



DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL

MEMORANDUM

DATE: February 22, 2017

TO: Honorable Lee Beyer, Chair
Senate Committee on Business and Transportation

FROM: Cheryl Hiemstra, Deputy Legislative Director

SUBJECT: SB 134 – Update to Vehicle Financing Law

This testimony is presented in support of Senate Bill 134.

BACKGROUND

When buying a car, consumers generally have two financing options: direct lending or a retail installment contract. Both are ways to obtain a vehicle by agreeing to make payments over time.

In a typical motor vehicle transaction, the dealer enters into a retail installment contract with the customer. At times, the dealer "spot delivers" the vehicle - meaning that the customer drives the vehicle off the lot even though financing has not yet been secured. Under existing law, the dealer has fourteen days to secure the financing. If the dealer finds financing for the transaction, the dealer assigns the retail installment contract to the lender. If the dealer does not find someone to finance the transaction, then the dealer sends notice and the buyer returns the vehicle.

CONCEPT

ORS 646A.090 currently uses the term "financing." However, most transactions use "retail installment contracts," and so SB134 updates the terms. In most motor vehicle transactions, a dealer enters into a credit agreement with the purchasing customer and then sells the credit paper (a retail installment contract) to the finance company or credit union. The finance company or credit union never gives a loan to the consumer. This is significant because laws on credit transactions and loans are different.

Additionally, SB134 addresses that when financing turns out not to be available, that the dealer can send the required notice via electronic communication, and that the dealer retain proof that the notice was sent.

By replacing the word "finance" and instead using the correct terminology to clarify that a lender is purchasing a retail installment contract, the law will be updated to match current market practice.

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