

By Senator Flores

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1 A bill to be entitled
2 An act relating to the financing of motor vehicles;
3 reordering and amending s. 545.01, F.S.; defining
4 terms; creating s. 545.045, F.S.; prohibiting a
5 finance company that is affiliated with or controlled
6 by, or that has a contractual relationship to
7 represent, a manufacturer or wholesale distributor
8 from adopting or implementing a policy or business
9 practice that results in specified actions relating to
10 certain finance obligations arising from the retail
11 sale or lease of a motor vehicle that includes a
12 specified third party automotive related product;
13 providing an effective date.

14
15 Be It Enacted by the Legislature of the State of Florida:

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17 Section 1. Section 545.01, Florida Statutes, is reordered
18 and amended to read:

19 545.01 Definitions.—As used in this chapter, the term:

20 (1) "Automotive-related product" means a motor vehicle
21 service agreement, as defined in s. 634.011, a guaranteed asset
22 protection product, as defined in s. 520.02, or another
23 ancillary product that is purchased or otherwise provided as
24 part of the sale or lease of a motor vehicle by a dealer.

25 ~~(5)(1) The term "Person" as used in this chapter means an~~
26 ~~any individual, firm, corporation, partnership, limited~~
27 ~~liability company, association, trustee, receiver, or assignee~~
28 ~~for the benefit of creditors.~~

29 ~~(6)(2) The terms "sell," "sold," "buy," or "purchase,"~~

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30 ~~includes as used in this chapter, include~~ an exchange, barter,
31 gift, or ~~and~~ offer to contract to sell or buy.

32 ~~(4)(3) The term "Manufacturer" means~~ a ~~any~~ person engaged,
33 directly or indirectly, in the manufacture of motor vehicles.

34 ~~(8)(4) The term "Wholesale distributor" means~~ a ~~any~~ person
35 engaged, directly or indirectly, in the sale or distribution of
36 motor vehicles to agents or to dealers.

37 ~~(2)(5) The term "Dealer" means~~ a franchised motor vehicle
38 dealer, as defined in s. 320.27. ~~any person who is engaged in,~~
39 ~~or who intends to engage in the business of selling motor~~
40 ~~vehicles at retail in this state. The term "dealer" shall also~~
41 ~~include "retail agent."~~

42 ~~(3)(6) The term "Finance company" means~~ a ~~any~~ person
43 engaged in the business of financing the sale or lease of motor
44 vehicles, or engaged in the business of purchasing or acquiring
45 vehicle contracts ~~conditional bills of sale, or promissory~~
46 ~~notes, either secured by vendor's lien or chattel mortgages, or~~
47 ~~arising from the sale of motor vehicles in this state.~~

48 ~~(7) "Vehicle contract" means~~ a conditional sales contract,
49 retail installment sales contract, chattel mortgage, lease
50 agreement, promissory note, or any other financial obligation
51 arising from the retail sale or lease of a motor vehicle.

52 Section 2. Section 545.045, Florida Statutes, is created to
53 read:

54 545.045 Purchase or assignment of third-party financing.-

55 (1) A finance company that is affiliated with or controlled
56 by a manufacturer or wholesale distributor through common
57 ownership, officers, directors, or management, or that has a
58 contractual agreement to represent a manufacturer or wholesale

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59 distributor with respect to financing the sale or lease of motor
60 vehicles, may not adopt or implement a policy or business
61 practice that results in:

62 (a) A refusal to purchase or accept the assignment of a
63 vehicle contract from a dealer because the vehicle contract
64 includes a third party automotive related product;

65 (b) A charge to a dealer of an additional fee or surcharge
66 for the purchase, or acceptance of the assignment, of a vehicle
67 contract from a dealer because the vehicle contract includes a
68 third party automotive related product; or

69 (c) An offer to purchase or accept assignment of a vehicle
70 contract from a dealer on less favorable terms than a vehicle
71 contract that contains otherwise substantially similar credit
72 risk, duration, and other terms, because the vehicle contract
73 includes a third party automotive related product.

74 (2) This section applies only if the third party automotive
75 related product contained in the vehicle contract is of
76 substantially similar or superior kind and quality to an
77 automotive related product offered by the finance company or the
78 manufacturer or wholesale distributor that is affiliated with or
79 controls the finance company or with which the finance company
80 has a contractual agreement.

81 Section 3. This act shall take effect July 1, 2014.