

CERTIFICATION OF ENROLLMENT

**SUBSTITUTE HOUSE BILL 1215**

Chapter 351, Laws of 2009

61st Legislature  
2009 Regular Session

MOTOR VEHICLE WARRANTY PROVISIONS

EFFECTIVE DATE: 07/26/09

Passed by the House April 18, 2009  
Yeas 97 Nays 0

FRANK CHOPP

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**Speaker of the House of Representatives**

Passed by the Senate April 7, 2009  
Yeas 45 Nays 0

BRAD OWEN

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**President of the Senate**

Approved May 6, 2009, 1:43 p.m.

CHRISTINE GREGOIRE

\_\_\_\_\_  
**Governor of the State of Washington**

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1215** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BARBARA BAKER

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**Chief Clerk**

FILED

May 8, 2009

**Secretary of State  
State of Washington**

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**SUBSTITUTE HOUSE BILL 1215**

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AS AMENDED BY THE SENATE

Passed Legislature - 2009 Regular Session

**State of Washington                      61st Legislature                      2009 Regular Session**

**By** House Commerce & Labor (originally sponsored by Representatives Wood, Chandler, Kirby, Ormsby, and Morrell; by request of Attorney General)

READ FIRST TIME 02/17/09.

1            AN ACT Relating to modifying motor vehicle warranty provisions;  
2 amending RCW 19.118.021, 19.118.031, 19.118.041, 19.118.061,  
3 19.118.080, 19.118.090, 19.118.095, 19.118.120, and 19.118.160; and  
4 creating a new section.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6            **Sec. 1.** RCW 19.118.021 and 2007 c 425 s 1 are each amended to read  
7 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.

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

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

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

13 (6) "Eligibility period" means the period ending two years after  
14 the date of the original delivery to the consumer of a new motor  
15 vehicle, or the first twenty-four thousand miles of operation,  
16 whichever occurs first.

17 (7) "Incidental costs" means any reasonable expenses incurred by  
18 the consumer in connection with the repair of the new motor vehicle,  
19 including any towing charges and the costs of obtaining alternative  
20 transportation.

21 (~~(7)~~) (8) "Manufacturer" means any person engaged in the business  
22 of constructing or assembling new motor vehicles or engaged in the  
23 business of importing new motor vehicles into the United States for the  
24 purpose of selling or distributing new motor vehicles to new motor  
25 vehicle dealers. "Manufacturer" includes to the extent the  
26 modification affects the use, value, or safety of a new motor vehicle,  
27 a postmanufacturing modifier of a new motor vehicle that modifies or  
28 has a modification done to a new motor vehicle before the initial  
29 retail sale or lease of a new motor vehicle, except as provided in this  
30 chapter. "Manufacturer" does not include any person engaged in the  
31 business of set-up of motorcycles as an agent of a new motor vehicle  
32 dealer if the person does not otherwise construct or assemble  
33 motorcycles.

34 (~~(8)~~) (9) "Motorcycle" means any motorcycle as defined in RCW  
35 46.04.330 which has an engine displacement of at least seven hundred  
36 fifty cubic centimeters.

37 (~~(9)~~) (10) "Motor home" means a vehicular unit designed to  
38 provide temporary living quarters for recreational, camping, or travel

1 use, built on or permanently attached to a self-propelled motor vehicle  
2 chassis or on a chassis cab or van that is an integral part of the  
3 completed vehicle.

4 ~~((10))~~ (11) "Motor home manufacturer" means the first stage  
5 manufacturer, the component manufacturer, and the final stage  
6 manufacturer.

7 (a) "First stage manufacturer" means a person who manufactures  
8 incomplete new motor vehicles such as chassis, chassis cabs, or vans,  
9 that are directly warranted by the first stage manufacturer to the  
10 consumer, and are completed by a final stage manufacturer into a motor  
11 home.

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

16 (c) "Final stage manufacturer" means a person who assembles,  
17 installs, or permanently affixes a body, cab, or equipment to an  
18 incomplete new motor vehicle such as a chassis, chassis cab, or van  
19 provided by a first stage manufacturer, to complete the vehicle into a  
20 motor home.

21 ~~((11))~~ (12) "New motor vehicle" means any new self-propelled  
22 vehicle, including a new motorcycle, primarily designed for the  
23 transportation of persons or property over the public highways that was  
24 originally purchased or leased at retail from a new motor vehicle  
25 dealer or leasing company in this state, but does not include vehicles  
26 purchased or leased by a business as part of a fleet of ten or more  
27 vehicles at one time or under a single purchase or lease agreement.

28 This chapter shall apply to a motor vehicle purchased or leased with a  
29 manufacturer written warranty by a member of the armed forces  
30 regardless of in which state the vehicle was purchased or leased, if  
31 the vehicle otherwise meets the definition of a new motor vehicle and  
32 the consumer is a member of the armed forces stationed or residing in  
33 this state at the time the consumer submits a request for arbitration  
34 to the attorney general. If the motor vehicle is a motor home, this

35 chapter shall apply to the self-propelled vehicle and chassis, but does  
36 not include those portions of the vehicle designated, used, or  
37 maintained primarily as a mobile dwelling, office, or commercial space.

38 The term "new motor vehicle" does not include trucks with nineteen

1 thousand pounds or more gross vehicle weight rating. The term "new  
2 motor vehicle" includes a demonstrator or lease-purchase vehicle as  
3 long as a manufacturer's warranty was issued as a condition of sale.

4 ~~((+12+))~~ (13) "New motor vehicle dealer" means a person who holds  
5 a dealer agreement with a manufacturer for the sale of new motor  
6 vehicles, who is engaged in the business of purchasing, selling,  
7 servicing, exchanging, or dealing in new motor vehicles, and who is  
8 licensed or required to be licensed as a vehicle dealer by the state of  
9 Washington.

10 ~~((+13+))~~ (14) "Nonconformity" means a defect, serious safety  
11 defect, or condition that substantially impairs the use, value, or  
12 safety of a new motor vehicle, but does not include a defect or  
13 condition that is the result of abuse, neglect, or unauthorized  
14 modification or alteration of the new motor vehicle.

15 ~~((+14+))~~ (15) "Purchase price" means the cash price of the new  
16 motor vehicle appearing in the sales agreement or contract.

