

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5714

53rd Legislature
1994 Regular Session

Passed by the Senate March 5, 1994
YEAS 44 NAYS 0

President of the Senate

Passed by the House March 3, 1994
YEAS 96 NAYS 0

**Speaker of the
House of Representatives**

Approved

Governor of the State of Washington

CERTIFICATE

I, Marty Brown, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5714** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5714

AS AMENDED BY THE HOUSE

Passed Legislature - 1994 Regular Session

State of Washington 53rd Legislature 1994 Regular Session

By Senate Committee on Labor & Commerce (originally sponsored by
Senators Fraser, Moore and Barr)

Read first time 02/03/94.

1 AN ACT Relating to vendor single-interest insurance coverage;
2 adding new sections to chapter 48.22 RCW; creating a new section; and
3 providing an effective date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** Unless the context clearly requires
6 otherwise, the definitions in this section apply throughout sections 1
7 through 5 and 7 of this act.

8 (1) "Borrower" means a person who receives a loan or enters into a
9 retail installment contract under chapter 63.14 RCW to purchase a motor
10 vehicle or vessel in which the secured party holds an interest.

11 (2) "Motor vehicle" means a motor vehicle in this state subject to
12 registration under chapter 46.16 RCW, except motor vehicles governed by
13 RCW 46.16.020 or registered with the Washington utilities and
14 transportation commission as common or contract carriers.

15 (3) "Secured party" means a person, corporation, association,
16 partnership, or venture that possesses a bona fide security interest in
17 a motor vehicle or vessel.

18 (4) "Vendor single-interest" or "collateral protection coverage"
19 means insurance coverage insuring primarily or solely the interest of

1 a secured party but which may include the interest of the borrower in
2 a motor vehicle or vessel serving as collateral and obtained by the
3 secured party or its agent after the borrower has failed to obtain or
4 maintain insurance coverage required by the financing agreement for the
5 motor vehicle or vessel. Vendor single-interest or collateral
6 protection coverage does not include insurance coverage purchased by a
7 secured party for which the borrower is not charged.

8 (5) "Vessel" means a vessel as defined in RCW 88.02.010 and
9 includes personal watercraft as defined in RCW 88.12.010.

10 NEW SECTION. **Sec. 2.** In a contract or loan agreement, or on a
11 separate document accompanying the contract or loan agreement and
12 signed by the borrower, that provides financing for a motor vehicle or
13 vessel and authorizes a secured party to purchase vendor single
14 interest or collateral protection coverage, the following or
15 substantially similar warning must be set forth in ten-point print:

16 WARNING

17 UNLESS YOU PROVIDE US WITH EVIDENCE OF THE INSURANCE COVERAGE
18 AS REQUIRED BY OUR LOAN AGREEMENT, WE MAY PURCHASE INSURANCE AT
19 YOUR EXPENSE TO PROTECT OUR INTEREST. THIS INSURANCE MAY, BUT
20 NEED NOT, ALSO PROTECT YOUR INTEREST. IF THE COLLATERAL
21 BECOMES DAMAGED, THE COVERAGE WE PURCHASE MAY NOT PAY ANY CLAIM
22 YOU MAKE OR ANY CLAIM MADE AGAINST YOU. YOU MAY LATER CANCEL
23 THIS COVERAGE BY PROVIDING EVIDENCE THAT YOU HAVE OBTAINED
24 PROPER COVERAGE ELSEWHERE.

25 YOU ARE RESPONSIBLE FOR THE COST OF ANY INSURANCE PURCHASED BY
26 US. THE COST OF THIS INSURANCE MAY BE ADDED TO YOUR LOAN
27 BALANCE. IF THE COST IS ADDED TO THE LOAN BALANCE, THE
28 INTEREST RATE ON THE UNDERLYING LOAN WILL APPLY TO THIS ADDED
29 AMOUNT. THE EFFECTIVE DATE OF COVERAGE MAY BE THE DATE YOUR
30 PRIOR COVERAGE LAPSED OR THE DATE YOU FAILED TO PROVIDE PROOF
31 OF COVERAGE.

