

NEWS FROM SCDCA

SOUTH CAROLINA DEPARTMENT OF CONSUMER AFFAIRS

Carri Grube Lybarker, Administrator



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Filling a GAP: New GAP Waiver Law Applies December 1

COLUMBIA, S.C. – Senate Bill 441 goes into effect on December 1 providing increased consumer protection in the sale of guaranteed asset protection waivers, also called GAP waivers, in South Carolina. GAP is a product that steps in when a consumer’s vehicle suffers a total loss or is stolen to cover the difference between the value of the vehicle and what the consumer owes. Senate Bill 441 is important because it establishes a framework aimed to prevent unfair practices in the sale of GAP products. “Prior to this law, no restrictions existed for the sale of GAP waivers,” said SCDCA Administrator Carri Grube Lybarker. “The requirements provided by SB 441 will create a more protected, informed consumer.”

The Guaranteed Asset Protection Act contains several consumer protections, including a thirty day right to cancel and prohibiting a creditor from requiring a consumer purchase the waiver to get credit or offering different credit terms dependent upon if the consumer buys the GAP product. The consumer must also be given a written contract disclosing certain terms, such as the price, conditions and exclusions associated with the waiver in “clear, easily understandable language.”

The Act provides restrictions in the offering of the GAP waiver as well. GAP waivers can only be sold in conjunction with a loan *unrelated* to the purchase of a motor vehicle if the loan has an original repayment term of more than twelve months and a principal loan amount greater than four thousand dollars. GAP waivers also cannot be sold unless:

- the creditor reasonably believes the consumer will be eligible for a benefit under the product,
- the consumer, credit terms, and automobile qualify under the terms of the waiver, and
- the amount financed, less the cost of the GAP waiver, credit insurance and services contracts is at least eighty percent of the manufacturer suggested retail price for a new vehicle or the National Automobile Dealers Association average retail value for a used vehicle.

This law applies to GAP waivers which become effective December 1 forward. Consumers in the market for a vehicle can visit www.consumer.sc.gov to view SCDCA’s Auto Guide for Consumers, http://www.consumer.sc.gov/Documents/Consumer_Auto_Guide.pdf, or contact the agency at 800-922-1594 to request a hard copy.

About SCDCA

The South Carolina Department of Consumer Affairs aims to protect consumers from inequities in the marketplace through advocacy, complaint mediation, enforcement and education. To file a complaint or get information on consumer issues, visit www.consumer.sc.gov or call toll-free, 1-800-922-1594.