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

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

29 Where the consumer is a subsequent transferee and the consumer  
30 selects repurchase of the motor vehicle, "purchase price" means the  
31 consumer's subsequent purchase price. Where the consumer is a  
32 subsequent transferee and the consumer selects replacement of the motor  
33 vehicle, "purchase price" means the original purchase price.

34 ~~((+15+))~~ (16) "Reasonable offset for use" means the definition  
35 provided in RCW 19.118.041(1)(c) ~~((for a new motor vehicle other than  
36 a new motorcycle. The reasonable offset for use for a new motorcycle  
37 shall be computed by the number of miles that the vehicle traveled~~

1 ~~before the manufacturer's acceptance of the vehicle upon repurchase or~~  
2 ~~replacement multiplied by the purchase price, and divided by twenty-~~  
3 ~~five thousand)).~~

4 ((+16+)) (17) "Reasonable number of attempts" means the definition  
5 provided in RCW 19.118.041.

6 ((+17+)) (18) "Replacement motor vehicle" means a new motor vehicle  
7 that is identical or reasonably equivalent to the motor vehicle to be  
8 replaced, as the motor vehicle to be replaced existed at the time of  
9 original purchase or lease, including any service contract,  
10 undercoating, rustproofing, and factory or dealer installed options.

11 ((+18+)) (19) "Serious safety defect" means a life-threatening  
12 malfunction or nonconformity that impedes the consumer's ability to  
13 control or operate the new motor vehicle for ordinary use or reasonable  
14 intended purposes or creates a risk of fire or explosion.

15 ((+19+)) (20) "Subsequent transferee" means a consumer who acquires  
16 a motor vehicle, within the ((warranty)) eligibility period, as defined  
17 in this section, with an applicable manufacturer's written warranty and  
18 where the vehicle otherwise met the definition of a new motor vehicle  
19 at the time of original retail sale or lease.

20 ((+20+)) (21) "Substantially impair" means to render the new motor  
21 vehicle unreliable, or unsafe for ordinary use, or to diminish the  
22 resale value of the new motor vehicle below the average resale value  
23 for comparable motor vehicles.

24 ((+21+)) (22) "Warranty" means any implied warranty, any written  
25 warranty of the manufacturer, or any affirmation of fact or promise  
26 made by the manufacturer in connection with the sale of a new motor  
27 vehicle that becomes part of the basis of the bargain. The term  
28 "warranty" pertains to the obligations of the manufacturer in relation  
29 to materials, workmanship, a modification by a new motor vehicle dealer  
30 installing the new motor vehicle manufacturer's authorized parts or  
31 their equivalent for the specific new motor vehicle pursuant to the  
32 manufacturer approved specifications, and fitness of a new motor  
33 vehicle for ordinary use or reasonably intended purposes throughout the  
34 duration of the ((warranty)) eligibility period as defined under this  
35 section.

36 ((+22+)) "~~Warranty period~~" ~~means the period ending two years after~~  
37 ~~the date of the original delivery to the consumer of a new motor~~

1 vehicle, — or — the — first — twenty — four — thousand — miles — of — operation,  
2 whichever occurs first.)

3 **Sec. 2.** RCW 19.118.031 and 1998 c 298 s 3 are each amended to read  
4 as follows:

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

14 (2) At the time of purchase, the new motor vehicle dealer shall  
15 provide the consumer with a written statement that explains the  
16 consumer's rights under this chapter. The written statement shall be  
17 prepared and supplied by the attorney general and shall contain a toll-  
18 free number that the consumer can contact for information regarding the  
19 procedures and remedies under this chapter. In the event a consumer  
20 requests modification of the new motor vehicle in a manner which may  
21 partially or completely void the manufacturer's implied or express  
22 warranty, and which becomes part of the basis of the bargain of the  
23 initial retail sale or lease of the vehicle, a new motor vehicle dealer  
24 shall provide a clear and conspicuous written disclosure, independently  
25 signed and dated by the consumer, stating "Your requested modification  
26 may void all or part of a manufacturer warranty and a resulting defect  
27 or condition may not be subject to remedies afforded by the motor  
28 vehicle warranties act, chapter 19.118 RCW." A dealer who obtains a  
29 signed written disclosure under circumstances where the warranty may be  
30 void is not subject to this chapter as a manufacturer to the extent the  
31 modification affects the use, value, or safety of a new motor vehicle.  
32 Failure to provide the disclosure specified in this subsection does not  
33 constitute a violation of chapter 19.86 RCW.

34 (3) For the purposes of this chapter, if a new motor vehicle does  
35 not conform to the warranty and the consumer reports the nonconformity  
36 during the term of the ((warranty)) eligibility period or the period of  
37 coverage of the applicable manufacturer's written warranty, whichever

1 is less, to the manufacturer, its agent, or the new motor vehicle  
2 dealer who sold the new motor vehicle, the manufacturer, its agent, or  
3 the new motor vehicle dealer shall make repairs as are necessary to  
4 conform the vehicle to the warranty, regardless of whether such repairs  
5 are made after the expiration of the ((warranty)) eligibility period.  
6 Any corrections or attempted repairs undertaken by a new motor vehicle  
7 dealer under this chapter shall be treated as warranty work and billed  
8 by the dealer to the manufacturer in the same manner as other work  
9 under the manufacturer's written warranty is billed. For purposes of  
10 this subsection, the manufacturer's written warranty shall be at least  
11 one year after the date of the original delivery to the consumer of the  
12 vehicle or the first twelve thousand miles of operation, whichever  
13 occurs first.

14 (4) Upon request from the consumer, the manufacturer or new motor  
15 vehicle dealer shall provide a copy of any report or computer reading  
16 compiled by the manufacturer's field or zone representative regarding  
17 inspection, diagnosis, or test-drive of the consumer's new motor  
18 vehicle, or shall provide a copy of any technical service bulletin  
19 issued by the manufacturer regarding the year and model of the  
20 consumer's new motor vehicle as it pertains to any material, feature,  
21 component, or the performance thereof.

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

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

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

37 (8) The ((warranty)) eligibility period and thirty-day out-of-  
38 service period, and sixty-day out-of-service period in the case of a



1 motor home, shall be extended by any time that repair services are not  
2 available to the consumer as a direct result of a strike, war,  
3 invasion, fire, flood, or other natural disaster.

