

SHB 1215 - S COMM AMD

By Committee on Labor, Commerce & Consumer Protection

ADOPTED 04/07/2009

1 Strike everything after the enacting clause and insert the  
2 following:

3 "Sec. 1. RCW 19.118.021 and 2007 c 425 s 1 are each amended to  
4 read as follows:

5 Unless the context clearly requires otherwise, the definitions in  
6 this section apply throughout this chapter.

7 (1) "Board" means new motor vehicle arbitration board.

8 (2) "Collateral charges" means any sales or lease related charges  
9 including but not limited to sales tax, use tax, arbitration service  
10 fees, unused license fees, unused registration fees, unused title fees,  
11 finance charges, prepayment penalties, credit disability and credit  
12 life insurance costs not otherwise refundable, any other insurance  
13 costs prorated for time out of service, transportation charges, dealer  
14 preparation charges, or any other charges for service contracts,  
15 undercoating, rustproofing, or factory or dealer installed options.

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

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

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

28 (6) "Eligibility period" means the period ending two years after  
29 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 (7) "Incidental costs" means any reasonable expenses incurred by  
4 the consumer in connection with the repair of the new motor vehicle,  
5 including any towing charges and the costs of obtaining alternative  
6 transportation.

7 ~~((+7))~~ (8) "Manufacturer" means any person engaged in the business  
8 of constructing or assembling new motor vehicles or engaged in the  
9 business of importing new motor vehicles into the United States for the  
10 purpose of selling or distributing new motor vehicles to new motor  
11 vehicle dealers. "Manufacturer" includes to the extent the  
12 modification affects the use, value, or safety of a new motor vehicle,  
13 a postmanufacturing modifier of a new motor vehicle that modifies or  
14 has a modification done to a new motor vehicle before the initial  
15 retail sale or lease of a new motor vehicle, except as provided in this  
16 chapter. "Manufacturer" does not include any person engaged in the  
17 business of set-up of motorcycles as an agent of a new motor vehicle  
18 dealer if the person does not otherwise construct or assemble  
19 motorcycles.

20 ~~((+8))~~ (9) "Motorcycle" means any motorcycle as defined in RCW  
21 46.04.330 which has an engine displacement of at least seven hundred  
22 fifty cubic centimeters.

23 ~~((+9))~~ (10) "Motor home" means a vehicular unit designed to  
24 provide temporary living quarters for recreational, camping, or travel  
25 use, built on or permanently attached to a self-propelled motor vehicle  
26 chassis or on a chassis cab or van that is an integral part of the  
27 completed vehicle.

28 ~~((+10))~~ (11) "Motor home manufacturer" means the first stage  
29 manufacturer, the component manufacturer, and the final stage  
30 manufacturer.

31 (a) "First stage manufacturer" means a person who manufactures  
32 incomplete new motor vehicles such as chassis, chassis cabs, or vans,  
33 that are directly warranted by the first stage manufacturer to the  
34 consumer, and are completed by a final stage manufacturer into a motor  
35 home.

36 (b) "Component manufacturer" means a person who manufactures  
37 components used in the manufacture or assembly of a chassis, chassis

1 cab, or van that is completed into a motor home and whose components  
2 are directly warranted by the component manufacturer to the consumer.

3 (c) "Final stage manufacturer" means a person who assembles,  
4 installs, or permanently affixes a body, cab, or equipment to an  
5 incomplete new motor vehicle such as a chassis, chassis cab, or van  
6 provided by a first stage manufacturer, to complete the vehicle into a  
7 motor home.

8 ~~((+11))~~ (12) "New motor vehicle" means any new self-propelled  
9 vehicle, including a new motorcycle, primarily designed for the  
10 transportation of persons or property over the public highways that was  
11 originally purchased or leased at retail from a new motor vehicle  
12 dealer or leasing company in this state, but does not include vehicles  
13 purchased or leased by a business as part of a fleet of ten or more  
14 vehicles at one time or under a single purchase or lease agreement.  
15 This chapter shall apply to a motor vehicle purchased or leased with a  
16 manufacturer written warranty by a member of the armed forces  
17 regardless of in which state the vehicle was purchased or leased, if  
18 the vehicle otherwise meets the definition of a new motor vehicle and  
19 the consumer is a member of the armed forces stationed or residing in  
20 this state at the time the consumer submits a request for arbitration  
21 to the attorney general. If the motor vehicle is a motor home, this  
22 chapter shall apply to the self-propelled vehicle and chassis, but does  
23 not include those portions of the vehicle designated, used, or  
24 maintained primarily as a mobile dwelling, office, or commercial space.  
25 The term "new motor vehicle" does not include trucks with nineteen  
26 thousand pounds or more gross vehicle weight rating. The term "new  
27 motor vehicle" includes a demonstrator or lease-purchase vehicle as  
28 long as a manufacturer's warranty was issued as a condition of sale.

