

# SENATE BILL REPORT

## SB 5050

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As of February 1, 2007

**Title:** An act relating to mileage tolling of nonconforming vehicles.

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

**Sponsors:** Senators Weinstein, Franklin, Kauffman, Rockefeller, Oemig, Murray, Rasmussen, Keiser and Kohl-Welles.

**Brief History:**

**Committee Activity:** Consumer Protection & Housing: 1/19/07, 2/01/07 [DPS].

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### SENATE COMMITTEE ON CONSUMER PROTECTION & HOUSING

**Majority Report:** That Substitute Senate Bill No. 5050 be substituted therefor, and the substitute bill do pass.

Signed by Senators Weinstein, Chair; Kauffman, Vice Chair; Honeyford, Ranking Minority Member; Delvin, Jacobsen, Kilmer, McCaslin, and Tom.

**Staff:** Vanessa Firnhaber-Baker (786-7471)

**Background:** The Motor Vehicle Warranties Act, commonly called the Lemon Law, establishes the rights and responsibilities for consumers and manufacturers of vehicles that are defective. There are three definitions of a "lemon" vehicle: (1) a vehicle with a serious safety defect that the manufacturer has unsuccessfully attempted to repair at least two times; (2) a vehicle with some other substantial defect that the manufacturer has unsuccessfully attempted to diagnose or repair at least four times; or (3) 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," then 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 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 owner.

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.

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When the consumer is a subsequent owner of the vehicle and s/he 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 s/he 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 bill as referred to committee not considered.

**Summary of Proposed Substitute As Heard in Committee (Consumer Protection & Housing):** 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 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 and the date of the first attempt to 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 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 to compute the offset is limited to the number of miles driven by the consumer between the date of the sale, transfer or lease of the vehicle to the consumer and the date of the consumer's initial attempt to obtain a repair or diagnosis 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 thirty 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 to calculate the offset is the miles driven between the original purchase date of the vehicle and the date of the first attempt to diagnose or repair a defect that ultimately results in the vehicle being a "lemon."

If the vehicle is a lemon solely because of accumulated days out of service, and the affected consumer is a subsequent owner or lessee of the vehicle and s/he has opted for replacement of the vehicle, the mileage used to calculate the offset is the miles driven between the date of the original purchase of the vehicle and the fifteenth cumulative calendar day that the vehicle is out of service.

**EFFECT OF CHANGES MADE BY RECOMMENDED SUBSTITUTE AS PASSED COMMITTEE (Consumer Protection & Housing):** "Subject to diagnose or repair" is defined as requiring the consumer to present the lemon vehicle at a repair facility authorized by the manufacturer.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: Manufacturers of defective vehicles should be held accountable as soon as there is a problem with the vehicle. This law will help to ensure that lemon law remedies are adequate and make the consumer whole. The current law encourages some consumers to resell lemon vehicles to unsuspecting third parties because a resale will yield more money than the lemon law remedy after the reasonable offset is subtracted. This bill alleviates that undesirable incentive.

CON: The bill's language regarding diagnosis and repair is unclear. Washington's lemon law is already one of the strongest in the nation. The reasonable offset amount as currently conceived is fair because the owner uses the vehicle during the period of time before the vehicle is declared a lemon.

**Persons Testifying:** PRO: Paul Corning, State Attorney General's Office; Mike Hall, citizen.

CON: Nancee Wildermuth, Alliance of Automobile Manufacturers; Cliff Webster, General Motors.