

**CONTRACT CANCELLATION OPTION ON PURCHASE OF
USED VEHICLE**

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jim Bird

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Motor Vehicle Business Regulation Act by amending provisions relating to a contract cancellation option on the purchase of certain used motor vehicles.

Highlighted Provisions:

This bill:

- ▶ requires a dealer that sells a used motor vehicle to someone other than another dealer to provide the purchaser with a right to cancel the contract within the sooner of three business days of the date on which the contract was executed or the purchaser operating the motor vehicle more than 100 miles;
- ▶ requires a dealer that sells a used motor vehicle to someone other than another dealer to provide a disclosure notice of the right to cancel the contract in the contract of sale for a used motor vehicle;
- ▶ establishes procedures and requirements for a purchaser of a used motor vehicle to cancel a contract;
- ▶ provides that a purchaser of a used motor vehicle is not entitled to cancel a contract if the purchaser materially misrepresents certain information;
- ▶ provides that if the purchaser does not exercise the option to cancel the contract within the specified time or mileage limit, the purchaser is responsible for adherence to the terms and conditions of the contract of sale;



28 ▶ provides that a dealer is subject to certain penalties if the dealer fails to execute the
29 disclosure; and

30 ▶ provides that a motor vehicle returned by the purchaser to the dealer in accordance
31 with the cancellation provisions is not considered sold for purposes of notice of sale
32 and for purposes of sales and use tax.

33 **Money Appropriated in this Bill:**

34 None

35 **Other Special Clauses:**

36 None

37 **Utah Code Sections Affected:**

38 ENACTS:

39 **41-3-405.5**, Utah Code Annotated 1953



41 *Be it enacted by the Legislature of the state of Utah:*

42 Section 1. Section **41-3-405.5** is enacted to read:

43 **41-3-405.5. Cancellation of contract for purchase of used motor vehicle.**

44 (1) Subject to the requirements of this section, a dealer that sells a used motor vehicle
45 to someone other than another dealer shall provide the purchaser with a right to cancel the
46 contract within the sooner of:

47 (a) three business days of the date on which the contract was executed; or

48 (b) the purchaser of the motor vehicle operating the motor vehicle more than 100
49 miles.

50 (2) (a) A dealer that sells a used motor vehicle to someone other than another dealer
51 shall provide the disclosure described in Subsection (2)(c) in the contract of sale for a used
52 motor vehicle.

53 (b) The disclosure shall be:

54 (i) set forth clearly and conspicuously on the first or front page of the document of sale
55 at the time of sale; and

56 (ii) executed by the purchaser and the seller.

57 (c) The disclosure described in this Subsection (2) shall read as follows:

58 "(1) THE PURCHASER OF THE MOTOR VEHICLE DESCRIBED IN THIS

59 CONTRACT ACKNOWLEDGES THAT THE PURCHASER HAS A RIGHT TO CANCEL
60 THE CONTRACT WITHIN THE SOONER OF:

61 (a) THREE BUSINESS DAYS OF THE DATE OF SALE; OR

62 (b) THE PURCHASER OF THE MOTOR VEHICLE OPERATING THE MOTOR
63 VEHICLE MORE THAN 100 MILES.

64 (2) IN ORDER FOR THE PURCHASER TO CANCEL THE CONTRACT OF SALE,
65 THE PURCHASER SHALL:

66 (a) RETURN TO THE SELLER THE MOTOR VEHICLE PURCHASED;

67 (b) PAY THE SELLER AN AMOUNT EQUAL TO 1-1/2 TIMES THE CURRENT
68 STANDARD MILEAGE RATE FOR THE COST OF OPERATING A MOTOR VEHICLE
69 ESTABLISHED BY THE FEDERAL INTERNAL REVENUE SERVICE FOR EACH MILE
70 THE MOTOR VEHICLE HAS BEEN DRIVEN; AND

71 (c) COMPENSATE THE SELLER FOR ANY PHYSICAL DAMAGE TO THE
72 MOTOR VEHICLE.

73 (3) IN RETURN, SELLER SHALL GIVE BACK TO THE PURCHASER ALL
74 PAYMENTS OR OTHER CONSIDERATION PAID BY THE PURCHASER, INCLUDING
75 ANY DOWN PAYMENT AND ANY MOTOR VEHICLE TRADED IN.

