
Commerce & Labor Committee

SSB 5050

Brief Description: Modifying the mileage tolling calculation in the motor vehicle lemon law.

Sponsors: Senate Committee on Consumer Protection & Housing (originally sponsored by Senators Weinstein, Franklin, Kauffman, Rockefeller, Oemig, Murray, Rasmussen, Keiser and Kohl-Welles).

Brief Summary of Substitute Bill

- Changes the calculation of the reasonable offset that the consumer is required to pay when a vehicle is replaced or repurchased under the Motor Vehicle Warranties Act.

Hearing Date: 3/15/07

Staff: Sarah Beznoska (786-7109).

Background:

The Motor Vehicle Warranties Act, commonly called the Lemon Law, establishes rights and responsibilities for consumers and manufacturers of vehicles that are defective. Under the Lemon Law, the following vehicles are considered "lemon" vehicles:

- a vehicle with a serious safety defect that the manufacturer has unsuccessfully attempted to repair at least two times;
- a vehicle with some other substantial defect that the manufacturer has unsuccessfully attempted to diagnose or repair at least four times; or
- a vehicle that has been out of service for 30 cumulative calendar days with at least 15 of those days occurring during the warranty period.

If a vehicle is a "lemon," the manufacturer must either replace or repurchase the vehicle, whichever the consumer opts for. However, upon replacement or repurchase, the consumer must pay a "reasonable offset" to the manufacturer for his or her use of the vehicle. The formula for the amount of the "reasonable offset" is set forth in statute as vehicle mileage multiplied by the purchase price of the vehicle and then divided by 120,000. The vehicle mileage used for the formula depends on whether the consumer is the original owner of the vehicle or a subsequent

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owner. For subsequent owners, the vehicle mileage used for the formula also depends on whether the consumer chooses repurchase or replacement.

If the consumer is the original owner, the mileage used is the number of miles traveled by the vehicle while the consumer owned the vehicle that are attributable to the consumer.

If the consumer is a subsequent owner of the vehicle and opts for repurchase, the mileage used is the number of miles traveled by the vehicle since that subsequent owner purchased or leased the vehicle. However, if the affected consumer is the subsequent owner and opts for replacement of the vehicle, the mileage used is the number of miles traveled by the vehicle since the vehicle was originally purchased by the first owner.

Summary of Bill:

The way mileage is calculated is changed for determining the reasonable offset amount when a vehicle is considered a "lemon."

When the consumer is the original owner or lessee and the vehicle is a lemon because the manufacturer has failed to repair its defect, the mileage used for the offset is limited to the number of miles the consumer drove the vehicle between the original date of purchase or lease, or the in-service date, and the date of the first attempt to diagnose or repair the defect. If the vehicle is a lemon solely because of the number of days it has been out of service, then relevant mileage is the number of miles the consumer has driven the vehicle between the date of purchase or lease, or the in-service date, and the fifteenth cumulative day that the vehicle was out of service.

When the affected consumer is a subsequent owner or lessee of the vehicle and opts for repurchase by the manufacturer, the mileage used for the offset is limited to the number of miles driven by the consumer between the date of purchase, transfer or lease of the vehicle to the consumer and the date of the consumer's initial attempt to obtain a diagnosis or repair of a defect that either: (1) results in the vehicle being a lemon; or (2) adds to the vehicle being out of service for more than 30 cumulative days.

If the affected consumer is a subsequent owner or lessee of the vehicle and opts for replacement of the vehicle, the mileage used for the offset is the miles driven between the date of original purchase or lease, or the in-service date, and the date of the first attempt to diagnose or repair a defect that ultimately results in the vehicle being a lemon.

If the affected consumer is a subsequent owner or lessee of the vehicle and the vehicle is replaced solely because of accumulated days out of service, the mileage used to calculate the offset is the miles driven between the date of the original purchase or lease, or the in-service date, and the fifteenth cumulative calendar day that the vehicle is out of service.

"Diagnose or repair" is defined as when a consumer presents the new motor vehicle for warranty service at a service and repair facility authorized, designated, or maintained by a manufacturer or a facility to which the manufacturer or an authorized facility has directed the consumer to obtain warranty services. A new motor vehicle has not been subject to "diagnose or repair" if the consumer refuses to allow the facility to attempt or complete a recommended warranty repair, or demands return of the vehicle to the consumer before an attempt to diagnose or repair can be completed.

Rules Authority: The bill does not address the rule-making powers of an agency.

Appropriation: None.

Fiscal Note: Not requested.

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