

HB0248S01 compared with HB0248

~~{deleted text}~~ shows text that was in HB0248 but was deleted in HB0248S01.

inserted text shows text that was not in HB0248 but was inserted into HB0248S01.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will not be completely accurate. Therefore, you need to read the actual bill. This automatically generated document could experience abnormalities caused by: limitations of the compare program; bad input data; the timing of the compare; and other potential causes.

Representative Jim Bird proposes the following substitute bill:

CONTRACT CANCELLATION OPTION ON PURCHASE OF USED VEHICLE

2012 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}~~calendar days ~~{of}~~from the date on which the contract was executed or the purchaser operating the motor vehicle more than 100 miles with exceptions;

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- ▶ 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;
- ▶ provides that a dealer is subject to certain penalties if the dealer fails to execute the disclosure; and
- ▶ provides that a motor vehicle returned by the purchaser to the dealer in accordance with the cancellation provisions is not considered sold for purposes of notice of sale and for purposes of sales and use tax.

Money Appropriated in this Bill:

None

Other Special Clauses:

~~{ None }~~ This bill takes effect on July 1, 2012.

Utah Code Sections Affected:

AMENDS:

41-3-701, as last amended by Laws of Utah 2009, Chapter 234

ENACTS:

41-3-405.5, Utah Code Annotated 1953

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

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

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

(1) ~~{ Subject }~~(a) Except as provided in Subsection (1)(b) and subject to the requirements of this section, a dealer that sells a used motor vehicle to someone other than another dealer shall provide the purchaser with a right to cancel the contract within the sooner

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of:

(~~f~~a)i) three ~~f~~business}calendar days ~~f~~of}from the date on which the contract was executed; or

(~~f~~b)ii) the purchaser of the motor vehicle operating the motor vehicle more than 100 miles from the date and time that the purchaser first acquires possession of the motor vehicle following the execution of the contract.

(b) A dealer is not required to provide the purchaser with a right to cancel the contract under Subsection (1)(a) if:

(i) the motor vehicle does not have an odometer; or

(ii) (A) the motor vehicle is a salvage vehicle; and

(B) the dealer sells the salvage vehicle at a motor vehicle auction.

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

(b) The disclosure shall be:

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

(ii) executed by the purchaser and the seller.

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

"(1) THE PURCHASER OF THE MOTOR VEHICLE DESCRIBED IN THIS CONTRACT ACKNOWLEDGES THAT THE PURCHASER HAS A RIGHT TO CANCEL THE CONTRACT WITHIN THE SOONER OF:

(a) THREE ~~f~~BUSINESS}CALENDAR DAYS ~~f~~OF}FROM THE DATE OF SALE;

OR

(b) THE PURCHASER OF THE MOTOR VEHICLE OPERATING THE MOTOR VEHICLE MORE THAN 100 MILES FROM THE DATE AND TIME THAT THE PURCHASER ACQUIRES POSSESSION OF THE MOTOR VEHICLE FOLLOWING THE EXECUTION OF THE CONTRACT.

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

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

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

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

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

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

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

(Signature of the purchaser)

(Signature of the seller)"

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

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

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traded in, as noted in the document of sale.

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

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

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

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

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

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

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

(7) A motor vehicle returned by the purchaser to the dealer in accordance with the cancellation provisions of this section is not considered sold for purposes of notice of sale under Section 41-3-301 and for purposes of sales and use tax under Title 59, Chapter 12, Sales and Use Tax Act.

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Legislative Review Note

~~as of 1-3-12 3:24 PM~~

~~Office of Legislative Research and General Counsel~~; Section 2. Section 41-3-701 is amended to read:

41-3-701. Violations as misdemeanors.

(1) Except as otherwise provided in this chapter, any person who violates this chapter is guilty of a class B misdemeanor.

(2) (a) (i) Except as provided in Subsection (2)(a)(ii), a person who violates Section 41-3-201 is guilty of a class A misdemeanor.

(ii) A person who violates the requirement to title a vehicle with a salvage certificate within 15 days of purchasing the vehicle at a motor vehicle auction under Subsection 41-3-201(3)(e) is guilty of a class C misdemeanor.

(b) Once a person has met the criteria for the offense of acting as a dealer without a license, each additional motor vehicle the person sells, displays for sale, offers for sale or exchange, or leases in that 12-month period without becoming licensed under Section 41-3-202 is a separate violation.

(3) A person who violates Section 41-3-301 is guilty of a class A misdemeanor unless the selling dealer complies with the requirements of Section 41-3-403.

(4) A person who violates Section 41-3-207.5 is guilty of a class A misdemeanor.

(5) A dealer who violates the disclosure requirement in Section 41-3-405.5 is guilty of a class C misdemeanor.

Section 3. Effective date.

This bill takes effect on July 1, 2012.