

Second Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 26-0460.02 Jery Payne x2157

HOUSE BILL 26-1261

HOUSE SPONSORSHIP

Mabrey and Ricks,

SENATE SPONSORSHIP

Weissman and Wallace,

House Committees
Business Affairs & Labor

Senate Committees

A BILL FOR AN ACT

101 CONCERNING RIGHTS RELATED TO THE TRANSFER OF A MOTOR
102 VEHICLE.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

Under the "Uniform Consumer Credit Code", a creditor must give certain notices at least 20 days before repossessing collateral. For a vehicle that is required to be registered and that is a debtor's only vehicle (qualified motor vehicle), the bill extends this notice period to 60 days. A covered person with a qualified motor vehicle subject to a lien may cure the default during the 60 days by making the back payments plus

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

delinquency or deferral charges.

The bill prohibits disabling a qualified motor vehicle for the purpose of repossessing it.

The bill creates a 48-day right to cure a default that led to a qualified motor vehicle being repossessed. The creditor must notify the covered person that owns the vehicle of the repossession within 48 hours and that the qualified motor vehicle is subject to disposition unless the debt is cured. Standards are set for the notice.

If the covered person fails to cure the default within 48 days after the repossession, the secured party with the repossessed qualified motor vehicle may dispose of the qualified motor vehicle. If the covered person cures the default within 48 days after the repossession, the secured party shall return the qualified motor vehicle and restore the covered person's rights under the security agreement and the associated obligations under the consumer transaction or promissory note as though the default did not occur.

The bill creates a right to return a qualified motor vehicle purchased from a dealer within 3 business days. For cases in which a consumer returns a motor vehicle, the bill creates certain requirements for the consumer and the dealer. Procedures are set for unwinding the financing agreement and any security agreement.

A dealer must not charge or attempt to charge a consumer for unreasonable excess mileage or unreasonable cost of repairs or use a claim of excess mileage or repairs to delay compliance with the bill.

A waiver of the right to return a motor vehicle is void as against public policy. In addition to any other remedies, a consumer harmed by a dealer's violation of the bill may recover actual damages, reasonable attorney fees and costs, and, for willful or knowing violations, treble damages.

A violation of the bill is an unfair or deceptive trade practice under the "Colorado Consumer Protection Act".

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** article 9.4 to title
3 5 as follows:

4 **ARTICLE 9.4**

5 **Consumer Protections for Motor Vehicle Liens**

6 **5-9.4-101. Definitions.**

7 AS USED IN THIS ARTICLE 9.4, UNLESS THE CONTEXT OTHERWISE

1 REQUIRES:

2 (1) "COVERED PERSON" MEANS A NATURAL PERSON THAT ENTERS
3 INTO A RETAIL INSTALLMENT CONTRACT OR LEASE FOR A QUALIFIED
4 MOTOR VEHICLE.

5 (2) "DISABLE A MOTOR VEHICLE" MEANS ACTIVATING, INCLUDING
6 BY REMOTE OR ELECTRONIC ACTIVATION, A DEVICE THAT PREVENTS
7 NORMAL OPERATION OF A MOTOR VEHICLE.

8 (3) (a) "QUALIFIED MOTOR VEHICLE" MEANS A SELF-PROPELLED
9 VEHICLE THAT IS:

10 (I) REQUIRED TO BE REGISTERED UNDER ARTICLE 3 OF TITLE 42,
11 REGARDLESS OF WHETHER THE VEHICLE IS USED FOR PERSONAL,
12 HOUSEHOLD, OR BUSINESS PURPOSES; AND

13 (II) THE ONLY MOTOR VEHICLE OWNED BY A DEBTOR.

14 (b) "QUALIFIED MOTOR VEHICLE" DOES NOT INCLUDE A FLEET
15 VEHICLE AS DEFINED IN SECTION 42-1-102 (36).

16 (4) "SECURED PARTY" MEANS A PERSON WITH A SECURITY
17 INTEREST IN A MOTOR VEHICLE.

18 (5) "SECURITY INTEREST" HAS THE MEANING SET FORTH IN
19 SECTION 4-1-201 (35).

