

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 868

Short Title: No Financed Vehicle Subleasing.

(Public)

Sponsors: Senator Cobb.

Referred to: Transportation.

April 12, 1989

1 A BILL TO BE ENTITLED
2 AN ACT TO PROHIBIT INDUCEMENT OF THE BUYER OF A MOTOR VEHICLE
3 UNDER RETAIL INSTALLMENT CONTRACT OR THE LESSEE OF A
4 MOTOR VEHICLE UNDER A LEASE CONTRACT TO SUBLEASE THE
5 MOTOR VEHICLE WITHOUT THE WRITTEN CONSENT OF THE HOLDER
6 OF THE RETAIL INSTALLMENT CONTRACT OR THE LESSOR.

7 The General Assembly of North Carolina enacts:

8 Section 1. Chapter 20 of the General Statutes is amended by adding a new
9 Article to read:

10 **“ARTICLE 11A.**

11 **“FINANCED VEHICLE SUBLEASING.**

12 **“§ 20-284.1. Definitions.**

13 For purposes of this Article, the following words have the following meanings:

- 14 (1) ‘Induce’ means to cause a buyer of a motor vehicle under retail
15 installment contract or a lessee of a motor vehicle under a motor
16 vehicle lease contract to sublease the subject motor vehicle or to
17 arrange for or cause a buyer or lessee to be so induced;
18 (2) ‘Lessee’ means a person who obtains possession and use of a motor
19 vehicle through a motor vehicle lease contract;
20 (3) ‘Lessor’ means any person who in the regular course of business or as
21 part of regular business activity leases motor vehicles under motor
22 vehicle lease contracts or purchases motor vehicle lease contracts or
23 any sales finance company that purchases motor vehicle lease
24 contracts;

- 1 (4) 'Motor vehicle lease contract' means an agreement between a lessor
2 and a lessee whereby the lessee obtains the possession and use of a
3 motor vehicle for the period of time, for the purposes, and for the
4 consideration set forth in the agreement;
- 5 (5) 'Subject motor vehicle' means the motor vehicle sold to a buyer under
6 a retail installment contract or the motor vehicle obtained by a lessee
7 under a motor vehicle lease contract;
- 8 (6) 'Sublease' means:
- 9 a. To transfer possession of a motor vehicle which is the subject of
10 a retail installment contract to a person who is not a party to that
11 contract or to transfer or assign any of the buyer's rights and
12 interests under the retail installment contract to a person,
13 whether or not the transfer or assignment is effective; or
- 14 b. To transfer possession of a motor vehicle which is the subject of
15 a motor vehicle lease contract to a person who is not a party to
16 that contract or to transfer or assign any of the lessee's or
17 lessor's rights or interests under the motor vehicle lease contract
18 to a person, whether or not the transfer or assignment is
19 effective.

20 **"§ 20-284.2. Unlawful inducement.**

21 (a) It is unlawful for any person to induce the buyer of a motor vehicle under
22 a retail installment contract to sublease the subject motor vehicle to that person or to any
23 other sublessee without first obtaining written consent to the sublease from the holder of
24 the retail installment contract.

25 (b) It is unlawful for any person to induce the buyer of a motor vehicle under
26 a motor vehicle lease contract to sublease the subject motor vehicle to that person or to
27 any other sublessee without first obtaining written consent to the sublease from the
28 holder of the motor vehicle lease contract.

29 (c) It is unlawful for any person who is the sublessee of a motor vehicle to
30 offer the motor vehicle for hire or to offer it to another person to offer for hire if that
31 person induced the sublease of the motor vehicle in violation of subsections (a) or (b) of
32 this section or if the person knew or reasonably should have known that the sublease of
33 the motor vehicle was induced in violation of subsections (a) or (b) of this section.

34 (d) Any person who violates any provision of this section shall be guilty of a
35 misdemeanor.

36 **"§ 20-284.3. Damage suffered by violation of G.S. 20-284.2.**

37 (a) Any one or more of the following persons may suffer damage as a result
38 of a violation of G.S. 20-284.2:

- 39 (1) The holder of the retail installment contract;
40 (2) The lessor of a motor vehicle under a motor vehicle lease contract;
41 (3) The buyer of a motor vehicle under a retail installment contract or the
42 lessee of a motor vehicle under a motor vehicle lease contract;
43 (4) The sublease of the subject motor vehicle when such sublessee did not
44 know and could not reasonably be expected to have known that the

1 sublease of the motor vehicle was induced in violation of subsections
2 (a) or (b) of G.S. 20-284.2.

3 (b) A person who suffers damage as described in subsection (a) of this section
4 may bring an action against the person who induced the sublease of the subject motor
5 vehicle in violation of subsections (a) or (b) of G.S. 20-284.2. The person who suffers
6 damage may recover or obtain any of the following against the person who induced the
7 sublease:

8 (1) Actual damages;

9 (2) Equitable relief, including, but not limited to, an injunction or
10 restitution of money or property;

11 (3) Punitive damages;

12 (4) Reasonable attorney's fees and costs; and

13 (5) Any other relief which the court deems proper.

14 (c) The rights and remedies provided for in this Article are in addition to any
15 other rights and remedies provided by law.”

16 Sec. 2. This act is effective upon ratification.