

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 521
102ND GENERAL ASSEMBLY

1569H.04C

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To amend chapter 407, RSMo, by adding thereto fifteen new sections relating to motor vehicle financial protection products, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 407, RSMo, is amended by adding thereto fifteen new sections, to
2 be known as sections 407.2020, 407.2025, 407.2030, 407.2035, 407.2040, 407.2045,
3 407.2050, 407.2055, 407.2060, 407.2065, 407.2070, 407.2075, 407.2080, 407.2085, and
4 407.2090, to read as follows:

407.2020. For purposes of sections 407.2020 to 407.2090, the following terms
2 **mean:**

3 **(1) "Commercial transaction", a transaction involving a motor vehicle in which**
4 **the motor vehicle will primarily be used for business purposes rather than personal**
5 **purposes;**

6 **(2) "Consumer", an individual purchaser of a motor vehicle or a borrower**
7 **under a finance agreement. The term "consumer" includes any borrower, as defined in**
8 **section 407.2030, or contract holder, as defined in section 407.2060, as applicable;**

9 **(3) "Finance agreement", a loan, retail installment sales contract, or lease for the**
10 **purchase, refinancing, or lease of a motor vehicle;**

11 **(4) "Free-look period", a period of time from the effective date of the motor**
12 **vehicle financial protection product until the date the motor vehicle financial protection**
13 **product may be cancelled without penalty, fees, or costs. This period of time shall not be**
14 **shorter than thirty days;**

15 **(5) "Insurer", an insurance company licensed, registered, or otherwise**
16 **authorized to issue contractual liability insurance under the insurance laws of this state;**

EXPLANATION — Matter enclosed in bold-faced brackets ~~thus~~ in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 (6) "Motor vehicle", any self-propelled or towed vehicle designed for personal or
18 commercial use including, but not limited to, automobiles, trucks, motorcycles,
19 recreational vehicles, all-terrain vehicles, snowmobiles, campers, boats, personal
20 watercraft, and related trailers;

21 (7) "Motor vehicle financial protection product", an agreement that protects a
22 consumer's financial interest in his or her current or future motor vehicle. The term
23 "motor vehicle financial protection product" includes any debt waiver, as defined in
24 section 407.2030, and any vehicle value protection agreement, as defined in section
25 407.2060;

26 (8) "Person", an individual, company, association, organization, partnership,
27 business trust, or corporation, and every form of legal entity.

 407.2025. 1. Motor vehicle financial protection products may be offered, sold, or
2 given to consumers in this state in compliance with sections 407.2020 to 407.2090.

3 2. Notwithstanding any other provision of law, any amount charged or financed
4 for a motor vehicle financial protection product is an authorized charge that shall be
5 separately stated and shall not be considered a finance charge or interest.

6 3. Any extension of credit, terms of credit, or terms of the related motor vehicle
7 sale or lease shall not be conditioned upon the consumer's payment for or financing of
8 any charge for a motor vehicle financial protection product, except that motor vehicle
9 financial protection products may be discounted or given at no charge in connection
10 with the purchase of other non-credit-related goods or services.

 407.2030. For purposes of sections 407.2030 to 407.2055, the following terms
2 mean:

3 (1) "Administrator", any person, other than an insurer or creditor, who
4 performs administrative or operational functions for debt waiver programs;

5 (2) "Borrower", a debtor or retail buyer or lessee under a finance agreement;

6 (3) "Creditor":

7 (a) The lender in a loan or credit transaction;

8 (b) The lessor in a lease transaction;

9 (c) Any retail seller of motor vehicles;

10 (d) The seller in commercial retail installment transactions; or

11 (e) The assignee of any person described in paragraphs (a) to (d) of this
12 subdivision to whom the credit obligation is payable;

13 (4) "Debt waiver", any guaranteed asset protection waiver, excess wear and use
14 waiver, or other product as approved by the department of commerce and insurance;

15 (5) "Excess wear and use waiver", a contractual agreement in which a creditor
16 agrees, with or without a separate charge, to cancel or waive all or part of amounts that

17 may become due under a borrower's lease agreement as a result of excessive wear and
18 use of a motor vehicle, which agreement shall be part of, or a separate addendum to, the
19 lease agreement. Excess wear and use waivers may also cancel or waive amounts due
20 for excess mileage;

21 (6) "Guaranteed asset protection waiver", a contractual agreement in which a
22 creditor agrees, with or without a separate charge, to cancel or waive all or part of
23 amounts due on a borrower's finance agreement in the event of a total physical damage
24 loss or unrecovered theft of the motor vehicle, which agreement shall be part of, or a
25 separate addendum to, the finance agreement. A guaranteed asset protection waiver
26 may also provide, with or without a separate charge, a benefit that waives an amount, or
27 provides a borrower with a credit, toward the purchase of a replacement motor vehicle.

