



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

SB2521

Introduced 2/6/2018, by Sen. Steve Stadelman

SYNOPSIS AS INTRODUCED:

815 ILCS 505/2VVV new

Amends the Consumer Fraud and Deceptive Business Practices Act. Provides that a dealer or other creditor shall not use electronic tracking technology or starter interrupt technology in connection with the credit sale, loan, or lease of a motor vehicle unless the technology is used solely to verify and maintain the operational status of the tracking technology, to locate the vehicle for repossession, to repossess the vehicle, or to locate the vehicle to service the account or keep the account current. Requires specified conditions to be met and certain written disclosures to be made to the consumer regarding the use of the technology. Contains provisions regarding: use of the technology in a criminal investigation; damages for violations; repossession; privacy, storage, and destruction of data; and other matters. Provides that specified violations are unlawful practices within the meaning of the Act

LRB100 16642 JLS 31779 b

1 AN ACT concerning business.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Consumer Fraud and Deceptive Business
5 Practices Act is amended by adding Section 2VVV as follows:

6 (815 ILCS 505/2VVV new)

7 Sec. 2VVV. Use of starter interrupt technology.

8 (a) As used in this Section:

9 "Creditor" means a person that engages in the business of
10 financing the purchase or lease of motor vehicles for personal
11 use or lending money secured by those motor vehicles, including
12 any person servicing such transactions.

13 "Dealer" means a motor vehicle dealer as defined in Chapter
14 5 of the Illinois Vehicle Code.

15 "Electronic tracking technology" means global positioning
16 satellite or similar technology used to obtain or record the
17 location of a motor vehicle.

18 "Motor vehicle" or "vehicle" means a motor vehicle as
19 defined in Chapter 5 of the Illinois Vehicle Code.

20 "Optional services" means services that are optional and
21 separate from the retail purchase or lease of a motor vehicle
22 or extension of credit, are not a condition of or incident to
23 the transaction or extension of credit, and may be canceled at

1 any time.

2 "Person" means a natural person, partnership, corporation,
3 limited liability company, trust, estate, cooperative,
4 association, or other similar entity.

5 "Starter interrupt technology" means technology used to
6 remotely disable the starter of a motor vehicle.

7 "Transaction" means any credit sale, loan, or lease of a
8 motor vehicle made to a consumer by a dealer or other creditor.

9 "Transaction" includes any post default redemption and
10 reinstatement of the credit sale, loan, or lease by the
11 consumer.

12 (b) Any credit sale, loan, or lease of a motor vehicle made
13 after the effective date of this amendatory Act of the 100th
14 General Assembly to a consumer by a dealer or other creditor is
15 made subject to this Section. In connection with the credit
16 sale, loan, or lease of a motor vehicle to a consumer, a dealer
17 or other creditor shall not use electronic tracking technology
18 or starter interrupt technology unless it is used solely to
19 verify and maintain the operational status of the tracking
20 technology, to locate for repossession, to repossess the
21 vehicle, or to locate the vehicle to service the account or
22 keep the account current and the following conditions are met:

23 (1) The dealer or other creditor clearly and
24 conspicuously notifies the consumer at the time of the
25 transaction that the vehicle is equipped with electronic
26 tracking technology or starter interrupt technology and

1 the technology may be used by the dealer or creditor to
2 locate or disable the starter of the vehicle remotely.

3 (2) The dealer or other creditor obtains written
4 consent from the consumer that the vehicle is equipped with
5 electronic tracking technology or starter interrupt
6 technology and that the dealer or other creditor may use
7 the electronic tracking technology or starter interrupt
8 technology to locate or disable the starter of the vehicle
9 remotely.

10 (3) The dealer or creditor must provide notice to the
11 consumer upon default within the time periods established
12 in subsection (c).

13 (4) The dealer or creditor may not use starter
14 interrupt technology if the consumer tenders the amount
15 currently due on the loan to the dealer in an acceptable
16 form of payment before the due date on the payment contract
17 or provides proof of insurance as required under the
18 contract.

19 (5) The dealer or creditor shall not use starter
20 interrupt technology to locate or disable the vehicle for
21 any reason other than the consumer's failure to tender
22 timely payment or for failure to maintain insurance as
23 required under the contract.

24 (6) The dealer or creditor shall not install or utilize
25 any starter interrupt technology that would disable a
26 vehicle after the vehicle's engine has been enabled and is

1 running.

2 (7) The dealer or creditor shall not separately charge
3 the consumer for the installation or use of the starter
4 interrupt technology or electronic tracking technology or
5 for wireless airtime.

