

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 calendar days from the date on which the contract was executed or the purchaser operating the motor vehicle more than 100 miles with exceptions;
- ▶ 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



26 within the specified time or mileage limit, the purchaser is responsible for adherence to the
27 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 This bill takes effect on July 1, 2012.

37 **Utah Code Sections Affected:**

38 AMENDS:

39 **41-3-701**, as last amended by Laws of Utah 2009, Chapter 234

40 ENACTS:

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



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

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

45 **41-3-405.5. Cancellation of contract for purchase of used motor vehicle.**

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

49 (i) three calendar days from the date on which the contract was executed; or

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

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

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

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

57 (B) the dealer sells the salvage vehicle at a motor vehicle auction.
58 (2) (a) A dealer that sells a used motor vehicle to someone other than another dealer
59 shall provide the disclosure described in Subsection (2)(c) in the contract of sale for a used
60 motor vehicle.
61 (b) The disclosure shall be:
62 (i) set forth clearly and conspicuously on the first or front page of the document of sale
63 at the time of sale; and
64 (ii) executed by the purchaser and the seller.
65 (c) The disclosure described in this Subsection (2) shall read as follows:
66 "(1) THE PURCHASER OF THE MOTOR VEHICLE DESCRIBED IN THIS
67 CONTRACT ACKNOWLEDGES THAT THE PURCHASER HAS A RIGHT TO CANCEL
68 THE CONTRACT WITHIN THE SOONER OF:
69 (a) THREE CALENDAR DAYS FROM THE DATE OF SALE; OR
70 (b) THE PURCHASER OF THE MOTOR VEHICLE OPERATING THE MOTOR
71 VEHICLE MORE THAN 100 MILES FROM THE DATE AND TIME THAT THE
72 PURCHASER ACQUIRES POSSESSION OF THE MOTOR VEHICLE FOLLOWING THE
73 EXECUTION OF THE CONTRACT.
74 (2) IN ORDER FOR THE PURCHASER TO CANCEL THE CONTRACT OF SALE,
75 THE PURCHASER SHALL:
76 (a) RETURN TO THE SELLER THE MOTOR VEHICLE PURCHASED;
77 (b) PAY THE SELLER AN AMOUNT EQUAL TO 1-1/2 TIMES THE CURRENT
78 STANDARD MILEAGE RATE FOR THE COST OF OPERATING A MOTOR VEHICLE
79 ESTABLISHED BY THE FEDERAL INTERNAL REVENUE SERVICE FOR EACH MILE
80 THE MOTOR VEHICLE HAS BEEN DRIVEN; AND
81 (c) COMPENSATE THE SELLER FOR ANY PHYSICAL DAMAGE TO THE
82 MOTOR VEHICLE.
83 (3) IN RETURN, THE SELLER SHALL GIVE BACK TO THE PURCHASER ALL
84 PAYMENTS OR OTHER CONSIDERATION PAID BY THE PURCHASER, INCLUDING
85 ANY DOWN PAYMENT AND ANY MOTOR VEHICLE TRADED IN.
86 (4) IF THE TRADE-IN HAS BEEN SOLD OR OTHERWISE DISPOSED OF
87 BEFORE THE PURCHASER CANCELS THE CONTRACT, THEN THE SELLER SHALL

88 RETURN TO THE PURCHASER A SUM EQUIVALENT TO THE ALLOWANCE
89 TOWARD THE PURCHASE PRICE GIVEN BY THE SELLER FOR THE TRADE-IN, AS
90 NOTED IN THE DOCUMENT OF SALE.

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

96 _____
97 (Signature of the purchaser)

98 _____
99 (Signature of the seller)"

100 (3) (a) (i) If the purchaser elects to cancel the contract, the purchaser may return the
101 purchased motor vehicle to the dealer within the specified time or mileage limit in Subsection
102 (1) and receive a complete refund of all money and other consideration given to the dealer for
103 the purchase, including any motor vehicle or property used as a trade-in.

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

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

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

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

117 (c) The purchaser is not entitled to the cancellation option set forth in this section if the
118 purchaser materially misrepresents in writing any information requested by the dealer in an

119 application for financing, a financial statement, or a similar document customarily used to elicit
120 personal and financial data upon which a credit decision is normally predicated.

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

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

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

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

133 Section 2. Section **41-3-701** is amended to read:

134 **41-3-701. Violations as misdemeanors.**

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

137 (2) (a) (i) Except as provided in Subsection (2)(a)(ii), a person who violates Section
138 41-3-201 is guilty of a class A misdemeanor.

139 (ii) A person who violates the requirement to title a vehicle with a salvage certificate
140 within 15 days of purchasing the vehicle at a motor vehicle auction under Subsection
141 41-3-201(3)(e) is guilty of a class C misdemeanor.

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

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

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

149 (5) A dealer who violates the disclosure requirement in Section 41-3-405.5 is guilty of

150 a class C misdemeanor.

151 Section 3. **Effective date.**

152 This bill takes effect on July 1, 2012.