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**SUBSTITUTE SENATE BILL 5123**

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**State of Washington**

**53rd Legislature**

**1993 Regular Session**

**By** Senate Committee on Law & Justice (originally sponsored by Senators A. Smith and Rinehart)

Read first time 02/22/93.

1 AN ACT Relating to automobile manufacturers' adjustment programs;  
2 and adding a new chapter to Title 19 RCW.

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

4 NEW SECTION. **Sec. 1.** Unless the context clearly requires  
5 otherwise, the definitions in this section apply throughout this  
6 chapter.

7 (1) "Adjustment program" means a program or policy that expands or  
8 extends the consumer's warranty beyond its stated limit or under which  
9 a manufacturer offers to pay for all or a part of the cost of  
10 repairing, or to reimburse consumers for all or a part of the cost of  
11 repairing, a condition that may substantially affect vehicle  
12 durability, reliability, performance, or resale value other than  
13 service provided under a safety or emission-related recall campaign.  
14 "Adjustment program" does not include an adjustment made by a  
15 manufacturer in an isolated instance based on unique circumstances.

16 (2) "Consumer" means the purchaser, other than for purposes of  
17 resale, of a motor vehicle, a lessee of a motor vehicle, a person to  
18 whom the motor vehicle is transferred during the duration of an express

1 warranty applicable to the motor vehicle, and a person entitled by the  
2 terms of the warranty to enforce the obligations of the warranty.

3 (3) "Manufacturer" means a person engaged in the business of  
4 constructing or assembling new motor vehicles or engaged in the  
5 business of importing new motor vehicles into the United States for the  
6 purpose of selling or distributing new motor vehicles to new motor  
7 vehicle dealers.

8 (4) "New motor vehicle" means a new self-propelled vehicle,  
9 excluding a new motorcycle, primarily designed for the transportation  
10 of persons or property over the public highways that, after original  
11 retail purchase or lease in this state, was initially registered in  
12 this state or for which a temporary motor vehicle license was issued  
13 pursuant to RCW 46.16.460, but does not include vehicles purchased or  
14 leased by a business as part of a fleet of ten or more vehicles. If  
15 the motor vehicle is a motor home, this chapter shall apply to the  
16 self-propelled vehicle and chassis, but does not include those portions  
17 of the vehicle designated, used, or maintained primarily as a mobile  
18 dwelling, office, or commercial space. "New motor vehicle" does not  
19 include trucks with nineteen thousand pounds or more gross vehicle  
20 weight rating. "New motor vehicle" includes a demonstrator or lease-  
21 purchase vehicle as long as a manufacturer's warranty was issued as a  
22 condition of sale.

23 (5) "New motor vehicle dealer" means a person who holds a dealer  
24 agreement with a manufacturer for the sale of new motor vehicles, who  
25 is engaged in the business of purchasing, selling, servicing,  
26 exchanging, or dealing in new motor vehicles, and who is licensed as a  
27 dealer by the state of Washington.

28 (6) "Service bulletin" means a document or other communication  
29 issued by a manufacturer pertaining to: (a) An adjustment program; or  
30 (b) to a condition that may substantially affect vehicle durability,  
31 reliability, or performance.

32 NEW SECTION. **Sec. 2.** A manufacturer shall establish a procedure  
33 in this state whereby a consumer (1) is informed of an adjustment  
34 program applicable to the consumer's motor vehicle and (2) is entitled  
35 to receive a copy of a service bulletin or index thereof upon request.

36 NEW SECTION. **Sec. 3.** Within ninety days of the adoption of an  
37 adjustment program a manufacturer shall notify, by first class mail,

1 all consumers eligible under the program of the condition in the motor  
2 vehicle which is covered by an adjustment program and the principal  
3 terms and conditions of the adjustment program.

