

105TH CONGRESS
2D SESSION

H. R. 4788

To amend the Consumer Credit Protection Act to enhance the advertising of the terms and costs of consumer automobile leases, to permit consumer comparison of advertised lease offerings, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 10, 1998

Mr. LAFALCE introduced the following bill; which was referred to the
Committee on Banking and Financial Services

A BILL

To amend the Consumer Credit Protection Act to enhance the advertising of the terms and costs of consumer automobile leases, to permit consumer comparison of advertised lease offerings, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Consumer Automobile Lease Advertising Act of 1998”.

6 (b) REFERENCE.—Whenever in this Act an amend-
7 ment or repeal is expressed in terms of an amendment
8 to, or repeal of, a section or other provision, the reference

1 shall be considered to be made to a section or other provi-
2 sion of the Consumer Credit Protection Act.

3 **SEC. 2. FINDINGS AND PURPOSE.**

4 (a) FINDINGS.—The Congress finds the following:

5 (1) There has been a continuing trend toward
6 leasing of automobiles by consumers as an alter-
7 native to installment credit sales, with automobile
8 leases now constituting over one-third of all new
9 automobile transactions.

10 (2) Current automobile leasing practices do not
11 provide consumers with consistent or adequate infor-
12 mation to permit comparison shopping among lease
13 offerings. Important information about lease costs
14 and terms are not available until the consumer visits
15 an automobile dealership, are typically provided only
16 as part of lease negotiations, and often are not fully
17 disclosed until the signing of the lease documents.

18 (3) Automobile lease advertisements tend to
19 confuse and mislead consumers by highlighting the
20 most attractive terms of leases, by minimizing or
21 omitting additional costs, terms or penalties, and by
22 advertising monthly payment amounts based on
23 lease terms that are different from those customarily
24 offered to or selected by consumers.

1 (4) With leases accounting for a large and
2 growing percentage of all new automobile trans-
3 actions, there is increasing need for automobile man-
4 ufacturers, automobile dealers and other firms in-
5 volved in leasing to provide more relevant and easily
6 understood information in advertising and in writing
7 at the auto dealership to permit consumers to evalu-
8 ate intelligently the attractiveness of leases offered
9 by an automobile dealership, to compare terms of
10 leases offered and advertised by competing dealer-
11 ships, and to compare the benefits of automobile
12 leases with alternative purchase transactions.

13 (b) PURPOSE.—The purpose of the amendments
14 made by this Act is to simplify and standardize automobile
15 lease advertising in order to provide consumers with more
16 relevant and easily understood information regarding the
17 terms and costs of lease offerings earlier in the leasing
18 process to permit consumers to compare lease and pur-
19 chase options and to comparison shop among competing
20 lease opportunities.

21 **SEC. 3. APPLICABLE CONSUMER LEASES.**

22 Section 181(1) of the Consumer Credit Protection
23 Act (15 U.S.C. 1667(1)) is amended—

24 (1) by striking “\$25,000” and inserting
25 “\$50,000”; and

1 (2) by adding at the end of the following: “The
 2 limit on the contractual obligation which comes with-
 3 in such term shall be adjusted annually based upon
 4 the change reported in the Consumer Price Index by
 5 the Department of Labor in June of the preceding
 6 year.”.

7 **SEC. 4. GENERAL LEASE ADVERTISING.**

8 (a) AMENDMENTS.—Section 184(a) (15 U.S.C.
 9 1667c) is amended—

- 10 (1) by striking “(a)” and inserting “(a)(1)”;
- 11 (2) by redesignating paragraphs (1) through
 12 (5) as subparagraphs (A) through (E), respectively;
- 13 (3) by adding at the end the following:

14 “(2) Information required to be disclosed under
 15 paragraph (1) shall be in the same language that
 16 principally is used in the advertisement.

17 “(3) Identification in a television advertisement
 18 of the advertised transaction as a lease, as required
 19 by paragraph (1)(A), shall be included in both the
 20 audio and video portions of the television advertise-
 21 ment.

