February 18, 2026

The Honorable Javiar Mabrey
200 E Colfax
RM 307
Denver, CO 80203

Re: Draft Bill on Motor Vehicle Consumer Protections

Dear Representative Mabrey,

On behalf of the American Financial Services Association (AFSA)[1], we thank you sincerely for including AFSA in the stakeholder discussions on the motor vehicle consumer protection bill. We are writing to you to share our concerns regarding the draft. We share your goals of affordability and consumer protection, and we believe there are significant issues with the draft that will ultimately negatively affect consumers. We must emphasize that these are our quick initial reactions, and we would appreciate the opportunity to provide additional feedback through a reasonable revision process.

Right to Return

We understand that the inclusion of a three-day right-to-return a vehicle at first blush seems like a good idea from a consumer perspective, but ultimately the cost of doing business affects consumers too. While this change would have substantial consequences for dealerships, it would also create far-reaching challenges for our members, and ultimately consumers.

Depreciation

For new vehicles, as you know when a car is purchased and driven off the lot, it immediately depreciates. Who should bear the risk of that depreciation? If the answer is the dealer, then the dealer has to mitigate its risk. No new car dealer could reasonably be expected to release a new vehicle to a high-risk consumer (*i.e.* a consumer without a very strong credit history, or a consumer without a high paying job) and then absorb the depreciation loss if the vehicle is returned.

[1] Founded in 1916, the American Financial Services Association (AFSA), based in Washington, D.C., is the primary trade association for the consumer credit industry, protecting access to credit and consumer choice. AFSA members provide consumers with many kinds of credit, including traditional installment loans, direct and indirect vehicle financing, mortgages, and payment cards. AFSA members include national banks and non-bank state licensed financial institutions. AFSA does not represent payday lenders, title lenders, or credit unions.

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Though a used car "cooling off" period is law in California, no state allows a consumer to buy new car and then return it.

Full context is important too. California's cooling off period law has significant limitations:

1) It applies only to used vehicles, as explained above.
2) It applies only to used vehicles under $50,000—higher dollar purchases could incentivize abuse of the law by giving someone an expensive "free" rental.
3) The vehicle must be returned in same condition. This would be especially important in Colorado given the state's topography, since it is common for vehicles to be used for camping, towing, off-roading, and other uses that are very hard on vehicles, even in a weekend.
4) Mileage limitation. California has a 400-mile limitation, which our members complain is still abused by individuals who purchase a high-end SUV for a weekend event (Pebble Beach Pro-Am, Coachella) and run a high dollar limo service for the weekend, only to return the vehicle at the event's conclusion for free.

Purpose of Right of Return

We wonder if the motivating purpose of the right of return you're proposing is a "cooling off" period (where someone buys a car but then changes their mind), or if it's to protect against lemons/assert claims for vehicle problems?

In rare cases where a vehicle is found to be faulty after purchase, a right to return is not needed to remedy this. Colorado (alongside South Dakota) has the strongest disclosure law in the country. If known vehicle history or damage was not disclosed in writing at the time of the sale, a consumer can unwind the deal based on that lack of disclosure. 1 CCR 205-1 §44-20-121(3)(h) Regulation (revised 2016). Thus, if the three-day window is closed, but there is undisclosed damage, the consumer still has recourse under Title 44. Additionally, all purchases require a state-developed form, DR 2434, to inform consumers of their rights in motor vehicle transactions.

The FTC's Holder Rule already allows consumers to asset a claim for dealer fraud and assert claims and defenses against the "holder" of a credit contract (*i.e.* the financial institution), even when the contract has been assigned to a different company. This negates the need for a right-to-return provision.

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Financing Delay for Security Interest

A rule where the security interest does not take effect until the fourth business day creates a number of problems, including lien perfection timing risk, the potential for intervening bankruptcies, lien judgments, title processing delays, insurance loss events, as well as questions about who bears the loss if it occurs during that four-day period.

Subprime credit

We must emphasize that the riskiest segment of the market—borrowers with subprime credit—will be disproportionately harmed by an extended cancellation period. The longer the period, the less likely it is that creditors or assignees will purchase or fund contracts involving higher-risk consumers, because no contract will be bought or funded until cancellation period expires. If funding cannot occur until after that period, dealers cannot rely on spot delivery. This freezes capital, strains liquidity, and ultimately restricts credit access for consumers with riskier credit profiles.

"Qualified Motor Vehicle" Definition

As drafted, the definition of "Qualified Motor Vehicle" is problematic since it hinges on the proposition that the vehicle being repossessed/return is the only vehicle owned by the debtor. Lenders and dealers often cannot reliably verify whether a consumer owns another vehicle due to factors such as out-of-state registration, family vehicles titled to consumer, co-ownership, business ownership, etc. This creates compliance risk (accidental misclassification), litigation risk (after-the-fact disputes), and operational delays (due to attestations/verification workflows).

This can be remedied through the provision of a safe harbor in which the dealer (and relatedly the subsequent creditor) may rely on a consumer attestation under penalty of perjury or on DMV/credit bureau indicators, and is protected absent actual knowledge to the contrary.