29 ~~((+12))~~ (13) "New motor vehicle dealer" means a person who holds  
30 a dealer agreement with a manufacturer for the sale of new motor  
31 vehicles, who is engaged in the business of purchasing, selling,  
32 servicing, exchanging, or dealing in new motor vehicles, and who is  
33 licensed or required to be licensed as a vehicle dealer by the state of  
34 Washington.

35 ~~((+13))~~ (14) "Nonconformity" means a defect, serious safety  
36 defect, or condition that substantially impairs the use, value, or  
37 safety of a new motor vehicle, but does not include a defect or

1 condition that is the result of abuse, neglect, or unauthorized  
2 modification or alteration of the new motor vehicle.

3 ~~((+14))~~ (15) "Purchase price" means the cash price of the new  
4 motor vehicle appearing in the sales agreement or contract.

5 (a) "Purchase price" in the instance of a lease means the actual  
6 written capitalized cost disclosed to the consumer contained in the  
7 lease agreement. If there is no disclosed capitalized cost in the  
8 lease agreement the "purchase price" is the manufacturer's suggested  
9 retail price including manufacturer installed accessories or items of  
10 optional equipment displayed on the manufacturer label, required by 15  
11 U.S.C. Sec. 1232.

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

17 Where the consumer is a subsequent transferee and the consumer  
18 selects repurchase of the motor vehicle, "purchase price" means the  
19 consumer's subsequent purchase price. Where the consumer is a  
20 subsequent transferee and the consumer selects replacement of the motor  
21 vehicle, "purchase price" means the original purchase price.

22 ~~((+15))~~ (16) "Reasonable offset for use" means the definition  
23 provided in RCW 19.118.041(1)(c) ~~((for a new motor vehicle other than  
24 a new motorcycle. The reasonable offset for use for a new motorcycle  
25 shall be computed by the number of miles that the vehicle traveled  
26 before the manufacturer's acceptance of the vehicle upon repurchase or  
27 replacement multiplied by the purchase price, and divided by twenty-  
28 five thousand))~~.

29 ~~((+16))~~ (17) "Reasonable number of attempts" means the definition  
30 provided in RCW 19.118.041.

31 ~~((+17))~~ (18) "Replacement motor vehicle" means a new motor vehicle  
32 that is identical or reasonably equivalent to the motor vehicle to be  
33 replaced, as the motor vehicle to be replaced existed at the time of  
34 original purchase or lease, including any service contract,  
35 undercoating, rustproofing, and factory or dealer installed options.

36 ~~((+18))~~ (19) "Serious safety defect" means a life-threatening  
37 malfunction or nonconformity that impedes the consumer's ability to

1 control or operate the new motor vehicle for ordinary use or reasonable  
2 intended purposes or creates a risk of fire or explosion.

3 ~~((+19))~~ (20) "Subsequent transferee" means a consumer who acquires  
4 a motor vehicle, within the ~~((warranty))~~ eligibility period, as defined  
5 in this section, with an applicable manufacturer's written warranty and  
6 where the vehicle otherwise met the definition of a new motor vehicle  
7 at the time of original retail sale or lease.

8 ~~((+20))~~ (21) "Substantially impair" means to render the new motor  
9 vehicle unreliable, or unsafe for ordinary use, or to diminish the  
10 resale value of the new motor vehicle below the average resale value  
11 for comparable motor vehicles.

12 ~~((+21))~~ (22) "Warranty" means any implied warranty, any written  
13 warranty of the manufacturer, or any affirmation of fact or promise  
14 made by the manufacturer in connection with the sale of a new motor  
15 vehicle that becomes part of the basis of the bargain. The term  
16 "warranty" pertains to the obligations of the manufacturer in relation  
17 to materials, workmanship, a modification by a new motor vehicle dealer  
18 installing the new motor vehicle manufacturer's authorized parts or  
19 their equivalent for the specific new motor vehicle pursuant to the  
20 manufacturer approved specifications, and fitness of a new motor  
21 vehicle for ordinary use or reasonably intended purposes throughout the  
22 duration of the ~~((warranty))~~ eligibility period as defined under this  
23 section.

24 ~~((+22) "Warranty period" means the period ending two years after~~  
25 ~~the date of the original delivery to the consumer of a new motor~~  
26 ~~vehicle, or the first twenty four thousand miles of operation,~~  
27 ~~whichever occurs first.))~~

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

30 (1) The manufacturer shall publish an owner's manual and provide it  
31 to the new motor vehicle dealer or leasing company. The owner's manual  
32 shall include a list of the addresses and phone numbers for the  
33 manufacturer's customer assistance division, or zone or regional  
34 offices. A manufacturer shall provide to the new motor vehicle dealer  
35 or leasing company all applicable manufacturer's written warranties.  
36 The dealer or leasing company shall transfer to the consumer, at the

1 time of original retail sale or lease, the owner's manual and  
2 applicable written warranties as provided by a manufacturer.

