

SENATE, No. 1588

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED FEBRUARY 13, 2020

Sponsored by:
Senator JAMES BEACH
District 6 (Burlington and Camden)

SYNOPSIS

Regulates pay-off of trade-in vehicles and certain vehicle title releases.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning the trade-in of used motor vehicles,
2 supplementing chapter 10 of Title 39 of the Revised Statutes, and
3 amending R.S.39:10-10 and R.S.39:10-11.
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7

8 1. (New section) a. A dealer or used motor vehicle dealer
9 who buys a motor vehicle from a purchaser as a trade-in on which
10 there remains a balance due under a security agreement which is to
11 be satisfied pursuant to an agreement between the dealer and the
12 purchaser shall, within 15 days of taking possession of the motor
13 vehicle, remit payment in the full amount of the remaining loan to
14 the secured party holding a security interest in the trade-in vehicle.

15 b. A dealer or used motor vehicle dealer subject to the
16 provisions of subsection a. of this section shall provide proof of
17 payment of the full balance due upon request by the person who
18 transferred title or possession of the motor vehicle to the dealer or
19 used motor vehicle dealer.

20 c. A dealer or used motor vehicle dealer who violates the
21 provisions of this section shall be liable to a penalty of not more
22 than \$1,000 for the first offense and not more than \$2,000 for the
23 second and each subsequent offense. The penalty assessed pursuant
24 to this subsection shall be exclusive of and in addition to any other
25 penalties provided under chapter 10 of Title 39 of the Revised
26 Statutes.
27

28 2. R.S.39:10-10 is amended to read as follows:

29 39:10-10. When the contract or terms of the security agreement
30 noted on the certificate of origin, or certificate of ownership have
31 been performed, or when the full balance due has been satisfied, the
32 seller or secured party shall:

33 a. deliver to the buyer, or the buyer's assignee, the certificate
34 of ownership thereto, executed as provided in this chapter, with
35 proper evidence of satisfaction of the contract or termination of the
36 security interest [Within 15 days after the performance of the
37 contract or termination of the security interest, the seller or secured
38 party shall] within 15 days after receipt of payment, provided,
39 however, that when payment is made by non-certified check or
40 draft, the seller or secured party shall make delivery within 15 days
41 of the date which funds are credited to the seller's or secured
42 party's account; and

43 b. file with the [director] chief administrator a notice, in such
44 form as the [director] chief administrator shall prescribe,
45 containing evidence of such performance or termination within 15

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 days after the performance of the contract or termination of the
2 security interest. The [commissioner] chief administrator shall
3 thereupon cause a notation to be made on his records of certificate
4 of ownership of the motor vehicle that the contract has been
5 satisfied or the security interest terminated.

6 c. A person who violates subsection a. of this section shall be
7 liable to a penalty of not more than \$500 for the first offense and
8 not more than \$1,000 for the second and each subsequent offense
9 and shall be liable to the buyer or buyer's assignee for any fine, fee,
10 or expense directly resulting from the failure to comply with
11 subsection a. of this section. Any person violating the provisions of
12 subsection b. of this section shall pay a fine of [\$25.00] \$25.

13 (cf: P.L.1961, c.122, s.4)

14
15 3. R.S.39:10-11 is amended to read as follows:

16 39:10-11. A. The purchaser of a motor vehicle in this State,
17 other than a dealer licensed pursuant to the provisions of R.S.39:10-
18 19, shall, within 10 working days after its purchase, submit to the
19 [director] chief administrator evidence of the purchase. Upon
20 presentation to the [director] chief administrator of the certificate
21 of origin, or certificate of ownership, or bill of sale issued prior to
22 October 1, 1946, with proper assignment and certification of the
23 seller, a record of the transaction shall be made and filed. A
24 certificate of ownership shall be issued by the [director] chief
25 administrator and delivered to the buyer, in case of a sale not
26 subject to a security interest, and the [director] chief administrator
27 shall collect a fee of \$20 for the issuance and filing thereof.