4 **Sec. 3.** RCW 19.118.041 and 2007 c 426 s 1 are each amended to read  
5 as follows:

6 (1) If the manufacturer, its agent, or the new motor vehicle dealer  
7 is unable to conform the new motor vehicle to the warranty by repairing  
8 or correcting any nonconformity after a reasonable number of attempts,  
9 the manufacturer, within forty calendar days of a consumer's written  
10 request to the manufacturer's corporate, dispute resolution, zone, or  
11 regional office address shall, at the option of the consumer, replace  
12 or repurchase the new motor vehicle.

13 (a) The replacement motor vehicle shall be identical or reasonably  
14 equivalent to the motor vehicle to be replaced as the motor vehicle to  
15 be replaced existed at the time of original purchase or lease,  
16 including any service contract, undercoating, rustproofing, and factory  
17 or dealer installed options. Where the manufacturer supplies a  
18 replacement motor vehicle, the manufacturer shall be responsible for  
19 sales tax, license, registration fees, and refund of any incidental  
20 costs. Compensation for a reasonable offset for use shall be paid by  
21 the consumer to the manufacturer in the event that the consumer accepts  
22 a replacement motor vehicle.

23 (b) When repurchasing the new motor vehicle, the manufacturer shall  
24 refund to the consumer the purchase price, all collateral charges, and  
25 incidental costs, less a reasonable offset for use. When repurchasing  
26 the new motor vehicle, in the instance of a lease, the manufacturer  
27 shall refund to the consumer all payments made by the consumer under  
28 the lease including but not limited to all lease payments, trade-in  
29 value or inception payment, security deposit, all collateral charges  
30 and incidental costs less a reasonable offset for use. The  
31 manufacturer shall make such payment to the lessor and/or lienholder of  
32 record as necessary to obtain clear title to the motor vehicle and upon  
33 the lessor's and/or lienholder's receipt of that payment and payment by  
34 the consumer of any late payment charges, the consumer shall be  
35 relieved of any future obligation to the lessor and/or lienholder.

36 (c) The reasonable offset for use shall be computed by multiplying  
37 the number of miles that the vehicle traveled directly attributable to

1 use by the consumer during the time between the original purchase,  
2 lease, or in-service date and the date beginning the first attempt to  
3 diagnose or repair a nonconformity which ultimately results in the  
4 repurchase or replacement of the vehicle multiplied times the purchase  
5 price, and dividing the product by one hundred twenty thousand, except  
6 in the case of a motor home, in which event it shall be divided by  
7 ninety thousand or in the case of a motorcycle, it shall be divided by  
8 twenty-five thousand. However, the reasonable offset for use  
9 calculation total for a motor home is subject to modification by the  
10 board by decreasing or increasing the offset total up to a maximum of  
11 one-third of the offset total. The board may modify the offset total  
12 in those circumstances where the board determines that the wear and  
13 tear on those portions of the motor home designated, used, or  
14 maintained primarily as a mobile dwelling, office, or commercial space  
15 are significantly greater or significantly less than that which could  
16 be reasonably expected based on the mileage attributable to the  
17 consumer's use of the motor home. Except in the case of a motor home,  
18 where a manufacturer repurchases or replaces a vehicle solely due to  
19 accumulated days out of service by reason of diagnosis or repair of one  
20 or more nonconformities, "the number of miles that the vehicle traveled  
21 directly attributable to use by the consumer" shall be limited to the  
22 period between the original purchase, lease, or in-service date and the  
23 date of the fifteenth cumulative calendar day out of service. Where  
24 the consumer is a second or subsequent purchaser, lessee, or transferee  
25 of the motor vehicle and the consumer selects repurchase of the motor  
26 vehicle, "the number of miles that the vehicle traveled" directly  
27 attributable to use by the consumer shall be limited to the period  
28 between the date of purchase, lease by, or transfer to the consumer and  
29 the date of the consumer's initial attempt to obtain diagnosis or  
30 repair of a nonconformity which ultimately results in the repurchase or  
31 replacement of the vehicle or which adds to thirty or more cumulative  
32 calendar days out of service. Where the consumer is a second or  
33 subsequent purchaser, lessee, or transferee of the motor vehicle and  
34 the consumer selects replacement of the motor vehicle, "the number of  
35 miles that the vehicle traveled" directly attributable to use by the  
36 consumer shall be calculated from the date of the original purchase,  
37 lease, or in-service date and the first attempt to diagnose or repair  
38 a nonconformity which ultimately results in the replacement of the

1 vehicle. Except in the case of a motor home, where the consumer is a  
2 second or subsequent purchaser, lessee, or transferee of the motor  
3 vehicle and the manufacturer replaces the vehicle solely due to  
4 accumulated days out of service by reason of diagnosis or repair of one  
5 or more nonconformities, "the number of miles that the vehicle  
6 traveled" directly attributable to use by the consumer shall be  
7 calculated from the date of the original purchase, lease, or in service  
8 date and the date of the fifteenth cumulative calendar day out of  
9 service.

10 (d) In the case of a motor vehicle that is a motor home, where a  
11 manufacturer repurchases or replaces a motor home from the first  
12 purchaser, lessee, or transferee or from the second or subsequent  
13 purchaser, lessee, or transferee solely due to accumulated days out of  
14 service by reason of diagnosis or repair of one or more  
15 nonconformities, "the number of miles that a motor home traveled  
16 directly attributable to use by the consumer" shall be limited to the  
17 period between the original purchase, lease, or in-service date and the  
18 date of the thirtieth cumulative calendar day out-of-service.

