

2 **SB 6301** - H COMM AMD **ADOPTED 3-4-98**
3 By Committee on Commerce & Labor

4

5 On page 2, after line 12, insert the following:

6 **"Sec. 2.** RCW 19.118.021 and 1995 c 254 s 1 are each amended to
7 read as follows:

8 Unless the context clearly requires otherwise, the definitions in
9 this section apply throughout this chapter.

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

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

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

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

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

30 (6) "Incidental costs" means any reasonable expenses incurred by
31 the consumer in connection with the repair of the new motor vehicle,
32 including any towing charges and the costs of obtaining alternative
33 transportation.

34 (7) "Manufacturer" means any person engaged in the business of
35 constructing or assembling new motor vehicles or engaged in the
36 business of importing new motor vehicles into the United States for the

1 purpose of selling or distributing new motor vehicles to new motor
2 vehicle dealers. "Manufacturer" does not include any person engaged in
3 the business of set-up of motorcycles as an agent of a new motor
4 vehicle dealer if the person does not otherwise construct or assemble
5 motorcycles.

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

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

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

16 (a) "First stage manufacturer" means a person who manufactures
17 incomplete new motor vehicles such as chassis, chassis cabs, or vans,
18 that are directly warranted by the first stage manufacturer to the
19 consumer, and are completed by a final stage manufacturer into a motor
20 home.

21 (b) "Component manufacturer" means a person who manufactures
22 components used in the manufacture or assembly of a chassis, chassis
23 cab, or van that is completed into a motor home and whose components
24 are directly warranted by the component manufacturer to the consumer.

25 (c) "Final stage manufacturer" means a person who assembles,
26 installs, or permanently affixes a body, cab, or equipment to an
27 incomplete new motor vehicle such as a chassis, chassis cab, or van
28 provided by a first stage manufacturer, to complete the vehicle into a
29 motor home.

30 (11) "New motor vehicle" means any new self-propelled vehicle,
31 including a new motorcycle, primarily designed for the transportation
32 of persons or property over the public highways that was originally
33 purchased or leased at retail from a new motor vehicle dealer or
34 leasing company in this state, and that was initially registered in
35 this state or for which a temporary motor vehicle license was issued
36 pursuant to RCW 46.16.460, but does not include vehicles purchased or
37 leased by a business as part of a fleet of ten or more vehicles at one
38 time or under a single purchase or lease agreement. If the motor
39 vehicle is a motor home, this chapter shall apply to the self-propelled

1 vehicle and chassis, but does not include those portions of the vehicle
2 designated, used, or maintained primarily as a mobile dwelling, office,
3 or commercial space. The term "new motor vehicle" does not include
4 trucks with nineteen thousand pounds or more gross vehicle weight
5 rating. The term "new motor vehicle" includes a demonstrator or lease-
6 purchase vehicle as long as a manufacturer's warranty was issued as a
7 condition of sale.

8 ~~((10))~~ (12) "New motor vehicle dealer" means a person who holds
9 a dealer agreement with a manufacturer for the sale of new motor
10 vehicles, who is engaged in the business of purchasing, selling,
11 servicing, exchanging, or dealing in new motor vehicles, and who is
12 licensed or required to be licensed as a vehicle dealer by the state of
13 Washington.

14 ~~((11))~~ (13) "Nonconformity" means a defect, serious safety
15 defect, or condition that substantially impairs the use, value, or
16 safety of a new motor vehicle, but does not include a defect or
17 condition that is the result of abuse, neglect, or unauthorized
18 modification or alteration of the new motor vehicle.

19 ~~((12))~~ (14) "Purchase price" means the cash price of the new
20 motor vehicle appearing in the sales agreement or contract.

21 (a) "Purchase price" in the instance of a lease means the actual
22 written capitalized cost disclosed to the consumer contained in the
23 lease agreement. If there is no disclosed capitalized cost in the
24 lease agreement the "purchase price" is the manufacturer's suggested
25 retail price including manufacturer installed accessories or items of
26 optional equipment displayed on the manufacturer label, required by 15
27 U.S.C. Sec. 1232.

