



NEW YORK AUTOMOBILE LEASING BROKERS ASSOCIATION (“NYABA”)

MEMORANDUM OF OPPOSITION S. 4332-B (SAVINO)/A.1932-C (CARROLL) “AUTOMOBILE BROKER BUSINESS”

June 1, 2022

The NYABA is strongly opposed to Senate Bill 4332-B and Assembly Bill 1932C. The Bill is spearheaded by auto dealers. The New York (“NY”) Attorney General (“AG”) office has confirmed there are no current complaints or investigations of brokers, but dealers were #5 of consumer fraud complaints on the AG list for 2021 and 2020 and #3 in 2019. Brokers are small businesses that help consumers who are immigrants, have special needs and language barriers, among others. SB 4332-B has one small modification from the last draft, removing the requirement that the broker obtain three bids for each vehicle that a consumer wants BUT the impact of the Bill remains the same: to put the brokers out of business. This Bill is dealer protection.

The Bill:

1. Will result in NY’s job losses to approximately 3000+ broker and 11,382 used car dealer/broker employees.¹
2. Places extreme burdens on brokers who are already licensed under the General Business Law;
3. Requires all deal bids to be submitted to the consumer by the broker so the consumer can go directly to the dealer and prohibits the dealer from paying the broker thereby cutting out the broker;
4. Requires all brokers and leasing companies doing business in NY to obtain a NY dealer license;
5. Requires brokers to financially guaranty the United States safety and environmental specifications of all brokered new vehicles—the broker is not the manufacturer of the vehicles so this creates an impossible financial burden;
6. Requires a surety bond of \$250,000 for brokers—dealers only have a \$100,000 bond;
7. Turns broker advertising into a deceptive act and practice thereby violating brokers’ constitutional rights;
8. Requires brokers to provide disclosures applicable to dealer transactions with consumers under federal and NY state law—this is the dealers’ duty to the consumer as the dealer is selling/leasing the vehicle, not the broker the broker is only introducing the parties;
9. Contains onerous data privacy protection provisions that under federal law apply to businesses of over 50 employees, annual revenue of \$3,000,000 or assets of \$5,000,000.
10. Creates a private right of action for anyone to enforce the bill regardless of “whether or not the underlying violation is consumer-oriented or has public impact.”
11. Allows the attorney general, local municipalities and private citizens to enforce the law which will result in inconsistent application of law and burden the New York State Courts.
12. Has onerous civil penalties up to \$10,000 for each violation.

¹ See definition in §1 of the Bill.