22 “(4) The requirements of this subsection shall
 23 apply to all aspects of advertising, including tele-
 24 vision, radio and videotaped advertisements, print
 25 advertisements in publications, newsletters and fli-

1 ers, advertisements on computer programs and on
 2 the internet, and advertisements by toll-free tele-
 3 phone numbers.”.

4 (b) CONFORMING AMENDMENTS.—Section 184(c)
 5 (15 U.S.C. 1667c(c)) is amended by striking “subsection
 6 (a)” each time it occurs and inserting “subsection (a)(1)”
 7 and in paragraph (1) by striking “paragraphs (1) and
 8 (2)” and inserting “subparagraphs (A) and (B)”.

9 **SEC. 5. ALTERNATIVE LEASE DISCLOSURES.**

10 Section 184(c) (15 U.S.C. 1667c(C)) is amended—

11 (1) by striking “RADIO” in the subsection head-
 12 ing and inserting “BROADCAST”;

13 (2) by striking “radio broadcast” each place it
 14 occurs and inserting “radio or television broadcast”;

15 (3) in paragraph (1)(A), by striking “para-
 16 graphs (1) and (2)” and inserting “subparagraphs
 17 (A), (B), and (F) of subsection (a)(1)”;

18 (4) in paragraph (2)(A)(iii), by striking “pro-
 19 vide the” and inserting the following: “provide a re-
 20 corded message which provides, in a uniform manner
 21 and in a form which is easily understood and capa-
 22 ble of being repeated, the”;

23 (5) in paragraph (2)(A), by striking “and” at
 24 the end of clause (ii), by striking the period at the

1 end of clause (iii) and inserting “; and”, and by add-
 2 ing after clause (iii) the following:

3 “(iv) exclude from the information pro-
 4 vided by such toll-free telephone all marketing
 5 and sales promotional information.”; and

6 (6) by amending paragraph (2)(B) to read as
 7 follows:

8 “(B) WRITTEN INFORMATION.—A toll-free
 9 number established in accordance with subpara-
 10 graph (A) shall include an option that permits
 11 consumers to request the information required
 12 to be provided under subparagraph (A)(iii) in
 13 written form and by mail.”.

14 **SEC. 6. ADVERTISEMENT FOR AUTOMOBILE LEASE.**

15 Section 184 (15 U.S.C. 1667c) is amended by adding
 16 at the end the following:

17 “(d) ADVERTISEMENT FOR AUTOMOBILE LEASE.—

18 “(1) CERTAIN PRACTICES PROHIBITED.—No
 19 advertisement to promote or assist, directly or indi-
 20 rectly, any lease for an automobile shall—

21 “(A) state that no downpayment is re-
 22 quired on the lease when the lessor requires a
 23 capitalized cost reduction payment, acquisition
 24 fee, vehicle trade-in or other significant pay-
 25 ment upon initiation of the lease, except that

1 payment of the first monthly payment on the
2 lease and any refundable deposit shall not be
3 considered a downpayment; and

4 “(B) include the amount of any monthly or
5 periodic payment, downpayment, lease term, in-
6 terest rate, or other terms of leases that the les-
7 sor—

8 “(i) does not routinely or customarily
9 offer or make available to customers, or
10 does not intend to make available generally
11 to customers as part of any offer or pro-
12 motion, for vehicles of the same make,
13 model and year as the vehicle advertised;
14 or

15 “(ii) makes available only to selected
16 customers or to customers with preferred
17 credit ratings.

18 “(2) LEASE PAYMENT AMOUNTS.—

19 “(A) An advertisement to promote a lease
20 for an automobile that states a lease payment
21 amount, or must state a lease payment amount
22 under subsection (a)(1)(D), shall calculate such
23 payment amount on the basis of a lease pay-
24 ment formula which the Board shall set forth in

1 regulation and which shall be based on the fol-
2 lowing information—

3 “(i) the total capitalized cost of the
4 vehicle model advertised which shall not be
5 reduced or adjusted by any down payment
6 amount, capitalized cost reduction, vehicle
7 trade-in amount or other required pay-
8 ment;

9 “(ii) a lease term of twenty-four (24)
10 months; and

11 “(iii) a mileage allowance of 24,000
12 miles, or 12,000 miles for each year of the
13 lease term, before any excess mileage
14 charge may be imposed.