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

23 (3) For the purposes of this chapter, if a new motor vehicle does  
24 not conform to the warranty and the consumer reports the nonconformity  
25 during the term of the ((warranty)) eligibility period or the period of  
26 coverage of the applicable manufacturer's written warranty, whichever  
27 is less, to the manufacturer, its agent, or the new motor vehicle  
28 dealer who sold the new motor vehicle, the manufacturer, its agent, or  
29 the new motor vehicle dealer shall make repairs as are necessary to  
30 conform the vehicle to the warranty, regardless of whether such repairs  
31 are made after the expiration of the ((warranty)) eligibility period.  
32 Any corrections or attempted repairs undertaken by a new motor vehicle  
33 dealer under this chapter shall be treated as warranty work and billed  
34 by the dealer to the manufacturer in the same manner as other work  
35 under the manufacturer's written warranty is billed. For purposes of  
36 this subsection, the manufacturer's written warranty shall be at least  
37 one year after the date of the original delivery to the consumer of the

1 vehicle or the first twelve thousand miles of operation, whichever  
2 occurs first.

3 (4) Upon request from the consumer, the manufacturer or new motor  
4 vehicle dealer shall provide a copy of any report or computer reading  
5 compiled by the manufacturer's field or zone representative regarding  
6 inspection, diagnosis, or test-drive of the consumer's new motor  
7 vehicle, or shall provide a copy of any technical service bulletin  
8 issued by the manufacturer regarding the year and model of the  
9 consumer's new motor vehicle as it pertains to any material, feature,  
10 component, or the performance thereof.

11 (5) The new motor vehicle dealer shall provide to the consumer each  
12 time the consumer's vehicle is returned from being diagnosed or  
13 repaired under the warranty, a fully itemized, legible statement or  
14 repair order indicating any diagnosis made, and all work performed on  
15 the vehicle including but not limited to, a general description of the  
16 problem reported by the consumer or an identification of the defect or  
17 condition, parts and labor, the date and the odometer reading when the  
18 vehicle was submitted for repair, and the date when the vehicle was  
19 made available to the consumer.

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

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

26 (8) The (~~warranty~~) eligibility period and thirty-day out-of-  
27 service period, and sixty-day out-of-service period in the case of a  
28 motor home, shall be extended by any time that repair services are not  
29 available to the consumer as a direct result of a strike, war,  
30 invasion, fire, flood, or other natural disaster.

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

33 (1) If the manufacturer, its agent, or the new motor vehicle dealer  
34 is unable to conform the new motor vehicle to the warranty by repairing  
35 or correcting any nonconformity after a reasonable number of attempts,  
36 the manufacturer, within forty calendar days of a consumer's written

1 request to the manufacturer's corporate, dispute resolution, zone, or  
2 regional office address shall, at the option of the consumer, replace  
3 or repurchase the new motor vehicle.

4 (a) The replacement motor vehicle shall be identical or reasonably  
5 equivalent to the motor vehicle to be replaced as the motor vehicle to  
6 be replaced existed at the time of original purchase or lease,  
7 including any service contract, undercoating, rustproofing, and factory  
8 or dealer installed options. Where the manufacturer supplies a  
9 replacement motor vehicle, the manufacturer shall be responsible for  
10 sales tax, license, registration fees, and refund of any incidental  
11 costs. Compensation for a reasonable offset for use shall be paid by  
12 the consumer to the manufacturer in the event that the consumer accepts  
13 a replacement motor vehicle.

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

27 (c) The reasonable offset for use shall be computed by multiplying  
28 the number of miles that the vehicle traveled directly attributable to  
29 use by the consumer during the time between the original purchase,  
30 lease, or in-service date and the date beginning the first attempt to  
31 diagnose or repair a nonconformity which ultimately results in the  
32 repurchase or replacement of the vehicle multiplied times the purchase  
33 price, and dividing the product by one hundred twenty thousand, except  
34 in the case of a motor home, in which event it shall be divided by  
35 ninety thousand or in the case of a motorcycle, it shall be divided by  
36 twenty-five thousand. However, the reasonable offset for use  
37 calculation total for a motor home is subject to modification by the  
38 board by decreasing or increasing the offset total up to a maximum of