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

33 Where the consumer is a subsequent transferee and the consumer
34 selects repurchase of the motor vehicle, "purchase price" means the
35 consumer's subsequent purchase price. Where the consumer is a
36 subsequent transferee and the consumer selects replacement of the motor
37 vehicle, "purchase price" means the original purchase price.

38 ~~((13))~~ (15) "Reasonable offset for use" means the definition
39 provided in RCW 19.118.041(1)(c) for a new motor vehicle other than a

1 new motorcycle. The reasonable offset for use for a new motorcycle
2 shall be computed by the number of miles that the vehicle traveled
3 before the manufacturer's acceptance of the vehicle upon repurchase or
4 replacement multiplied by the purchase price, and divided by twenty-
5 five thousand.

6 ~~((14))~~ (16) "Reasonable number of attempts" means the definition
7 provided in RCW 19.118.041.

8 ~~((15))~~ (17) "Replacement motor vehicle" means a new motor vehicle
9 that is identical or reasonably equivalent to the motor vehicle to be
10 replaced, as the motor vehicle to be replaced existed at the time of
11 original purchase or lease, including any service contract,
12 undercoating, rustproofing, and factory or dealer installed options.

13 ~~((16))~~ (18) "Serious safety defect" means a life-threatening
14 malfunction or nonconformity that impedes the consumer's ability to
15 control or operate the new motor vehicle for ordinary use or reasonable
16 intended purposes or creates a risk of fire or explosion.

17 ~~((17))~~ (19) "Subsequent transferee" means a consumer who acquires
18 a motor vehicle, within the warranty period, as defined in this
19 section, with an applicable manufacturer's written warranty and where
20 the vehicle otherwise met the definition of a new motor vehicle at the
21 time of original retail sale or lease.

22 ~~((18))~~ (20) "Substantially impair" means to render the new motor
23 vehicle unreliable, or unsafe for ordinary use, or to diminish the
24 resale value of the new motor vehicle below the average resale value
25 for comparable motor vehicles.

26 ~~((19))~~ (21) "Warranty" means any implied warranty, any written
27 warranty of the manufacturer, or any affirmation of fact or promise
28 made by the manufacturer in connection with the sale of a new motor
29 vehicle that becomes part of the basis of the bargain. The term
30 "warranty" pertains to the obligations of the manufacturer in relation
31 to materials, workmanship, and fitness of a new motor vehicle for
32 ordinary use or reasonably intended purposes throughout the duration of
33 the warranty period as defined under this section.

34 ~~((20))~~ (22) "Warranty period" means the period ending two years
35 after the date of the original delivery to the consumer of a new motor
36 vehicle, or the first twenty-four thousand miles of operation,
37 whichever occurs first.

1 **Sec. 3.** RCW 19.118.031 and 1995 c 254 s 2 are each amended to read
2 as follows:

3 (1) The manufacturer shall publish an owner's manual and provide it
4 to the new motor vehicle dealer or leasing company. The owner's manual
5 shall include a list of the addresses and phone numbers for the
6 manufacturer's customer assistance division, or zone or regional
7 offices. A manufacturer shall provide to the new motor vehicle dealer
8 or leasing company all applicable manufacturer's written warranties.
9 The dealer or leasing company shall transfer to the consumer, at the
10 time of original retail sale or lease, the owner's manual and
11 applicable written warranties as provided by a manufacturer.

12 (2) At the time of purchase, the new motor vehicle dealer shall
13 provide the consumer with a written statement that explains the
14 consumer's rights under this chapter. The written statement shall be
15 prepared and supplied by the attorney general and shall contain a toll-
16 free number that the consumer can contact for information regarding the
17 procedures and remedies under this chapter.

18 (3) For the purposes of this chapter, if a new motor vehicle does
19 not conform to the warranty and the consumer reports the nonconformity
20 during the term of the warranty period or the period of coverage of the
21 applicable manufacturer's written warranty, whichever is less, to the
22 manufacturer, its agent, or the new motor vehicle dealer who sold the
23 new motor vehicle, the manufacturer, its agent, or the new motor
24 vehicle dealer shall make repairs as are necessary to conform the
25 vehicle to the warranty, regardless of whether such repairs are made
26 after the expiration of the warranty period. Any corrections or
27 attempted repairs undertaken by a new motor vehicle dealer under this
28 chapter shall be treated as warranty work and billed by the dealer to
29 the manufacturer in the same manner as other work under the
30 manufacturer's written warranty is billed. For purposes of this
31 subsection, the manufacturer's written warranty shall be at least one
32 year after the date of the original delivery to the consumer of the
33 vehicle or the first twelve thousand miles of operation, whichever
34 occurs first.

