

56:12-71

LEGISLATIVE HISTORY CHECKLIST
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(Motor Vehicles--subleases--
certain prohibitions)

NJSA: 56:12-71

LAWS OF: 1995 **CHAPTER:** 77

BILL NO: S615

SPONSOR(S): Bubba and Kosco

DATE INTRODUCED: February 24, 1994

COMMITTEE: **ASSEMBLY:** Commerce and Regulated Professions
SENATE: Commerce

AMENDED DURING PASSAGE: Yes Amendments during passage
First reprint enacted denoted by superscript numbers

DATE OF PASSAGE: **ASSEMBLY:** February 27, 1995
SENATE: September 19, 1995

DATE OF APPROVAL: April 11, 1995

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes
SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

KBG:pp

[FIRST REPRINT]

SENATE, No. 615

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 24, 1994

By Senators BUBBA and KOSCO

1 **AN ACT** concerning the subleasing of motor vehicles and
2 supplementing chapter 12 of Title 56 of the Revised Statutes.

3

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

6 1. As used in this act:

7 "Buyer" means a person who buys or leases a motor vehicle
8 under a conditional sale contract.

9 "Conditional sale contract" means any contract for the leasing
10 of a motor vehicle between a buyer and a seller, with or without
11 accessories, by which the lessee agrees to pay as compensation
12 for use a sum substantially equivalent to or in excess of the
13 aggregate value of the vehicle and its accessories, if any, at the
14 time the contract is executed, and by which it is agreed that the
15 lessee will become, or for no other or for a nominal consideration
16 has the option of becoming, the owner of the vehicle upon full
17 compliance with the terms of the contract.

18 ¹["Direct loan agreement" means an agreement between a
19 lender and a purchaser whereby the lender has advanced funds
20 pursuant to a loan secured by the motor vehicle which the
21 purchaser has purchased.]¹

22 "Lease contract" means a contract for or in contemplation of
23 the lease for the use of a motor vehicle, and the purchase of
24 services incidental to the lease, for a term exceeding four months
25 primarily for personal, family, household, business or commercial
26 purposes, whether or not it is agreed that the lessee bears the
27 risk of the motor vehicle's depreciation.

28 "Lessee" includes a bailee and means a person who leases,
29 offers to lease or is offered the lease of a motor vehicle under a
30 lease contract.

31 ¹["Lessor" includes a bailor and means a person who is engaged
32 in the business of leasing, offering to lease or arranging the lease
33 of a motor vehicle under a lease contract.]¹

34 "Motor vehicle" means any vehicle required to be registered
35 under Title 39 of the Revised Statutes.

36 "Person" means an individual, company, firm, association,
37 partnership, trust, corporation, or other legal entity.

38 ¹["Purchaser" means a person who takes by sale, discount,
39 negotiation, mortgage, pledge, lien, issue or reissue, gift or any
40 other voluntary transaction creating an interest in property.]¹

41 "Security agreement" means an agreement that creates and
42 provides for a security interest.

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SCM committee amendments adopted May 5, 1994.

1 "Security interest" means an interest in personal property
2 which secures the payment or performance of an obligation.

3 "Seller" means a person engaged in the business of selling or
4 leasing motor vehicles under a conditional sale contract.

5 2. a. ¹[A person shall be deemed to have committed an act of
6 unlawful subleasing of a motor vehicle if all of the following
7 conditions are met:

8 (1) The motor vehicle is subject to a lease contract,
9 conditional sale contract, or security agreement the terms of
10 which prohibit the transfer or assignment of any right or interest
11 in the motor vehicle or any right or interest under the lease
12 contract, conditional sale contract, or security agreement
13 without the consent of the vehicle's lessor, seller or secured
14 party.

15 (2) The person is not a party to the lease contract, conditional
16 sale contract, or security agreement.