19 (2) Reasonable number of attempts, except in the case of a new  
20 motor vehicle that is a motor home (~~(acquired after June 30, 1998)~~),  
21 shall be deemed to have been undertaken by the manufacturer, its agent,  
22 or the new motor vehicle dealer to conform the new motor vehicle to the  
23 warranty within the (~~warranty~~) eligibility period, if: (a) The same  
24 serious safety defect has been subject to diagnosis or repair two or  
25 more times, at least one of which is during the period of coverage of  
26 the applicable manufacturer's written warranty, and the serious safety  
27 defect continues to exist; (b) the same nonconformity has been subject  
28 to diagnosis or repair four or more times, at least one of which is  
29 during the period of coverage of the applicable manufacturer's written  
30 warranty, and the nonconformity continues to exist; (~~(or)~~) (c) the  
31 vehicle is out of service by reason of diagnosis or repair of one or  
32 more nonconformities for a cumulative total of thirty calendar days, at  
33 least fifteen of them during the period of the applicable  
34 manufacturer's written warranty; or (d) within a twelve-month period,  
35 two or more different serious safety defects, each of which have been  
36 subject to diagnosis or repair one or more times, where at least one  
37 attempt for each serious safety defect occurs during the period of  
38 coverage of the applicable manufacturer's written warranty and within

1 the eligibility period. For purposes of this subsection, the  
2 manufacturer's written warranty shall be at least one year after the  
3 date of the original delivery to the consumer of the vehicle or the  
4 first twelve thousand miles of operation, whichever occurs first. A  
5 new motor vehicle is deemed to have been "subject to diagnose or  
6 repair" when a consumer presents the new motor vehicle for warranty  
7 service at a service and repair facility authorized, designated, or  
8 maintained by a manufacturer to provide warranty services or a facility  
9 to which the manufacturer or an authorized facility has directed the  
10 consumer to obtain warranty service. A new motor vehicle has not been  
11 "subject to diagnose or repair" if the consumer refuses to allow the  
12 facility to attempt or complete a recommended warranty repair, or  
13 demands return of the vehicle to the consumer before an attempt to  
14 diagnose or repair can be completed.

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

1 warranty have been each subject to diagnosis or repair one or more  
2 times, where at least one attempt for each serious safety defect occurs  
3 during the period of coverage of the applicable manufacturer's written  
4 warranty and within the eligibility period. Notice of manifestation of  
5 one or more serious safety defects to a manufacturer must be provided  
6 in writing by the consumer to the motor home manufacturer whose  
7 warranty covers the defect or all manufacturers of the motor home. The  
8 consumer shall send notices to the manufacturers in writing at their  
9 respective corporate, zone, or regional office addresses to allow the  
10 motor home manufacturers, their respective agents, or their respective  
11 new motor vehicle dealers an opportunity to coordinate and complete a  
12 comprehensive safety evaluation of the motor home. Notice of the  
13 manifestation of one or more serious safety defects should be made by  
14 the consumer as a unique notice to the manufacturers. The notice may  
15 be met by any written notification under this subsection of the need to  
16 repair a defect or condition identified by the consumer as relating to  
17 the safety of the motor home with or without a consumer's specific  
18 reference to whether the defect is a serious safety defect. Any notice  
19 of the manifestation of one or more serious safety defects shall be  
20 considered by a manufacturer as a consumer's request for a safety  
21 evaluation of the motor home. If the manufacturer, at its option,  
22 performs a safety evaluation, the manufacturers must provide a written  
23 report to the consumer of the evaluation of the motor home's safety in  
24 a timely manner. For purposes of this subsection, each motor home  
25 manufacturer's written warranty must be at least one year after the  
26 date of the original delivery to the consumer of the vehicle or the  
27 first twelve thousand miles of operation, whichever occurs first.

28 (b) In the case of a new motor vehicle that is a motor home, after  
29 one attempt has been made to repair a serious safety defect, or after  
30 three attempts have been made to repair the same nonconformity, the  
31 consumer shall give written notification of the need to repair the  
32 nonconformity to each of the motor home manufacturers at their  
33 respective corporate, zone, or regional office addresses to allow the  
34 motor home manufacturers to coordinate and complete a final attempt to  
35 cure the nonconformity. The motor home manufacturers each have fifteen  
36 days, commencing upon receipt of ((the)) a notification under this  
37 subsection (3)(b), to respond and inform the consumer of the location  
38 of the facility where the vehicle will be repaired or evaluated. If

1 the vehicle is unsafe to drive due to a serious safety defect, or to  
2 the extent the repair facility is more than one hundred miles from the  
3 motor home location, the motor home manufacturers are responsible for  
4 the cost of transporting the vehicle to and from the repair facility.  
5 The motor home manufacturers have a cumulative total of thirty days,  
6 commencing upon delivery of the vehicle to the designated repair  
7 facility by the consumer, to conform the vehicle to the applicable  
8 motor home manufacturer's written warranty. This time period may be  
9 extended if the consumer agrees in writing. If a motor home  
10 manufacturer fails to respond to the consumer or perform the repairs  
11 within the time period prescribed, that motor home manufacturer is not  
12 entitled to a final attempt to cure the nonconformity.

13 (c) In the case of a new motor vehicle that is a motor home, if the  
14 vehicle is out of service by reason of diagnosis or repair of one or  
15 more nonconformities, including any safety evaluation, by the motor  
16 home manufacturers, their respective agents, or their respective new  
17 motor vehicle dealers for a cumulative total of thirty or more days  
18 aggregating all motor home manufacturer days out of service, the  
19 consumer shall so notify each motor home manufacturer in writing at  
20 their respective corporate, zone, or regional office addresses to allow  
21 the motor home manufacturers, their respective agents, or their  
22 respective new motor vehicle dealers an opportunity to coordinate and  
23 complete an inspection and any repairs of the vehicle's  
24 nonconformities. The motor home manufacturers have fifteen days,  
25 commencing upon receipt of the notification, to respond and inform the  
26 consumer of the location of the facility where the vehicle will be  
27 repaired or evaluated. If the vehicle is unsafe to drive due to a  
28 serious safety defect, or to the extent the repair facility is more  
29 than one hundred miles from the motor home location, the motor home  
30 manufacturers are responsible for the cost of transporting the vehicle  
31 to and from the repair facility. Once the buyer delivers the vehicle  
32 to the designated repair facility, the inspection and repairs must be  
33 completed by the motor home manufacturers either (i) within ten days or  
34 (ii) before the vehicle is out of service by reason of diagnosis or  
35 repair of one or more nonconformities for sixty days, whichever time  
36 period is longer. This time period may be extended if the consumer  
37 agrees in writing. If a motor home manufacturer fails to respond to  
38 the consumer or perform the repairs within the time period prescribed,

1 that motor home manufacturer is not entitled to at least one  
2 opportunity to inspect and repair the vehicle's nonconformities after  
3 receipt of notification from the buyer as provided for in this  
4 subsection (3)(c).