35 (4) Upon request from the consumer, the manufacturer or new motor
36 vehicle dealer shall provide a copy of any report or computer reading
37 compiled by the manufacturer's field or zone representative regarding
38 inspection, diagnosis, or test-drive of the consumer's new motor
39 vehicle, or shall provide a copy of any technical service bulletin

1 issued by the manufacturer regarding the year and model of the
2 consumer's new motor vehicle as it pertains to any material, feature,
3 component, or the performance thereof.

4 (5) The new motor vehicle dealer shall provide to the consumer each
5 time the consumer's vehicle is returned from being diagnosed or
6 repaired under the warranty, a fully itemized, legible statement or
7 repair order indicating any diagnosis made, and all work performed on
8 the vehicle including but not limited to, a general description of the
9 problem reported by the consumer or an identification of the defect or
10 condition, parts and labor, the date and the odometer reading when the
11 vehicle was submitted for repair, and the date when the vehicle was
12 made available to the consumer.

13 (6) No manufacturer, its agent, or the new motor vehicle dealer may
14 refuse to diagnose or repair any nonconformity covered by the warranty
15 for the purpose of avoiding liability under this chapter.

16 (7) For purposes of this chapter, consumers shall have the rights
17 and remedies, including a cause of action, against manufacturers as
18 provided in this chapter.

19 (8) The warranty period and thirty-day out-of-service period, and
20 sixty-day out-of-service period in the case of a motor home, shall be
21 extended by any time that repair services are not available to the
22 consumer as a direct result of a strike, war, invasion, fire, flood, or
23 other natural disaster.

24 **Sec. 4.** RCW 19.118.041 and 1995 c 254 s 3 are each amended to read
25 as follows:

26 (1) If the manufacturer, its agent, or the new motor vehicle dealer
27 is unable to conform the new motor vehicle to the warranty by repairing
28 or correcting any nonconformity after a reasonable number of attempts,
29 the manufacturer, within forty calendar days of a consumer's written
30 request to the manufacturer's corporate, dispute resolution, zone, or
31 regional office address shall, at the option of the consumer, replace
32 or repurchase the new motor vehicle.

33 (a) The replacement motor vehicle shall be identical or reasonably
34 equivalent to the motor vehicle to be replaced as the motor vehicle to
35 be replaced existed at the time of original purchase or lease,
36 including any service contract, undercoating, rustproofing, and factory
37 or dealer installed options. Where the manufacturer supplies a
38 replacement motor vehicle, the manufacturer shall be responsible for

1 sales tax, license, registration fees, and refund of any incidental
2 costs. Compensation for a reasonable offset for use shall be paid by
3 the consumer to the manufacturer in the event that the consumer accepts
4 a replacement motor vehicle.

5 (b) When repurchasing the new motor vehicle, the manufacturer shall
6 refund to the consumer the purchase price, all collateral charges, and
7 incidental costs, less a reasonable offset for use. When repurchasing
8 the new motor vehicle, in the instance of a lease, the manufacturer
9 shall refund to the consumer all payments made by the consumer under
10 the lease including but not limited to all lease payments, trade-in
11 value or inception payment, security deposit, all collateral charges
12 and incidental costs less a reasonable offset for use. The
13 manufacturer shall make such payment to the lessor and/or lienholder of
14 record as necessary to obtain clear title to the motor vehicle and upon
15 the lessor's and/or lienholder's receipt of that payment and payment by
16 the consumer of any late payment charges, the consumer shall be
17 relieved of any future obligation to the lessor and/or lienholder.