407.2035. 1. (1) A retail seller of motor vehicles shall insure its debt waiver
2 obligations under a contractual liability or other insurance policy issued by an insurer.
3 A creditor, other than a retail seller, may insure its debt waiver obligations under a
4 contractual liability policy or other such policy issued by an insurer. Any such
5 insurance policy may be directly obtained by a creditor or retail seller or may be
6 procured by an administrator to cover a creditor's or retail seller's obligations.

7 (2) Notwithstanding the provisions of subdivision (1) of this subsection, retail
8 sellers who are lessors on motor vehicles shall not be required to insure obligations
9 related to debt waivers on such leased motor vehicles.

10 2. The debt waiver remains a part of the finance agreement upon the
11 assignment, sale, or transfer of such finance agreement by the creditor.

12 3. Any creditor who offers a debt waiver shall report the sale of, and forward
13 funds due to, the designated party or parties.

14 4. Funds received or held by a creditor or administrator and belonging to an
15 insurer, creditor, or administrator shall be held by such creditor or administrator in a
16 fiduciary capacity.

407.2040. 1. Contractual liability or other insurance policies insuring debt
2 waivers shall state the obligation of the insurer to reimburse or pay to the creditor any
3 sums the creditor is legally obligated to waive under a debt waiver.

4 2. Coverage under a contractual liability or other insurance policy insuring a
5 debt waiver shall also cover any subsequent assignee upon the assignment, sale, or
6 transfer of the finance agreement.

7 3. Coverage under a contractual liability or other insurance policy insuring a
8 debt waiver shall remain in effect unless cancelled or terminated in compliance with
9 applicable insurance laws of this state.

10 **4. The cancellation or termination of a contractual liability or other insurance**
11 **policy shall not reduce the insurer's responsibility for debt waivers issued by the**
12 **creditor before the date of cancellation or termination and for which premium has been**
13 **received by the insurer.**

407.2045. Debt waivers shall disclose in writing and in clear, understandable
2 **language that is easy to read the following:**

3 **(1) The name and address of the initial creditor and the borrower at the time of**
4 **sale, and the identity of any administrator if different from the creditor;**

5 **(2) The purchase price, if any, and the terms of the debt waiver including, but**
6 **not limited to, the requirements for protection, conditions, or exclusions associated with**
7 **the debt waiver;**

8 **(3) A statement that the borrower may cancel the debt waiver within a free-look**
9 **period as specified in the debt waiver and, if so cancelled, shall be entitled to a full**
10 **refund of the purchase price paid by the borrower, if any, so long as no benefits have**
11 **been provided;**

12 **(4) The procedure the borrower is required to follow, if any, to obtain debt**
13 **wavier benefits under the terms and conditions of the debt waiver, including, if**
14 **applicable, a telephone number or website and address where the borrower may apply**
15 **for debt waiver benefits;**

16 **(5) The terms and conditions governing cancellation consistent with all**
17 **applicable Missouri laws; and**

18 **(6) A statement that any extension of credit, terms of the credit, or terms of the**
19 **related motor vehicle sale or lease shall not be conditioned upon the borrower's**
20 **purchase of a debt waiver.**

407.2050. 1. Debt waivers shall provide that if a borrower cancels a debt waiver
2 **within the free-look period, the borrower shall be entitled to a full refund of the amount**
3 **the borrower paid, if any, so long as no benefits have been provided.**

4 **2. If, after the debt waiver has been in effect beyond the free-look period, the**
5 **borrower cancels the debt waiver or there is an early termination of the finance**
6 **agreement, the borrower may be entitled to a refund of the amount the borrower paid of**
7 **the unearned portion of the purchase price, if any, less a cancellation fee up to seventy-**
8 **five dollars, if no benefit has been or will be provided.**

9 **3. If the cancellation of a debt waiver occurs as a result of a default under the**
10 **finance agreement, the repossession of the motor vehicle associated with the finance**
11 **agreement, or any other termination of the finance agreement, any refund due may be**
12 **paid directly to the creditor or administrator and applied as a reduction of the amount**

13 owed under the finance agreement unless the borrower can show that the finance
14 agreement has been paid in full.