5 (4) No new motor vehicle dealer may be held liable by the  
6 manufacturer for any collateral charges, incidental costs, purchase  
7 price refunds, or vehicle replacements. Manufacturers shall not have  
8 a cause of action against dealers under this chapter. (~~Consumers~~  
9 ~~shall not have a cause of action against dealers under this chapter,~~  
10 ~~but a violation of any responsibilities imposed upon dealers under this~~  
11 ~~chapter is a per se violation of chapter 19.86 RCW.)) A violation of  
12 any responsibilities expressly imposed upon dealers under this chapter  
13 is a per se violation of chapter 19.86 RCW. Except in the limited  
14 circumstances of a dealer becoming a manufacturer due to a  
15 postmanufacturing modification of a new motor vehicle as defined in RCW  
16 19.118.021(8), consumers shall not have a cause of action against  
17 dealers under this chapter. Consumers may pursue rights and remedies  
18 against dealers under any other law, including chapters 46.70 and 46.71  
19 RCW. Manufacturers and consumers may not make dealers parties to  
20 arbitration board proceedings under this chapter.~~

21 **Sec. 4.** RCW 19.118.061 and 1998 c 298 s 5 are each amended to read  
22 as follows:

23 (1) A manufacturer shall be prohibited from reselling any motor  
24 vehicle determined or adjudicated as having a serious safety defect  
25 unless the serious safety defect has been corrected and the  
26 manufacturer warrants upon the first subsequent resale that the defect  
27 has been corrected.

28 (2) Before any sale or transfer of a vehicle that has been replaced  
29 or repurchased by the manufacturer (~~that was determined or adjudicated~~  
30 ~~as having a nonconformity or to have been out of service for thirty or~~  
31 ~~more calendar days, or sixty or more calendar days in the case of a~~  
32 ~~motor home,~~) after a determination, adjudication, or settlement of a  
33 claim under this chapter, the manufacturer shall:

34 (a) Notify the attorney general (~~and the department of licensing,~~  
35 ~~by certified mail or by personal service,~~) upon receipt of the motor  
36 vehicle and submit a title application to the department of licensing

1 in this state for title to the motor vehicle in the name of the  
2 manufacturer within sixty days;

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

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

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

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

36 (5) After repurchase or replacement and following a manufacturer's  
37 receipt of a vehicle under this section and prior to a vehicle's first  
38 subsequent retail transfer by resale or lease, any intervening



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

13 **Sec. 5.** RCW 19.118.080 and 1998 c 245 s 7 are each amended to read  
14 as follows:

15 (1) Except as provided in RCW 19.118.160, the attorney general  
16 shall contract with one or more (~~private~~) entities to conduct  
17 arbitration proceedings in order to settle disputes between consumers  
18 and manufacturers as provided in this chapter, and each (~~private~~)  
19 entity shall constitute a new motor vehicle arbitration board for  
20 purposes of this chapter. The entities shall not be affiliated with  
21 any manufacturer or new motor vehicle dealer and shall have available  
22 the services of persons with automotive technical expertise to assist  
23 in resolving disputes under this chapter. No (~~private~~) entity or its  
24 officers or employees conducting board proceedings and no arbitrator  
25 presiding at such proceedings shall be directly involved in the  
26 manufacture, distribution, sale, or warranty service of any motor  
27 vehicle. Payment to the entities for the arbitration services shall be  
28 made from the new motor vehicle arbitration account.

29 (2) The attorney general shall adopt rules for the uniform conduct  
30 of the arbitrations by the boards whether conducted by (~~a private~~) an  
31 entity or by the attorney general pursuant to RCW 19.118.160, which  
32 rules shall include but not be limited to the following procedures:

33 (a) At all arbitration proceedings, the parties are entitled to  
34 present oral and written testimony, to present witnesses and evidence  
35 relevant to the dispute, to cross-examine witnesses, and to be  
36 represented by counsel.

1 (b) A dealer, manufacturer, or other persons shall produce records  
2 and documents requested by a party which are reasonably related to the  
3 dispute. If a dealer, manufacturer, or other person refuses to comply  
4 with such a request, a party may present a request (~~(to the board)~~) for  
5 the attorney general to issue a subpoena (~~(on behalf of the board)~~).

6 The subpoena shall be issued only for the production of records and  
7 documents which the (~~board~~) attorney general has determined are  
8 reasonably related to the dispute, including but not limited to  
9 documents described in RCW 19.118.031 (4) or (5).

10 If a party fails to comply with the subpoena, the arbitrator may at  
11 the outset of the arbitration hearing impose any of the following  
12 sanctions: (i) Find that the matters which were the subject of the  
13 subpoena, or any other designated facts, shall be taken to be  
14 established for purposes of the hearing in accordance with the claim of  
15 the party which requested the subpoena; (ii) refuse to allow the  
16 disobedient party to support or oppose the designated claims or  
17 defenses, or prohibit that party from introducing designated matters  
18 into evidence; (iii) strike claims or defenses, or parts thereof; or  
19 (iv) render a decision by default against the disobedient party.

20 If a nonparty fails to comply with a subpoena and upon an  
21 arbitrator finding that without such compliance there is insufficient  
22 evidence to render a decision in the dispute, the attorney general  
23 (~~shall~~) may enforce such subpoena in superior court and the  
24 arbitrator shall continue the arbitration hearing until such time as  
25 the nonparty complies with the subpoena or the subpoena is quashed.

26 (c) A party may obtain written affidavits from employees and agents  
27 of a dealer, a manufacturer or other party, or from other potential  
28 witnesses, and may submit such affidavits for consideration by the  
29 board.

30 (d) Records of the board proceedings shall be open to the public.  
31 The hearings shall be open to the public to the extent practicable.

32 (e) (~~Where the board proceedings are conducted by one or more~~  
33 ~~private entities,~~) A single arbitrator may be designated to preside at  
34 such proceedings.

35 (3) A consumer shall exhaust the new motor vehicle arbitration  
36 board remedy or informal dispute resolution settlement procedure under  
37 RCW 19.118.150 before filing any superior court action.

1 (4) The attorney general shall maintain records of each dispute  
2 submitted to the new motor vehicle arbitration board, including an  
3 index of new motor vehicles by year, make, and model.

