

# HOUSE BILL 139

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CF SB 134

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By: **Delegate Crosby**

Introduced and read first time: January 15, 2020

Assigned to: Economic Matters

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: February 26, 2020

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Consumer Protection – Electronic Transactions – Sale and Lease of Vehicles**

3 FOR the purpose of providing that only a dealer may contract for the sale and delivery of a  
4 vehicle by electronic means; providing that a consumer shall be deemed not to have  
5 agreed to enter into a contract for the sale or lease of a vehicle with a dealer by  
6 electronic means except under certain circumstances; requiring, under certain  
7 circumstances, that a vehicle be delivered to a consumer at a certain location and,  
8 except under certain circumstances, within a certain time period after the execution  
9 of the vehicle contract by electronic means; defining certain terms; providing for the  
10 application of this Act; and generally relating to electronic transactions for the sale  
11 and leases of vehicles.

12 BY repealing and reenacting, without amendments,  
13 Article – Commercial Law  
14 Section 21–101(a) and (e)  
15 Annotated Code of Maryland  
16 (2013 Replacement Volume and 2019 Supplement)

17 BY adding to  
18 Article – Commercial Law  
19 Section 21–101(d–1), (e–1), and (r)  
20 Annotated Code of Maryland  
21 (2013 Replacement Volume and 2019 Supplement)

22 BY repealing and reenacting, with amendments,

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### EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Article – Commercial Law  
2 Section 21–104  
3 Annotated Code of Maryland  
4 (2013 Replacement Volume and 2019 Supplement)

5 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
6 That the Laws of Maryland read as follows:

7 **Article – Commercial Law**

8 21–101.

9 (a) In this title the following words have the meanings indicated.

10 **(D–1) “CONSUMER” HAS THE MEANING STATED IN § 13–101 OF THIS ARTICLE.**

11 (e) “Contract” means the total legal obligation resulting from the parties’  
12 agreement as affected by this title and other applicable law.

13 **(E–1) “DEALER” HAS THE MEANING STATED IN § 15–101 OF THE**  
14 **TRANSPORTATION ARTICLE.**

15 **(R) “VEHICLE” HAS THE MEANING STATED IN § 11–176 OF THE**  
16 **TRANSPORTATION ARTICLE.**

17 21–104.

18 (a) This title does not require a record or signature to be created, generated, sent,  
19 communicated, received, stored, or otherwise processed or used by electronic means or in  
20 electronic form.

21 (b) (1) This title applies only to transactions between parties, each of which  
22 has agreed to conduct transactions by electronic means.

23 (2) Whether the parties have agreed to conduct a transaction by electronic  
24 means is determined from the context and surrounding circumstances, including the  
25 parties’ conduct.

26 (3) Except for a separate and optional agreement the primary purpose of  
27 which is to authorize a transaction to be conducted by electronic means, a provision to  
28 conduct a transaction electronically may not be contained in a standard form contract  
29 unless that provision is conspicuously displayed and separately consented to.

30 (4) An agreement to conduct a transaction electronically may not be  
31 inferred solely from the fact that a party has used electronic means to pay an account or  
32 register a purchase warranty.

1           (5) (I) ONLY A DEALER MAY CONTRACT FOR THE SALE AND  
2 DELIVERY OF A VEHICLE BY ELECTRONIC MEANS.

3           (II) A CONSUMER SHALL BE DEEMED NOT TO HAVE AGREED TO  
4 ENTER INTO A ~~CONTRACT~~ TRANSACTION FOR THE SALE OR LEASE OF A VEHICLE  
5 WITH A DEALER BY ELECTRONIC MEANS UNLESS THE DEALER PROVIDES ~~A~~ THE  
6 CONSUMER WITH:

7           ~~(H)~~ 1. A CLEAR AND READABLE COPY OF ~~THE COMPLETE~~  
8 ~~CONTRACT~~ EACH DOCUMENT SIGNED BY THE CONSUMER AND THE DEALER IN AN  
9 ELECTRONIC OR WRITTEN FORMAT; AND

10          ~~(H)~~ 2. REASONABLE OPPORTUNITY FOR THE CONSUMER TO  
11 REVIEW THE ~~COPY OF THE CONTRACT~~ DOCUMENTS BEFORE PROVIDING AN  
12 ELECTRONIC SIGNATURE.

13          (III) IF THE VEHICLE IS NOT DELIVERED TO THE CONSUMER AT  
14 THE DEALERSHIP ON EXECUTION BY THE DEALER AND CONSUMER OF A VEHICLE  
15 CONTRACT BY ELECTRONIC MEANS, THE DEALER SHALL DELIVER THE VEHICLE  
16 FROM THE DEALER'S PRIMARY BUSINESS LOCATION TO A PHYSICAL ADDRESS  
17 PROVIDED BY THE CONSUMER AND AT A DATE AND TIME:

18                   1. AGREED ON BY THE BUYER AND THE DEALER; AND

19                   2. THAT IS WITHIN 7 BUSINESS DAYS AFTER THE  
20 EXECUTION OF THE VEHICLE CONTRACT UNLESS THE CONSUMER AGREES IN  
21 WRITING TO A DIFFERENT DELIVERY DATE.

22          (6) This subsection may not be varied by agreement.

23          (c) (1) A party that agrees to conduct a transaction by electronic means may  
24 refuse to conduct other transactions by electronic means.

25          (2) The right granted by this subsection may not be waived by agreement.

26          (d) (1) Except as otherwise provided in this title, the effect of any of its  
27 provisions may be varied by agreement.

28          (2) The presence in provisions of this title of the words "unless otherwise  
29 agreed", or words of similar import, does not imply that the effect of other provisions may  
30 not be varied by agreement.

31          (e) Whether an electronic record or electronic signature has legal consequences is  
32 determined by this title and other applicable law.

**HOUSE BILL 139**

1           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to  
2 apply only prospectively and may not be applied or interpreted to have any effect on or  
3 application to any electronic transactions for the sale of a vehicle that were entered into  
4 before the effective date of this Act.

5           SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
6 October 1, 2020.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.