

House Bill 94

By: Representatives Oliver of the 56<sup>th</sup>, Post 2 and Thompson of the 69<sup>th</sup>, Post 1

A BILL TO BE ENTITLED  
AN ACT

1 To amend Part 2 of Article 15 of Chapter 1 of Title 10 of the Official Code of Georgia  
2 Annotated, known as the "Fair Business Practices Act," so as to prohibit the sale or lease of  
3 a motor vehicle conditioned upon financing approval except under certain conditions; to  
4 define the term "spot delivery"; to provide for a criminal penalty; to provide for related  
5 matters; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Part 2 of Article 15 of Chapter 1 of Title 10 of the Official Code of Georgia Annotated,  
9 known as the "Fair Business Practices Act," is amended by adding following Code Section  
10 10-1-393.7, relating to solicitation during final illness and penalty, a new Code Section  
11 10-1-393.8 to read as follows:

12 "10-1-393.8.

13 (a) For purposes of this Code section, the term 'spot delivery' means the sale or lease of a  
14 new and unused or a used motor vehicle conditioned upon financing approval.

15 (b) Without otherwise limiting the definition of unfair or deceptive acts or practices under  
16 this part and without limiting any other Code section under this part, it shall be unlawful  
17 for any person to engage in a spot delivery except on the following terms and conditions  
18 which shall be in writing and shall be a part of the conditional sales or lease contract or  
19 other written notification signed by the seller and the purchaser or lessee with a copy given  
20 to the purchaser or lessee:

21 (1) That if the sale or lease is not concluded by the financing of the sale or lease to the  
22 purchaser or lessee within seven days of the delivery, the sale or lease contract shall be  
23 null and void;

24 (2) That any motor vehicle being offered for trade-in by the purchaser or lessee shall not  
25 be sold by the motor vehicle dealer until the conditional sale or lease is complete;

1 (3) That there shall be no charge to the purchaser or the lessee should the conditional sale  
2 or lease not be completed including, but not limited to, mileage charges or charges to  
3 refurbish the vehicle offered for trade-in. The prospective purchaser or lessee may be  
4 required to obtain insurance, including liability insurance, for any damages to the vehicle  
5 occurring during the prospective purchaser's or lessee's custody of the vehicle;

6 (4) That if the conditional sale is not completed, the motor vehicle dealer shall refund to  
7 the purchaser or lessee all sums placed with the dealership as a deposit or for any other  
8 purpose associated with the attempted sale or lease of the vehicle; and

9 (5) That the prospective purchaser or lessee shall return the vehicle to the dealership  
10 within 48 hours of notification by the dealer that the conditional sale or lease will not be  
11 completed.

12 (c) In addition to any civil penalties under this part, any person who intentionally violates  
13 subsection (b) of this Code section shall be guilty of a misdemeanor."

14

## **SECTION 2.**

15 All laws and parts of laws in conflict with this Act are repealed.