18 (c) The reasonable offset for use shall be computed by multiplying
19 the number of miles that the vehicle traveled directly attributable to
20 use by the consumer times the purchase price, and dividing the product
21 by one hundred twenty thousand, except in the case of a motor home, in
22 which event it shall be divided by ninety thousand. However, the
23 reasonable offset for use calculation total for a motor home is subject
24 to modification by the board by decreasing or increasing the offset
25 total up to a maximum of one-third of the offset total. The board may
26 modify the offset total in those circumstances where the board
27 determines that the wear and tear on those portions of the motor home
28 designated, used, or maintained primarily as a mobile dwelling, office,
29 or commercial space are significantly greater or significantly less
30 than that which could be reasonably expected based on the mileage
31 attributable to the consumer's use of the motor home. Where the
32 consumer is a second or subsequent purchaser, lessee, or transferee of
33 the motor vehicle and the consumer selects repurchase of the motor
34 vehicle, "the number of miles that the vehicle traveled" shall be
35 calculated from the date of purchase or lease by the consumer. Where
36 the consumer is a second or subsequent purchaser, lessee, or transferee
37 of the motor vehicle and the consumer selects replacement of the motor
38 vehicle, "the number of miles that the vehicle traveled" shall be
39 calculated from the original purchase, lease, or in-service date.

1 (2) Reasonable number of attempts, except in the case of a new
2 motor vehicle that is a motor home acquired after June 30, 1998, shall
3 be deemed to have been undertaken by the manufacturer, its agent, or
4 the new motor vehicle dealer to conform the new motor vehicle to the
5 warranty within the warranty period, if: (a) The same serious safety
6 defect has been subject to diagnosis or repair two or more times, at
7 least one of which is during the period of coverage of the applicable
8 manufacturer's written warranty, and the serious safety defect
9 continues to exist; (b) the same nonconformity has been subject to
10 diagnosis or repair four or more times, at least one of which is during
11 the period of coverage of the applicable manufacturer's written
12 warranty, and the nonconformity continues to exist; or (c) the vehicle
13 is out-of-service by reason of diagnosis or repair of one or more
14 nonconformities for a cumulative total of thirty calendar days, at
15 least fifteen of them during the period of the applicable
16 manufacturer's written warranty. For purposes of this subsection, the
17 manufacturer's written warranty shall be at least one year after the
18 date of the original delivery to the consumer of the vehicle or the
19 first twelve thousand miles of operation, whichever occurs first.

20 (3)(a) In the case of a new motor vehicle that is a motor home
21 acquired after June 30, 1998, a reasonable number of attempts shall be
22 deemed to have been undertaken by the motor home manufacturers, their
23 respective agents, or their respective new motor vehicle dealers to
24 conform the new motor vehicle to the warranty within the warranty
25 period, if: (i) The same serious safety defect has been subject to
26 diagnosis or repair one or more times during the period of coverage of
27 the applicable motor home manufacturer's written warranty, plus a final
28 attempt to repair the vehicle as provided for in (b) of this
29 subsection, and the serious safety defect continues to exist; (ii) the
30 same nonconformity has been subject to repair three or more times, at
31 least one of which is during the period of coverage of the applicable
32 motor home manufacturer's written warranty, plus a final attempt to
33 repair the vehicle as provided for in (b) of this subsection, and the
34 nonconformity continues to exist; or (iii) the vehicle is out of
35 service by reason of diagnosis or repair of one or more nonconformities
36 for a cumulative total of sixty calendar days aggregating all motor
37 home manufacturer days out-of-service, and the motor home manufacturers
38 have had at least one opportunity to coordinate and complete an
39 inspection and any repairs of the vehicle's nonconformities after

1 receipt of notification from the consumer as provided for in (c) of
2 this subsection. For purposes of this subsection, each motor home
3 manufacturer's written warranty must be at least one year after the
4 date of the original delivery to the consumer of the vehicle or the
5 first twelve thousand miles of operation, whichever occurs first.

