

SENATE BILL NO. 774

October 29, 1997, Introduced by Senators PETERS, MILLER, VAUGHN, DE BEAUSSAERT, A. SMITH, STALLINGS, YOUNG, DINGELL, BYRUM, CHERRY, V. SMITH, HART, KOIVISTO, SCHWARZ, HOFFMAN, GEAKE, GAST, STILLE, NORTH, GOUGEON, ROGERS and SHUGARS and referred to the Committee on Economic Development, International Trade and Regulatory Affairs.

A bill to amend 1986 PA 87, entitled

"An act regarding warranties on new motor vehicles; to require certain repairs thereto; and to provide remedies for the failure to repair such vehicles,"

by amending sections 1, 3, 6, and 9 (MCL 257.1401, 257.1403, 257.1406, and 257.1409).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. As used in this act:

2 (a) "Consumer" means ~~any~~ 1 OR MORE of the following: ~~—~~
3 ~~but does not include a lessee of a new motor vehicle:—~~

4 (i) A person who purchases OR LEASES a new motor vehicle for
5 personal, family, or household use and not for the purpose of
6 selling or leasing the new motor vehicle to another person.

7 (ii) A person who purchases OR LEASES less than 10 new motor
8 vehicles a year.

1 (iii) A person who purchases OR LEASES 10 or more new motor
2 vehicles a year only if the vehicles are purchased OR LEASED for
3 personal, family, or household use.

4 (iv) Any other person entitled to enforce the provisions of
5 an express warranty pursuant to the terms of that warranty.

6 (b) "Manufacturer" means ~~any~~ A person who manufactures,
7 assembles, or is a distributor of new motor vehicles and includes
8 an agent of a manufacturer but does not include a new motor vehi-
9 cle dealer.

10 (c) "Manufacturer's express warranty" means an express war-
11 ranty as determined under the uniform commercial code, ~~Act~~
12 ~~No. 174 of the Public Acts of 1962, being sections 440.1101 to~~
13 ~~440.11102 of the Michigan Compiled Laws~~ 1962 PA 174,
14 MCL 440.1101 TO 440.11102, offered by the manufacturer on a new
15 motor vehicle.

16 (d) "Motor vehicle" means a motor vehicle as defined in
17 section 33 of the Michigan vehicle code, ~~Act No. 300 of the~~
18 ~~Public Acts of 1949, being section 257.33 of the Michigan~~
19 ~~Compiled Laws~~ 1949 PA 300, MCL 257.33, that is designed as a
20 passenger vehicle, but does not include a motor home, bus, truck
21 other than a pickup truck or van, or ~~any~~ A vehicle designed to
22 travel on less than 4 wheels.

23 (e) "New motor vehicle" means a motor vehicle that is pur-
24 chased OR LEASED in this state or purchased OR LEASED by a resi-
25 dent of this state and is covered by a manufacturer's express
26 warranty at the time of purchase OR LEASE.

1 (f) "New motor vehicle dealer" means a person OR THAT
2 PERSON'S AGENT who holds a dealer agreement for the sale OR LEASE
3 of new motor vehicles, who is engaged in the business of purchas-
4 ing, LEASING, selling, exchanging, or dealing in new motor vehi-
5 cles, and who has an established place of business in this state.
6 ~~and an agent thereof.~~

7 (g) "Person" means a natural person, ~~or~~ a sole proprietor-
8 ship, partnership, corporation, association, unit or agency of
9 government, trust, estate, or other legal entity.

10 (h) "Resident of this state" means as follows:

11 (i) For an individual, ~~that the~~ AN individual WHO is a
12 legal resident of this state.

13 (ii) For a sole proprietorship or partnership, ~~that the~~ A
14 sole proprietorship or partnership ~~was~~ created pursuant to the
15 laws of this state and HAS its main office ~~is~~ located in this
16 state.

17 (iii) For a corporation, ~~that the~~ A corporation THAT is
18 ~~considered to be~~ a domestic corporation and was created under
19 the laws of this state.

20 (iv) For an association, ~~that the~~ AN association ~~was~~
21 created pursuant to the laws of this state and HAS its main
22 office ~~is~~ located in this state.

23 (v) For a unit or agency of government, ~~that the~~ A unit or
24 agency ~~is~~ OF GOVERNMENT located in this state.

25 (vi) For a trust, estate, or other legal entity, ~~that the~~
26 A trust, estate, or other legal entity ~~was~~ created pursuant to
27 the laws of this state and THAT is located in this state.

1 Sec. 3. (1) If a defect or condition ~~which~~ THAT was
2 reported to the manufacturer or new motor vehicle dealer pursuant
3 to section 2 continues to exist and the new motor vehicle has
4 been ~~subject~~ SUBJECTED to a reasonable number of repairs as
5 determined under subsection (3), the manufacturer shall within 30
6 days, ~~have the option to~~ IF THE NEW MOTOR VEHICLE WAS
7 PURCHASED, either replace the new motor vehicle with a comparable
8 replacement motor vehicle currently in production and acceptable
9 to the consumer or accept return of the vehicle and refund to the
10 consumer the full purchase price. ~~including~~ IF THE NEW MOTOR
11 VEHICLE WAS LEASED, THE MANUFACTURER SHALL EITHER REPLACE THE NEW
12 MOTOR VEHICLE WITH A COMPARABLE REPLACEMENT MOTOR VEHICLE CUR-
13 RENTLY IN PRODUCTION AND ACCEPTABLE TO THE CONSUMER OR SHALL
14 REFUND THE FULL AMOUNT OF THE LEASE PRICE PAID BY THE CONSUMER.
15 THE FULL PURCHASE PRICE OR LEASE PRICE INCLUDES the cost of any
16 options or other modifications installed or made by or for the
17 manufacturer, and the amount of all other charges made by or for
18 the manufacturer, less a reasonable allowance for the consumer's
19 use of the vehicle not exceeding 10 cents ~~per~~ FOR EACH mile
20 driven ~~at~~ UP TO the time of the initial report of the same
21 defect or conditions or 10% of the purchase OR LEASE price of the
22 vehicle, whichever is less, and less an amount equal to any
23 appraised damage that is not attributable to normal use or to the
24 defect or condition. A reasonable allowance for use is that
25 amount directly attributable to use by the consumer and any pre-
26 vious consumer prior to his or her first report of a defect or
27 condition that impairs the use or value of the new motor vehicle

