

SENATE BILL REPORT

SB 5235

As Reported by Senate Committee On:
Labor, Commerce & Consumer Protection, February 9, 2009

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

Brief Description: Modifying motor vehicle warranty provisions.

Sponsors: Senators Kohl-Welles, Honeyford, Holmquist and Keiser; by request of Attorney General.

Brief History:

Committee Activity: Labor, Commerce & Consumer Protection: 1/26/09, 2/09/09 [DPS].

SENATE COMMITTEE ON LABOR, COMMERCE & CONSUMER PROTECTION

Majority Report: That Substitute Senate Bill No. 5235 be substituted therefor, and the substitute bill do pass.

Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Holmquist, Ranking Minority Member; Franklin, Honeyford, King and Kline.

Staff: Alison Mendiola (786-7483)

Background: The Motor Vehicle Warranty Act (Act), commonly called the lemon law, was created in 1987 and establishes rights and responsibilities for consumers and manufacturers when new or nearly new vehicles are defective. The statute establishes three definitions of a "lemon:" (1) a vehicle with a serious safety defect that the manufacturer has unsuccessfully attempted to repair at least two times; (2) a vehicle with some other substantial defect that the manufacturer has unsuccessfully attempted to diagnose or repair at least four times; or (3) a vehicle that has been out of service for 30 cumulative calendar days with at least 15 of those days occurring during the warranty period.

If a vehicle meets one of these definitions, the manufacturer must either replace or repurchase the vehicle, whichever remedy the consumer chooses. For the purposes of the Act, a vehicle includes motor homes and motorcycles that have an engine displacement of at least 750 cubic centimeters.

The Act applies to vehicles that the consumer (1) purchased or leased in Washington, and (2) initially registered in Washington.

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

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

In addition to the three existing bases for claims under the Act, an additional base is added:

- two or more serious safety defects (a serious safety defect is a life threatening malfunction or nonconformity) occurring within twelve months; for motor homes the two safety defects must be attributable to a single manufacturer.

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

Warranties include modifications by new motor vehicle dealers if the dealer is installing the manufacturer's authorized parts for the specific vehicle according to the manufacturer's specifications. The definition of manufacturer is extended to include a post-manufacturing modifier of a motor vehicle that modifies the vehicle prior to the initial retail sale or lease.

If a customer requests a modification that would partially or completely void the manufacturer's warranty, a dealer must provide a disclosure, signed and dated by the customer, that says: "Your requested modification may void all or part of a manufacturer warranty and a resulting defect or condition may not be subject to remedies afforded by the Motor Vehicle Warranties Act, chapter 19.118 RCW."

The warranty provisions are extended to motor vehicles purchased or leased by members of the armed forces regardless of whether the vehicle was purchased or leased in the state.

Changes are also made to the arbitration process. The Attorney General may manage certain aspects of the process rather than contracting out to an arbitration board for the entire process.

Prior to selling a reacquired vehicle, the manufacturer must apply for a new title with the Department of Licensing (DOL). DOL must issue a new title with a title brand indicating that the vehicle was returned to the manufacturer under the Act and provide information that the nonconformity has been corrected.

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

EFFECT OF CHANGES MADE BY LABOR, COMMERCE & CONSUMER PROTECTION COMMITTEE (Recommended Substitute): Two of the proposed expanded bases for making a claim under the lemon law are removed. The statutory warranty period remains at two years/24,000 miles, as opposed to increasing it to three years/36,000 miles. The language proposing to extend the manufacturer mandatory arbitration period from 30 to 42 months is removed as is language extending the lemon law to additional types of motorcycles.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony on Original Bill: PRO: Updates are needed to Washington's Lemon Law. The issues today are more complex and the requested updates stem from consumer complaints. Washington has one of the strongest lemon law's in the country. The dealer modification language is helpful for dealers and the disclosure for modifications beyond what the manufacturer provides is helpful for consumers so they know that they may be waiving their warranties.

CON: Three new warranties are proposed. This complicates things, especially for issues with motor homes since there may be more than one manufacturer involved. This bill is an extensive rewrite of the lemon law and not all impacted parties have been involved.

Persons Testifying: PRO: Paul Corning, Office of the Attorney General; Scott Hazelgrove, Washington State Auto Dealer's Association.

CON: Daniel Laurence, Attorney at Law; Cliff Webster, General Motors Corporation; Ryan Spiller, Auto Alliance.