4 NEW SECTION. **Sec. 4.** Each manufacturer either directly or through  
5 its authorized agent shall provide the original purchaser of a new  
6 motor vehicle, at the time of purchase, a notice outlining the  
7 provisions of this chapter and the rights and remedies provided under  
8 this chapter. The written notice shall be deemed sufficient if done in  
9 substantially the following form:

10 "Sometimes (insert manufacturer's name) offers a special adjustment  
11 program to pay all or part of the cost of certain repairs beyond the  
12 terms of the warranty. Check with your new motor vehicle dealer to  
13 determine whether an adjustment program is applicable to your new motor  
14 vehicle."

15 NEW SECTION. **Sec. 5.** A dealer shall disclose to a consumer  
16 seeking repairs for a particular condition at its repair shop, the  
17 principal terms and conditions of the manufacturer's adjustment program  
18 covering the condition if the dealer has received a service bulletin  
19 concerning the adjustment program or otherwise has knowledge of it.

20 NEW SECTION. **Sec. 6.** A new motor vehicle dealer shall post in a  
21 prominent place on the business premises one or more signs, readily  
22 visible to customers, in the following form:

23 "CUSTOMER NOTICE OF ADJUSTMENT PROGRAMS  
24 MANUFACTURERS FROM TIME TO TIME ISSUE SERVICE BULLETINS FOR PARTICULAR  
25 VEHICLES. A SPECIAL ADJUSTMENT PROGRAM MAY PAY ALL OR PART OF THE COST  
26 OF CERTAIN REPAIRS BEYOND THE TERMS OF THE WARRANTY. CHECK WITH YOUR  
27 DEALER TO DETERMINE WHETHER AN ADJUSTMENT PROGRAM IS APPLICABLE TO YOUR  
28 VEHICLE."

29 NEW SECTION. **Sec. 7.** A manufacturer shall establish and maintain  
30 a toll-free telephone system. The system shall provide that after  
31 obtaining the consumer's name and address and the vehicle information  
32 as is deemed necessary by the manufacturer, the manufacturer's  
33 telephone representative shall: (1) Inform the consumer of the

1 existence of any adjustment program which may be applicable to the  
2 consumer's motor vehicle; and (2) advise the consumer that upon payment  
3 of the specified fee, if any, the consumer may obtain, by mail, a copy  
4 of service bulletins or an index thereof. The telephone representative  
5 shall furnish the consumer with the manufacturer's address to which  
6 requests for the service bulletins or index may be made.

7 NEW SECTION. **Sec. 8.** Manufacturers shall implement and follow  
8 procedures necessary to assure reimbursement of each consumer who is  
9 eligible under a particular adjustment program and who incurred  
10 expenses for repair of the condition subject to the program prior to  
11 acquiring knowledge of the program. The reimbursement shall be  
12 consistent with the terms and conditions of the particular program. A  
13 properly documented and complete claim for reimbursement under this  
14 chapter shall be made in writing to the manufacturer within two years  
15 of the date of the consumer's payment of repairs for the condition. If  
16 a claim is submitted which is not properly documented and complete, the  
17 two-year period shall be extended for a reasonable length of time  
18 necessary to document and complete the claim, but in no case beyond an  
19 additional sixty days. The manufacturer shall notify the consumer in  
20 writing within twenty-one business days of receiving a claim for  
21 reimbursement whether the claim will be allowed or denied. If the  
22 claim is denied, the specific reasons for the denial shall be stated in  
23 writing.

24 NEW SECTION. **Sec. 9.** The legislature finds that the practices  
25 covered by this chapter are matters vitally affecting the public  
26 interest for the purpose of applying the consumer protection act,  
27 chapter 19.86 RCW. Violations of this chapter are not reasonable in  
28 relation to the development and preservation of business. A violation  
29 of this chapter is an unfair or deceptive act in trade or commerce and  
30 an unfair method of competition for the purpose of applying the  
31 consumer protection act, chapter 19.86 RCW.

32 NEW SECTION. **Sec. 10.** Sections 1 through 9 of this act shall  
33 constitute a new chapter in Title 19 RCW.

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