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

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

10 (2) Reasonable number of attempts, except in the case of a new  
11 motor vehicle that is a motor home (~~acquired after June 30, 1998~~),  
12 shall be deemed to have been undertaken by the manufacturer, its agent,  
13 or the new motor vehicle dealer to conform the new motor vehicle to the  
14 warranty within the (~~warranty~~) eligibility period, if: (a) The same  
15 serious safety defect has been subject to diagnosis or repair two or  
16 more times, at least one of which is during the period of coverage of  
17 the applicable manufacturer's written warranty, and the serious safety  
18 defect continues to exist; (b) the same nonconformity has been subject  
19 to diagnosis or repair four or more times, at least one of which is  
20 during the period of coverage of the applicable manufacturer's written  
21 warranty, and the nonconformity continues to exist; (~~or~~) (c) the  
22 vehicle is out of service by reason of diagnosis or repair of one or  
23 more nonconformities for a cumulative total of thirty calendar days, at  
24 least fifteen of them during the period of the applicable  
25 manufacturer's written warranty; or (d) within a twelve-month period,  
26 two or more different serious safety defects, each of which have been  
27 subject to diagnosis or repair one or more times, where at least one  
28 attempt for each serious safety defect occurs during the period of  
29 coverage of the applicable manufacturer's written warranty and within  
30 the eligibility period. For purposes of this subsection, the  
31 manufacturer's written warranty shall be at least one year after the  
32 date of the original delivery to the consumer of the vehicle or the  
33 first twelve thousand miles of operation, whichever occurs first. A  
34 new motor vehicle is deemed to have been "subject to diagnose or  
35 repair" when a consumer presents the new motor vehicle for warranty  
36 service at a service and repair facility authorized, designated, or  
37 maintained by a manufacturer to provide warranty services or a facility  
38 to which the manufacturer or an authorized facility has directed the

1 consumer to obtain warranty service. A new motor vehicle has not been  
2 "subject to diagnose or repair" if the consumer refuses to allow the  
3 facility to attempt or complete a recommended warranty repair, or  
4 demands return of the vehicle to the consumer before an attempt to  
5 diagnose or repair can be completed.

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

1 motor home manufacturers, their respective agents, or their respective  
2 new motor vehicle dealers an opportunity to coordinate and complete a  
3 comprehensive safety evaluation of the motor home. Notice of the  
4 manifestation of one or more serious safety defects should be made by  
5 the consumer as a unique notice to the manufacturers. The notice may  
6 be met by any written notification under this subsection of the need to  
7 repair a defect or condition identified by the consumer as relating to  
8 the safety of the motor home with or without a consumer's specific  
9 reference to whether the defect is a serious safety defect. Any notice  
10 of the manifestation of one or more serious safety defects shall be  
11 considered by a manufacturer as a consumer's request for a safety  
12 evaluation of the motor home. If the manufacturer, at its option,  
13 performs a safety evaluation, the manufacturers must provide a written  
14 report to the consumer of the evaluation of the motor home's safety in  
15 a timely manner. For purposes of this subsection, each motor home  
16 manufacturer's written warranty must be at least one year after the  
17 date of the original delivery to the consumer of the vehicle or the  
18 first twelve thousand miles of operation, whichever occurs first.

19 (b) In the case of a new motor vehicle that is a motor home, after  
20 one attempt has been made to repair a serious safety defect, or after  
21 three attempts have been made to repair the same nonconformity, the  
22 consumer shall give written notification of the need to repair the  
23 nonconformity to each of the motor home manufacturers at their  
24 respective corporate, zone, or regional office addresses to allow the  
25 motor home manufacturers to coordinate and complete a final attempt to  
26 cure the nonconformity. The motor home manufacturers each have fifteen  
27 days, commencing upon receipt of ((the)) a notification under this  
28 subsection (3)(b), to respond and inform the consumer of the location  
29 of the facility where the vehicle will be repaired or evaluated. If  
30 the vehicle is unsafe to drive due to a serious safety defect, or to  
31 the extent the repair facility is more than one hundred miles from the  
32 motor home location, the motor home manufacturers are responsible for  
33 the cost of transporting the vehicle to and from the repair facility.  
34 The motor home manufacturers have a cumulative total of thirty days,  
35 commencing upon delivery of the vehicle to the designated repair  
36 facility by the consumer, to conform the vehicle to the applicable  
37 motor home manufacturer's written warranty. This time period may be  
38 extended if the consumer agrees in writing. If a motor home

1 manufacturer fails to respond to the consumer or perform the repairs  
2 within the time period prescribed, that motor home manufacturer is not  
3 entitled to a final attempt to cure the nonconformity.

4 (c) In the case of a new motor vehicle that is a motor home, if the  
5 vehicle is out of service by reason of diagnosis or repair of one or  
6 more nonconformities, including any safety evaluation, by the motor  
7 home manufacturers, their respective agents, or their respective new  
8 motor vehicle dealers for a cumulative total of thirty or more days  
9 aggregating all motor home manufacturer days out of service, the  
10 consumer shall so notify each motor home manufacturer in writing at  
11 their respective corporate, zone, or regional office addresses to allow  
12 the motor home manufacturers, their respective agents, or their  
13 respective new motor vehicle dealers an opportunity to coordinate and  
14 complete an inspection and any repairs of the vehicle's  
15 nonconformities. The motor home manufacturers have fifteen days,  
16 commencing upon receipt of the notification, to respond and inform the  
17 consumer of the location of the facility where the vehicle will be  
18 repaired or evaluated. If the vehicle is unsafe to drive due to a  
19 serious safety defect, or to the extent the repair facility is more  
20 than one hundred miles from the motor home location, the motor home  
21 manufacturers are responsible for the cost of transporting the vehicle  
22 to and from the repair facility. Once the buyer delivers the vehicle  
23 to the designated repair facility, the inspection and repairs must be  
24 completed by the motor home manufacturers either (i) within ten days or  
25 (ii) before the vehicle is out of service by reason of diagnosis or  
26 repair of one or more nonconformities for sixty days, whichever time  
27 period is longer. This time period may be extended if the consumer  
28 agrees in writing. If a motor home manufacturer fails to respond to  
29 the consumer or perform the repairs within the time period prescribed,  
30 that motor home manufacturer is not entitled to at least one  
31 opportunity to inspect and repair the vehicle's nonconformities after  
32 receipt of notification from the buyer as provided for in this  
33 subsection (3)(c).

