
Business & Financial Services Committee

HB 2017

Brief Description: Concerning the lemon law's application to recreational vehicles.

Sponsors: Representative Sells.

Brief Summary of Bill

- Expands the scope of the Motor Vehicle Warranty Act (Lemon Law) to include recreational vehicles and all parts of motor homes.

Hearing Date: 2/14/17

Staff: Peter Clodfelter (786-7127).

Background:

The Motor Vehicle Warranty Act (Lemon Law) establishes the rights and responsibilities of consumers, dealers, and manufacturers when new or nearly new vehicles are defective. The Lemon Law requires that notice of manufacturers' warranties be given to consumers along with information to assist consumer who need 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 vehicle, the defects continue to exist, the consumer may request replacement of the vehicle or repurchase of the defective vehicle by the manufacturer.

The Lemon Law applies to motor vehicles, including certain portions of motor homes, although different procedures apply for motor homes than other new motor vehicles. If the motor vehicle is a motor home, the Lemon Law law applies to the self-propelled vehicle and chassis, but does not include those portions of the vehicle designated, used, or maintained primarily as a mobile dwelling, office, or commercial space. The Lemon Law does not apply to non-self propelled recreational vehicles. There are three categories of motor home manufacturers under the Lemon Law: (1) the first stage manufacturer; (2) the component manufacturer; and (3) the final stage manufacturer.

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If a new motor vehicle does not conform to the warranty the consumer may report the nonconformity during the term of the eligibility period (two years or 24,000 miles) or the period of coverage of the applicable manufacturer's written warranty, whichever is less, to the manufacturer, its agent, or the dealer that sold the new motor vehicle. If the consumer makes such a request, the responsible entity must make repairs as are necessary to conform the vehicle to the warranty. The repairs must be made regardless of whether the repairs are made after the expiration of the eligibility period.

A nonconformity is a defect, serious safety defect, or condition that substantially impairs the use, value, or safety of a new motor home, but does not include a defect or condition that is the result of abuse, neglect, or unauthorized modification or alteration of the new motor vehicle. A serious safety defect is a life-threatening malfunction that impedes the consumer's ability to control or operate the new motor vehicle for ordinary use or reasonable intended purposes or creates a risk of fire or explosion.

The types of consumer claims related to motor homes under the Lemon Law include the following:

- *Unrepaired Nonconformity.* The same nonconformity has been subject to repair three or more times, at least one of which is during the period of coverage of the motor home manufacturer's written warranty, plus a final attempt to repair the vehicle, and the nonconformity continues to exist.
- *Unrepaired Serious Safety Defect.* The same serious safety defect is subject to diagnosis or repair one or more times during the period of coverage of the motor home manufacturer's written warranty, plus a final attempt to repair the vehicle, and the serious safety defect continues to exist.
- *Days Out of Service.* The vehicle is out of service by reason of diagnosis or repair of one or more nonconformities, including a safety evaluation, for a cumulative total of 60 calendar days aggregating all motor home manufacturer days out of service, and the motor home manufacturers have had at least one opportunity to coordinate and complete an inspection and any repairs of the vehicle's nonconformities after receipt of notification from the consumer.
- *Multiple Serious Safety Defects.* Within a 12-month period, two or more different serious safety defects covered by the same manufacturer warranty are subject to diagnosis or repair one or more times, where at least one attempt for each serious safety defect occurs during the period of coverage of the applicable manufacturer's written warranty and within the eligibility period (two years or 24,000 miles).

For claims related to serious safety defects, a consumer must provide written notice of the serious safety defect(s) to the motor home manufacturer the warranty of which covers the defect, or all the motor home manufacturers. The written notice allows the motor home manufacturers, their agents, or dealers an opportunity to coordinate and complete a comprehensive safety evaluation of the motor home.

The Office of the Attorney General (AGO) must establish an arbitration process to settle disputes between consumers and manufacturers under the Lemon Law, called the New Motor Vehicle Arbitration Board (Arbitration Board). The AGO is required to adopt rules on the practices and procedures of the arbitration proceedings. A consumer is required to seek settlement of the dispute through the arbitration procedures established by the AGO prior to commencing a

lawsuit in superior court related to a Lemon Law claim. The AGO must maintain records of disputes under the Lemon Law and publish aggregate annual statistics.

The AGO determines whether disputes are eligible for Lemon Law arbitration. If the AGO accepts a suit for arbitration the AGO assigns the dispute to the Arbitration Board. The Arbitration Board has 45 days to have an arbitrator hear the dispute, and 60 days to submit a decision to the AGO. Manufacturers are required to submit to arbitration if arbitration is requested by the consumer within 30 months from the date of the original delivery of the motor home to the consumer and the AGO accepts the consumer's dispute for arbitration. A consumer prevailing under the Lemon Law may be entitled to reasonable costs and attorneys' fees incurred by the consumer where the manufacturer is represented by counsel in dealings with the consumer in response to a consumer's request to repurchase or replace the motor home and throughout any subsequent negotiations and arbitration. A consumer may accept or reject the arbitration decision. Failure of the consumer to respond to the AGO within 60 days of receiving the decision is considered a rejection of the decision. Where a consumer rejects an arbitration decision, the consumer may appeal to superior court. The consumer has 120 days to file such an appeal.

Upon receipt of a consumer's acceptance of an arbitration decision, the motor home manufacturer has 40 days to comply with the decision or 30 days to file an appeal in superior court. If a consumer ultimately prevails on a Lemon Law claim, the consumer is awarded either a new replacement motor home or the repurchase of the motor home in the form of a cash payment in the full amount of the motor home's purchase price. There is a reasonable offset charged for the consumer's use of the motor home. With limited exception, the AGO may fine a noncompliant manufacturer up to \$1,000 per day for noncompliance. However, such fines may not accumulate beyond \$100,000. Violations of the Lemon Law are also considered violations of the state Consumer Protection Act.

Summary of Bill:

Recreational vehicles and all parts of motor homes are added to the Motor Vehicle Warranty Act (Lemon Law). A recreational vehicle means a travel trailer, motor home, truck camper, or camping trailer that is primarily designed and used as temporary living quarters, is either self-propelled or mounted on or drawn by another vehicle, is transient, is not occupied as a primary residence, and is not immobilized or permanently affixed to a mobile home lot.

The definition of "motor home manufacturer" is modified to include an "additional manufacturer." An additional manufacturer is a person who manufactures, assembles, or installs any part, equipment, or component of a motor home, and who is not a first stage manufacturer, a component manufacturer, or a final stage manufacturer, and whose parts, equipment, or components of the motor home manufacturer are directly warranted by the additional manufacturer to the consumer.

Appropriation: None.

Fiscal Note: Requested on 2/10/17.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.