6 (b) In the case of a new motor vehicle that is a motor home, after
7 one attempt has been made to repair a serious safety defect, or after
8 three attempts have been made to repair the same nonconformity, the
9 consumer shall give written notification of the need to repair the
10 nonconformity to each of the motor home manufacturers at their
11 respective corporate, zone, or regional office addresses to allow the
12 motor home manufacturers to coordinate and complete a final attempt to
13 cure the nonconformity. The motor home manufacturers each have fifteen
14 days, commencing upon receipt of the notification, to respond and
15 inform the consumer of the location of the facility where the vehicle
16 will be repaired. If the vehicle is unsafe to drive due to a serious
17 safety defect, or to the extent the repair facility is more than one
18 hundred miles from the motor home location, the motor home
19 manufacturers are responsible for the cost of transporting the vehicle
20 to and from the repair facility. The motor home manufacturers have a
21 cumulative total of thirty days, commencing upon delivery of the
22 vehicle to the designated repair facility by the consumer, to conform
23 the vehicle to the applicable motor home manufacturer's written
24 warranty. This time period may be extended if the consumer agrees in
25 writing. If a motor home manufacturer fails to respond to the consumer
26 or perform the repairs within the time period prescribed, that motor
27 home manufacturer is not entitled to a final attempt to cure the
28 nonconformity.

29 (c) In the case of a new motor vehicle that is a motor home, if the
30 vehicle is out of service by reason of diagnosis or repair of one or
31 more nonconformities by the motor home manufacturers, their respective
32 agents, or their respective new motor vehicle dealers for a cumulative
33 total of thirty or more days aggregating all motor home manufacturer
34 days out of service, the consumer shall so notify each motor home
35 manufacturer in writing at their respective corporate, zone, or
36 regional office addresses to allow the motor home manufacturers, their
37 respective agents, or their respective new motor vehicle dealers an
38 opportunity to coordinate and complete an inspection and any repairs of
39 the vehicle's nonconformities. The motor home manufacturers have

1 fifteen days, commencing upon receipt of the notification, to respond
2 and inform the consumer of the location of the facility where the
3 vehicle will be repaired. If the vehicle is unsafe to drive due to a
4 serious safety defect, or to the extent the repair facility is more
5 than one hundred miles from the motor home location, the motor home
6 manufacturers are responsible for the cost of transporting the vehicle
7 to and from the repair facility. Once the buyer delivers the vehicle
8 to the designated repair facility, the inspection and repairs must be
9 completed by the motor home manufacturers either (i) within ten days or
10 (ii) before the vehicle is out of service by reason of diagnosis or
11 repair of one or more nonconformities for sixty days, whichever time
12 period is longer. This time period may be extended if the consumer
13 agrees in writing. If a motor home manufacturer fails to respond to
14 the consumer or perform the repairs within the time period prescribed,
15 that motor home manufacturer is not entitled to at least one
16 opportunity to inspect and repair the vehicle's nonconformities after
17 receipt of notification from the buyer as provided for in this
18 subsection (3)(c).

19 (4) No new motor vehicle dealer may be held liable by the
20 manufacturer for any collateral charges, incidental costs, purchase
21 price refunds, or vehicle replacements. Manufacturers shall not have
22 a cause of action against dealers under this chapter. Consumers shall
23 not have a cause of action against dealers under this chapter, but a
24 violation of any responsibilities imposed upon dealers under this
25 chapter is a per se violation of chapter 19.86 RCW. Consumers may
26 pursue rights and remedies against dealers under any other law,
27 including chapters 46.70 and 46.71 RCW. Manufacturers and consumers
28 may not make dealers parties to arbitration board proceedings under
29 this chapter.

30 **Sec. 5.** RCW 19.118.061 and 1995 c 254 s 4 are each amended to read
31 as follows:

32 (1) A manufacturer shall be prohibited from reselling any motor
33 vehicle determined or adjudicated as having a serious safety defect
34 unless the serious safety defect has been corrected and the
35 manufacturer warrants upon the first subsequent resale that the defect
36 has been corrected.

37 (2) Before any sale or transfer of a vehicle that has been replaced
38 or repurchased by the manufacturer that was determined or adjudicated

1 as having a nonconformity or to have been out of service for thirty or
2 more calendar days, or sixty or more calendar days in the case of a
3 motor home, under this chapter, the manufacturer shall:

4 (a) Notify the attorney general and the department of licensing, by
5 certified mail or by personal service, upon receipt of the motor
6 vehicle;

7 (b) Attach a resale disclosure notice to the vehicle in a manner
8 and form to be specified by the attorney general. Only the retail
9 purchaser may remove the resale disclosure notice after execution of
10 the disclosure form required under subsection (3) of this section; and

11 (c) Notify the attorney general and the department of licensing if
12 the nonconformity in the motor vehicle is corrected.

