

HOUSE BILL REPORT

HB 1215

As Reported by House Committee On:
Commerce & Labor

Title: An act relating to modifying motor vehicle warranty provisions.

Brief Description: Modifying motor vehicle warranty provisions.

Sponsors: Representatives Wood, Chandler, Kirby, Ormsby and Morrell; by request of Attorney General.

Brief History:

Committee Activity:

Commerce & Labor: 1/21/09, 2/13/09 [DPS].

Brief Summary of Substitute Bill

- Extends the application of the Motor Vehicle Warranty Act (Act) and bases for claims under the Act.
- Modifies provisions related to the arbitration process, required disclosures by vehicle dealers, and the titles of vehicles reacquired by manufacturers.
- Makes numerous language changes and clarifications.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 5 members: Representatives Conway, Chair; Wood, Vice Chair; Green, Moeller and Williams.

Minority Report: Do not pass. Signed by 3 members: Representatives Condotta, Ranking Minority Member; Chandler and Crouse.

Staff: Alison Hellberg (786-7152)

Background:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The Motor Vehicle Warranty Act (Act), also known as the state's "lemon law," establishes the rights and responsibilities of consumers, dealers, and manufacturers when new or nearly new vehicles are defective. Motorcycles are considered motor vehicles for application of the Act.

The Act requires 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 vehicle, the defects continue to exist, the consumer may request replacement of the vehicle or repurchase of the defective vehicle by the manufacturer.

The Act establishes three bases for a claim:

- 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.

At least one of the repair attempts needs to happen during the "warranty period," which is within two years of the vehicle being delivered to the customer or the first 24,000 miles of operation, whichever occurs first.

If either party disputes the need to impose a remedy, a party may first seek arbitration of the dispute. The Attorney General manages the arbitration process and contracts with private arbitration boards. 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.

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.

A violation of the provisions of the Act is also a violation of the Consumer Protection Act.

Summary of Substitute Bill:

Numerous changes are made to the provisions of the Act in the bases for a claim, circumstances related to modifications of a vehicle by a dealer, the arbitration process, the sale of reacquired vehicles, and the application of the Act to vehicles sold or leased to armed services personnel.

In addition to the three existing bases for claims under the Act, a basis is added for two or more serious safety defects that occur within a 12-month period. A serious safety defect is a life threatening malfunction or nonconformity.

The term "warranty period" is replaced with the term "eligibility period."

Warranties include modifications by new motor vehicle dealers if the dealer is installing the manufacturer's authorized parts for the specific vehicle according to the manufacturer's specifications. The definition of manufacturer is extended to include a post-manufacturing modifier of a motor vehicle that modifies the vehicle prior to the initial retail sale or lease. If a customer requests a modification that would partially or completely void the manufacturer's warranty, a dealer is required to provide a disclosure, signed and dated by the customer, that says: "Your requested modification may void all or part of a manufacturer warranty and a resulting defect or condition may not be subject to remedies afforded by the Motor Vehicle Warranties Act, chapter 19.118 RCW."

The warranty provisions are extended to motor vehicles purchased or leased by members of the armed forces regardless of whether the vehicle was purchased or leased in the state. Changes are also made to the arbitration process. The Attorney General may manage certain aspects of the process rather than contracting out to an arbitration board for the entire process.

Within 60 days of receiving a reacquired vehicle, the manufacturer must apply for a new title with the Department of Licensing. The Department of Licensing must issue a new title with a title brand indicating that the vehicle was returned to the manufacturer under the Act and provide information that the nonconformity has been corrected.

The provisions are remedial in nature and apply retroactively to the effective date of the Act.

Substitute Bill Compared to Original Bill:

The bases for a claim of five or more nonconformities and 12 or more cumulative number of attempts to diagnose or repair nonconformities are removed, and the basis for a claim of two or more serious safety defects is limited so that they must occur within a 12-month period.

A manufacturer must submit the application for title of reacquired vehicles to the Department of Licensing within 60 days rather than obtaining the title within 60 days.

Provisions are removed relating to:

- extending coverage to motorcycles that cost more than \$4,500;
- extending the warranty period to 36,000 miles or three years;
- extending the manufacturer mandatory arbitration period to 42 months;
- requiring a refund of the value of the retail sales or use tax exclusion attributable to the gross trade-in allowance for like-kind property;
- reducing the motorcycle "offset for use" cost; and
- increasing the penalty for certain manufacturer appeals.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) The lemon law has not substantially changed in over 20 years. This bill represents changing consumer needs and expectations as well as best practices from other states. The lemon law has a good reputation and is working well, but can be improved. It sets the state on a better and more contemporary course. The bill does not affect substantive rights, but enhances clarity and consistency. There are some changes to the arbitration process which are largely cost-saving measures for the Office of the Attorney General.

Circumstances in the industry have changed. Financing of motor vehicles is longer term and manufacturer warranties are now up to three years or 36,000 miles. There are more inexpensive foreign cars and they are becoming more complex.

This bill is a work in progress and stakeholders will continue to work on it.

(With concerns) Washington has a good lemon law. The auto industry is improving and has reduced the number of claims over the years and now it feels like the industry is being penalized. The Auto Alliance is opposed to the bill as written, but believes that some changes can be agreed upon and agrees to continue negotiating with the Office of the Attorney General on improving the bill.

(Opposed) The quality of automobiles is improving by every measure. The number of complaints about new motor vehicles has decreased considerably. The impact of use on a new vehicle is considerable; this will increase as the eligibility period extends. This is turning into a warranty law not a lemon law.

Persons Testifying: (In support) Representative Wood, prime sponsor; and Lisa Erwin and Paul Corning, Office of the Attorney General .

(With concerns) Ryan Spiller, Auto Alliance.

(Opposed) Cliff Webster, General Motors.

Persons Signed In To Testify But Not Testifying: None.