76 (4) IF THE TRADE-IN HAS BEEN SOLD OR OTHERWISE DISPOSED OF
77 BEFORE THE PURCHASER CANCELS THE CONTRACT, THEN THE SELLER SHALL
78 RETURN TO THE PURCHASER A SUM EQUIVALENT TO THE ALLOWANCE
79 TOWARD THE PURCHASE PRICE GIVEN BY THE SELLER FOR THE TRADE-IN, AS
80 NOTED IN THE DOCUMENT OF SALE.

81 (5) IF PURCHASER DOES NOT ELECT TO CANCEL THE CONTRACT OF SALE
82 AS PROVIDED IN SUBSECTION (2) OF THIS FORM, THE PURCHASER IS
83 RESPONSIBLE FOR ADHERENCE TO THE TERMS AND CONDITIONS OF THE
84 CONTRACT OR RISKS BEING FOUND IN DEFAULT OF THE TERMS AND
85 CONDITIONS.

86 _____

87 (Signature of the purchaser)

88 _____

89 (Signature of the seller)"

90 (3) (a) (i) In addition to the penalties in this chapter, if the disclosures in Subsection (2)
91 are not properly executed, then the purchaser may return the purchased motor vehicle to the
92 dealer within the specified time or mileage limit in Subsection (1) and receive a complete
93 refund of all money and other consideration given to the dealer for the purchase, including any
94 motor vehicle or property used as a trade-in.

95 (ii) If the motor vehicle or property used as a trade-in has been sold or otherwise
96 disposed of, the seller shall return to the purchaser the amount of money equivalent to the
97 allowance towards the purchase price given by the dealer for the motor vehicle or property
98 traded in, as noted in the document of sale.

99 (b) If the purchaser elects to cancel the contract by returning the purchased motor
100 vehicle to the dealer within the prescribed time or mileage limit in Subsection (1), then the
101 purchaser is liable to the dealer:

102 (i) for all physical damage to the motor vehicle while in the possession of the
103 purchaser; and

104 (ii) in an amount equal to 1-1/2 times the current standard mileage rate for the cost of
105 operating a motor vehicle established by the federal Internal Revenue Service for each mile the
106 motor vehicle was driven between the date the purchaser first acquired possession and the date
107 when the purchaser returned the motor vehicle to the dealer.

108 (c) The purchaser is not entitled to the option set forth in Subsections (3)(a) and (b) if
109 the purchaser materially misrepresents in writing any information requested by the dealer in an
110 application for financing, a financial statement, or a similar document customarily used to elicit
111 personal and financial data upon which a credit decision is normally predicated.

112 (4) If the purchaser does not exercise the option to cancel the contract within the
113 specified time or mileage limit in Subsection (1), the purchaser is responsible for adherence to
114 the terms and conditions of the contract of sale.

115 (5) A dealer's failure to execute the disclosure required by Subsection (2) subjects the
116 dealer to the sanctions in Section 41-3-701.

117 (6) Either the purchaser or a dealer may bring an action to enforce the purchaser's or
118 dealer's rights under this section. The prevailing party in the action is entitled to reasonable
119 attorney fees as part of the costs of the suit.

120 (7) A motor vehicle returned by the purchaser to the dealer in accordance with the

121 cancellation provisions of this section is not considered sold for purposes of notice of sale
122 under Section 41-3-301 and for purposes of sales and use tax under Title 59, Chapter 12, Sales
123 and Use Tax Act.

Legislative Review Note
as of 12-15-10 12:00 PM

Office of Legislative Research and General Counsel

FISCAL NOTE

H.B. 47, 2011 General Session

SHORT TITLE: Contract Cancellation Option on Purchase of Used Vehicle

SPONSOR: Bird, J.

STATE OF UTAH

STATE GOVERNMENT (UCA 36-12-13(2)(b))

Enactment of this bill decreases one-time revenue to the General Fund by \$5,400 in FY 2012.

STATE BUDGET DETAIL TABLE	FY 2011	FY 2012	FY 2013
Revenue:			
General Fund, One-Time	\$0	(\$5,400)	\$0
Total Revenue	\$0	(\$5,400)	\$0
Expenditure	\$0	\$0	\$0
Net Impact, All Funds (Rev.-Exp.)	\$0	(\$5,400)	\$0
Net Impact, General/Education Funds	\$0	(\$5,400)	\$0

LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

Local governments may see a one-time decrease in sales tax revenue of \$2,100.

DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

Enactment of this bill likely will not result in direct, measurable expenditures by Utah residents or businesses.