



Implications of New York Starter Interrupt Device Law Remain Unclear

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With little fanfare but big consequences, New York recently passed Senate Bill 2484 to address the use of starter interrupt devices in New York. The bill, now codified as Chapter 312 of the Laws of 2018, amends the state's debt collection laws and imposes a single substantive requirement: a "principal creditor" (defined to be the party to whom a repayment obligation is owed) must send a notice to a consumer to inform the consumer that his/her vehicle may be remotely disabled. Because the new law focuses on the act of remotely disabling the vehicle, it does not appear to touch GPS tracking systems without this ability.

Although providing consumers with a warning notice about the potential use of a disabling device seems relatively straightforward, the devil is (always) in the details. Here, the details reveal two potential issues with meeting the notice requirement.

First, the law requires the notice to include "the method and timetable agreed upon by the consumer and the creditor in the initial contract for services." Although not explicit, this drafting implies that the underlying contract (whether it be a promissory note, credit sale contract, or lease agreement) will state both the right to disable the vehicle and the timetable on which disablement may occur. Prior to the passage of the law, there was no explicit regulation of starter interrupt devices in New York. As a result, the agreements involving the installation and use of such technology were generally governed by contract law principles, so typical agreements drafted prior to passage of the new law will not include the elements contemplated by the law for inclusion in the warning notice.

The second operational challenge arises from the timing requirement for the notice. The law requires the notice to be postmarked no later than 10 days before the date on which the principal creditor obtains the right to remotely disable the vehicle. As noted above, this requirement assumes that the underlying agreement will include a timing component only after which the starter interrupt device may be used to remotely disable the vehicle. It is unclear whether the drafters of the law considered the fact that the various types of credit schemes in New York are inconsistent in their provision of pre-repossession payment default cure rights. For example, the statutes governing lease transactions in New York provide such a right, but the credit sale laws do not.

Because the law became effective upon Governor Cuomo's signature on October 2, creditors and lessors must scramble to comply. But the scramble should be done with care. By placing the notice language in the state's debt collection procedures law, violation of the law results in a

misdemeanor, and each violation is considered a separate offense.

Further clarification on these requirements of the law would be helpful. Whether they might be forthcoming remains to be seen.

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