15 “(B) An advertisement to promote a lease
16 for personal use of an automobile that states a
17 lease payment amount for a vehicle model as
18 provided under subparagraph (A) shall state
19 clearly and conspicuously that the stated lease
20 payment amount applies to a consumer lease
21 with a term of twenty-four (24) months, with
22 no downpayment or trade-in amount and with
23 an annual mileage allowance of 12,000 miles.

24 “(C) An advertisement to promote a lease
25 for an automobile that states a lease payment

for a vehicle model as provided under subparagraph (A) may state a lease payment amount for the same vehicle model that is different than that required to be stated under subparagraph (A): *Provided, however*, That—

“(i) the lease payment amount is not presented more prominently than the lease payment amount required to be stated under subparagraph (A); and

“(ii) the advertisement clearly and conspicuously identifies the lease terms or payment amounts that explain the difference between the lease payment amount and the payment amount required to be stated under subparagraph (A).”.

SEC. 7. AVAILABILITY OF WRITTEN INFORMATION.

Section 184 (15 U.S.C. 1667c), as amended by section 6, is amended by adding at the end the following:

“(e) AVAILABILITY OF WRITTEN INFORMATION.—

“(1) ADVERTISED LEASES.—In connection with any advertisement by an automobile dealer to promote or assist a consumer lease for an automobile that includes a lease payment amount, as provided in subsection (d)(2), or any national or regional advertisement to promote an automobile lease or vehi-

1 cle promotion that includes a lease payment amount
2 and that the dealer participates in and offers to con-
3 sumers, such dealer shall—

4 “(A) provide separately for each auto-
5 mobile which is promoted in such advertisement
6 or promotion a statement that is dated and
7 typed or set in type and that sets out accurately
8 and in a clear and conspicuous manner a sum-
9 mary of the relevant payment amounts and
10 other terms applicable to the advertised lease or
11 vehicle promotion that shall include—

12 “(i) a description of the vehicle model
13 advertised, including any accessory or op-
14 tion;

15 “(ii) a statement of the charges, fees
16 and payments to be included in the capital-
17 ized cost of the vehicle model advertised,
18 and the total capitalized cost of the vehicle
19 model;

20 “(iii) the total number of scheduled
21 lease payments;

22 “(iv) the information used to calculate
23 any advertised monthly lease payment
24 amount, which shall include fees or charges
25 not included in the vehicle capitalized cost,

1 interest charges and vehicle residual value;
2 and

3 “(v) the total amount due at lease in-
4 ception, including all charges or fees to be
5 paid at or before lease signing and upon
6 delivery of the leased automobile; and

7 “(B) make such statement available for re-
8 view by the public by—

9 “(i) placing such statement in a con-
10 spicuous and prominent location in the
11 dealership; and

12 “(ii) providing a copy of such state-
13 ment to any customer who requests it.

14 “(2) CUSTOMER INCENTIVES.—An automobile
15 dealer engaged in automobile leasing shall make
16 available to the public in a conspicuous and promi-
17 nent location in the dealership a statement that is
18 dated and that sets out clearly and accurately for
19 each vehicle model offered by the dealer, as applica-
20 ble, the incentives, special offers or promotions avail-
21 able for the benefit of consumers in conjunction with
22 consumer lease, purchase and installment credit
23 transactions, that shall include—

1 “(A) special interest rates that are offered
2 by automobile manufacturers, financial institu-
3 tions and leasing companies;

4 “(B) special incentives, including cash re-
5 bates and vehicle residual percentages that are
6 offered by automobile manufacturers directly to
7 consumers; and

8 “(C) special incentives and lease terms, in-
9 cluding vehicle discounts, residual value per-
10 centages and other vehicle promotions that are
11 offered to consumers by the dealer.”.