28 B. In the case of a sale subject to a security interest, a
29 certificate of ownership, with the name and address of the holder of
30 the encumbrance or secured party or his assignee recorded thereon,
31 shall be delivered to the holder of the encumbrance or secured party
32 or his assignee and a copy thereof shall be delivered to the buyer.
33 The [director] chief administrator shall collect a fee of \$30 for his
34 services in issuing a certificate and copy thereof, and for making a
35 record of and filing the record of the transaction, pursuant to this
36 subsection.

37 C. Except as hereinafter in this section otherwise expressly
38 provided, whenever a security interest is created in a motor vehicle,
39 other than a security interest which is required to be noted on the
40 certificate of origin or the certificate of ownership, as provided in
41 R.S.39:10-8 and R.S.39:10-9, there shall be filed with the
42 [director] chief administrator the certificate of ownership of the
43 motor vehicle, together with a financing statement on a form
44 prescribed by the [director] chief administrator. The [director]
45 chief administrator shall make and file a record of the transaction
46 and shall issue a certificate of ownership, recording the name and

1 address of the secured party or his assignee thereon, and shall
2 deliver it to the secured party or his assignee. A copy of the
3 certificate of ownership so issued shall be delivered to the buyer.
4 The **【director】** chief administrator shall collect a fee of \$20 for his
5 services in issuing a certificate and copy thereof and for making a
6 record of and filing the record of the transaction, pursuant to this
7 subsection.

8 D. The financing statement required to be filed pursuant to
9 subsection C. hereof shall be signed only by the buyer, shall not be
10 required to be acknowledged or proved, and shall show, in addition
11 to such matters as the **【director】** chief administrator may require for
12 the proper identification of the motor vehicle affected, the date of
13 the security agreement, and the names and addresses of the parties
14 thereto. Nothing contained in this section **【39:10-11 contained】**
15 shall be construed as requiring that the security agreement or a copy
16 thereof, or any proof of execution thereof other than that contained
17 in the financing statement, shall be presented to the **【director】** chief
18 administrator. When the buyer is a corporation, it shall be
19 sufficient if the financing statement is signed by any officer thereof,
20 or by any agent designated by the corporation for that purpose, and
21 it shall not be necessary that the financing statement recite the
22 authorization of the agent. When there is more than one buyer, it
23 shall be sufficient if the financing statement is signed by any one of
24 them.

25 E. Nothing in subsections C. and D. of this section shall apply
26 to security interests in motor vehicles which constitute inventory
27 held for sale, but such interests shall be subject to chapter 9 of Title
28 12A of the New Jersey Statutes, nor shall anything in the said
29 subsections apply to interests in personal property subject to chapter
30 28 of Title 46 of the Revised Statutes.

31 F. In addition to the fees elsewhere in this section provided for,
32 there shall be paid to the **【director】** chief administrator at the time a
33 certificate of ownership is issued a fee of \$10 for notice of
34 satisfaction of the lien or encumbrance of the record or abstract, or
35 of the termination of the security interest, where the motor vehicle
36 is subject to a lien or encumbrance or a security interest as provided
37 in R.S.39:10-14.

38 G. Notwithstanding any other provision of this chapter, when
39 any dealer licensed under the provisions of R.S.39:10-19 is the
40 purchaser of a motor vehicle in this State, he may, within 10
41 working days after its purchase, submit to the **【director】** chief
42 administrator the evidence of purchase. Upon presentation of the
43 certificate of ownership with proper assignment and certification of
44 the seller to the **【director】** chief administrator, a record of the
45 transaction shall be made and filed. A certificate of ownership shall
46 be issued by the **【director】** chief administrator and delivered to

1 such purchaser, and the **【director】** chief administrator shall collect a
2 fee of \$10 for the issuing and filing thereof.