6 (8) The dealer or creditor shall not separately charge
7 the consumer for optional services purchased by the
8 consumer. However, the consumer may waive this prohibition
9 by clearly and conspicuously agreeing in a written
10 disclosure to pay for the installation or use of the
11 electronic tracking device for optional services.

12 (9) The dealer or creditor shall not use electronic
13 tracking technology or starter interrupt technology with a
14 non-English speaking consumer unless the dealer, creditor,
15 person, or company operating the electronic tracking
16 technology or starter interrupt technology complies with
17 Section 2N of this Act.

18 (10) The dealer or creditor shall provide the consumer
19 the ability to start a disabled vehicle for 24 hours after
20 the vehicle is initially disabled at least once per payment
21 cycle if the vehicle was disabled because the consumer
22 failed to tender timely payment or failed to maintain
23 insurance as required under the contract. Separate
24 instructions on how to restart a disabled vehicle must be
25 provided to consumer in a format that can be kept in the
26 glove compartment of the vehicle in addition to the

1 disclosures under this subsection. At a minimum, the dealer
2 or creditor must provide the consumer with a toll free
3 phone number to call to restart a disabled vehicle for 24
4 hours after the vehicle is initially disabled at least once
5 per payment cycle if the vehicle was disabled because the
6 consumer failed to tender timely payment or failed to
7 maintain insurance as required under the contract.
8 However, the one-time per payment cycle limitation does not
9 apply if the vehicle was disabled due to mistake,
10 malfunction or other event not attributable to the
11 consumer.

12 (c) A clear and conspicuous written disclosure shall be a
13 separate document in 12-point bold font and shall disclose all
14 of the following:

15 (1) Describe the electronic tracking and starter
16 interrupt devices installed on the vehicle and the data
17 that will be collected and stored.

18 (2) Inform the consumer that use of an electronic
19 tracking or starter interrupt device will allow a dealer or
20 creditor to track a vehicle's location.

21 (3) Inform the consumer that warnings will be provided
22 no less than 48 hours before the vehicle is disabled
23 remotely. The warning must be transmitted through at least
24 2 modes of communication, such as e-mail, mail, telephone,
25 text message, or through the device itself.

26 (4) Inform the consumer that the dealer or other

1 creditor will locate or disable a vehicle using electronic
2 tracking or starter interrupt technology following failure
3 to tender timely payment or for failure to maintain
4 insurance as required under the contract.

5 (5) Include the name, address, email address, and
6 telephone number of the person or company operating the
7 electronic tracking or starter interrupt device.

8 (6) Include, if known, the name, address, email
9 address, and telephone number of the creditor associated
10 with the person or company operating the electronic
11 tracking or starter interrupt device. If not known at the
12 time of the contract, the dealer must notify the consumer
13 within 7 business days of the contract the creditor's name,
14 address, email address, and telephone number.

15 (7) Provide that, in the event of an emergency, the
16 consumer will be provided with the ability to start a
17 disabled vehicle for 24 hours after the vehicle is
18 initially disabled and the number of times during the
19 payment cycle the restarting may occur. Separate
20 instructions on how to restart a disabled vehicle must be
21 provided to the consumer in a format that can be kept in
22 the glove compartment of the vehicle in addition to the
23 disclosures under this subsection. At a minimum, the dealer
24 or creditor must provide the consumer with a toll free
25 phone number to call to restart a disabled vehicle for 24
26 hours after the vehicle is initially disabled at least once

1 per payment cycle if the vehicle was disabled because the
2 consumer failed to tender timely payment or failed to
3 maintain insurance as required under the contract.
4 However, the one-time per payment cycle limitation does not
5 apply if the vehicle was disabled due to a mistake,
6 malfunction, or other event not attributable to the
7 consumer.

8 (d) A dealer or other creditor is not in violation of this
9 Section if law enforcement instructs the dealer or other
10 creditor to use the electronic tracking or starter interrupt
11 technology for a lawful criminal investigation.

12 (e) A consumer damaged by a violation of this Section by a
13 dealer or other creditor is entitled to recover from the
14 violator actual damages and reasonable attorney's fees and
15 court costs. Nothing in this Section limits a consumer's cause
16 of action against any party if the consumer is damaged by a
17 malfunction of the electronic tracking or starter interrupt
18 technology.

19 (f) The electronic tracking technology or starter
20 interrupt technology identified in this Section may only be
21 used, applied, or associated with a credit sale, loan, or lease
22 of a motor vehicle.

