



NJ AUTO INDUSTRY ALERT

January 23, 2015

NEW JERSEY AUTOMOBILE INDUSTRY TRENDS AND TOPICS: PROPOSED LEGISLATION THAT CAN IMPACT YOUR DEALERSHIP

Eckert Seamans Cherin & Mellott, LLC is pleased to partner with the [New Jersey Independent Auto Dealers Association](#) to provide an update on a number of important and trending issues affecting New Jersey automobile retailers. Eckert Seamans is a national law firm with over 350 attorneys located in offices throughout the eastern United States. The needs of our clients involve us in virtually every area of the law and most industries. The NJIADA is an organization designed to give independent dealers a unified voice and to provide them with information about how to operate successfully in New Jersey.

LEGISLATIVE UPDATE

Bill Prohibits Use of Payment Assurance Device with GPS to Secure Motor Vehicle Financing

Assemblyman Paul Moriarty (D-4, Turnersville), Chairman of the Assembly Consumer Affairs Committee, introduced legislation that would prohibit auto dealers and lenders, under the Consumer Fraud Act (“CFA”), from installing a payment assurance device with global positioning system capability, or starter interrupt capability allowing for the remote enabling or disabling of the motor vehicle as a condition of obtaining financing. Violations could result in an award of attorneys’ fees and triple damages.

The bill was considered by and released from the NJ Assembly Consumer Affairs Committee on Monday, January 12, 2015. Several consumer advocacy groups testified in favor of the bill, citing safety concerns (that the devices have caused cars to shut off while in operation), high interest rates, and privacy concerns over tracking a vehicle’s movements with these devices.

Several opponents of the bill--a manufacturer of the device, an auto dealer and a business group-- testified in opposition to the legislation. They addressed the concerns of consumer groups, the public interests that the devices serve and the unintended consequences of the bill. The bill’s opponents addressed the safety concerns by explaining that despite allegations to the contrary, that interruption devices are just that and cannot cause a vehicle to turn off while in operation and that stand alone GPS devices do not have that functionality. They testified that consumers are given advance notice of the interruptions if they occur and, in cases of emergencies when a starter interruption device is activated, the vehicles can be started with readily available codes. Importantly, opponents of the bill touted the devices as allowing dealers to lend to those who in some cases would not otherwise qualify for loans and also allowing for lower interest rates for other customers. Opponents of the bill also noted that the devices lead



to much lower repossession rates, which in turn helps consumer build their credit and dealers to lower repossession costs. They also testified that installation costs are generally not passed along to consumers and that there is full disclosure to and consent by consumers about installation of the devices. Industry stakeholders have also noted that the GPS devices have been successfully used to assist law enforcement in tracking stolen vehicles, kidnappers and other fugitives.

Chairman Moriarty announced that he would work on amendments to address industry stakeholder concerns after the bill was released from Committee. Senator Nilsa Cruz-Perez (D-3, Audobon) has introduced the bill in the Senate, but it has not yet been posted for consideration.

NJIADA and other interested stakeholders are meeting with Chairman Moriarty to further discuss their concerns with the bill.

Legislation Would Allow Sunday Motor Vehicle Sales in Certain Counties

Senator Nilsa Cruz-Perez (D-3 , Audobon) introduced legislation that would permit the sale of motor vehicles on Sundays, except in counties with Blue laws—those prohibiting commercial and retail sales on a Sunday. Sunday auto sales are currently prohibited in New Jersey. The bill was referred to the Senate Transportation Committee. The bill was introduced in the Assembly during the previous legislative session, but has not yet been reintroduced in the current session.

Anthony Bush is a Member in Eckert Seamans' Trenton Office with over two decades of experience with automotive issues. He counsels a wide spectrum of clients including automobile dealerships, operators of wholesale motor vehicle auctions, auto parts distributors, finance companies, and auto body repair facilities. Tony and Eckert Seamans have expertise representing dealers in consumer and corporate litigation, land use matters, business counseling, employment matters, franchise disputes, before the New Jersey Motor Vehicle Commission and New Jersey Department of Law and Public Safety, Division of Consumer Affairs, and in legislative and regulatory issues affecting the automotive industry. Grace Strom Power is an Associate in the Trenton Office and has over 10 years of government affairs experience in both the public and private sectors, advising and representing clients before the New Jersey State Legislature, Office of the Governor, state and local agencies, commissions and regulatory authorities.

For more information about the NJIADA, contact Paula Frendel at njiada.pfrendel@gmail.com

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