34 (4) No new motor vehicle dealer may be held liable by the  
35 manufacturer for any collateral charges, incidental costs, purchase  
36 price refunds, or vehicle replacements. Manufacturers shall not have  
37 a cause of action against dealers under this chapter. (~~Consumers~~  
38 ~~shall not have a cause of action against dealers under this chapter,~~

1 ~~but a violation of any responsibilities imposed upon dealers under this~~  
2 ~~chapter is a per se violation of chapter 19.86 RCW.))~~ A violation of  
3 any responsibilities expressly imposed upon dealers under this chapter  
4 is a per se violation of chapter 19.86 RCW. Except in the limited  
5 circumstances of a dealer becoming a manufacturer due to a  
6 postmanufacturing modification of a new motor vehicle as defined in RCW  
7 19.118.021(8), consumers shall not have a cause of action against  
8 dealers under this chapter. Consumers may pursue rights and remedies  
9 against dealers under any other law, including chapters 46.70 and 46.71  
10 RCW. Manufacturers and consumers may not make dealers parties to  
11 arbitration board proceedings under this chapter.

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

14 (1) A manufacturer shall be prohibited from reselling any motor  
15 vehicle determined or adjudicated as having a serious safety defect  
16 unless the serious safety defect has been corrected and the  
17 manufacturer warrants upon the first subsequent resale that the defect  
18 has been corrected.

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

25 (a) Notify the attorney general (~~((and the department of licensing,~~  
26 ~~by certified mail or by personal service,))~~) upon receipt of the motor  
27 vehicle and submit a title application to the department of licensing  
28 in this state for title to the motor vehicle in the name of the  
29 manufacturer within sixty days;

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

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

36 (3) Upon the first subsequent resale, either at wholesale or  
37 retail, or transfer of title of a motor vehicle and which was

1 previously returned after a final determination, adjudication, or  
2 settlement under this chapter or under a similar statute of any other  
3 state, the manufacturer, its agent, or the new motor vehicle dealer who  
4 has actual knowledge of said final determination, adjudication or  
5 settlement, shall execute and deliver to the buyer before sale an  
6 instrument in writing setting forth information identifying the  
7 nonconformity in a manner to be specified by the attorney general, and  
8 the department of licensing shall place on the certificate of title  
9 information indicating the vehicle was returned under this chapter.

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

26 (5) After repurchase or replacement and following a manufacturer's  
27 receipt of a vehicle under this section and prior to a vehicle's first  
28 subsequent retail transfer by resale or lease, any intervening  
29 transferor of a vehicle subject to the requirements of this section who  
30 has received the disclosure, correction and warranty documents, as  
31 specified by the attorney general and required under this chapter,  
32 shall deliver the documents with the vehicle to the next transferor,  
33 purchaser or lessee to ensure proper and timely notice and disclosure.  
34 Any intervening transferor who fails to comply with this subsection  
35 shall, at the option of the subsequent transferor or first subsequent  
36 retail purchaser or lessee: (a) Indemnify any subsequent transferor or  
37 first subsequent retail purchaser for all damages caused by such

1 violation; or (b) repurchase the vehicle at the full purchase price  
2 including all fees, taxes and costs incurred for goods and services  
3 which were included in the subsequent transaction.

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

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

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

24 (a) At all arbitration proceedings, the parties are entitled to  
25 present oral and written testimony, to present witnesses and evidence  
26 relevant to the dispute, to cross-examine witnesses, and to be  
27 represented by counsel.

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

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

1           If a party fails to comply with the subpoena, the arbitrator may at  
2 the outset of the arbitration hearing impose any of the following  
3 sanctions: (i) Find that the matters which were the subject of the  
4 subpoena, or any other designated facts, shall be taken to be  
5 established for purposes of the hearing in accordance with the claim of  
6 the party which requested the subpoena; (ii) refuse to allow the  
7 disobedient party to support or oppose the designated claims or  
8 defenses, or prohibit that party from introducing designated matters  
9 into evidence; (iii) strike claims or defenses, or parts thereof; or  
10 (iv) render a decision by default against the disobedient party.

11           If a nonparty fails to comply with a subpoena and upon an  
12 arbitrator finding that without such compliance there is insufficient  
13 evidence to render a decision in the dispute, the attorney general  
14 (~~shall~~) may enforce such subpoena in superior court and the  
15 arbitrator shall continue the arbitration hearing until such time as  
16 the nonparty complies with the subpoena or the subpoena is quashed.