17 (3) The person transfers or assigns, or purports to transfer or
18 assign, any right or interest in the motor vehicle or under the
19 lease contract, conditional sale contract, or security agreement,
20 to any person who is not a party to the lease contract, conditional
21 sale contract, or security agreement.

22 (4) The person does not obtain, prior to the transfer or
23 assignment, written consent to the transfer or assignment from
24 the motor vehicle's lessor, seller, or secured party.

25 (5) The person receives compensation or some other
26 consideration for the transfer or assignment.

27 b. A person shall be deemed to have committed an act of
28 unlawful subleasing of a motor vehicle if the person is not a party
29 to the lease contract, conditional sale contract, or security
30 agreement, and assists, causes, or arranges an actual or purported
31 transfer or assignment, as described in subsection a. of this
32 section.

33 c. The actual or purported transfer or assignment, or the
34 assisting, causing, or arranging of an actual or purported transfer
35 or assignment, of any right or interest in a motor vehicle or under
36 a lease contract, conditional sale contract, or security
37 agreement, by a person who is a party to the lease contract,
38 conditional sale contract, or security agreement shall not be
39 deemed an act of unlawful subleasing of a motor vehicle] No
40 person shall arrange, for compensation, the transfer, assignment
41 or sublease of any right or interest in a motor vehicle subject to a
42 lease contract, conditional sale contract or security agreement
43 unless the transfer, assignment or sublease is made in compliance
44 with the terms of the lease contract, conditional sale contract or
45 security agreement.

46 b. This prohibition shall not apply to a person who is a party to
47 the lease contract, conditional sale contract or security
48 agreement¹.

49 3. This act shall not affect the enforceability of any provision
50 of any lease contract, conditional sale contract ¹[,] or¹ security
51 agreement ¹[, or direct loan agreement]¹ by any party thereto.

52 4. ¹[a. An act of unlawful subleasing of a motor vehicle is a
53 crime of the fourth degree.

54 b. The penalties prescribed in this act are in addition to any

1 other remedies or penalties provided by law for the conduct
2 proscribed by this act] Any violation of the provisions of this act
3 shall constitute an unlawful practice pursuant to section 2 of
4 P.L.1960, c.39 (C.56:8-2)¹.

5 ¹[5. a. One or more of the following persons who suffer any
6 damage proximately resulting from one or more acts of unlawful
7 motor vehicle subleasing pursuant to section 2 of this act may
8 bring an action against the person who has engaged in those acts:

9 (1) A seller or other secured party under a conditional sale
10 contract or a security agreement.

11 (2) A lender under a direct loan agreement.

12 (3) A lessor under a lease contract.

13 (4) A buyer under a conditional sale contract.

14 (5) A purchaser under a direct loan agreement, an agreement
15 which provides for a security interest, or an agreement which is
16 equivalent to these types of agreements.

17 (6) A lessee under a lease contract.

18 (7) An actual or purported transferee or assignee of any right
19 or interest of a buyer, purchaser or lessee.

20 b. The court in an action under subsection a. of this section
21 may award actual damages; equitable relief, including, but not
22 limited to, an injunction and restitution of money and property;
23 punitive damages; reasonable attorney's fees and costs; and any
24 other relief which the court deems proper.]¹

25 ¹[6.] 5.¹ This act shall take effect immediately.

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30 Prohibits subleasing of motor vehicles in certain cases.

1 (5) A purchaser under a direct loan agreement, an agreement
2 which provides for a security interest, or an agreement which is
3 equivalent to these types of agreements.

4 (6) A lessee under a lease contract.

5 (7) An actual or purported transferee or assignee of any right
6 or interest of a buyer, purchaser or lessee.

7 b. The court in an action under subsection a. of this section
8 may award actual damages; equitable relief, including, but not
9 limited to, an injunction and restitution of money and property;
10 punitive damages; reasonable attorney's fees and costs; and any
11 other relief which the court deems proper.

12 6. This act shall take effect immediately.