13 (3) Upon the first subsequent resale, either at wholesale or
14 retail, or transfer of title of a motor vehicle and which was
15 previously returned after a final determination, adjudication, or
16 settlement under this chapter or under a similar statute of any other
17 state, the manufacturer, its agent, or the new motor vehicle dealer who
18 has actual knowledge of said final determination, adjudication or
19 settlement, shall execute and deliver to the buyer before sale an
20 instrument in writing setting forth information identifying the
21 nonconformity in a manner to be specified by the attorney general, and
22 the department of licensing shall place on the certificate of title
23 information indicating the vehicle was returned under this chapter.

24 (4) Upon receipt of the manufacturer's notification under
25 subsection (2) of this section that the nonconformity has been
26 corrected and upon the manufacturer's request and payment of any fees,
27 the department of licensing shall issue a new title with information
28 indicating the vehicle was returned under this chapter and that the
29 nonconformity has been corrected. Upon the first subsequent resale,
30 either at wholesale or retail, or transfer of title of a motor vehicle,
31 as provided under subsection (2)(c) of this section, the manufacturer
32 shall warrant upon the resale that the nonconformity has been
33 corrected, and the manufacturer, its agent, or the new motor vehicle
34 dealer who has actual knowledge of the corrected nonconformity, shall
35 execute and deliver to the buyer before sale an instrument in writing
36 setting forth information identifying the nonconformity and indicating
37 that it has been corrected in a manner to be specified by the attorney
38 general.

1 (5) After repurchase or replacement and following a manufacturer's
2 receipt of a vehicle under this section and prior to a vehicle's first
3 subsequent retail transfer by resale or lease, any intervening
4 transferor of a vehicle subject to the requirements of this section who
5 has received the disclosure, correction and warranty documents, as
6 specified by the attorney general and required under this chapter,
7 shall deliver the documents with the vehicle to the next transferor,
8 purchaser or lessee to ensure proper and timely notice and disclosure.
9 Any intervening transferor who fails to comply with this subsection
10 shall, at the option of the subsequent transferor or first subsequent
11 retail purchaser or lessee: (a) Indemnify (~~and any~~) any subsequent
12 transferor or first subsequent retail purchaser for all damages caused
13 by such violation; or (b) repurchase the vehicle at the full purchase
14 price including all fees, taxes and costs incurred for goods and
15 services which were included in the subsequent transaction.

16 **Sec. 6.** RCW 19.118.090 and 1995 c 254 s 6 are each amended to read
17 as follows:

18 (1) A consumer may request arbitration under this chapter by
19 submitting the request to the attorney general. Within ten days after
20 receipt of an arbitration request, the attorney general shall make a
21 reasonable determination of the cause of the request for arbitration
22 and provide necessary information to the consumer regarding the
23 consumer's rights and remedies under this chapter. The attorney
24 general shall assign the dispute to a board, except that if it clearly
25 appears from the materials submitted by the consumer that the dispute
26 is not eligible for arbitration, the attorney general may refuse to
27 assign the dispute and shall explain any required procedures to the
28 consumer.

29 (2) Manufacturers shall submit to arbitration if such arbitration
30 is requested by the consumer within thirty months from the date of the
31 original delivery of the new motor vehicle to a consumer at retail and
32 if the consumer's dispute is deemed eligible for arbitration by the
33 board. In the case of a motor home, the thirty-month period will be
34 extended by the amount of time it takes the motor home manufacturers to
35 complete the final repair attempt at the designated repair facility as
36 provided for in RCW 19.118.041(3)(b).