20 **5-9.4-102. Applicability - conflict of laws.**

21 (1) NOTWITHSTANDING COMMON LAW OR A PROVISION OF A
22 CONTRACT, THIS ARTICLE 9.4 APPLIES TO THE ENFORCEMENT OF RIGHTS
23 UNDER A SECURITY INTEREST IN A QUALIFIED MOTOR VEHICLE. A
24 PROVISION OF A CONTRACT THAT WAIVES A RIGHT GRANTED UNDER THIS
25 ARTICLE 9.4 IS VOID TO THE EXTENT NECESSARY FOR A COVERED PERSON
26 TO RETAIN THE RIGHT.

27 (2) IF A PROVISION IN THIS ARTICLE 9.4 CONFLICTS WITH A

1 PROVISION IN SECTION 4-9-609 OR ARTICLE 5 OF THIS TITLE 5, THE
2 PROVISION IN THIS ARTICLE 9.4 GOVERNS TO THE EXTENT THAT THE
3 CONFLICT APPLIES TO A SECURITY INTEREST IN A QUALIFIED MOTOR
4 VEHICLE PURCHASED BY A COVERED PERSON.

5 **5-9.4-103. Cure of default.**

6 (1) AFTER A COVERED PERSON'S DEFAULT CONSISTING ONLY OF
7 THE COVERED PERSON'S FAILURE TO MAKE A REQUIRED PAYMENT, A
8 CREDITOR SHALL NOT, BECAUSE OF THE DEFAULT, ACCELERATE MATURITY
9 OF THE UNPAID BALANCE OF THE OBLIGATION NOR TAKE POSSESSION OF OR
10 OTHERWISE ENFORCE A SECURITY INTEREST IN A QUALIFIED MOTOR
11 VEHICLE UNTIL SIXTY DAYS AFTER GIVING THE CONSUMER THE NOTICE OF
12 RIGHT TO CURE DESCRIBED IN SECTION 5-5-110.

13 (2) UNTIL THE EXPIRATION OF THE TIME PERIOD DESCRIBED IN
14 SUBSECTION (1) OF THIS SECTION, A DEFAULT CONSISTING OF A FAILURE TO
15 MAKE A REQUIRED PAYMENT MAY BE CURED BY TENDERING TO THE
16 CREDITOR THE AMOUNT OF ALL UNPAID SUMS DUE AT THE TIME OF THE
17 TENDER, WITHOUT ACCELERATION, PLUS ANY UNPAID DELINQUENCY OR
18 DEFERRAL CHARGES. CURING THE DEFAULT RESTORES THE COVERED
19 PERSON'S RIGHTS UNDER THE AGREEMENT AS THOUGH THE DEFAULT DID
20 NOT OCCUR.

21 (3) THIS SECTION DOES NOT APPLY:

22 (a) IF THE DEFAULT CONTINUES FOR ONE HUNDRED TWENTY DAYS
23 OR MORE; OR

24 (b) TO A SECOND OR SUBSEQUENT DEFAULT.

25 (4) A SECURED PARTY MUST COMPLY WITH THIS SECTION IN ORDER
26 TO TAKE POSSESSION OF A QUALIFIED MOTOR VEHICLE.

27 **5-9.4-104. Disabling motor vehicle prohibited.**

1 A SECURED PARTY SHALL NOT DISABLE A MOTOR VEHICLE FOR THE
2 COVERED PERSON'S FAILURE TO MEET PAYMENT OBLIGATIONS UNDER THE
3 PURCHASE TRANSACTION ASSOCIATED WITH THE SECURITY INTEREST OR
4 PROMISSORY NOTE WHEN EXERCISING THE SECURED PARTY'S RIGHTS WITH
5 RESPECT TO COLLATERAL.

6 **5-9.4-105. Qualified motor vehicle - right to cure after**
7 **repossession.**

8 (1) A SECURED PARTY THAT HAS REPOSSESSED A QUALIFIED
9 MOTOR VEHICLE SHALL NOT DISPOSE OF THE MOTOR VEHICLE UNTIL
10 FORTY-EIGHT DAYS AFTER THE MOTOR VEHICLE IS REPOSSESSED.