4 (5) The attorney general shall compile aggregate annual statistics  
5 for all disputes submitted to, and decided by, the new motor vehicle  
6 arbitration board, as well as annual statistics for each manufacturer  
7 that include, but shall not be limited to, the number and percent of:  
8 (a) Replacement motor vehicle requests; (b) purchase price refund  
9 requests; (c) replacement motor vehicles obtained in prehearing  
10 settlements; (d) purchase price refunds obtained in prehearing  
11 settlements; (e) replacement motor vehicles awarded in arbitration; (f)  
12 purchase price refunds awarded in arbitration; (g) board decisions  
13 neither complied with during the forty calendar day period nor  
14 petitioned for appeal within the thirty calendar day period; (h) board  
15 decisions appealed categorized by consumer or manufacturer; (i) the  
16 nature of the court decisions and who the prevailing party was; (j)  
17 appeals that were held by the court to be brought without good cause;  
18 and (k) appeals that were held by the court to be brought solely for  
19 the purpose of harassment. The statistical compilations shall be  
20 public information.

21 (6) The attorney general shall adopt rules to implement this  
22 chapter. Such rules shall include uniform standards by which the  
23 boards shall make determinations under this chapter, including but not  
24 limited to rules which provide:

25 (a) A board shall find that a nonconformity exists if it determines  
26 that the consumer's new motor vehicle has a defect, serious safety  
27 defect, or condition that substantially impairs the use, value, or  
28 safety of the vehicle.

29 (b) A board shall find that a reasonable number of attempts to  
30 repair a nonconformity have been undertaken if(~~(i) The same serious~~  
31 ~~safety defect has been subject to diagnosis or repair two or more~~  
32 ~~times, at least one of which is during the period of coverage of the~~  
33 ~~applicable manufacturer's written warranty, and the serious safety~~  
34 ~~defect continues to exist; (ii) the same nonconformity has been subject~~  
35 ~~to diagnosis or repair four or more times, at least one of which is~~  
36 ~~during the period of coverage of the applicable manufacturer's written~~  
37 ~~warranty, and the nonconformity continues to exist; or (iii) the~~  
38 ~~vehicle is out of service by reason of diagnosis or repair of one or~~

1 ~~more nonconformities for a cumulative total of thirty calendar days, at~~  
2 ~~least — fifteen — of — them — during — the — period — of — the — applicable~~  
3 ~~manufacturer's written warranty. For purposes of this subsection, the~~  
4 ~~manufacturer's written warranty shall be at least one year after the~~  
5 ~~date of the original delivery to the consumer of the vehicle or the~~  
6 ~~first twelve thousand miles of operation, whichever occurs first)) the~~  
7 ~~history of attempts to diagnose or repair defects or conditions in the~~  
8 ~~new motor vehicle meets or exceeds those identified in RCW 19.118.041.~~

9 (c) A board shall find that a manufacturer has failed to comply  
10 with RCW 19.118.041 if it finds that the manufacturer, its agent, or  
11 the new motor vehicle dealer has failed to correct a nonconformity  
12 after a reasonable number of attempts and the manufacturer has failed,  
13 within forty days of the consumer's written request, to repurchase the  
14 vehicle or replace the vehicle with a vehicle identical or reasonably  
15 equivalent to the vehicle being replaced.

16 (7) The attorney general shall provide consumers with information  
17 regarding the procedures and remedies under this chapter.

18 **Sec. 6.** RCW 19.118.090 and 1998 c 298 s 6 are each amended to read  
19 as follows:

20 (1) A consumer may request arbitration under this chapter by  
21 submitting the request to the attorney general. Within ten days after  
22 receipt of an arbitration request, the attorney general shall make a  
23 reasonable determination of the cause of the request for arbitration  
24 and provide necessary information to the consumer regarding the  
25 consumer's rights and remedies under this chapter. The attorney  
26 general shall ~~((assign the dispute to a board, except that if it~~  
27 ~~clearly appears from the materials submitted by the consumer that the~~  
28 ~~dispute is not eligible for arbitration, the attorney general may~~  
29 ~~refuse to assign the dispute and shall explain any required procedures~~  
30 ~~to the consumer)) accept a request for arbitration, except where it~~  
31 ~~clearly appears from the materials submitted by the consumer that the~~  
32 ~~dispute is not eligible because it is lacking a statement of a claim,~~  
33 ~~incomplete, untimely, frivolous, fraudulent, filed in bad faith, res~~  
34 ~~judicata, or beyond the authority established in this chapter. A~~  
35 ~~dispute found to be ineligible for arbitration because it lacks a~~  
36 ~~statement of a claim or is incomplete may be reconsidered by the~~

1 attorney general upon the submission of other information or documents  
2 regarding the dispute.

3 (2) After a dispute is accepted, the attorney general shall assign  
4 the dispute to the board. From the date the consumer's request for  
5 arbitration is assigned by the attorney general, the board shall have  
6 forty-five calendar days to have an arbitrator hear the dispute and  
7 sixty days for the board to submit a decision to the attorney general.  
8 If the board determines that additional information is necessary to  
9 make a fair and reasoned decision, the arbitrator may continue the  
10 arbitration proceeding on a subsequent date within ten calendar days of  
11 the initial hearing. The board may require a party to submit  
12 additional information or request that the attorney general issue a  
13 subpoena to a nonparty for documents and records for a continued  
14 hearing.

15 ~~((+2))~~ (3) Manufacturers shall submit to arbitration if such  
16 arbitration is requested by the consumer within thirty months from the  
17 date of the original delivery of the new motor vehicle to a consumer at  
18 retail and if the consumer's dispute is ~~((deemed-eligible))~~ accepted  
19 for arbitration by the ~~((board))~~ attorney general. In the case of a  
20 motor home, the thirty-month period will be extended by the amount of  
21 time it takes the motor home manufacturers to complete the final repair  
22 attempt at the designated repair facility as provided for in RCW  
23 19.118.041(3)(b).

