



GOVERNMENTAL ADVOCATES

March 17, 2025

Dave Cortese, Chair
Senate Transportation Committee
State Capitol, Room 405
Sacramento, CA 95814

RE: SB 766 (Allen)

On behalf of the California Financial Services Association (CFSA) and the American Financial Services Association (AFSA), I am writing to express CFSA's and AFSA's opposition to SB 766 (Allen). This measure will have an especially chilling effect on the used vehicle sales market and those consumers who must purchase used vehicles as their primary means of transportation.

As drafted, SB 766 will invariably result in a substantial increase in the number of lawsuits against California auto dealerships. In addition to litigation concerns, the measure also imposes a free 10-day return right for all customers of used vehicles; up from the current two days. While SB 766 may seem like a car dealer issue, it ignores how vehicles are financed, including the impact of the "holder rule." The Holder Rule, known as the Trade Regulation Rule Concerning Preservation of Consumers' Claims and Defenses, allows consumers to assert claims and defenses against a "holder" of a credit contract, even if the seller assigned the contract to another company. In the context of auto financing, small independent used car dealers typically enter into financing agreements with consumers for the purchase of a used car and then sell that automobile contract to finance companies. Assignment of that loan transfers all liability for compliance with SB 766 to the "holder" of the contract. Therefore, any new liability created by this measure extends to the finance company.

SB 766 states that a dealer must obtain "express, informed consent" from the customer, but it is unclear what informed consent means. There is also an oral consent requirement which is an entirely different problem. Prior to purchasing an automobile sales contract, finance companies must ensure that paperwork is signed and in order. Per this measure, signed paperwork appears to be insufficient, so it's unclear what finance companies will have to do to verify consent. In terms of the 10-day right-of-return, no finance company could purchase a contract from an automobile dealer until the 10-day period has lapsed, thereby hampering the ability of the dealer to initiate new finance contracts or purchase new inventory. The measure also provides that consumers need to agree to any optional products with individual agreements, yet, finance companies may not know what optional products or equipment a consumer agreed to purchase. Finally, this measure undoes a heavily negotiated GAP measure, which only took effect two years ago.

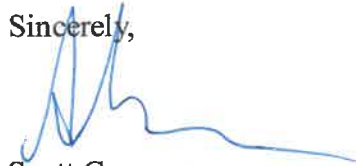
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Ultimately, the added liability created by this measure will make it more challenging and costly for finance companies to purchase automobile contracts, which will hamper the ability of used car dealers to obtain inventory and finance new sales. This will have a disproportionate impact on low-income consumers who often rely upon smaller used car dealerships to help them meet their transportation needs. With the cost of new and used vehicles rising exponentially, this measure will only exacerbate the problem and drive up costs for those who can least afford it. It is for these reasons that CFSA and AFSA must oppose this measure.

Sincerely,



Scott Govenar

Cc: The Honorable Ben Allen