

**PRELIMINARY STAFF MEASURE SUMMARY****CARRIER:**

Senate Committee on Judiciary

**REVENUE: No revenue impact****FISCAL: Minimal fiscal impact, no statement issued****SUBSEQUENT REFERRAL TO:****Action:****Vote:****Yeas:****Nays:****Exc.:****Prepared By:** Channa Newell, Counsel**Meeting Dates:** 6/01

**WHAT THE MEASURE DOES:** Specifies guaranteed asset protection (GAP) waivers are not insurance and not subject to provisions of Insurance Code. Establishes conditions under which person may GAP waivers in connection with sale or lease of motor vehicles. Specifies conditions for cancelation or termination of waiver and process for refund. Requires person selling GAP waiver to insure waiver with reimbursement insurance policy; provides conditions for reimbursement insurance. Makes violation subject to Unlawful Trade Practices Act.

**ISSUES DISCUSSED:**

**EFFECT OF COMMITTEE AMENDMENT:** Proposed (-A6) amendments clarify that costs for GAP waiver must be separately stated in finance agreement in all circumstances. Requires creditor to pay borrower pro rata refund of amounts due upon termination of finance agreement without requiring borrower to submit claim. Clarifies action under Unlawful Trade Practices Act.

**BACKGROUND:** When a consumer buys or leases a new vehicle and the vehicle is subsequently destroyed or stolen, the consumer may be left owing a greater amount to a lender or the leasing entity than the consumer will receive from an auto insurance policy. A guaranteed asset protection (GAP) waiver is a product a consumer may purchase in conjunction with a motor vehicle lease or sale that is intended to pay for the difference between the amount owed under a finance agreement and either the amount covered by auto insurance or the value of the vehicle immediately before the loss or theft, according to a published guide to motor vehicle values. Currently, GAP waivers are considered an insurance product, unless provided by a bank or credit union at no additional charge as part of a financing agreement, and a person selling or offering GAP waivers are subject to oversight by the Department of Consumer and Business Services.

House Bill 2845-A specifies that Gap waivers are not insurance products and specifies parameters for their sale, including disclosures that the seller must make to the purchaser regarding: price of the waiver, methodology for determining the amount waived, address for submitting claims for benefits, and conditions under which the purchaser may cancel the waiver and obtain a partial refund. The seller must also state and provide in writing that purchase of a GAP waiver is not required in order to obtain financing or to complete a sale or lease of a vehicle, and that purchasing a GAP waiver does not affect the terms and conditions of credit obtained. House Bill 2845-A requires that a person who sells a GAP waiver in connection with the retail sale of a motor vehicle must obtain reimbursement insurance for the GAP waiver, but that a person who sells a GAP waiver in conjunction with the lease of a vehicle is not required to obtain such insurance.

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***This summary has not been adopted or officially endorsed by action of the committee.***