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HOUSE BILL 2135

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State of Washington                      60th Legislature                      2007 Regular Session

By Representatives Wood, Condotta and Ormsby

Read first time 02/09/2007. Referred to Committee on Commerce & Labor.

1            AN ACT Relating to expanding lemon law coverage to out-of-state  
2 consumers; and amending RCW 19.118.021 and 19.118.110.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4            **Sec. 1.** RCW 19.118.021 and 1998 c 298 s 2 are each amended to read  
5 as follows:

6            Unless the context clearly requires otherwise, the definitions in  
7 this section apply throughout this chapter.

8            (1) "Board" means new motor vehicle arbitration board.

9            (2) "Collateral charges" means any sales or lease related charges  
10 including but not limited to sales tax, use tax, arbitration service  
11 fees, unused license fees, unused registration fees, unused title fees,  
12 finance charges, prepayment penalties, credit disability and credit  
13 life insurance costs not otherwise refundable, any other insurance  
14 costs prorated for time out of service, transportation charges, dealer  
15 preparation charges, or any other charges for service contracts,  
16 undercoating, rustproofing, or factory or dealer installed options.

17            (3) "Condition" means a general problem that results from a defect  
18 or malfunction of one or more parts, or their improper installation by  
19 the manufacturer, its agents, or the new motor vehicle dealer.

1 (4) "Consumer" means any person who has entered into an agreement  
2 or contract for the transfer, lease, or purchase of a new motor  
3 vehicle, other than for purposes of resale or sublease, during the  
4 duration of the warranty period defined under this section.

5 (5) "Court" means the superior court in the county where the  
6 consumer resides, except if the consumer does not reside in this state,  
7 then the superior court in the county where an arbitration hearing or  
8 determination was conducted or made pursuant to this chapter.

9 (6) "Incidental costs" means any reasonable expenses incurred by  
10 the consumer in connection with the repair of the new motor vehicle,  
11 including any towing charges and the costs of obtaining alternative  
12 transportation.

13 (7) "Manufacturer" means any person engaged in the business of  
14 constructing or assembling new motor vehicles or engaged in the  
15 business of importing new motor vehicles into the United States for the  
16 purpose of selling or distributing new motor vehicles to new motor  
17 vehicle dealers. "Manufacturer" does not include any person engaged in  
18 the business of set-up of motorcycles as an agent of a new motor  
19 vehicle dealer if the person does not otherwise construct or assemble  
20 motorcycles.

21 (8) "Motorcycle" means any motorcycle as defined in RCW 46.04.330  
22 which has an engine displacement of at least seven hundred fifty cubic  
23 centimeters.

24 (9) "Motor home" means a vehicular unit designed to provide  
25 temporary living quarters for recreational, camping, or travel use,  
26 built on or permanently attached to a self-propelled motor vehicle  
27 chassis or on a chassis cab or van that is an integral part of the  
28 completed vehicle.

29 (10) "Motor home manufacturer" means the first stage manufacturer,  
30 the component manufacturer, and the final stage manufacturer.

31 (a) "First stage manufacturer" means a person who manufactures  
32 incomplete new motor vehicles such as chassis, chassis cabs, or vans,  
33 that are directly warranted by the first stage manufacturer to the  
34 consumer, and are completed by a final stage manufacturer into a motor  
35 home.

36 (b) "Component manufacturer" means a person who manufactures  
37 components used in the manufacture or assembly of a chassis, chassis

1 cab, or van that is completed into a motor home and whose components  
2 are directly warranted by the component manufacturer to the consumer.

3 (c) "Final stage manufacturer" means a person who assembles,  
4 installs, or permanently affixes a body, cab, or equipment to an  
5 incomplete new motor vehicle such as a chassis, chassis cab, or van  
6 provided by a first stage manufacturer, to complete the vehicle into a  
7 motor home.

8 (11) "New motor vehicle" means any new self-propelled vehicle,  
9 including a new motorcycle, primarily designed for the transportation  
10 of persons or property over the public highways that was originally  
11 purchased or leased at retail from a new motor vehicle dealer or  
12 leasing company in this state(~~(, and that was initially registered in~~  
13 ~~this state or for which a temporary motor vehicle license was issued~~  
14 ~~pursuant to RCW 46.16.460)~~), but does not include vehicles purchased or  
15 leased by a business as part of a fleet of ten or more vehicles at one  
16 time or under a single purchase or lease agreement. If the motor  
17 vehicle is a motor home, this chapter shall apply to the self-propelled  
18 vehicle and chassis, but does not include those portions of the vehicle  
19 designated, used, or maintained primarily as a mobile dwelling, office,  
20 or commercial space. The term "new motor vehicle" does not include  
21 trucks with nineteen thousand pounds or more gross vehicle weight  
22 rating. The term "new motor vehicle" includes a demonstrator or lease-  
23 purchase vehicle as long as a manufacturer's warranty was issued as a  
24 condition of sale.