37 (3) The new motor vehicle arbitration board may reject for
38 arbitration any dispute that it determines to be frivolous, fraudulent,

1 filed in bad faith, res judicata or beyond its authority. Any dispute
2 deemed by the board to be ineligible for arbitration due to
3 insufficient evidence may be reconsidered by the board upon the
4 submission of other information or documents regarding the dispute that
5 would allegedly qualify for relief under this chapter. Following a
6 second review, the board may reject the dispute for arbitration if
7 evidence is still clearly insufficient to qualify the dispute for
8 relief under this chapter. A rejection by the board is subject to
9 review by the attorney general or may be appealed under RCW 19.118.100.

10 A decision to reject any dispute for arbitration shall be sent by
11 certified mail to the consumer and the manufacturer, and shall contain
12 a brief explanation as to the reason therefor.

13 (4) The manufacturer shall complete a written manufacturer response
14 to the consumer's request for arbitration. The manufacturer shall
15 provide a response to the consumer and the board within ten calendar
16 days from the date of the manufacturer's receipt of the board's notice
17 of acceptance of a dispute for arbitration. The manufacturer response
18 shall include all issues and affirmative defenses related to the
19 nonconformities identified in the consumer's request for arbitration
20 that the manufacturer intends to raise at the arbitration hearing.

21 (5) The arbitration board shall award the remedies under RCW
22 19.118.041 if it finds a nonconformity and that a reasonable number of
23 attempts have been undertaken to correct the nonconformity. The board
24 shall award reasonable costs and attorneys' fees incurred by the
25 consumer where the manufacturer has been directly represented by
26 counsel: (a) In dealings with the consumer in response to a request to
27 repurchase or replace under RCW 19.118.041; (b) in settlement
28 negotiations; (c) in preparation of the manufacturer's statement; or
29 (d) at an arbitration board hearing or other board proceeding.

30 In the case of an arbitration involving a motor home, the board may
31 allocate liability among the motor home manufacturers.

32 (6) It is an affirmative defense to any claim under this chapter
33 that: (a) The alleged nonconformity does not substantially impair the
34 use, value, or safety of the new motor vehicle; or (b) the alleged
35 nonconformity is the result of abuse, neglect, or unauthorized
36 modifications or alterations of the new motor vehicle.

37 (7) The board shall have forty-five calendar days from the date the
38 board receives the consumer's request for arbitration to hear the
39 dispute. If the board determines that additional information is

1 necessary, the board may continue the arbitration proceeding on a
2 subsequent date within ten calendar days of the initial hearing. The
3 board shall decide the dispute within sixty calendar days from the date
4 the board receives the consumer's request for arbitration.

5 The decision of the board shall be delivered by certified mail or
6 personal service to the consumer and the manufacturer, and shall
7 contain a written finding of whether the new motor vehicle meets the
8 standards set forth under this chapter.

9 (8) The consumer may accept the arbitration board decision or
10 appeal to superior court, pursuant to RCW 19.118.100. Upon acceptance
11 by the consumer, the arbitration board decision shall become final.
12 The consumer shall send written notification of acceptance or rejection
13 to the arbitration board within sixty days of receiving the decision
14 and the arbitration board shall immediately deliver a copy of the
15 consumer's acceptance to the manufacturer by certified mail, return
16 receipt requested, or by personal service. Failure of the consumer to
17 respond to the arbitration board within sixty calendar days of
18 receiving the decision shall be considered a rejection of the decision
19 by the consumer. The consumer shall have one hundred twenty calendar
20 days from the date of rejection to file a petition of appeal in
21 superior court. At the time the petition of appeal is filed, the
22 consumer shall deliver, by certified mail or personal service, a
23 conformed copy of such petition to the attorney general.

24 (9) Upon receipt of the consumer's acceptance, the manufacturer
25 shall have forty calendar days to comply with the arbitration board
26 decision or thirty calendar days to file a petition of appeal in
27 superior court. At the time the petition of appeal is filed, the
28 manufacturer shall deliver, by certified mail or personal service, a
29 conformed copy of such petition to the attorney general. If the
30 attorney general receives no notice of petition of appeal after forty
31 calendar days, the attorney general shall contact the consumer to
32 verify compliance.

33 NEW SECTION. **Sec. 7.** If any provision of this act or its
34 application to any person or circumstance is held invalid, the
35 remainder of the act or the application of the provision to other
36 persons or circumstances is not affected."

1 Correct the title.

--- END ---