

SB 366 STAFF MEASURE SUMMARY**Carrier:** Sen. Thatcher**Senate Committee On Judiciary****Action Date:** 02/05/19**Action:** Do pass.**Vote:** 6-0-1-0**Yeas:** 6 - Bentz, Fagan, Linthicum, Manning Jr, Prozanski, Thatcher**Exc:** 1 - Gelser**Fiscal:** No fiscal impact**Revenue:** No revenue impact**Prepared By:** Channa Newell, Counsel**Meeting Dates:** 1/28, 2/5**WHAT THE MEASURE DOES:**

Removes sunset on statutes allowing creditors to offer guaranteed asset protection (GAP) waivers in connection with the sale of an automobile. Retains ability for creditor to offer GAP waivers with specific disclosures, financial protections, and evaluation period for borrower. Retains provisions specifying that GAP waivers are not insurance and not subject to Insurance Code. Retains violation of GAP waiver statutes within Unlawful Trade Practices Act.

ISSUES DISCUSSED:

- Vehicle dealers offer GAP waivers in all 50 states
- Insurance covers the actual value of a vehicle at the time of its loss or destruction
- GAP waivers excuse the difference between the compensation by insurance for the vehicle and the amount owed on the vehicle
- Examples of GAP waivers for financed car
- HB 2845 in 2015 included action through Unlawful Trade Practices Act
- No actions taken by oversight authorities relating to this product while in effect

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

In 2015, House Bill 2845 (Ch 523, Oregon Laws 2015), allowed creditors to offer guaranteed asset protection (GAP) waivers to consumers outside of the regulation of the Insurance Code and specified certain parameters for offering GAP waivers. A GAP waiver is a product a consumer may purchase in connection with financing a vehicle that waives the difference between the actual value of a vehicle and the amount of the loan for the vehicle. The need for this arises in cases in which a purchaser finances a new vehicle and is soon thereafter destroys or loses the vehicle. As soon as the car is purchased, its value diminishes from the original amount and the car may be valued less than the amount financed. If the vehicle is lost or destroyed, the insurance will only cover the actual value of the car. With purchase of a GAP waiver, the financing entity agrees to "waive" the difference between the amount owed under the finance agreement and the actual value of the vehicle. House Bill 2845 set parameters on the terms of GAP waivers, termination of the waiver, the evaluation period for the product, and the methods for termination. Additionally, the measure made violations of those terms actionable under the Unlawful Trade Practices Act. Finally, a sunset was placed on the ability of creditors to offer this product.

Senate Bill 366 removes the sunset on the GAP waiver statutes, thereby allowing the statutes currently in place to remain in effect.