17           (c) A party may obtain written affidavits from employees and agents  
18 of a dealer, a manufacturer or other party, or from other potential  
19 witnesses, and may submit such affidavits for consideration by the  
20 board.

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

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

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

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

32           (5) The attorney general shall compile aggregate annual statistics  
33 for all disputes submitted to, and decided by, the new motor vehicle  
34 arbitration board, as well as annual statistics for each manufacturer  
35 that include, but shall not be limited to, the number and percent of:  
36 (a) Replacement motor vehicle requests; (b) purchase price refund  
37 requests; (c) replacement motor vehicles obtained in prehearing  
38 settlements; (d) purchase price refunds obtained in prehearing

1 settlements; (e) replacement motor vehicles awarded in arbitration; (f)  
2 purchase price refunds awarded in arbitration; (g) board decisions  
3 neither complied with during the forty calendar day period nor  
4 petitioned for appeal within the thirty calendar day period; (h) board  
5 decisions appealed categorized by consumer or manufacturer; (i) the  
6 nature of the court decisions and who the prevailing party was; (j)  
7 appeals that were held by the court to be brought without good cause;  
8 and (k) appeals that were held by the court to be brought solely for  
9 the purpose of harassment. The statistical compilations shall be  
10 public information.

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

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

19 (b) A board shall find that a reasonable number of attempts to  
20 repair a nonconformity have been undertaken if(~~(i) The same serious~~  
21 ~~safety defect has been subject to diagnosis or repair two or more~~  
22 ~~times, at least one of which is during the period of coverage of the~~  
23 ~~applicable manufacturer's written warranty, and the serious safety~~  
24 ~~defect continues to exist; (ii) the same nonconformity has been subject~~  
25 ~~to diagnosis or repair four or more times, at least one of which is~~  
26 ~~during the period of coverage of the applicable manufacturer's written~~  
27 ~~warranty, and the nonconformity continues to exist; or (iii) the~~  
28 ~~vehicle is out of service by reason of diagnosis or repair of one or~~  
29 ~~more nonconformities for a cumulative total of thirty calendar days, at~~  
30 ~~least fifteen of them during the period of the applicable~~  
31 ~~manufacturer's written warranty. For purposes of this subsection, the~~  
32 ~~manufacturer's written warranty shall be at least one year after the~~  
33 ~~date of the original delivery to the consumer of the vehicle or the~~  
34 ~~first twelve thousand miles of operation, whichever occurs first)) the  
35 history of attempts to diagnose or repair defects or conditions in the  
36 new motor vehicle meets or exceeds those identified in RCW 19.118.041.~~

37 (c) A board shall find that a manufacturer has failed to comply  
38 with RCW 19.118.041 if it finds that the manufacturer, its agent, or

1 the new motor vehicle dealer has failed to correct a nonconformity  
2 after a reasonable number of attempts and the manufacturer has failed,  
3 within forty days of the consumer's written request, to repurchase the  
4 vehicle or replace the vehicle with a vehicle identical or reasonably  
5 equivalent to the vehicle being replaced.

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

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

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

29 (2) After a dispute is accepted, the attorney general shall assign  
30 the dispute to the board. From the date the consumer's request for  
31 arbitration is assigned by the attorney general, the board shall have  
32 forty-five calendar days to have an arbitrator hear the dispute and  
33 sixty days for the board to submit a decision to the attorney general.  
34 If the board determines that additional information is necessary to  
35 make a fair and reasoned decision, the arbitrator may continue the  
36 arbitration proceeding on a subsequent date within ten calendar days of  
37 the initial hearing. The board may require a party to submit

1 additional information or request that the attorney general issue a  
2 subpoena to a nonparty for documents and records for a continued  
3 hearing.

4 ((+2)) (3) Manufacturers shall submit to arbitration if such  
5 arbitration is requested by the consumer within thirty months from the  
6 date of the original delivery of the new motor vehicle to a consumer at  
7 retail and if the consumer's dispute is ((deemed eligible)) accepted  
8 for arbitration by the ((board)) attorney general. In the case of a  
9 motor home, the thirty-month period will be extended by the amount of  
10 time it takes the motor home manufacturers to complete the final repair  
11 attempt at the designated repair facility as provided for in RCW  
12 19.118.041(3)(b).

13 ((3) The new motor vehicle arbitration board may reject for  
14 arbitration any dispute that it determines to be frivolous, fraudulent,  
15 filed in bad faith, res judicata or beyond its authority. Any dispute  
16 deemed by the board to be ineligible for arbitration due to  
17 insufficient evidence may be reconsidered by the board upon the  
18 submission of other information or documents regarding the dispute that  
19 would allegedly qualify for relief under this chapter. Following a  
20 second review, the board may reject the dispute for arbitration if  
21 evidence is still clearly insufficient to qualify the dispute for  
22 relief under this chapter. A rejection by the board is subject to  
23 review by the attorney general or may be appealed under RCW 19.118.100.