32 THE COVERAGE WE PURCHASE MAY BE CONSIDERABLY MORE EXPENSIVE
33 THAN INSURANCE YOU CAN OBTAIN ON YOUR OWN AND MAY NOT SATISFY
34 WASHINGTON'S MANDATORY LIABILITY INSURANCE LAWS.

1 NEW SECTION. **Sec. 3.** (1) A secured party shall not impose
2 charges, that may include but are not limited to interest, finance, and
3 premium charges, on a borrower for vendor single interest or collateral
4 protection coverage for the motor vehicle or vessel as provided in
5 subsection (2) of this section until the following or a substantially
6 similar warning printed in ten-point type is sent to the borrower:

7
8 FINAL NOTICE AND WARNING

8 UNLESS YOU PROVIDE US WITH EVIDENCE OF THE INSURANCE COVERAGE
9 AS REQUIRED BY OUR LOAN AGREEMENT WITHIN FIVE DAYS AFTER THE
10 POSTMARK ON THIS LETTER, WE WILL PURCHASE INSURANCE AT YOUR
11 EXPENSE TO PROTECT OUR INTEREST. THIS INSURANCE MAY, BUT NEED
12 NOT, ALSO PROTECT YOUR INTEREST. IF THE COLLATERAL BECOMES
13 DAMAGED, THE COVERAGE WE PURCHASE MAY NOT PAY ANY CLAIM YOU
14 MAKE OR ANY CLAIM MADE AGAINST YOU. YOU MAY LATER CANCEL THIS
15 COVERAGE BY PROVIDING EVIDENCE THAT YOU HAVE OBTAINED PROPER
16 COVERAGE ELSEWHERE OR HAVE PAID OFF THE LOAN ON THE COLLATERAL
17 IN ITS ENTIRETY.

18 YOU ARE RESPONSIBLE FOR THE COST OF THE INSURANCE PURCHASED BY
19 US. THE COST OF THIS INSURANCE MAY BE ADDED TO YOUR LOAN
20 BALANCE. IF THE COST IS ADDED TO THE LOAN BALANCE, THE
21 INTEREST RATE ON THE UNDERLYING LOAN WILL APPLY TO THIS ADDED
22 AMOUNT. THE EFFECTIVE DATE OF COVERAGE MAY BE THE DATE YOUR
23 COVERAGE LAPSED OR THE DATE YOU FAILED TO PROVIDE PROOF OF
24 COVERAGE.

25 THE COVERAGE WE PURCHASE WILL COST YOU A TOTAL OF APPROXIMATELY
26 \$ _____ (PLUS INTEREST) AND MAY BE CONSIDERABLY MORE EXPENSIVE
27 THAN INSURANCE YOU CAN OBTAIN ON YOUR OWN.

28 The final notice and warning shall identify whether the coverage to be
29 purchased is vendor single interest or collateral protection coverage
30 and disclose the extent of the borrower's coverage, if any, including
31 a statement of whether the coverage satisfies Washington's mandatory
32 liability insurance laws.

33 (2) If reasonable efforts to provide the borrower with the notice
34 required under subsection (1) of this section fail to produce evidence

1 of the required insurance, the secured party may proceed to impose
2 charges for vendor single interest or collateral protection coverage no
3 sooner than eight days after giving notice as required under this
4 chapter. Reasonable efforts to provide notice under this section
5 means:

6 (a) Within thirty days before the secured party is required to send
7 the final notice and warning in compliance with subsection (1) of this
8 section, the secured party shall mail a notice by first class mail to
9 the borrower's last known address as contained in the secured party's
10 records. The notice shall state that the secured party intends to
11 charge the borrower for vendor single interest or collateral protection
12 coverage on the collateral if the borrower fails to provide evidence of
13 proper insurance to the lender; and

14 (b) The secured party shall send the final notice and warning
15 notice in compliance with subsection (1) of this section by certified
16 mail to the borrower's last known address as contained in the secured
17 party's records at least eight days before the insurance is charged to
18 the borrower by the insurer.

19 (3) The secured party is responsible for complying with subsection
20 (2)(a) and (b) of this section. However, a secured party may seek the
21 services of other entities to fulfill the requirements of subsection
22 (2)(a) and (b) of this section.