24 ~~((3)-The-new-motor-vehicle-arbitration-board-may-reject-for~~  
25 ~~arbitration-any-dispute-that-it-determines-to-be-frivolous, fraudulent,~~  
26 ~~filed-in-bad-faith, res-judicata-or-beyond-its-authority.-Any-dispute~~  
27 ~~deemed-by-the-board-to-be-ineligible-for-arbitration-due-to~~  
28 ~~insufficient-evidence-may-be-reconsidered-by-the-board-upon-the~~  
29 ~~submission-of-other-information-or-documents-regarding-the-dispute-that~~  
30 ~~would-allegedly-qualify-for-relief-under-this-chapter.-Following-a~~  
31 ~~second-review,-the-board-may-reject-the-dispute-for-arbitration-if~~  
32 ~~evidence-is-still-clearly-insufficient-to-qualify-the-dispute-for~~  
33 ~~relief-under-this-chapter.-A-rejection-by-the-board-is-subject-to~~  
34 ~~review-by-the-attorney-general-or-may-be-appealed-under-RCW-19.118.100.~~

35 ~~A decision to reject any dispute for arbitration shall be sent by~~  
36 ~~certified mail to the consumer and the manufacturer, and shall contain~~  
37 ~~a brief explanation as to the reason therefor.))~~

1 (4) The manufacturer shall complete a written manufacturer response  
2 to the consumer's request for arbitration. The manufacturer shall  
3 provide a response to the consumer and the ((board)) attorney general  
4 within ten calendar days from the date of the manufacturer's receipt of  
5 ((the board's)) notice of ((acceptance)) the attorney general's  
6 assignment of a dispute for arbitration. The manufacturer response  
7 shall include all issues and affirmative defenses related to the  
8 nonconformities identified in the consumer's request for arbitration  
9 that the manufacturer intends to raise at the arbitration hearing.

10 (5) ~~((The arbitration board shall award the remedies under RCW~~  
11 ~~19.118.041 if it finds a nonconformity and that a reasonable number of~~  
12 ~~attempts have been undertaken to correct the nonconformity. The board~~  
13 ~~shall award reasonable costs and attorneys' fees incurred by the~~  
14 ~~consumer where the manufacturer has been directly represented by~~  
15 ~~counsel: (a) In dealings with the consumer in response to a request to~~  
16 ~~repurchase or replace under RCW 19.118.041; (b) in settlement~~  
17 ~~negotiations; (c) in preparation of the manufacturer's statement; or~~  
18 ~~(d) at an arbitration board hearing or other board proceeding.~~

19 ~~In the case of an arbitration involving a motor home, the board may~~  
20 ~~allocate liability among the motor home manufacturers.~~

21 ~~(6) It is an affirmative defense to any claim under this chapter~~  
22 ~~that: (a) The alleged nonconformity does not substantially impair the~~  
23 ~~use, value, or safety of the new motor vehicle; or (b) the alleged~~  
24 ~~nonconformity is the result of abuse, neglect, or unauthorized~~  
25 ~~modifications or alterations of the new motor vehicle.~~

26 ~~(7) The board shall have forty five calendar days from the date the~~  
27 ~~board receives the consumer's request for arbitration to hear the~~  
28 ~~dispute. If the board determines that additional information is~~  
29 ~~necessary, the board may continue the arbitration proceeding on a~~  
30 ~~subsequent date within ten calendar days of the initial hearing. The~~  
31 ~~board shall decide the dispute within sixty calendar days from the date~~  
32 ~~the board receives the consumer's request for arbitration.)) It is an  
33 affirmative defense to any claim under this chapter that: (a) The  
34 alleged nonconformity does not substantially impair the use, value, or  
35 safety of the new motor vehicle; or (b) the alleged nonconformity is  
36 the result of abuse, neglect, or unauthorized modifications or  
37 alterations of the new motor vehicle.~~

1       (6) The arbitration decision (~~(of the board shall be delivered by~~  
2 ~~certified mail or personal service to the consumer and the~~  
3 ~~manufacturer, and shall)~~) must contain a written finding of whether the  
4 new motor vehicle (~~(meets)~~) should be repurchased or replaced pursuant  
5 to the standards set forth under this chapter.

6       (~~(+8)~~) (a) The board shall award the remedies under this chapter  
7 if a finding is made pursuant to RCW 19.118.041 that one or more  
8 nonconformities have been subject to a reasonable number of attempts.

9       (b) If the board awards remedies under this chapter after a finding  
10 is made pursuant to RCW 19.118.041 that one or more nonconformities  
11 have been subject to a reasonable number of attempts, the board shall  
12 award reasonable costs and attorneys' fees incurred by the consumer  
13 where the manufacturer has been directly represented by counsel: (i)  
14 In dealings with the consumer in response to a request to repurchase or  
15 replace under RCW 19.118.041; (ii) in settlement negotiations; (iii) in  
16 preparation of the manufacturer's statement; or (iv) at an arbitration  
17 hearing or other arbitration proceeding. In the case of an arbitration  
18 involving a motor home, the board may allocate liability among the  
19 motor home manufacturers.

20       (c) The decision of the board shall be submitted to the attorney  
21 general who shall deliver it by certified mail, electronic mail  
22 confirmed by an electronic notice of delivery status or similar  
23 confirmation, or personal service to the consumer and the manufacturer.

24       (7) The consumer may accept or reject the arbitration board  
25 decision (~~(or appeal to superior court, pursuant to RCW 19.118.100)~~).  
26 Upon acceptance by the consumer, the arbitration board decision shall  
27 become final. The consumer shall send written notification of  
28 acceptance or rejection to the (~~(arbitration board)~~) attorney general  
29 within sixty days of receiving the decision and the (~~(arbitration~~  
30 ~~board)~~) attorney general shall immediately deliver a copy of the  
31 consumer's acceptance to the manufacturer by certified mail, return  
32 receipt requested, electronic mail confirmed by an electronic notice of  
33 delivery status or similar confirmation, or by personal service.  
34 Failure of the consumer to respond to the (~~(arbitration board)~~)  
35 attorney general within sixty calendar days of receiving the decision  
36 shall be considered a rejection of the decision by the consumer.

37       (8) Where a consumer rejects an arbitration decision, the consumer  
38 may appeal to superior court pursuant to RCW 19.118.100. The consumer

1 shall have one hundred twenty calendar days from the date of rejection  
2 to file a petition of appeal in superior court. At the time the  
3 petition of appeal is filed, the consumer shall deliver, by certified  
4 mail or personal service, a conformed copy of such petition to the  
5 attorney general.

