This Bill Analysis reflects the contents of the bill as it was presented in committee.

SENATE BILL 425: GAP and VVPA Agreement Changes.

2021-2022 General Assembly

Committee:	Senate Commerce and Insurance. If favorable, re-refer to Judiciary. If favorable, re-refer to Rules and Operations of the Senate	**Date:**	May 5, 2021
Introduced by:	Sens. Woodard, Perry, Johnson	**Prepared by:**	Bill Patterson
Analysis of:	First Edition		Staff Attorney

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

CURRENT LAW: Article 46 of Chapter 66 of the General Statutes regulates guaranteed asset protection (GAP) waivers. For purposes of Article 46 a GAP waiver 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 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 to be considered a finance charge or interest.

BILL ANALYSIS:

Section 1 would modify the existing definition of a GAP waiver to apply whether or not the debtor paid an additional fee to the creditor, and would expand the definition to also apply to:

- An agreement by the creditor, with or without an additional fee, to waive or give the borrower a credit for some amount towards the purchase of a replacement vehicle.
- An agreement by the creditor, with or without a separate charge, to cancel or waive all or part of the amount otherwise due under a borrower's lease agreement owing to excessive wear and use of a vehicle or for excess mileage.

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

Section 3 would enact a new Article 48 in Chapter 66 of the General Statutes regulating the offering of a "vehicle value protection agreement," which would be defined as a contractual agreement that would, upon the occurrence of an "adverse event," providing a benefit of either:

- 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.

The "adverse event" triggering the right to the benefit would include, without limitation, "loss, theft, damage, obsolescence, or diminished value or depreciation" of the vehicle subject to the agreement, but would not include a debt waiver.

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.