11 (2) WITHIN FORTY-EIGHT HOURS AFTER REPOSSESSING A
12 QUALIFIED MOTOR VEHICLE, A SECURED PARTY SHALL NOTIFY THE
13 COVERED PERSON THAT THE MOTOR VEHICLE HAS BEEN REPOSSESSED AND
14 THAT THE MOTOR VEHICLE IS SUBJECT TO DISPOSITION FORTY-EIGHT DAYS
15 AFTER THE DATE OF REPOSSESSION UNLESS THE COVERED PERSON CURES
16 THE DEFAULT IN ACCORDANCE WITH SUBSECTION (3) OF THIS SECTION. THE
17 NOTICE MUST INCLUDE:

18 (a) THE ACTUAL DATE THE QUALIFIED MOTOR VEHICLE IS SUBJECT
19 TO DISPOSITION IF THE DEBTOR DOES NOT CURE THE DEFAULT;

20 (b) THE AMOUNT NECESSARY TO CURE THE DEFAULT UNDER
21 SUBSECTION (3) OF THIS SECTION;

22 (c) THE ACCEPTABLE FORMS OF PAYMENT TO CURE THE DEFAULT;
23 AND

24 (d) THE NAME OF, ADDRESS OF, AND TELEPHONE NUMBER OF THE
25 SECURED PARTY.

26 (3) TO CURE A DEFAULT THAT CAUSED THE REPOSSESSION OF A
27 QUALIFIED MOTOR VEHICLE, THE COVERED PERSON MUST PAY THE

1 OVERDUE AMOUNT PLUS THE REASONABLE COST OF REPOSSESSING THE
2 MOTOR VEHICLE.

3 (4) (a) IF A COVERED PERSON FAILS TO CURE A DEFAULT WITHIN
4 FORTY-EIGHT DAYS AFTER THE REPOSSESSION OF A QUALIFIED MOTOR
5 VEHICLE, THE SECURED PARTY MAY DISPOSE OF THE MOTOR VEHICLE IN
6 ACCORDANCE WITH PART 6 OF ARTICLE 9 OF TITLE 4 AND ARTICLE 5 OF
7 THIS TITLE 5.

8 (b) IF A COVERED PERSON CURES A DEFAULT WITHIN FORTY-EIGHT
9 DAYS AFTER THE REPOSSESSION OF A QUALIFIED MOTOR VEHICLE, THE
10 SECURED PARTY SHALL RETURN THE MOTOR VEHICLE AND RESTORE THE
11 COVERED PERSON'S RIGHTS UNDER THE SECURITY AGREEMENT AND THE
12 ASSOCIATED OBLIGATIONS UNDER THE PURCHASE TRANSACTION OR
13 PROMISSORY NOTE AS THOUGH THE DEFAULT DID NOT OCCUR. THE
14 COVERED PERSON'S OBLIGATIONS UNDER THE SECURITY AGREEMENT AND
15 THE ASSOCIATED OBLIGATIONS UNDER THE PURCHASE TRANSACTION OR
16 PROMISSORY NOTE RESUME AS THOUGH THE DEFAULT DID NOT OCCUR.

17 **5-9.4-106. Enforcement - unfair or deceptive trade practice.**

18 A VIOLATION OF THIS ARTICLE 9.4 IS AN UNFAIR OR DECEPTIVE
19 TRADE PRACTICE UNDER THE "COLORADO CONSUMER PROTECTION ACT",
20 AS DESCRIBED IN SECTION 6-1-105 (1)(rrrr).

21 **SECTION 2.** In Colorado Revised Statutes, **add** 44-20-130.5 as
22 follows:

23 **44-20-130.5. Right to return - enforcement - unfair or**
24 **deceptive trade practice - definitions - rules.**

25 (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
26 REQUIRES:

27 (a) "DEALER" MEANS A MOTOR VEHICLE DEALER OR A USED MOTOR

1 VEHICLE DEALER.

2 (b) "QUALIFIED MOTOR VEHICLE" HAS THE MEANING SET FORTH IN
3 SECTION 5-9.4-101 (3).

4 (2) (a) SUBJECT TO SUBSECTION (3) OF THIS SECTION, A CONSUMER
5 WHO PURCHASES A QUALIFIED MOTOR VEHICLE FROM A DEALER HAS A
6 RIGHT TO RETURN THE MOTOR VEHICLE TO THE DEALER WITHIN THREE
7 BUSINESS DAYS AFTER THE LATER OF THE CONSUMER RECEIVING DELIVERY
8 OF THE MOTOR VEHICLE OR THE CONSUMER PURCHASING THE MOTOR
9 VEHICLE.