25 (12) "New motor vehicle dealer" means a person who holds a dealer  
26 agreement with a manufacturer for the sale of new motor vehicles, who  
27 is engaged in the business of purchasing, selling, servicing,  
28 exchanging, or dealing in new motor vehicles, and who is licensed or  
29 required to be licensed as a vehicle dealer by the state of Washington.

30 (13) "Nonconformity" means a defect, serious safety defect, or  
31 condition that substantially impairs the use, value, or safety of a new  
32 motor vehicle, but does not include a defect or condition that is the  
33 result of abuse, neglect, or unauthorized modification or alteration of  
34 the new motor vehicle.

35 (14) "Purchase price" means the cash price of the new motor vehicle  
36 appearing in the sales agreement or contract.

37 (a) "Purchase price" in the instance of a lease means the actual  
38 written capitalized cost disclosed to the consumer contained in the

1 lease agreement. If there is no disclosed capitalized cost in the  
2 lease agreement the "purchase price" is the manufacturer's suggested  
3 retail price including manufacturer installed accessories or items of  
4 optional equipment displayed on the manufacturer label, required by 15  
5 U.S.C. Sec. 1232.

6 (b) "Purchase price" in the instance of both a vehicle purchase or  
7 lease agreement includes any allowance for a trade-in vehicle but does  
8 not include any manufacturer-to-consumer rebate appearing in the  
9 agreement or contract that the consumer received or that was applied to  
10 reduce the purchase or lease cost.

11 Where the consumer is a subsequent transferee and the consumer  
12 selects repurchase of the motor vehicle, "purchase price" means the  
13 consumer's subsequent purchase price. Where the consumer is a  
14 subsequent transferee and the consumer selects replacement of the motor  
15 vehicle, "purchase price" means the original purchase price.

16 (15) "Reasonable offset for use" means the definition provided in  
17 RCW 19.118.041(1)(c) for a new motor vehicle other than a new  
18 motorcycle. The reasonable offset for use for a new motorcycle shall  
19 be computed by the number of miles that the vehicle traveled before the  
20 manufacturer's acceptance of the vehicle upon repurchase or replacement  
21 multiplied by the purchase price, and divided by twenty-five thousand.

22 (16) "Reasonable number of attempts" means the definition provided  
23 in RCW 19.118.041.

24 (17) "Replacement motor vehicle" means a new motor vehicle that is  
25 identical or reasonably equivalent to the motor vehicle to be replaced,  
26 as the motor vehicle to be replaced existed at the time of original  
27 purchase or lease, including any service contract, undercoating,  
28 rustproofing, and factory or dealer installed options.

29 (18) "Serious safety defect" means a life-threatening malfunction  
30 or nonconformity that impedes the consumer's ability to control or  
31 operate the new motor vehicle for ordinary use or reasonable intended  
32 purposes or creates a risk of fire or explosion.

33 (19) "Subsequent transferee" means a consumer who acquires a motor  
34 vehicle, within the warranty period, as defined in this section, with  
35 an applicable manufacturer's written warranty and where the vehicle  
36 otherwise met the definition of a new motor vehicle at the time of  
37 original retail sale or lease.

1 (20) "Substantially impair" means to render the new motor vehicle  
2 unreliable, or unsafe for ordinary use, or to diminish the resale value  
3 of the new motor vehicle below the average resale value for comparable  
4 motor vehicles.

5 (21) "Warranty" means any implied warranty, any written warranty of  
6 the manufacturer, or any affirmation of fact or promise made by the  
7 manufacturer in connection with the sale of a new motor vehicle that  
8 becomes part of the basis of the bargain. The term "warranty" pertains  
9 to the obligations of the manufacturer in relation to materials,  
10 workmanship, and fitness of a new motor vehicle for ordinary use or  
11 reasonably intended purposes throughout the duration of the warranty  
12 period as defined under this section.

13 (22) "Warranty period" means the period ending two years after the  
14 date of the original delivery to the consumer of a new motor vehicle,  
15 or the first twenty-four thousand miles of operation, whichever occurs  
16 first.

17 **Sec. 2.** RCW 19.118.110 and 1995 2nd sp.s. c 18 s 910 are each  
18 amended to read as follows:

19 A three-dollar arbitration fee shall be collected by either the new  
20 motor vehicle dealer or vehicle lessor from the consumer upon execution  
21 of a retail sale or lease agreement. The fee shall be forwarded to the  
22 department of licensing at the time of title application for deposit in  
23 the new motor vehicle arbitration account hereby created in the state  
24 treasury or within forty-five days of receipt in the case of an out-of-  
25 state purchaser or lessee. Moneys in the account shall be used for the  
26 purposes of this chapter, subject to appropriation. During the 1995-97  
27 fiscal biennium, the legislature may transfer moneys from the account  
28 to the extent that the moneys are not necessary for the purposes of  
29 this chapter.

30 At the end of each fiscal year, the attorney general shall prepare  
31 a report listing the annual revenue generated and the expenses incurred  
32 in implementing and operating the arbitration program under this  
33 chapter.

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