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I N   A S S E M B L Y

January 10, 2018

Introduced by M. of A. ABBATE -- read once and referred to the Committee on Consumer Affairs and Protection

AN ACT to amend the general business law and the vehicle and traffic law, in relation to requiring automobile brokers to be licensed; and to amend a chapter of the laws of 2017, amending the general business law and the vehicle and traffic law relating to requiring automobile brokers to be licensed, as proposed in legislative bills numbers S. 5380-B and A. 6884-B, in relation to manufacturers and distributors

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Subdivision 1 of section 736 of the general business law, as amended by a chapter of the laws of 2017, amending the general business law and the vehicle and traffic law relating to requiring automobile brokers to be licensed, as proposed in legislative bills numbers S. 5380-B and A. 6884-B, is amended to read as follows:

1. "Automobile broker business" means any person who, for a fee, commission or other valuable consideration, regardless of whether such fee, commission, or consideration is paid directly by a consumer, offers to provide, provides, or represents that he or she will provide a service of purchasing, arranging, assisting, facilitating or effecting the purchase or lease of an automobile as agent, broker, or intermediary for a consumer. "Automobile broker business" does not include any person registered as a dealer pursuant to article sixteen of the vehicle and traffic law NOR ANY BONA FIDE EMPLOYEE OF A REGISTERED DEALER WHILE ACTING FOR SUCH DEALER, or any person who sells, offers for sale or lease or acts as agent, broker or intermediary in effecting the purchase or lease of three or fewer automobiles in any calendar year[, or any motor vehicle franchisor, manufacturer, or distributor registered under article sixteen of the vehicle and traffic law who sells or leases new motor vehicles to employees, immediate family members of employees, retirees, or immediate family members of retirees as authorized by paragraph (y) of subdivision two of section four hundred sixty-three of the vehicle and traffic law], ANY NATIONAL SERVICE WHICH AGGREGATES INFORMATION FOR CONSUMERS, BUT DOES NOT OTHERWISE HAVE CONTACT WITH CONSUMERS,

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets [ ] is old law to be omitted.

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OR ANY MOTOR VEHICLE FRANCHISOR, MANUFACTURER, OR DISTRIBUTOR REGISTERED UNDER ARTICLE SIXTEEN OF THE VEHICLE AND TRAFFIC LAW.

S 2. Paragraph e of subdivision 1 of section 738 of the general business law, as amended by a chapter of the laws of 2017, amending the general business law and the vehicle and traffic law relating to requiring automobile brokers to be licensed, as proposed in legislative bills numbers S. 5380-B and A. 6884-B, is amended to read as follows:

(e) A description of any other services and an itemization of the charges for each. Such description shall include disclosure of the automobile dealer from which the automobile was purchased [or leased], as well as all fees, commissions or other valuable considerations paid by an automobile dealer to the automobile broker business for SELLING, arranging, assisting or effecting the sale [or lease] of an automobile as agent, broker, or intermediary between the consumer and the automobile dealer.

S 3. The opening paragraph of subdivision 1 of section 738 of the general business law, as added by chapter 616 of the laws of 1988, is amended and a new subdivision 4 is added to read as follows:

Every contract between a consumer and an automobile broker business FOR THE PURCHASE OF AN AUTOMOBILE shall be in writing, shall be dated, shall contain the street address of the automobile broker business and the consumer and shall be signed by the consumer and by the automobile broker business. Every contract shall comply with the requirements set forth in this section and contain the following:

4. AN AUTOMOBILE BROKER BUSINESS IN ANY TRANSACTION INVOLVING THE LEASE OF A VEHICLE SHALL PROVIDE THE RETAIL LESSEE WITH A RETAIL LEASE AGREEMENT AS PROVIDED FOR IN SECTION THREE HUNDRED THIRTY-SEVEN OF THE PERSONAL PROPERTY LAW. THE AUTOMOBILE BROKER SHALL PROVIDE A WRITTEN DISCLOSURE OF THE AMOUNT OF ANY FEE, COMMISSION OR OTHER CONSIDERATION PAID OR EXPECTED TO BE PAID BY THE LESSOR TO THE AUTOMOBILE BROKER BUSINESS IN CONNECTION WITH A TRANSACTION INVOLVING THE LEASE OF A VEHICLE. SUCH DISCLOSURE SHALL BE SIGNED BY THE RETAIL LESSEE. THE AUTOMOBILE BROKER BUSINESS SHALL PROVIDE THE RETAIL LESSEE WITH A SIGNED COPY OF

SUCH DISCLOSURE TOGETHER WITH THE RETAIL LEASE AGREEMENT REFERENCED HEREIN.

