

By Miss Travinski of Southbridge, petition of Marilyn L. Travinski, Mary Jeanette Murray, Thomas G. Palumbo, Robert J. Rohan and George J. Bourque relative to the subleasing of motor vehicles. Commerce and Labor.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety.

AN ACT RELATIVE TO SUBLEASING MOTOR VEHICLES.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 90 of the General Laws, as appearing in the 1986
2 Official Edition, is hereby amended by inserting after section 32F
3 the following section.

4 Section 32F½. (a) As used in this section, the following words
5 shall have the following meanings: (1) The term "person" means
6 any natural person or any form of business organization,
7 including, but not limited to, a partnership, corporation,
8 association, or group, however organized, including its officers
9 and directors, if any.

10 (2) The term "induce" means to induce, encourage, assist, cause,
11 or arrange for a lessee under a lease to sublease the subject motor
12 vehicle. "Induce" also means to cause or arrange for a buyer under
13 a conditional sale contract or who has borrowed to finance a
14 vehicle's acquisition to be induced, encouraged, assisted, or caused
15 to sublease the subject motor vehicle.

16 (3) The term "subject motor vehicle" means the motor vehicle
17 which has been leased to a lessee under a lease, sold to a person
18 under a conditional sale contract or financed by a person under
19 an arrangement wherein the lender retains a security interest in
20 the vehicle.

21 (4) The term "sublease" means to transfer possession of the
22 subject motor vehicle to a person who is not a party to the lease,
23 conditional sale contract or loan documents, or to transfer or

24 assign any of the lessee's or buyer's rights or interests under the
25 lease or in the subject motor vehicle to such a person, whether
26 or not such a transfer or assignment of rights or interests is
27 effective.

28 (5) The term "sublessee" means a person (i) who is not a party
29 to the lease, conditional sale contract or loan documents relating
30 to the subject motor vehicle (ii) to whom possession of the subject
31 motor vehicle is transferred or assigned, and (iii) who has paid
32 consideration for any such transfer or assignment or purported
33 transfer or assignment.

34 (b) (1) Any person who induces a lessee or buyer of the subject
35 motor vehicle to sublease the subject motor vehicle to that person
36 or to a sublessee is subject to criminal prosecution unless that
37 person has first received written consent to the sublease from the
38 lessor, seller or lender or other holder of the lease, conditional
39 sale contract or loan documents. Any person who has obtained
40 the subject motor vehicle in that manner and who offers the
41 subject motor vehicle for hire, or who offers the subject motor
42 vehicle to another person to offer for hire, is subject to criminal
43 prosecution.

44 (2) Any person found guilty of violating this section shall be
45 punished by imprisonment for not more than one year, by a fine
46 of not more than ten thousand dollars (\$10,000), or both.

47 (3) Prosecution shall be commenced within two years of the date
48 of the report of the alleged violation.

49 (4) The penalties under this section are in addition to any other
50 remedies or penalties provided by law for the conduct proscribed
51 by this section.

52 (c) (1) Any one of the following who suffers any damage as a
53 result of any person inducing a lessee or buyer to sublease the
54 subject motor vehicle to that person or to a sublessee without first
55 having received written consent to the sublease from the lessor,
56 seller, or lender or other holder of the lease, conditional sale
57 contract or loan documents may bring an action against that
58 person:

59 (a) The lessor, seller, lender or other holder of the lease, con-
60 ditional sale contract or loan documents covering the subject
61 motor vehicle.

62 (b) The lessee or buyer of the subject motor vehicle.

63 (c) The sublessee of the subject motor vehicle.

64 (2) Any lessor, seller, or lender of other holder of the lease,
65 conditional sale contract or loan documents, lessee, buyer or
66 sublessee who proceeds pursuant to this section may recover or
67 obtain against that person any of the following:

68 (a) Actual damages.

69 (b) Equitable relief, including, but not limited to, an injunction
70 or restitution of money and property.

71 (c) Reasonable attorney's fees and costs.

72 The rights and remedies provided in this section are in addition
73 to any other rights and remedies provided by law.