3 If a dealer does not submit the evidence of purchase, upon resale
4 of the motor vehicle he shall execute and attach to the certificate of
5 ownership a dealer reassignment certificate. The **【director】** chief
6 administrator shall issue dealer reassignment certificates in lots
7 upon payment of a fee of \$10 for each certificate.

8 H. Any purchaser of a motor vehicle who fails to comply with
9 the provisions of this section shall pay to the **【director】** chief
10 administrator a penalty of \$25 plus the issuing and filing fee.

11 I. The failure of any person to comply with the requirements of
12 this section shall not constitute a misdemeanor within the
13 provisions of R.S.39:10-24, nor shall such failure affect the validity
14 of any instrument creating or reserving a security interest in a motor
15 vehicle, as between the parties to such instrument.

16 J. The notation of the name and business or residence address
17 of a secured party or his assignee, on the certificate of origin or on
18 the certificate of ownership, as provided in R.S.39:10-8 and
19 R.S.39:10-9, and the presentation to the **【director】** chief
20 administrator, in accordance with R.S.39:10-11, of the certificate of
21 origin or certificate of ownership so noted, and the compliance with
22 the requirements of subsections C. and D. of R.S.39:10-11 shall be
23 in lieu of all filing requirements imposed by chapter 9 of Title 12A
24 of the New Jersey Statutes and shall constitute the perfection of a
25 security interest in the motor vehicle, and the rights and remedies of
26 the debtors and the secured parties in respect to such security
27 interest shall, except as otherwise expressly provided in this
28 chapter, be subject to and governed by chapter 9 of Title 12A of the
29 New Jersey Statutes.

30 K. A levy on a motor vehicle which is constructive and not
31 actual in nature, initiated pursuant to R.S.39:10-15, shall not be
32 valid, enforceable, or effective unless the person taking constructive
33 possession of the motor vehicle seizes and takes actual possession
34 of the motor vehicle within 30 days of filing the required notice
35 with the chief administrator as required by R.S.39:10-15. The chief
36 administrator shall remove any title transfer restriction or other
37 impairment affecting the title if the motor vehicle is not seized and
38 taken actual possession of within 30 days, or upon the request of the
39 good faith purchaser. A levy by a judgment creditor on a motor
40 vehicle shall not be effective against a subsequent good faith
41 purchaser for value unless the motor vehicle in question was seized
42 and actual possession was taken by the creditor.

43 (cf: P.L.1994, c.60, s.26)

44

45 4. This act shall take effect on the first day of the third month
46 following enactment.

1 STATEMENT

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3 This bill requires motor vehicle dealers to pay the remaining loan
4 on a customer's trade-in within 15 days of accepting that trade-in.
5 The bill also requires the dealer to provide proof of the payment to
6 the customer upon request. A dealer who violates the bill's
7 provisions is to be subject to a penalty of up to \$1,000 for the first
8 offense and up to \$2,000 for each subsequent offense.

9 In addition, the bill requires a secured party to release the title
10 within 15 days of receipt of payment from the motor vehicle dealer.
11 When the balance is paid by non-certified check, the secured parties
12 are required to release the title within 15 days from the date the
13 check is credited to their account. A secured party who fails to
14 comply with these time requirements is to be subject to a civil
15 penalty of up to \$500 for the first offense and up to \$1,000 for each
16 subsequent offense.

17 Under current law, a creditor that takes actual or constructive
18 possession of a motor vehicle is required to notify the Chief
19 Administrator of the New Jersey Motor Vehicle Commission. This
20 bill invalidates levies placed on vehicles unless a creditor taking
21 constructive possession of the vehicle seizes and takes actual
22 possession of the vehicle within 30 days of providing notice to the
23 chief administrator. The bill also exempts a subsequent purchaser
24 of a trade-in vehicle from financial responsibility for a levy on a
25 motor vehicle that is not in a creditor's actual possession. The chief
26 administrator is to release title transfer restrictions on vehicles that
27 have been legally, but not physically, seized after 30 days or upon
28 request of the good faith purchaser.