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Commissioner

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FINANCIAL INSTITUTIONS' BUREAU  
P.O. Box 30224  
Lansing, Michigan 48909

**DEPARTMENT OF COMMERCE**

DOUG ROSS, Director

May 22 , 1989

To The Licensee Addressed:

Re: "Spot Delivery"

In recent examinations of motor vehicle installment sellers, the Financial Institutions Bureau has uncovered several examples of the practice of "spot delivery". As it has been explained to us, a "spot delivery" occurs when a buyer and seller sign an installment contract for the sale of a vehicle and the buyer takes delivery of the vehicle "on the spot". The buyer agrees, usually by signing a rider to the contract that the contract is void if the seller does not assign it within a certain number of days. If the contract is void, the buyer must either pay the balance in full or return the vehicle, pay for any damage, and sometimes pay rent or for "excessive mileage".

The intent of the Motor Vehicle Sales Finance Act (Act) is to protect installment buyers. The Act does so in several ways, including requiring a certain form of written installment sale contract which discloses important information. The Act also prohibits some contract terms, including any agreement whereby a buyer waives rights granted by the Act, and a provision whereby the seller can accelerate the balance because he deems himself insecure.

The seller has a choice whether or not to assign a contract. The seller has sole control over the effort he will exert to assign a contract. A contract term which requires an installment buyer to waive all his contract rights and protections under the Act because the seller is unable to take advantage of an optional assignment is absolutely inconsistent with the Act.

It is the Bureau's opinion that a motor vehicle installment sales contract conditioned upon assignment violates the Act. Further, the practice is coercive, unconscionable, and preys on the impulse buyer.

The Bureau intends to take appropriate enforcement action in the future for those dealers which engage in such practices.

Very truly yours,

/ss/

Murray E. Brown  
Deputy Commissioner

MEB/PDG/jmb

cc: Michigan Automobile Dealers  
Association  
Detroit Automobile Dealers  
Association