

**Seventy-Eighth Oregon Legislative Assembly - 2015 Regular Session**  
**STAFF MEASURE SUMMARY**  
**Senate Committee On Judiciary**

**MEASURE: HB 2845 B**  
**CARRIER: Sen. Thatcher**

**Fiscal:** Has minimal fiscal impact

**Revenue:** No Revenue Impact

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**Action Date:** 06/04/15

**Action:** Do Pass With Amendments To The A-Eng Bill. (Printed B-Eng.)

**Meeting Dates:** 06/01, 06/04

**Vote:**

Yeas: 4 - Burdick, Gelser, Prozanski, Thatcher

Exc: 1 - Kruse

**Prepared By:** Channa Newell, Counsel

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**WHAT THE MEASURE DOES:**

Establishes conditions under which person may sell Guaranteed Asset Protection (GAP) waivers in connection with sale or lease of motor vehicles. Specifies GAP waivers are not insurance and not subject to provisions of Insurance Code. 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. Repeals measure January 2, 2020.

**ISSUES DISCUSSED:**

- GAP waiver sold by auto financiers in 47 other states
- Waives difference between market price of stolen or total loss car and loan amount of car
- Consumer protections built into measure
- Price of GAP waiver set at no more than 5% of financed amount
- Provisions of amendment

**EFFECT OF COMMITTEE AMENDMENT:**

Clarifies that costs for GAP waiver must be stated separately in finance agreement in all circumstances. Clarifies process in which creditor pays borrower pro rata refund of amounts due upon termination of finance agreement. Specifies creditor may not require borrower to submit claim. Clarifies action under Unlawful Trade Practices Act. Makes other technical changes. Repeals provisions of measure January 2, 2020.

**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 B 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 B 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. The measure sunsets on January 2, 2020.