S 4. The general business law is amended by adding a new section 741-b to read as follows:

S 741-B. DISCLOSURE. AN AUTOMOBILE BROKER BUSINESS SHALL PROVIDE A DISCLOSURE AT THE TIME SUCH AUTOMOBILE BROKER BUSINESS TAKES AN ORDER TO SEARCH FOR A LEASED VEHICLE MEETING THE PROSPECTIVE LESSEE'S SPECIFICATIONS. SUCH DISCLOSURE SHALL PROVIDE THE AMOUNT OF ANY FEES, COMMISSIONS OR OTHER VALUABLE CONSIDERATION THE AUTOMOBILE BROKER BUSINESS EXPECTS TO RECEIVE, IF KNOWN, FROM A DEALER, LESSOR OR ANY OTHER PERSON OR ENTITY FOR ANY ASSISTANCE THE AUTOMOBILE BROKER BUSINESS PROVIDES IN EFFECTING THE LEASE TRANSACTION. IF THE AMOUNT OF ANY SUCH FEES, COMMISSIONS OR OTHER VALUABLE CONSIDERATION THE AUTOMOBILE BROKER BUSINESS EXPECTS TO RECEIVE IS UNKNOWN AT THE TIME OF THE REQUIRED DISCLOSURE, THE AUTOMOBILE BROKER BUSINESS SHALL DISCLOSE: (A) WHETHER IT HAS A CONTRACT WITH ANY DEALER, LESSOR OR ANY OTHER PERSON OR ENTITY FOR THE PROVISION OF ASSISTANCE IN EFFECTING A LEASE TRANSACTION; AND (B) WHETHER THE AUTOMOBILE BROKER BUSINESS MAY BE COMPENSATED BY THE DEALER, LESSOR OR ANY OTHER PERSON OR ENTITY FOR ANY ASSISTANCE IN EFFECTING SUCH LEASE TRANSACTION.

S 5. Subdivision 6 of section 415 of the vehicle and traffic law, as amended by section 1-b of part A of chapter 63 of the laws of 2005, is amended to read as follows:

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6. Fees. Every original application for registration as a dealer, AUTOMOBILE BROKER or transporter shall be accompanied by an application fee of thirty-seven dollars and fifty cents, which shall in no event be refunded. The annual fee for registration as a dealer, AUTOMOBILE BROKER or transporter or for renewal thereof shall be two hundred twenty-five dollars. The annual fee for any other registration under this section shall be fifty dollars. However, the commissioner may, in his discretion, issue a renewal of either registration for a period of two years. The fee for a two-year renewal shall be twice the annual fee. The annual fee for dealer or transporter number plates shall be twenty dollars for each set. If the commissioner issues to dealers a document which is required to be used by a dealer to sell or transfer a vehicle, the fee for the issuance of each such document shall be five dollars. There shall be no refund of registration fee or fees for number plates in the event of suspension, revocation or voluntary cancellation of registration. The fee for any such transfer document issued by the commissioner shall be refunded only upon the surrender of such document upon voluntary cancellation of registration.

S 6. Subdivision 6 of section 415 of the vehicle and traffic law, as amended by chapter 7 of the laws of 2000, is amended to read as follows:

6. Fees. Every original application for registration as a dealer, AUTOMOBILE BROKER or transporter shall be accompanied by an application fee of twenty-five dollars, which shall in no event be refunded. The annual fee for registration as a dealer, AUTOMOBILE BROKER or transporter or for renewal thereof shall be one hundred fifty dollars. The annual fee for any other registration under this section shall be fifty dollars. However, the commissioner may, in his discretion, issue a renewal of either registration for a period of two years. The fee for a two-year renewal shall be twice the annual fee. The annual fee for dealer or transporter number plates shall be twenty dollars for each set. If the commissioner issues to dealers a document which is required to be used by a dealer to sell or transfer a vehicle, the fee for the issuance of each such document shall be one dollar. There shall be no refund of registration fee or fees for number plates in the event of suspension, revocation or voluntary cancellation of registration. The fee for any such transfer document issued by the commissioner shall be refunded only upon the surrender of such document upon voluntary cancellation of registration.

S 7. A chapter of the laws of 2017, amending the general business law and the vehicle and traffic law relating to requiring automobile brokers to be licensed, as proposed in legislative bills numbers S. 5380-B and A. 6884-B, is amended by adding a new section 9-a to read as follows:

S 9-A. NOTHING CONTAINED WITHIN THIS ACT SHALL BE DEEMED TO GRANT A MANUFACTURER OR DISTRIBUTOR THE ABILITY TO DO ANYTHING THAT WOULD BE PROHIBITED UNDER ARTICLE 16 OR ARTICLE 17-A OF THE VEHICLE AND TRAFFIC LAW.

S 8. This act shall take effect on the same date and in the same manner as a chapter of the laws of 2017, amending the general business law and the vehicle and traffic law relating to requiring automobile brokers to be licensed, as proposed in legislative bills numbers S. 5380-B and A. 6884-B, takes effect; provided that the amendments to subdivision 6 of section 415 of the vehicle and traffic law made by section five of this act shall be subject to the expiration and reversion of such subdivision pursuant to section 13 of part U1 of chapter 62 of the laws of 2003, as amended, when upon such date the provisions of section six of this act shall take effect.