10 (b) IF A CONSUMER RETURNS A QUALIFIED MOTOR VEHICLE UNDER
11 THIS SECTION, THE DEALER, WITHIN THREE BUSINESS DAYS, SHALL:

12 (I) REFUND THE AMOUNTS ACTUALLY PAID BY THE CONSUMER FOR
13 THE RETURNED VEHICLE MINUS THE FEES DESCRIBED IN SUBSECTION (3)(c)
14 OF THIS SECTION AND ANY COST OF REPAIRING THE RETURNED VEHICLE AS
15 DESCRIBED IN SUBSECTION (3)(e)(II) OF THIS SECTION;

16 (II) TAKE ALL NECESSARY STEPS TO UNWIND OR CANCEL ANY
17 FINANCING OR LEASING ARRANGEMENTS RELATED TO THE RETURNED
18 VEHICLE; AND

19 (III) IF THE CONSUMER TRADED IN A VEHICLE AS PART OF THE
20 TRANSACTION:

21 (A) RETURN THE TRADE-IN VEHICLE TO THE CONSUMER IN
22 SUBSTANTIALLY THE SAME CONDITION IF THE DEALER STILL OWNS THE
23 VEHICLE; OR

24 (B) PAY THE CONSUMER THE AGREED TRADE-IN VALUE STATED IN
25 THE PURCHASE CONTRACT IF THE DEALER NO LONGER OWNS THE VEHICLE.

26 (3) TO EXERCISE THE RIGHT TO RETURN A QUALIFIED MOTOR
27 VEHICLE, A CONSUMER MUST:

1 (a) RETURN THE QUALIFIED MOTOR VEHICLE TO THE DEALER'S
2 PLACE OF BUSINESS DURING NORMAL BUSINESS HOURS WITHIN THE
3 THREE-BUSINESS-DAY RETURN PERIOD;

4 (b) SIGN THE CERTIFICATE OF TITLE OF THE QUALIFIED MOTOR
5 VEHICLE AND TRANSFER THE CERTIFICATE OF TITLE TO THE DEALER;

6 (c) PAY A REASONABLE RESTOCKING FEE AND ANY REASONABLE
7 EXCESS MILEAGE FEE, AS EACH IS DETERMINED PURSUANT TO SUBSECTION
8 (4) OF THIS SECTION;

9 (d) RETURN ALL ITEMS RECEIVED AS PART OF THE TRANSACTION;
10 AND

11 (e) (I) RETURN THE QUALIFIED MOTOR VEHICLE IN SUBSTANTIALLY
12 THE DELIVERED CONDITION, NOT INCLUDING ORDINARY WEAR AND TEAR
13 AND REASONABLE MILEAGE; OR

14 (II) PAY THE REASONABLE COST, NOT TO EXCEED ONE-HALF OF
15 ONE PERCENT OF THE VALUE OF THE QUALIFIED MOTOR VEHICLE AT THE
16 POINT OF SALE, OF REPAIRING THE MOTOR VEHICLE TO SUBSTANTIALLY
17 THE DELIVERED CONDITION.

18 (4) IF A QUALIFIED MOTOR VEHICLE IS RETURNED PURSUANT TO
19 THIS SECTION, A DEALER MAY CHARGE A REASONABLE RESTOCKING FEE OF
20 TWO HUNDRED DOLLARS OR MORE BUT NOT TO EXCEED THE LOWER OF SIX
21 HUNDRED DOLLARS OR ONE AND ONE-HALF PERCENT OF THE TOTAL SALE
22 PRICE OF THE RETURNED MOTOR VEHICLE. IN ADDITION TO THE
23 RESTOCKING FEE, THE DEALER MAY CHARGE AN EXCESS MILEAGE FEE TO
24 COMPENSATE THE DEALER FOR EXCESS MILEAGE BEYOND REASONABLE
25 MILEAGE. BOTH THE RESTOCKING FEE AND THE EXCESS MILEAGE FEE ARE
26 DEDUCTED FROM THE CONSUMER'S REFUND. THE DEALER SHALL NOT
27 REQUIRE THE CONSUMER TO PAY THE RESTOCKING FEE OR THE EXCESS

1 MILEAGE FEE BEFORE RETURNING THE QUALIFIED MOTOR VEHICLE
2 PURSUANT TO THIS SECTION.

3 (5) (a) (I) A SECURITY INTEREST, PROMISSORY NOTE, OR
4 FINANCING INSTRUMENT FOR THE PURCHASE OF A QUALIFIED MOTOR
5 VEHICLE FROM A DEALER DOES NOT TAKE EFFECT UNTIL THE FOURTH
6 BUSINESS DAY AFTER THE LATER OF THE CONSUMER PURCHASING THE
7 MOTOR VEHICLE OR THE CONSUMER RECEIVING DELIVERY OF THE MOTOR
8 VEHICLE.