2 **407.2055. 1. Debt waivers offered by state or federal banks or credit unions in**
3 **compliance with applicable state or federal law shall be exempt from the provisions of**
4 **sections 407.2020 to 407.2090.**

5 **2. The provisions of sections 407.2045 and 407.2080 shall not apply to debt**
6 **wavers offered in connection with commercial transactions.**

7 **407.2060. For purposes of sections 407.2060 to 407.2075, the following terms**
8 **mean:**

9 **(1) "Administrator", any person who is responsible for the administrative or**
10 **operational functions of vehicle value protection agreements including, but not limited**
11 **to, the adjudication of claims or benefit requests by contract holders;**

12 **(2) "Contract holder", a person who is the purchaser or holder of a vehicle value**
13 **protection agreement;**

14 **(3) "Provider", a person who is obligated to provide a benefit under a vehicle**
15 **value protection agreement. A provider may perform as an administrator or retain the**
16 **services of a third-party administrator;**

17 **(4) "Vehicle value protection agreement", a contractual agreement that:**

18 **(a) Provides a benefit toward the reduction of some or all of the contract holder's**
19 **current finance agreement deficiency balance or toward the purchase or lease of a**
20 **replacement motor vehicle or motor vehicle services upon the occurrence of an adverse**
1 **event to the motor vehicle including, but not limited to, loss, theft, damage, obsolescence,**
2 **diminished value, or depreciation;**

3 **(b) Does not include debt waivers; and**

4 **(c) May include agreements such as, but not limited to, trade-in-credit**
5 **agreements, diminished value agreements, depreciation benefit agreements, or other**
6 **similarly named agreements.**

7 **407.2065. 1. A provider may, but is not required to, use an administrator or**
8 **other designee to be responsible for any and all of the administration of vehicle value**
9 **protection agreements in compliance with the provisions of sections 407.2020 to**
10 **407.2090.**

11 **2. Vehicle value protection agreements shall not be sold unless the contract**
12 **holder has been or will be provided access to a copy of the vehicle value protection**
13 **agreement within a reasonable time.**

14 **3. In order to assure the faithful performance of the provider's obligations to its**
15 **contract holders, each provider shall comply with subdivision (1) or (2) of this**
16 **subsection, as follows:**

11 **(1) In order to satisfy the requirements of this subsection under this subdivision,**
12 **the provider shall insure all its vehicle value protection agreements under an insurance**
13 **policy that pays or reimburses in the event the provider fails to perform its obligations**
14 **under the vehicle value protection agreement and that is issued by an insurer who is**
15 **licensed, registered, or otherwise authorized to do business in this state and who:**

16 **(a) Maintains surplus as to policyholders and paid-in capital of at least fifteen**
17 **million dollars; or**

18 **(b) Maintains:**

19 **a. Surplus as to policyholders and paid-in capital of less than fifteen million**
20 **dollars but at least equal to ten million dollars; and**

21 **b. A ratio of net written premiums, wherever written, to surplus as to**
22 **policyholders and paid-in capital of not greater than three to one; or**

23 **(2) In order to satisfy the requirements of this subsection under this subdivision,**
24 **the provider shall:**

25 **(a) Maintain, or together with its parent company maintain, a net worth or**
26 **stockholders' equity of one hundred million dollars; and**

27 **(b) Upon request, provide the attorney general with a copy of the provider's or**
28 **the provider's parent company's most recent Form 10-K or Form 20-F filed with the**
29 **Securities and Exchange Commission (SEC) within the last calendar year or, if the**
30 **company does not file with the SEC, a copy of the company's audited financial**
31 **statements, which show a net worth of the provider or its parent company of at least one**
32 **hundred million dollars. If the provider's parent company's Form 10-K, Form 20-F, or**
33 **financial statements are filed to meet the provider's financial security requirement, the**
34 **parent company shall agree to guarantee the obligations of the provider relating to**
35 **vehicle value protection agreements sold by the provider in this state.**

