



SENATE BILL 425: GAP and VVPA Agreement Changes.

2021-2022 General Assembly

Committee:	House Rules, Calendar, and Operations of the House	Date:	August 31, 2021
Introduced by:	Sens. Woodard, Perry, Johnson	Prepared by:	Bill Patterson
Analysis of:	Third Edition		Staff Attorney

OVERVIEW: *Senate Bill 425 would modify the law governing the regulation of guaranteed asset protection waivers and would regulate vehicle value protection agreements.*

CURRENT LAW: Article 46 of Chapter 66 of the General Statutes regulates entities offering a guaranteed asset protection (GAP) waiver, which is defined as a contractual agreement in which a creditor agrees, for a separate charge, to cancel or waive all or part of the deficiency in the balance due on a borrower's vehicle in the event of a total physical damage loss or unrecovered theft of the vehicle, after crediting any applicable insurance coverage. Any cost to the borrower for a GAP waiver must be separately stated and is not considered a finance charge or interest.

BILL ANALYSIS:

Section 1 would amend Article 46 to apply to GAP agreements for which the creditor does not charge an additional fee. Section 1 would also amend the definition of "GAP agreement" to make the following agreements subject to the requirements of Article 46, with or without an additional fee:

- An agreement by the creditor to waive or give the borrower a credit towards the purchase of a replacement vehicle.
- An agreement by the creditor to cancel or waive all or part of the amount due under a borrower's lease agreement owing to excessive wear and use of a vehicle or excess mileage.

For purposes of Article 46, a vehicle value protection agreement as defined in Article 48 of Chapter 66 of the General Statutes (to be enacted under Section 3) would not be deemed to be a GAP waiver.

Section 2 would deem the cost of a GAP waiver to be an authorized charge that may be financed under the Retail Installment Sales Act, Chapter 25A of the General Statutes and not a part of the finance charge or interest thereunder.

Section 3 would enact a new Article 48 in Chapter 66 of the General Statutes to regulate entities offering a "vehicle value protection agreement," defined as a contractual agreement that provides one of the following benefits upon the occurrence of an "adverse event:"

- A reduction of the contract holder's current finance agreement deficiency balance.
- A credit toward the purchase or lease of a replacement vehicle or purchase of motor vehicle services.

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An "adverse event" triggering the contractor's right to the benefit is defined as including, without limitation, a less than total physical damage loss, or diminished value or depreciation of the vehicle subject to the agreement.

The term "vehicle value protection agreement" as used in new Article 48 would not include a GAP waiver as defined in Article 46 of Chapter 66 of the General Statutes.

New Article 48 would include the following provisions:

- Required disclosures to the borrower.
- Minimum financial solvency requirements for insurers issuing reimbursement policies.
- A minimum 30-day look back period during which the purchaser may cancel the agreement and receive a full refund so long as no benefits have been provided.
- Provisions governing cancellation of the vehicle value protection agreement and the processing of any refund.
- Enforcement by the Attorney General and fines for violations.

EFFECTIVE DATE: This act becomes effective January 1, 2022, and applies to agreements entered into on or after that date.