12 **SEC. 8. DEFINITIONS.**

13 Section 184 (15 U.S.C. 1667c), as amended by sec-
14 tions 6 and 7, is further amended by adding at the end
15 the following:

16 “(f) CLEARLY AND CONSPICUOUSLY.—

17 “(1) IN GENERAL.—For purposes of this sec-
18 tion, the term ‘clearly and conspicuously’ means—

19 “(A) in print advertisements, the required
20 disclosures and explanations of lease terms shall
21 appear in type size, shade, contract, promi-
22 nence, and location as to be readily noticeable,
23 readable, and comprehensible to an ordinary
24 consumer;

1 “(B) in the video portion of television or
2 videotaped advertisements, the required disclo-
3 sures shall appear on the screen in a type size,
4 shade, contrast, prominence, and location and
5 for a duration as to be readily noticeable, read-
6 able, and comprehensible to an ordinary con-
7 sumer;

8 “(C) in the audio portion of television,
9 videotaped, and radio advertisements, the re-
10 quired disclosures shall be delivered in a vol-
11 ume, cadence, and location and for a duration
12 as to be readily noticeable, hearable, and com-
13 prehensible to an ordinary consumer; and

14 “(D) in advertisements on the internet, the
15 required disclosures shall appear in a type, size,
16 shade, contract, prominence, and location as to
17 be readily readable and comprehensible to users
18 and shall be separated from marketing and pro-
19 motional information and easily accessible
20 under the label or heading ‘Important Informa-
21 tion for Consumers’.

22 “(2) LIMITATION.—Nothing contrary to, incon-
23 sistent with, or in mitigation of, the required disclo-
24 sures shall be used in any advertisement in any me-
25 dium and no audio, video, or print technique shall

1 be used that is likely to obscure or detract signifi-
2 cantly from the communications of the disclosures.”

3 **SEC. 9. ADMINISTRATIVE ENFORCEMENT.**

4 Chapter 5 of the Consumer Credit Protection Act is
5 further amended by adding the following new section:

6 **“§ 187. Administrative Enforcement**

7 “Compliance with section 184 of this Chapter shall
8 be enforced by the Federal Trade Commission, except to
9 the extent that enforcement of the requirements imposed
10 under such section is specifically committed to another
11 agency under section 108(a) of this title. For purposes of
12 the exercise by the Commission of its functions and powers
13 under the Federal Trade Commission Act, a violation of
14 section 184 shall be deemed an unfair or deceptive act or
15 practice in violation of that Act. All of the functions of
16 and powers of the Commission under the Federal Trade
17 Commission Act are available to the Commission to en-
18 force compliance by any person with such section, irrespec-
19 tive of whether that person is engaged in commerce or
20 meets any other jurisdictional tests in the Federal Trade
21 Commission Act, including the power to enforce the provi-
22 sions of such section in the same manner as if the violation
23 had been a violation of a Federal Trade Commission trade
24 regulation rule.”

1 **SEC. 10. CIVIL LIABILITY.**

2 Section 130(a)(2) of the Truth in Lending Act (15
3 U.S.C. 1640) is amended by striking “or” at the end of
4 subparagraph (A), by inserting “or” at the end of sub-
5 paragraph (B), and by adding after subparagraph (B) the
6 following:

7 “(C) in the case of calculating the total civil li-
8 ability for violation of any requirement of chapter 5,
9 the liability under this subparagraph shall not be
10 greater than \$10,000;”.

11 **SEC. 11. REGULATIONS.**

12 The Federal Reserve Board, not later than 6 months
13 after the date of the enactment of this Act, shall issue
14 regulations to implement the amendments made by this
15 Act. The Board shall also issue regulations, together with
16 staff commentary if appropriate, to update and clarify the
17 requirements and definitions for lease disclosures and any
18 other issue relating to consumer leasing to carry out the
19 intent of the amendments made by this Act, to implement
20 any initiative to prevent the circumvention of the amend-
21 ments made by this Act, and to facilitate compliance with
22 the requirements in the amendments.

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