

HOUSE BILL REPORT

ESSB 5629

As Reported By House Committee On:
Commerce & Labor

Title: An act relating to new motor vehicle warranties.

Brief Description: Updating new motor vehicle warranty provisions.

Sponsors: Senate Committee on Labor, Commerce & Trade (originally sponsored by Senators Pelz, Fraser, Rinehart and McCaslin; by request of Attorney General).

Brief History:

Committee Activity:

Commerce & Labor: 3/29/95, 3/30/95 [DPA].

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: Do pass as amended. Signed by 10 members: Representatives Lisk, Chairman; Hargrove, Vice Chairman; Thompson, Vice Chairman; Romero, Ranking Minority Member; Conway, Assistant Ranking Minority Member; Cairnes; Cody; Cole; Goldsmith and Horn.

Staff: Pam Madson (786-7166).

Background: The Motor Vehicle Warranty Act, also known as the state's Lemon Law, establishes the rights and responsibilities of consumers, dealers, and manufacturers of new motor vehicles. The law was enacted in 1983 and covers the original owner and some subsequent owners. In 1990, coverage was extended to motorcycles. The law covers the purchase or lease of a motor vehicle.

The law provides that notice of manufacturers' warranties be given to consumers along with information to assist the consumer who needs to repair a defective vehicle. Once repair is requested, the manufacturer must make a reasonable effort to repair the vehicle. If, after reasonable attempts to repair, the defects continue to exist, the consumer may request replacement of the vehicle or repurchase of the defective vehicle by the manufacturer.

If either party disputes the need to impose either remedy, a party may first seek arbitration of the dispute. Arbitration boards may award either replacement or repurchase of the vehicle by the manufacturer and a consumer's attorneys fees for the

arbitration process if the manufacturer is represented by an attorney. If arbitration fails, the parties may ultimately take their dispute to superior court. The arbitration boards are supported by a \$5 fee paid by the consumer and deposited by the Department of Licensing into the New Motor Vehicle Arbitration Account. The Attorney General manages the arbitration process.

Manufacturers may resell a nonconforming vehicle if the nonconformity can be eliminated and the manufacturer so warrants. Designations must be placed on the title of vehicles that have been returned to the manufacturer under the Lemon Law and then resold.

Summary of Bill: A number of refinements are made to the Motor Vehicle Warranty Act. The term "new motor vehicle" clarifies that fleet vehicle purchases of ten or more vehicles at one time by a business are not covered under the Lemon Law. The term "purchase price" for purchased and leased vehicles is clarified to include trade-in allowances but not manufacturer's rebates. A subsequent transferee is defined.

Manufacturers' and dealers' responsibilities for preparing and delivering owner's manuals to consumers are specified. When a manufacturer replaces a vehicle, the manufacturer pays the sales tax, license and registration fee plus incidental costs incurred by the consumer. This amount is offset by reasonable use that is calculated using 120,000 miles rather than 100,000 miles.

When a manufacturer resells a vehicle that it repurchased from a consumer, the manufacturer must attach a resale disclosure statement to the vehicle. Disclosure requirements are limited to the first subsequent resale. A dealer who has actual knowledge of prior nonconformities that have been corrected must disclose the information to the purchaser.

The manufacturer is required to submit a response to a consumer's request for arbitration that includes all issues and defenses that the manufacturer intends to raise during arbitration. Attorney's fee awards to consumers by the arbitration board are allowed where the manufacturer has been directly represented by counsel at various stages of the attempt to return a nonconforming vehicle. Obligations of both the consumer and the manufacturer are established for compliance with the arbitration board's decision.

The arbitration fee paid by consumers of new motor vehicles is reduced from \$5 to \$3. The Department of Licensing is authorized to provide vehicle title information to a current owner who is pursuing rights under this act.

Amended Bill Compared to Engrossed Substitute Bill: No change is made to the current law calculation of "reasonable use" for motorcycles.

Appropriation: None.

Fiscal Note: Requested on March 16, 1995.

Effective Date of Amended Bill: The bill contains an emergency clause and takes effect immediately.

Testimony For: The state's Lemon Law has been successful at getting vehicles repaired when needed. The industry has changed its policies and has improved consumer response and the warranty provisions that apply to vehicles. The number of disputes has decreased and the need for money for arbitration has decreased. This bill proposes a reduction in the fee that supports the arbitration fund. This bill is a step in the right direction to clarifying the state's Lemon Law. Concern was expressed with the limitation of this law that excludes the interior of motor homes. The change in the calculation of "reasonable use" as it applies to motorcycles is opposed. The increase in the mileage element of the formula does not accurately reflect the reasonable life of the vehicle. There have been very few complaints about motorcycles under this law. There is no reason to change the calculation.

Testimony Against: None.

Testified: (In favor) Lynn Hendrickson, Attorney General; Jim Boldt, Washington Auto Dealers; and James Johnson. (Pro with amendment, con without) Tammie Warnke, Motorcycle Industry Council.