"Second or Subsequent Default" Exclusion

The provision relating to "second or subsequent default" exclusion is ambiguous as drafted. The draft says the section does not apply to "a second or subsequent default," but it doesn't define default, the lookback period, or whether it means second default ever on the contract, second default within X months, or a second default after a prior cure.

This ambiguity is important, as it will inevitably lead inconsistent servicing and enforcement risk. To avoid this, we suggest the inclusion of a definition of "second or subsequent default" (*e.g.,* "after the debtor has cured a default under this section within the prior 12 months").

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Restoring Rights as Though Default did not Occur

Provisions related to "restor[ing] rights as though default did not occur" are confusingly broad. These are some of the questions that come to mind:

- Must late fees must be reversed?
- Must credit reporting be altered? If so, are we permitted to do so under the Fair Reporting Act, which requires accuracy?
- Are payment due dates re-aged?
- Is default interest reversed? How would that be calculated?

We believe that additional language to specify what "restore" means operationally in this context would create clarity for both sides.

Agreed Trade-In Value

Language relating to "agreed trade-in value" creates valuation/gaming risk. If the dealer no longer owns the trade-in, it must pay the "agreed trade-in value stated in the purchase contract."

This invites disputes if:

- a trade-in value was contingent on inspection/odometer verification;
- there were payoff liens; and/or
- negative equity was part of a financed amount.

We request clarification of treatment of payoff amounts, negative equity, and timing of payoff reversal.

Refund Timing and Financing Unwind Timing Mismatch

The provisions require the dealer to provide a refund within three business days, and the holder must "promptly" reverse obligations and refund payments upon notice. "Promptly" is open to interpretation. Payment systems (ACH, card settlement), funding/assignment mechanics, and payoff processing cannot reliably reverse a payment and provide a refund within three days.

We suggest specific timelines and safe harbors replace "promptly" (e.g., "within 10 business days" for third-party reversals).

Mileage/Repair Fee Caps Create Perverse Incentives and Disputes

The provisions cap repair cost is capped at 0.5% of vehicle value at point of sale. This cap can be far below actual damage remediation. Also, language relating to "reasonable mileage" and "ordinary wear and tear" are undefined.

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We suggest defining these terms and the provision of language that allows for actual repair costs for damage beyond ordinary wear, with an itemized invoice and dispute process.

Major Increase in Current Repossession Standards

As drafted, the legislation places onerous restrictions on creditors who must make the difficult decision to repossess collateral. Repossession is an action of last resort, because it results in financial loss for creditors, and the proposed changes would exacerbate those losses, with a commensurate effect on the cost and availability of consumer credit in the state.

Colorado law currently provides a 20-day pre-repossession right to cure period. The bill proposes expanding it to 60-days. This would make Colorado the extreme outlier among states that offer a pre-repossession right to cure. No state has a 60-day cure period, and for good reason.

We are concerned about the increased likelihood of "strategic nonpayment," whereby some borrowers will treat the expanded 60-day pre-repossession cure period as a low-penalty way to float payments while retaining use of the vehicle. While we are open to discussion of such a standard, any cure period must be significantly shorter and aligned with the practices of other states.

Currently, Colorado does not provide a post-repossession right to reinstate. The bill seeks to create such a right. The proposed 48-day post-repossession reinstatement period would be the longest in the country—far longer than even California's system, which allows 15 days to reinstate a loan. Holding vehicles for nearly 7 weeks after repossession could harm consumers by significantly increasing vehicle storage costs. Moreover, no state structures its right-to-cure statute in a manner that prevents a creditor from moving forward with the lawful disposition of collateral. The purpose of a right-to-cure period is to give a consumer an opportunity to resolve a delinquency—not to indefinitely delay the creditor's ability to mitigate losses once default has occurred.

Beyond financial institution losses, the more pressing issue is the financial harm to consumers. A prolonged reinstatement period increases the cost to all consumers. Because repossessed vehicles would have to be held and stored for a very long period, associated storage fees would be assessed, and the vehicle will depreciate. When creditors are finally permitted to sell the collateral, the resulting deficiency balance the consumer owes will be higher due to the associated storage fees and vehicle depreciation.

Here we again must emphasize that the riskiest segment of the market—subprime borrowers—will be disproportionately harmed by an extended right-to-cure period. The longer the period, the less likely it is that creditors will purchase or fund contracts involving higher-risk consumers.

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Payment Assurance Devices

We agree with the sponsor that car ownership is critically important for consumers, regardless of credit score. However, deep-subprime borrowers often face substantial challenges in obtaining credit at all. One transparent and effective way to extend credit to these consumers is with GPS and payment-assurance devices.

These devices provide clearly communicated oversight for creditors, while also offering borrowers helpful reminders and added safety features that may reduce insurance premiums. Our members report that contracts requiring such devices perform better and carry a lower risk of default than other contracts.

For these reasons, we respectfully urge the removal of the reference to "DISABLE A MOTOR VEHICLE."

Conclusion

We would love to work with you on improving this legislation so that your goals can be met without the perhaps unintuitive but real negative consumer consequences we foresee in its current form. We appreciate your time and consideration. Please do not hesitate to contact us if we can help explain any of these items in more detail.

We look forward to continuing to work with you on your goals.

Sincerely,

Danielle Fagre Arlowe
Senior Vice President
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