9 (II) UPON NOTICE FROM A DEALER THAT A PURCHASE CONTRACT
10 HAS BEEN CANCELED UNDER THIS SECTION, A HOLDER OF A SECURITY
11 INTEREST, PROMISSORY NOTE, OR FINANCING INSTRUMENT SHALL
12 PROMPTLY:

13 (A) REVERSE THE OBLIGATIONS OF THE CONSUMER UNDER THE
14 SECURITY INTEREST, PROMISSORY NOTE, OR FINANCING INSTRUMENT; AND

15 (B) REFUND THE PAYMENTS RECEIVED FROM OR ON BEHALF OF THE
16 CONSUMER.

17 (b) THIS SUBSECTION (5) DOES NOT APPLY IF THE CONSUMER HAS
18 FINANCED THE PURCHASE OF A QUALIFIED MOTOR VEHICLE WITHOUT
19 GRANTING A SECURITY INTEREST IN THE MOTOR VEHICLE TO OBTAIN THE
20 FINANCING.

21 (6) A DEALER SHALL NOT:

22 (a) CHARGE OR ATTEMPT TO CHARGE A CONSUMER FOR
23 UNREASONABLE EXCESS MILEAGE OR UNREASONABLE COST OF REPAIRS;
24 OR

25 (b) USE A CLAIM OF EXCESS MILEAGE OR REPAIRS TO DELAY
26 COMPLIANCE WITH THIS SECTION.

27 (7) A WAIVER OF THE RIGHT TO RETURN A QUALIFIED MOTOR

1 VEHICLE UNDER THIS SECTION IS VOID AS AGAINST PUBLIC POLICY.

2 (8) (a) A VIOLATION OF THIS SECTION IS AN UNFAIR OR DECEPTIVE
3 TRADE PRACTICE UNDER THE "COLORADO CONSUMER PROTECTION ACT",
4 AS DESCRIBED IN SECTION 6-1-105 (1)(qqqq).

5 (b) IN ADDITION TO ANY OTHER REMEDIES, A CONSUMER HARMED
6 BY A DEALER'S VIOLATION OF THIS SECTION MAY RECOVER ACTUAL
7 DAMAGES, REASONABLE ATTORNEY FEES AND COSTS, AND, FOR A WILLFUL
8 OR KNOWING VIOLATION, TREBLE DAMAGES.

9 (9) THE BOARD MAY ADOPT RULES TO IMPLEMENT AND ENFORCE
10 THIS SECTION. THE RULES MAY INCLUDE DEFINITIONS FOR "REASONABLE
11 MILEAGE", "ORDINARY WEAR AND TEAR", "REASONABLE RESTOCKING
12 FEE", AND "UNREASONABLE COST OF REPAIRS".

13 **SECTION 3.** In Colorado Revised Statutes, 6-1-105, **add**
14 (1)(qqqq) and (1)(rrrr) as follows:

15 **6-1-105. Unfair or deceptive trade practices - definitions.**

16 (1) A person engages in a deceptive trade practice when, in the
17 course of the person's business, vocation, or occupation, the person:

18 (qqqq) VIOLATES SECTION 44-20-130.5;

19 (rrrr) VIOLATES ARTICLE 9.4 OF TITLE 5.

20 **SECTION 4. Act subject to petition - effective date -**

21 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
22 the expiration of the ninety-day period after final adjournment of the
23 general assembly (August 12, 2026, if adjournment sine die is on May 13,
24 2026); except that, if a referendum petition is filed pursuant to section 1
25 (3) of article V of the state constitution against this act or an item, section,
26 or part of this act within such period, then the act, item, section, or part
27 will not take effect unless approved by the people at the general election

1 to be held in November 2026 and, in such case, will take effect on the
2 date of the official declaration of the vote thereon by the governor.

3 (2) This act applies to motor vehicle sales made on or after the
4 applicable effective date of this act.