6 (9) Upon receipt of the consumer's acceptance, the manufacturer  
7 shall have forty calendar days to comply with the arbitration board  
8 decision or thirty calendar days to file a petition of appeal in  
9 superior court. At the time the petition of appeal is filed, the  
10 manufacturer shall deliver, by certified mail or personal service, a  
11 conformed copy of such petition to the attorney general. If the  
12 attorney general receives no notice of petition of appeal after forty  
13 calendar days, the attorney general shall contact the consumer to  
14 verify compliance.

15 **Sec. 7.** RCW 19.118.095 and 1995 c 254 s 8 are each amended to read  
16 as follows:

17 (1) Compliance with an arbitration board decision under this  
18 chapter must be accomplished at a time, place, and in a manner to be  
19 determined by the mutual agreement of the consumer and manufacturer.

20 (a) The consumer shall make the motor vehicle available to the  
21 manufacturer free of damage other than that related to any  
22 nonconformity, defect, or condition to which a warranty applied, or  
23 that can reasonably be expected in the use of the vehicle for ordinary  
24 or reasonably intended purposes and in consideration of the (~~mileage~~  
25 ~~attributable to the consumer's use~~) miles traveled by the vehicle.  
26 Any insurance claims or settlement proceeds for repair of damage to the  
27 vehicle due to fire, theft, vandalism, or collision must be assigned to  
28 the manufacturer or, at the consumer's option, the repair must be  
29 completed before return of the vehicle to the manufacturer.

30 The consumer may not remove any equipment or option that was  
31 included in the original purchase or lease of the vehicle or that is  
32 otherwise included in the repurchase or replacement award. In removing  
33 any equipment not included in the original purchase or lease, the  
34 consumer shall exercise reasonable care to avoid further damage to the  
35 vehicle but is not required to return the vehicle to original  
36 condition.



1 (b) At the time of compliance with an arbitration board decision  
2 that awards repurchase, the manufacturer shall make full payment to the  
3 consumers and either the lessor or lienholder, or both, or provide  
4 verification to the consumer of prior payment to either the lessor or  
5 lienholder, or both.

6 At the time of compliance with an arbitration board decision that  
7 awards replacement, the manufacturer shall provide the replacement  
8 vehicle together with any refund of incidental costs.

9 (c) At any time before compliance a party may request the (~~board~~)  
10 attorney general to resolve disputes regarding compliance with the  
11 arbitration board decision including but not limited to time and place  
12 for compliance, condition of the vehicle to be returned, clarification  
13 or recalculation of refund amounts under the award, or a determination  
14 if an offered vehicle is reasonably equivalent to the vehicle being  
15 replaced. The attorney general may resolve the dispute or refer  
16 compliance-related disputes to the board pursuant to RCW 19.118.160 for  
17 a compliance dispute hearing and decision. In resolving compliance  
18 disputes the attorney general or board may not review, alter, or  
19 otherwise change the findings of a decision or extend the time for  
20 compliance beyond the time necessary (~~for the board~~) to resolve the  
21 dispute.

22 (d) Failure of the consumer to make the vehicle available within  
23 sixty calendar days in response to a manufacturer's unconditional  
24 tender of compliance is considered a rejection of the arbitration  
25 decision by the consumer, except as provided in (c) of this subsection  
26 or subsection (2) of this section.

27 (2) If, at the end of the forty calendar day period, neither  
28 compliance with nor a petition to appeal the board's decision has  
29 occurred, the attorney general may impose a fine of up to one thousand  
30 dollars per day until compliance occurs or a maximum penalty of one  
31 hundred thousand dollars accrues unless the manufacturer can provide  
32 clear and convincing evidence that any delay or failure was beyond its  
33 control or was acceptable to the consumer as evidenced by a written  
34 statement signed by the consumer. If the manufacturer fails to provide  
35 the evidence or fails to pay the fine, the attorney general may  
36 initiate proceedings against the manufacturer for failure to pay any  
37 fine that accrues until compliance with the board's decision occurs or  
38 the maximum penalty of one hundred thousand dollars results. If the

1 attorney general prevails in an enforcement action regarding any fine  
2 imposed under this subsection, the attorney general is entitled to  
3 reasonable costs and attorneys' fees. Fines and recovered costs and  
4 fees shall be returned to the new motor vehicle arbitration account.

5 **Sec. 8.** RCW 19.118.120 and 1987 c 344 s 10 are each amended to  
6 read as follows:

7 The legislature finds that the practices covered by this chapter  
8 are matters vitally affecting the public interest for the purpose of  
9 applying the consumer protection act, chapter 19.86 RCW. A violation  
10 of this chapter (~~(shall constitute)~~) is not reasonable in relation to  
11 the development and preservation of business and is an unfair or  
12 deceptive (~~(trade practice affecting the public interest under)~~) act in  
13 trade or commerce and an unfair method of competition for the purpose  
14 of applying the consumer protection act, chapter 19.86 RCW. (~~(All~~  
15 ~~public and private remedies provided under that chapter shall be~~  
16 ~~available to enforce this chapter.)~~)

17 **Sec. 9.** RCW 19.118.160 and 1989 c 347 s 9 are each amended to read  
18 as follows:

19 If the attorney general is unable (~~(at any time)~~) to contract with  
20 (~~(private)~~) one or more entities to conduct arbitrations (~~(under the~~  
21 ~~procedures and standards in this chapter)~~), the attorney general shall  
22 establish (~~(one or more new motor vehicle)~~) an arbitration (~~(boards.~~  
23 ~~Each such board shall consist of three members appointed by the~~  
24 ~~attorney general, only one of whom may be directly involved in the~~  
25 ~~manufacture, distribution, sale, or service of any motor vehicle.~~  
26 ~~Board members shall be reimbursed for travel expenses in accordance~~  
27 ~~with RCW 43.03.050 and 43.03.060 and shall be compensated pursuant to~~  
28 ~~RCW 43.03.240)~~) program and conduct arbitrations under the procedures  
29 and standards established in this chapter.

30 NEW SECTION. **Sec. 10.** This act is remedial in nature and applies  
31 retroactively to the effective date of this act.

32 NEW SECTION. **Sec. 11.** If any provision of this act or its  
33 application to any person or circumstance is held invalid, the

1 remainder of the act or the application of the provision to other  
2 persons or circumstances is not affected.

Passed by the House April 18, 2009.

Passed by the Senate April 7, 2009.

Approved by the Governor May 6, 2009.

Filed in Office of Secretary of State May 8, 2009.