23 (g) Any use of starter interrupt technology and any
24 repossession of a motor vehicle must meet the requirements of
25 Article 9 of the Uniform Commercial Code in addition to any
26 requirements required in this Section. In addition, any use of

1 the starter interrupt device will be deemed a constructive
2 repossession.

3 (h) If a dealer or creditor uses starter interrupt
4 technology to disable a vehicle, the dealer or creditor is
5 deemed to have taken possession and is responsible for all
6 liabilities associated with the vehicle from the time of the
7 use of starter interrupt technology to disable a vehicle. If
8 the consumer cures the default, the consumer shall have a
9 reasonable opportunity to retrieve the vehicle before again
10 becoming responsible for all liabilities. If a consumer cures
11 the default before the creditor takes physical possession of
12 the vehicle, this will not invoke the consumer's right to
13 reinstatement pursuant to Article 9 of the Uniform Commercial
14 Code. A consumer must be in default for a minimum of 5 days
15 before the process can begin.

16 (i) Privacy, storage, and destruction of data obtained by
17 manufacturers of electronic tracking technology or starter
18 interrupt technology.

19 (1) A manufacturer of an electronic tracking
20 technology or starter interrupt technology, or an
21 authorized recipient of such data, shall implement and
22 maintain reasonable security measures to protect the data
23 associated with a motor vehicle's electronic tracking
24 technology or starter interrupt technology from
25 unauthorized access, acquisition, destruction, use,
26 modification, or disclosure.

1 (2) A manufacturer of electronic tracking technology
2 or starter interrupt technology or an authorized recipient
3 of such data, shall destroy, utilizing the following
4 procedures, all data associated with a motor vehicle's
5 electronic tracking technology or starter interrupt
6 technology. Destruction shall occur no later than one and
7 one-half years after the termination of the device or
8 termination of the optional services as permitted under
9 item (8) of subsection (b).

10 (A) Paper documents containing data associated
11 with a motor vehicle's electronic tracking technology
12 or starter interrupt technology shall be either
13 permanently redacted, burned, pulverized, or shredded
14 so that all data associated with the motor vehicle's
15 electronic tracking technology or starter interrupt
16 technology cannot practicably be read or
17 reconstructed.

18 (B) Electronic media and other non-paper media
19 containing data associated with a motor vehicle's
20 electronic tracking technology or starter interrupt
21 technology shall be destroyed or erased so that all
22 data associated with the motor vehicle's electronic
23 tracking technology or starter interrupt technology
24 cannot practicably be read or reconstructed.

25 (3) A manufacturer of electronic tracking technology
26 or starter interrupt technology, its affiliates,

1 subsidiaries, agents, directors, successors and assigns,
2 officers and employees, as well as any recipient of
3 electronic tracking or starter interrupt device data, are
4 prohibited from selling any of the data associated with a
5 motor vehicle's electronic tracking technology or starter
6 interrupt technology except as necessary for the provision
7 of optional services as permitted under item (8) of
8 subsection (b), or, data aggregated in such a manner that
9 only non-identifying information can be obtained.

10 (j) A consumer's attempt to intentionally disable the
11 device shall be deemed a default and the consumer shall not be
12 granted the normal opportunity to restart the vehicle for 24
13 hours after the default.

14 (k) It is an unlawful practice within the meaning of this
15 Act for a dealer or creditor to fail to remove electronic
16 tracking technology or starter interrupt technology in any of
17 the following situations:

18 (1) Within 5 days after a consumer has fulfilled the
19 credit obligations associated with the credit sale, loan,
20 or lease of the motor vehicle purchase.

21 (2) Within 7 days after disabling the vehicle using
22 electronic tracking technology or starter interrupt
23 technology.

24 (3) Prior to sale or resale of a motor vehicle
25 originally equipped with electronic tracking technology or
26 starter interrupt technology to any seller, including but

1 not limited to, another consumer or dealer.

2 (1) It is an unlawful practice within the meaning of this
3 Act for a dealer or creditor to use or activate starter
4 interrupt technology prior to a consumer defaulting for
5 non-payment or failure to maintain insurance. In the event that
6 a consumer cures the default, redeems or reinstates the
7 vehicle, the dealer or creditor shall, within 24 hours of
8 redemption or reinstatement, provide the consumer with the
9 ability to restart the vehicle and cease using electronic
10 tracking technology or starter interrupt technology. A dealer
11 or creditor continues to have the ability to use or activate
12 electronic tracking technology or starter interrupt technology
13 if a consumer subsequently defaults on a credit sale, loan, or
14 lease of a motor vehicle.