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

27 (4) The manufacturer shall complete a written manufacturer response  
28 to the consumer's request for arbitration. The manufacturer shall  
29 provide a response to the consumer and the ((board)) attorney general  
30 within ten calendar days from the date of the manufacturer's receipt of  
31 ((the board's)) notice of ((acceptance)) the attorney general's  
32 assignment of a dispute for arbitration. The manufacturer response  
33 shall include all issues and affirmative defenses related to the  
34 nonconformities identified in the consumer's request for arbitration  
35 that the manufacturer intends to raise at the arbitration hearing.

36 (5) ((The arbitration board shall award the remedies under RCW  
37 19.118.041 if it finds a nonconformity and that a reasonable number of  
38 attempts have been undertaken to correct the nonconformity. The board

1 shall award reasonable costs and attorneys' fees incurred by the  
2 consumer where the manufacturer has been directly represented by  
3 counsel: (a) In dealings with the consumer in response to a request to  
4 repurchase or replace under RCW 19.118.041; (b) in settlement  
5 negotiations; (c) in preparation of the manufacturer's statement; or  
6 (d) at an arbitration board hearing or other board proceeding.

7 In the case of an arbitration involving a motor home, the board may  
8 allocate liability among the motor home manufacturers.

9 (6) It is an affirmative defense to any claim under this chapter  
10 that: (a) The alleged nonconformity does not substantially impair the  
11 use, value, or safety of the new motor vehicle; or (b) the alleged  
12 nonconformity is the result of abuse, neglect, or unauthorized  
13 modifications or alterations of the new motor vehicle.

14 (7) The board shall have forty five calendar days from the date the  
15 board receives the consumer's request for arbitration to hear the  
16 dispute. If the board determines that additional information is  
17 necessary, the board may continue the arbitration proceeding on a  
18 subsequent date within ten calendar days of the initial hearing. The  
19 board shall decide the dispute within sixty calendar days from the date  
20 the board receives the consumer's request for arbitration.) It is an  
21 affirmative defense to any claim under this chapter that: (a) The  
22 alleged nonconformity does not substantially impair the use, value, or  
23 safety of the new motor vehicle; or (b) the alleged nonconformity is  
24 the result of abuse, neglect, or unauthorized modifications or  
25 alterations of the new motor vehicle.

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

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

34 (b) If the board awards remedies under this chapter after a finding  
35 is made pursuant to RCW 19.118.041 that one or more nonconformities  
36 have been subject to a reasonable number of attempts, the board shall  
37 award reasonable costs and attorneys' fees incurred by the consumer  
38 where the manufacturer has been directly represented by counsel: (i)

1 In dealings with the consumer in response to a request to repurchase or  
2 replace under RCW 19.118.041; (ii) in settlement negotiations; (iii) in  
3 preparation of the manufacturer's statement; or (iv) at an arbitration  
4 hearing or other arbitration proceeding. In the case of an arbitration  
5 involving a motor home, the board may allocate liability among the  
6 motor home manufacturers.

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

11 (7) The consumer may accept or reject the arbitration board  
12 decision ((or appeal to superior court, pursuant to RCW 19.118.100)).  
13 Upon acceptance by the consumer, the arbitration board decision shall  
14 become final. The consumer shall send written notification of  
15 acceptance or rejection to the ((arbitration board)) attorney general  
16 within sixty days of receiving the decision and the ((arbitration  
17 board)) attorney general shall immediately deliver a copy of the  
18 consumer's acceptance to the manufacturer by certified mail, return  
19 receipt requested, electronic mail confirmed by an electronic notice of  
20 delivery status or similar confirmation, or by personal service.  
21 Failure of the consumer to respond to the ((arbitration board))  
22 attorney general within sixty calendar days of receiving the decision  
23 shall be considered a rejection of the decision by the consumer.

24 (8) Where a consumer rejects an arbitration decision, the consumer  
25 may appeal to superior court pursuant to RCW 19.118.100. The consumer  
26 shall have one hundred twenty calendar days from the date of rejection  
27 to file a petition of appeal in superior court. At the time the  
28 petition of appeal is filed, the consumer shall deliver, by certified  
29 mail or personal service, a conformed copy of such petition to the  
30 attorney general.

31 (9) Upon receipt of the consumer's acceptance, the manufacturer  
32 shall have forty calendar days to comply with the arbitration board  
33 decision or thirty calendar days to file a petition of appeal in  
34 superior court. At the time the petition of appeal is filed, the  
35 manufacturer shall deliver, by certified mail or personal service, a  
36 conformed copy of such petition to the attorney general. If the  
37 attorney general receives no notice of petition of appeal after forty

1 calendar days, the attorney general shall contact the consumer to  
2 verify compliance.