1 to the manufacturer, its agents, or the new motor vehicle
2 dealer. ~~Whenever~~ IF a vehicle is replaced or refunded under
3 ~~the provisions of~~ this section ~~, in those instances in which~~
4 AND IF towing services and rental vehicles were not made avail-
5 able without cost to the consumer, the manufacturer shall also
6 reimburse the consumer for those towing costs and reasonable
7 costs for a comparable rental vehicle that were incurred as a
8 direct result of the defect or condition.

9 (2) The provisions of this act ~~shall~~ DO not affect the
10 obligations of a consumer under a loan or sales contract or the
11 secured interest of ~~any~~ A secured party. The secured party
12 shall consent to the replacement of the security interest with a
13 corresponding security interest on a replacement motor vehicle
14 ~~which~~ THAT is accepted by the consumer in exchange for the
15 motor vehicle having a defect or condition pursuant to subsection
16 (1), if the replacement motor vehicle is comparable in value to
17 the original motor vehicle. If for any reason the security
18 interest in the new motor vehicle having a defect or condition
19 pursuant to subsection (1) is not able to be replaced with a cor-
20 responding security interest on a new motor vehicle accepted by
21 the consumer, the consumer shall accept a refund. ~~Refunds~~ A
22 REFUND required under this subsection or subsection (1) shall be
23 made to the consumer and the secured party, if any, as their
24 interests exist at the time the refund is to be made.

25 (3) It ~~shall be~~ IS presumed that a reasonable number of
26 attempts have been undertaken to repair ~~any~~ A defect or
27 condition if 1 of the following occurs:

1 (a) The same defect or condition that substantially impairs
2 the use or value of the new motor vehicle to the consumer has
3 been subject to repair a total of 4 or more times by the manufac-
4 turer or new motor vehicle dealer and the defect or condition
5 continues to exist. Any repair performed on the same defect made
6 pursuant to subsection (4) shall be included in calculating the
7 number of repairs under this section. The consumer or his or her
8 representative, ~~prior to~~ BEFORE availing himself or herself of
9 a remedy provided under subsection (1), and any time after the
10 third attempt to repair the same defect or condition, shall give
11 written notification, by return receipt service, to the manufac-
12 turer of the need for repair of the defect or condition in order
13 to allow the manufacturer an opportunity to cure the defect or
14 condition. The manufacturer shall notify the consumer as soon as
15 reasonably possible of a reasonably accessible repair facility.
16 After delivery of the vehicle to the designated repair facility,
17 the manufacturer ~~shall have~~ HAS 5 business days to repair the
18 defect or condition.

19 (b) The new motor vehicle is out of service because of
20 repairs for a total of 30 or more days or parts of days during
21 the term of the manufacturer's express warranty, or within 1 year
22 from the date of delivery to the original consumer, whichever is
23 earlier. ~~It shall be the responsibility of the~~ THE consumer,
24 or his or her representative, ~~prior to~~ BEFORE availing himself
25 or herself of a remedy provided under subsection (1), and after
26 the vehicle has been out of service for at least 25 days in a
27 repair facility, ~~to~~ SHALL give written notification by return

1 receipt service, to the manufacturer of the need for repair of
2 the defect or condition in order to allow the manufacturer an
3 opportunity to cure the defect or condition. The manufacturer
4 shall notify the consumer as soon as reasonably possible of a
5 reasonably accessible repair facility. After delivery of the
6 vehicle to the designated repair facility, the manufacturer
7 ~~shall have~~ HAS 5 business days to repair the defect or
8 condition.

9 (4) ~~Any repairs~~ A REPAIR required to be made under this
10 act shall be made even if the ~~repairs cannot be performed until~~
11 ~~after the expiration of~~ REPAIR IS CONTRARY TO the manufacturer's
12 express warranty.

13 (5) The term of an express warranty, and the 1-year, 30-day,
14 and 5-day periods of time provided for in this section shall be
15 extended because repair services were not available to the con-
16 sumer because of war, ~~+~~ invasion, ~~+~~ strike, ~~+~~ or fire,
17 flood, or other natural disaster.

18 Sec. 6. This act does not apply to ~~any~~ A defect or condi-
19 tion that is the result of either of the following:

20 (a) ~~Any~~ A modification ~~or modifications~~ not installed or
21 made by or for the manufacturer.

22 (b) Abuse or neglect of the new motor vehicle or damage due
23 to an accident ~~which~~ THAT occurred after the new motor vehicle
24 was purchased OR LEASED by the consumer.

25 Sec. 9. (1) This act ~~shall apply~~ APPLIES to all new motor
26 vehicles that are sold to the original consumer on or after ~~the~~
27 ~~effective date of this act~~ JUNE 25, 1986.

1 (2) THIS ACT APPLIES TO ALL NEW MOTOR VEHICLES THAT ARE
2 LEASED BY THE ORIGINAL CONSUMER ON OR AFTER THE EFFECTIVE DATE OF
3 THE AMENDATORY ACT THAT ADDED THIS SUBSECTION.