGREEMENT IS RESCINDED,  
 100 THEN THE DEALER SHALL RETURN TO THE PROSPECTIVE LESSEE A SUM  
 101 EQUIVALENT TO THE ALLOWANCE TOWARD THE LEASE PRICE GIVEN BY THE  
 102 DEALER FOR THE TRADE-IN, AS NOTED IN THE CONTRACT TO ENTER INTO A  
 103 LEASE AGREEMENT.

104 \_\_\_\_\_  
 105 (Signature of the Prospective Lessee)

106 \_\_\_\_\_  
 107 (Signature of the Dealer)"

108 (3) (a) (i) In addition to the penalties in this chapter, if the disclosure in Subsection (2)  
 109 is not properly executed or if the dealer is unable to secure financing arrangements for the  
 110 lessee as provided in Subsection (2) within seven calendar days immediately following the date  
 111 disclosed on the contract to enter into a lease agreement, then in either case the prospective  
 112 lessee may return the motor vehicle to the dealer and receive a complete refund of all money  
 113 and other consideration given to the dealer for the contract to enter into a lease agreement.

114 including any motor vehicle or property used as a trade-in.

115 (ii) If the motor vehicle or property used as a trade-in has been sold or otherwise  
116 disposed of, the dealer shall return to the prospective lessee the amount of money equivalent to  
117 the allowance towards the lease price given by the dealer for the motor vehicle or property  
118 traded in, as noted in the contract to enter into a lease agreement.

119 (b) If the dealer provides the notice as set forth in Subsection (2)(a) of the disclosure  
120 statement, the contract to enter into a lease agreement is rescinded.

121 (c) If a contract to enter into a lease agreement is rescinded under Subsection (3)(b):

122 (i) the prospective lessee shall return the leased vehicle within 48 hours of receiving a  
123 notice that the dealer is unable to secure financing arrangements for the lease; and

124 (ii) the prospective lessee is liable to the dealer:

125 (A) for all physical damage to the motor vehicle while in the possession of the  
126 prospective lessee; and

127 (B) in an amount equal to the current standard mileage rate for the cost of operating a  
128 motor vehicle established by the federal Internal Revenue Service for each mile the motor  
129 vehicle was driven between the date the prospective lessee first acquired possession and the  
130 date when the prospective lessee returned the motor vehicle to the dealer.

131 (4) (a) A dealer who has complied with Subsection (2), but who has not been able to  
132 secure financing arrangements as set forth in the disclosure, shall within seven days of the date  
133 of the contract to enter into a lease agreement mail written notice to the prospective lessee:

134 (i) disclosing that the dealer has not been able to secure financing arrangements as set  
135 forth in the disclosure; and

136 (ii) instructing the prospective lessee of the prospective lessee's responsibility to return  
137 the vehicle within 48 hours of receiving the notice, as provided for in Subsection (2).

138 (b) (i) The dealer shall mail notification to the prospective lessee within seven calendar  
139 days following the date that the contract to enter into a lease agreement was executed.

140 (ii) A notice complies with Subsection (4)(b)(i) if it is postmarked before the end of the  
141 seventh day following the date that the contract to enter into a lease agreement was executed

142 and addressed to the prospective lessee at the address contained in the contract to enter into a  
143 lease agreement.

144 (iii) If the prospective lessee's address is not contained on the contract to enter into a  
145 lease agreement, then proof of compliance with the notification provision of this Subsection  
146 (4)(b) shall be borne by the dealer.

147 (iv) If a dealer gives notice in the manner prescribed, the prospective lessee has 48  
148 hours from receipt of the notice to return the vehicle to the dealer.

149 (c) If a dealer executes the disclosure required by Subsection (2), but is not able to  
150 secure financing arrangements as set forth in the disclosure, and the dealer fails to give written  
151 notice to the prospective lessee within seven days, as provided for in Subsections (4)(a) and  
152 (b), then the prospective lessee shall return the vehicle within 48 hours of the date the  
153 prospective lessee first learns that the dealer has not been able to secure financing arrangements  
154 as set forth in the disclosure.

155 (5) (a) Either the prospective lessee or a dealer may bring an action to enforce  
156 contractual or statutory rights under this section.

157 (b) The prevailing party in an action under Subsection (5)(a) is entitled to reasonable  
158 attorneys' fees as part of the costs of the action.

159 (6) A motor vehicle returned by the prospective lessee to the dealer in accordance with  
160 the rescission provisions of this section is not considered leased for purposes of sales and use  
161 tax under Title 59, Chapter 12, Sales and Use Tax Act.