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15 STATEMENT

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17 This bill is intended to curb abuses involving the unauthorized
18 subleasing of motor vehicles. These abuses may arise when a
19 broker, or middleman, seeks to profit by matching financially
20 pressed initial lessees with sublessees who need a car but lack the
21 creditworthiness to obtain one through normal channels.

22 Typically, such transactions occur without the knowledge or
23 consent of the leasing company. Thus the original lessee remains
24 responsible for lease payments even if, as often happens, the
25 sublessee stops paying or falls behind. Moreover, the vehicle may
26 be damaged, with no insurance coverage, or taken where it
27 cannot be located.

28 This bill makes illegal the subleasing of a motor vehicle by
29 certain third parties who are not a party to the lease agreement,
30 do not obtain prior consent from the lessor of the vehicle, and
31 who receive compensation for the transfer or assignment of the
32 lease. Violators would be guilty of a crime of the fourth degree,
33 punishable by a prison term not to exceed 18 months, a fine not
34 to exceed \$7,500, or both.

35 The bill also allows original lessors, lessees and certain other
36 persons who suffer from acts of unlawful subleasing of motor
37 vehicles to seek civil damages from the offender.

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42 Prohibits subleasing of motor vehicles in certain cases.

ASSEMBLY COMMERCE AND REGULATED
PROFESSIONS COMMITTEE

STATEMENT TO

[FIRST REPRINT]

SENATE, No. 615

STATE OF NEW JERSEY

DATED: DECEMBER 12, 1994

The Assembly Commerce and Regulated Professions Committee reports favorably Senate Bill No. 615 (1R).

This bill concerns the subleasing of motor vehicles. The bill prohibits the subleasing of a motor vehicle by a subleasing broker unless the lease permits the subleasing of the vehicle and then only under the terms of the lease. Subleasing brokers are persons who are in the business of arranging for the subleasing of motor vehicles which current lessees often can no longer afford. This subleasing is often done without the lessor's knowledge, without any changes in the registration of the vehicle or in the insurance coverage on the vehicle. Specifically, the bill provides that it is an unlawful practice for a person who is not a party to a motor vehicle lease to sublease the motor vehicle for compensation, unless the sublease is made in compliance with the terms of the lease contract. This prohibition against certain subleasing of motor vehicles is also applied to conditional sale contracts and security agreements involving motor vehicles which, for practical purposes, often operate much like leases.

The provisions of the bill do not apply to anyone who is a party to the original lease, conditional sale contract or security agreement.

Violators would be guilty of an unlawful practice under the consumer fraud law and subject to the penalties and other remedies provided thereunder. The Division of Consumer Affairs would enforce the provisions of the bill.

SENATE COMMERCE COMMITTEE

STATEMENT TO

SENATE, No. 615

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 5, 1994

The Senate Commerce Committee reports favorably and with committee amendments Senate Bill No. 615.

This bill concerns the subleasing of motor vehicles. The bill, as amended, prohibits the subleasing of a motor vehicle by a subleasing broker unless the lease permits the subleasing of the vehicle and then only under the terms of the lease. Subleasing brokers are persons who are in the business of arranging for the subleasing of motor vehicles which current lessees often can no longer afford. This subleasing is often done without the lessor's knowledge, without any changes in the registration of the vehicle or in the insurance coverage on the vehicle. Specifically, the bill provides that it is an unlawful practice for a person who is not a party to a motor vehicle lease to sublease the motor vehicle for compensation, unless the sublease is made in compliance with the terms of the lease contract. This prohibition against certain subleasing of motor vehicles is also applied to conditional sale contracts and security agreements involving motor vehicles which, for practical purposes, often operate much like leases.

The provisions of the bill do not apply to anyone who is a party to the original lease, conditional sale contract or security agreement.

Violators would be guilty of an unlawful practice under the "consumer fraud act" and subject to the penalties and other remedies provided thereunder. The Division of Consumer Affairs would enforce the provisions of the bill.