

HOUSE BILL 139

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CF SB 134

By: **Delegate Crosby**

Introduced and read first time: January 15, 2020

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Consumer Protection – Electronic Transactions – Sale of Vehicles**

3 FOR the purpose of providing that a consumer shall be deemed not to have agreed to enter
4 into a contract for the sale of a vehicle with a dealer by electronic means except under
5 certain circumstances; defining certain terms; providing for the application of this
6 Act; and generally relating to electronic transactions for the sale of vehicles.

7 BY repealing and reenacting, without amendments,
8 Article – Commercial Law
9 Section 21–101(a) and (e)
10 Annotated Code of Maryland
11 (2013 Replacement Volume and 2019 Supplement)

12 BY adding to
13 Article – Commercial Law
14 Section 21–101(d–1), (e–1), and (r)
15 Annotated Code of Maryland
16 (2013 Replacement Volume and 2019 Supplement)

17 BY repealing and reenacting, with amendments,
18 Article – Commercial Law
19 Section 21–104
20 Annotated Code of Maryland
21 (2013 Replacement Volume and 2019 Supplement)

22 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
23 That the Laws of Maryland read as follows:

24 **Article – Commercial Law**

25 21–101.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(a) In this title the following words have the meanings indicated.

(D-1) “CONSUMER” HAS THE MEANING STATED IN § 13-101 OF THIS ARTICLE.

(e) “Contract” means the total legal obligation resulting from the parties’ agreement as affected by this title and other applicable law.

(E-1) “DEALER” HAS THE MEANING STATED IN § 15-101 OF THE TRANSPORTATION ARTICLE.

(R) “VEHICLE” HAS THE MEANING STATED IN § 11-176 OF THE TRANSPORTATION ARTICLE.

21-104.

(a) This title does not require a record or signature to be created, generated, sent, communicated, received, stored, or otherwise processed or used by electronic means or in electronic form.

(b) (1) This title applies only to transactions between parties, each of which has agreed to conduct transactions by electronic means.

(2) Whether the parties have agreed to conduct a transaction by electronic means is determined from the context and surrounding circumstances, including the parties’ conduct.

(3) Except for a separate and optional agreement the primary purpose of which is to authorize a transaction to be conducted by electronic means, a provision to conduct a transaction electronically may not be contained in a standard form contract unless that provision is conspicuously displayed and separately consented to.

(4) An agreement to conduct a transaction electronically may not be inferred solely from the fact that a party has used electronic means to pay an account or register a purchase warranty.

(5) A CONSUMER SHALL BE DEEMED NOT TO HAVE AGREED TO ENTER INTO A CONTRACT FOR THE SALE OF A VEHICLE WITH A DEALER BY ELECTRONIC MEANS UNLESS THE DEALER PROVIDES A CONSUMER WITH:

(I) A CLEAR AND READABLE COPY OF THE COMPLETE CONTRACT IN AN ELECTRONIC OR WRITTEN FORMAT; AND

(II) REASONABLE OPPORTUNITY FOR THE CONSUMER TO REVIEW THE COPY OF THE CONTRACT BEFORE PROVIDING AN ELECTRONIC SIGNATURE.

1 **(6)** This subsection may not be varied by agreement.

2 (c) (1) A party that agrees to conduct a transaction by electronic means may
3 refuse to conduct other transactions by electronic means.

4 (2) The right granted by this subsection may not be waived by agreement.

5 (d) (1) Except as otherwise provided in this title, the effect of any of its
6 provisions may be varied by agreement.

7 (2) The presence in provisions of this title of the words “unless otherwise
8 agreed”, or words of similar import, does not imply that the effect of other provisions may
9 not be varied by agreement.

10 (e) Whether an electronic record or electronic signature has legal consequences is
11 determined by this title and other applicable law.

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to
13 apply only prospectively and may not be applied or interpreted to have any effect on or
14 application to any electronic transactions for the sale of a vehicle that were entered into
15 before the effective date of this Act.

16 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
17 October 1, 2020.