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

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

8 (a) The consumer shall make the motor vehicle available to the  
9 manufacturer free of damage other than that related to any  
10 nonconformity, defect, or condition to which a warranty applied, or  
11 that can reasonably be expected in the use of the vehicle for ordinary  
12 or reasonably intended purposes and in consideration of the (~~mileage~~  
13 ~~attributable to the consumer's use~~) miles traveled by the vehicle.  
14 Any insurance claims or settlement proceeds for repair of damage to the  
15 vehicle due to fire, theft, vandalism, or collision must be assigned to  
16 the manufacturer or, at the consumer's option, the repair must be  
17 completed before return of the vehicle to the manufacturer.

18 The consumer may not remove any equipment or option that was  
19 included in the original purchase or lease of the vehicle or that is  
20 otherwise included in the repurchase or replacement award. In removing  
21 any equipment not included in the original purchase or lease, the  
22 consumer shall exercise reasonable care to avoid further damage to the  
23 vehicle but is not required to return the vehicle to original  
24 condition.

25 (b) At the time of compliance with an arbitration board decision  
26 that awards repurchase, the manufacturer shall make full payment to the  
27 consumers and either the lessor or lienholder, or both, or provide  
28 verification to the consumer of prior payment to either the lessor or  
29 lienholder, or both.

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

33 (c) At any time before compliance a party may request the (~~board~~)  
34 attorney general to resolve disputes regarding compliance with the  
35 arbitration board decision including but not limited to time and place  
36 for compliance, condition of the vehicle to be returned, clarification  
37 or recalculation of refund amounts under the award, or a determination

1 if an offered vehicle is reasonably equivalent to the vehicle being  
2 replaced. The attorney general may resolve the dispute or refer  
3 compliance-related disputes to the board pursuant to RCW 19.118.160 for  
4 a compliance dispute hearing and decision. In resolving compliance  
5 disputes the attorney general or board may not review, alter, or  
6 otherwise change the findings of a decision or extend the time for  
7 compliance beyond the time necessary (~~for the board~~) to resolve the  
8 dispute.

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

14 (2) If, at the end of the forty calendar day period, neither  
15 compliance with nor a petition to appeal the board's decision has  
16 occurred, the attorney general may impose a fine of up to one thousand  
17 dollars per day until compliance occurs or a maximum penalty of one  
18 hundred thousand dollars accrues unless the manufacturer can provide  
19 clear and convincing evidence that any delay or failure was beyond its  
20 control or was acceptable to the consumer as evidenced by a written  
21 statement signed by the consumer. If the manufacturer fails to provide  
22 the evidence or fails to pay the fine, the attorney general may  
23 initiate proceedings against the manufacturer for failure to pay any  
24 fine that accrues until compliance with the board's decision occurs or  
25 the maximum penalty of one hundred thousand dollars results. If the  
26 attorney general prevails in an enforcement action regarding any fine  
27 imposed under this subsection, the attorney general is entitled to  
28 reasonable costs and attorneys' fees. Fines and recovered costs and  
29 fees shall be returned to the new motor vehicle arbitration account.

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

32 The legislature finds that the practices covered by this chapter  
33 are matters vitally affecting the public interest for the purpose of  
34 applying the consumer protection act, chapter 19.86 RCW. A violation  
35 of this chapter (~~shall constitute~~) is not reasonable in relation to  
36 the development and preservation of business and is an unfair or  
37 deceptive (~~trade practice affecting the public interest under~~) act in

1 trade or commerce and an unfair method of competition for the purpose  
2 of applying the consumer protection act, chapter 19.86 RCW. ((All  
3 public and private remedies provided under that chapter shall be  
4 available to enforce this chapter.))

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

7 If the attorney general is unable ((~~at any time~~)) to contract with  
8 ((~~private~~)) one or more entities to conduct arbitrations ((~~under the~~  
9 ~~procedures and standards in this chapter~~)), the attorney general shall  
10 establish ((~~one or more new motor vehicle~~)) an arbitration ((~~boards.~~  
11 ~~Each such board shall consist of three members appointed by the~~  
12 ~~attorney general, only one of whom may be directly involved in the~~  
13 ~~manufacture, distribution, sale, or service of any motor vehicle.~~  
14 ~~Board members shall be reimbursed for travel expenses in accordance~~  
15 ~~with RCW 43.03.050 and 43.03.060 and shall be compensated pursuant to~~  
16 ~~RCW 43.03.240~~)) program and conduct arbitrations under the procedures  
17 and standards established in this chapter.

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

20 NEW SECTION. **Sec. 11.** If any provision of this act or its  
21 application to any person or circumstance is held invalid, the  
22 remainder of the act or the application of the provision to other  
23 persons or circumstances is not affected."

**SHB 1215** - S COMM AMD  
By Committee on Labor, Commerce & Consumer Protection

**ADOPTED 04/07/2009**

24 On page 1, line 1 of the title, after "provisions;" strike the  
25 remainder of the title and insert "amending RCW 19.118.021, 19.118.031,  
26 19.118.041, 19.118.061, 19.118.080, 19.118.090, 19.118.095, 19.118.120,  
27 and 19.118.160; and creating a new section."

--- END ---