36 **4. Except for the requirements specified in subsection 3 of this section, no other**
37 **financial security requirements shall be required for vehicle value protection agreement**
38 **providers.**

407.2070. Vehicle value protection agreements shall disclose in writing and in
2 **clear, understandable language that is easy to read the following:**

3 **(1) The name and address of the provider, contract holder, and administrator, if**
4 **any;**

5 **(2) The terms of the vehicle value protection agreement including, but not**
6 **limited to, the purchase price to be paid by the contract holder, if any, the requirements**
7 **for eligibility, the conditions of coverage, and any exclusions;**

8 **(3) A statement that the vehicle value protection agreement may be cancelled by**
9 **the contract holder within a free-look period as specified in the vehicle value protection**

10 agreement and that in such event the contract holder shall be entitled to a full refund of
11 the purchase price paid by the contract holder, if any, so long as no benefits have been
12 provided;

13 (4) The procedure the contract holder shall follow, if any, to obtain a benefit
14 under the terms and conditions of the vehicle value protection agreement, including, if
15 applicable, a telephone number or website and address where the contract holder may
16 apply for a benefit;

17 (5) A statement that indicates whether the vehicle value protection agreement
18 may be cancelled after the free-look period and the conditions under which it may be
19 cancelled, including the procedures for requesting any refund of the unearned purchase
20 price paid by the contract holder;

21 (6) If the vehicle value protection agreement is cancellable after the free-look
22 period, a statement that any refund of the unearned purchase price of the vehicle value
23 protection agreement shall be calculated on a pro rata basis;

24 (7) A statement that any extension of credit, terms of the credit, or terms of the
25 related motor vehicle sale or lease shall not be conditioned upon the purchase of the
26 vehicle value protection agreement;

27 (8) The terms, restrictions, or conditions governing cancellation of the vehicle
28 value protection agreement before the termination or expiration date of the vehicle
29 value protection agreement by either the provider or the contract holder. The provider
30 of the vehicle value protection agreement shall mail a written notice to the contract
31 holder at the last known address of the contract holder contained in the records of the
32 provider at least five days before cancellation by the provider. Prior notice shall not be
33 required if the reason for cancellation is nonpayment of the provider fee, a material
34 misrepresentation by the contract holder to the provider or administrator, or a
35 substantial breach of duties by the contract holder relating to the covered product or its
36 use. The notice shall state the effective date of the cancellation and the reason for the
37 cancellation. If a vehicle value protection agreement is cancelled by the provider for a
38 reason other than nonpayment of the provider fee, the provider shall refund to the
39 contract holder one hundred percent of the unearned pro rata provider fee paid by the
40 contract holder, if any. If coverage under the vehicle value protection agreement
41 continues after a claim, any refund may deduct claims paid. A reasonable
42 administrative fee may be charged by the provider up to seventy-five dollars; and

43 (9) A statement that the agreement is not an insurance contract.

407.2075. The provisions of sections 407.2070 and 407.2080 shall not apply to
2 vehicle value protection agreements offered in connection with a commercial
3 transaction.

407.2080. The attorney general may take action that is necessary or appropriate
2 to enforce the provisions of sections 407.2020 to 407.2090 and to protect motor vehicle
3 financial protection product consumers in this state. After proper notice and
4 opportunity for hearing, the attorney general may:

5 (1) Order the creditor, provider, administrator, or any other person not in
6 compliance with the provisions of sections 407.2020 to 407.2090 to cease and desist from
7 product-related operations that are in violation of the provisions of sections 407.2020 to
8 407.2090; and

9 (2) Impose a penalty of not more than five hundred dollars for each violation of
10 the provisions of sections 407.2020 to 407.2090 and not more than ten thousand dollars
11 in the aggregate for all violations of a similar nature. A violation shall be considered of a
12 similar nature to another violation if the violation consists of the same or similar course
13 of conduct, action, or practice, irrespective of the number of times the action, conduct,
14 or practice that is determined to be a violation of the provisions of sections 407.2020 to
15 407.2090 occurred.

407.2085. Notwithstanding the provisions of section 407.2090, all motor vehicle
2 financial protection products issued before and on and after August 28, 2023, shall not
3 be considered insurance.

407.2090. The provisions of sections 407.2020 to 407.2090 shall apply to all motor
2 vehicle financial protection products that become effective after February 23, 2024.

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