23 (4) Nothing contained in this chapter, or a secured party's
24 compliance with or failure to comply with this chapter, shall be
25 construed to require the secured party to purchase vendor single
26 interest or collateral protection coverage, and the secured party shall
27 not be liable to the borrower or any third party as a result of its
28 failure to purchase vendor single interest or collateral protection
29 coverage.

30 (5) Substantial compliance by a secured party with sections 1
31 through 5 of this act constitutes a complete defense to any claim
32 arising under the laws of this state challenging the secured party's
33 placement of vendor single interest or collateral protection coverage.

34 (6) The effective date of vendor single interest or collateral
35 protection coverage placed under this chapter shall be either the date
36 that the borrower's prior coverage lapsed or the date that the borrower
37 failed to provide proof of coverage on the vehicle or vessel as
38 required under the contract or loan agreement. Premiums for vendor
39 single interest or collateral protection coverage placed under this

1 chapter shall be calculated on a basis that does not exceed the
2 outstanding credit balance as of the effective date of the coverage
3 even though the coverage may limit liability to the outstanding
4 balance, actual cash value, or cost of repair.

5 (7) If the secured party has purchased the contract or loan
6 agreement relating to the motor vehicle or vessel from the seller of
7 the motor vehicle or vessel under an agreement that the seller must
8 repurchase the contract or loan agreement in the event of a default by
9 the borrower, the secured party shall send a copy of the notice
10 provided under subsection (2)(a) of this section by first class mail to
11 the seller at the seller's last known address on file with the secured
12 party when such notice is sent to the borrower under subsection (2)(a)
13 of this section.

14 NEW SECTION. **Sec. 4.** (1) The secured party shall cancel vendor
15 single interest or collateral protection coverage charged to the
16 borrower effective the date of receipt of proper evidence from the
17 borrower that the borrower has obtained insurance to protect the
18 secured party's interest. Proper evidence includes an insurance binder
19 that is no older than ninety days from the date of issuance and that
20 contains physical damage coverage as provided in the borrower's loan
21 agreement with respect to the motor vehicle or vessel.

22 (2) If the underlying loan or extension of credit for the
23 underlying loan is satisfied, the secured party may not require the
24 borrower to maintain vendor single interest or collateral protection
25 coverage that has been purchased.

26 (3) The interest rate for financing the cost of vendor single
27 interest or collateral protection coverage may not exceed the interest
28 rate applied to the underlying loan obligation.

29 NEW SECTION. **Sec. 5.** If vendor single interest or collateral
30 protection coverage is canceled or discontinued under section 4 (1) or
31 (2) of this act, the amount of unearned premium must be refunded to the
32 borrower. At the option of the secured party, this refund may take the
33 form of a credit against the borrower's obligation to the secured
34 party. If the refund is taken as a credit against the borrower's
35 obligation to the secured party, the secured party shall provide the
36 borrower with an itemized statement that indicates the amount of the
37 credit and where the credit has been applied.

1 NEW SECTION. **Sec. 6.** Sections 1 through 5 and 7 of this act are
2 added to chapter 48.22 RCW.

3 NEW SECTION. **Sec. 7.** The failure of a secured party prior to
4 January 1, 1995, to provide notice as contemplated in this chapter, or
5 otherwise to administer a vendor single interest or collateral
6 protection coverage program in a manner similar to that required under
7 this chapter, shall not be admissible in any court or arbitration
8 proceeding or otherwise used to prove that a secured party's actions
9 with respect to vendor single interest or collateral protection
10 coverage or similar coverage were unlawful or otherwise improper. A
11 secured party shall not be liable to the borrower or any other party
12 for placing vendor single interest or collateral protection coverage in
13 accordance with the terms of an otherwise legal loan or other written
14 agreement with the borrower entered prior to January 1, 1995. The
15 provisions of this section shall be applicable with respect to actions
16 pending or commenced on or after the effective date of this section.

17 NEW SECTION. **Sec. 8.** Sections 1 through 5 of this act take effect
18 January 1, 1995.

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