

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 74 Session of 2017

INTRODUCED BY SNYDER, MURT, NEILSON, V. BROWN, DiGIROLAMO, GERGELY, SAMUELSON, BULLOCK, KAUFFMAN, McNEILL, ROZZI, MACKENZIE, DUNBAR, DRISCOLL, KINSEY, CALTAGIRONE, MATZIE, EVERETT, WARD, O'NEILL, D. COSTA, A. HARRIS, MOUL, SCHLOSSBERG, BIZZARRO, STAATS, LONGIETTI, PETRARCA, McCARTER, GILLEN, BARRAR, CARROLL, B. MILLER, FREEMAN, STURLA, KORTZ, DAVIDSON, PHILLIPS-HILL, DAY, BRIGGS, DAVIS, M. K. KELLER, CORBIN, DUSH, SONNEY, GREINER, SANTORA, CRUZ, MARSHALL, WHITE, DOWLING, KIM AND METCALFE, JANUARY 23, 2017

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, DECEMBER 11, 2017

AN ACT

1 Amending the act of March 28, 1984 (P.L.150, No.28), entitled,
2 as amended, "An act relating to the rights of purchasers and
3 lessees of defective new motor vehicles," further providing
4 ~~for the definition of "new motor vehicle."~~ FOR DEFINITIONS, <--
5 FOR MANUFACTURER'S DUTY FOR REFUND OR REPLACEMENT AND FOR
6 PRESUMPTION OF A REASONABLE NUMBER OF ATTEMPTS.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. The definition of "new motor vehicle" in section
10 2 of the act of March 28, 1984 (P.L.150, No.28), known as the
11 Automobile Lemon Law, is amended AND THE SECTION IS AMENDED BY <--
12 ADDING A DEFINITION to read:

13 Section 2. Definitions.

14 The following words and phrases when used in this act shall
15 have the meanings given to them in this section unless the
16 context clearly indicates otherwise:

1 * * *

2 "MOTORCYCLE." AS DEFINED IN 75 PA.C.S. § 102 (RELATING TO <--
3 DEFINITIONS).

4 "New motor vehicle." Any new and unused self-propelled,
5 motorized conveyance driven upon public roads, streets or
6 highways which is designed to transport not more than 15
7 persons, which was purchased or leased and is registered in the
8 Commonwealth or purchased or leased elsewhere and registered for
9 the first time in the Commonwealth and is used, leased or bought
10 for use primarily for personal, family or household purposes,
11 including a vehicle used by a manufacturer or dealer as a
12 demonstrator or dealer car prior to its sale. The term includes
13 motorcycles and does not include [motorcycles,] motor homes or
14 off-road vehicles.

15 * * *

16 SECTION 1.1. SECTION 5 OF THE ACT IS AMENDED TO READ: <--

17 SECTION 5. MANUFACTURER'S DUTY FOR REFUND OR REPLACEMENT.

18 IF THE MANUFACTURER FAILS TO REPAIR OR CORRECT A
19 NONCONFORMITY AFTER A REASONABLE NUMBER OF ATTEMPTS, THE
20 MANUFACTURER SHALL, AT THE OPTION OF THE PURCHASER, REPLACE THE
21 MOTOR VEHICLE WITH A COMPARABLE MOTOR VEHICLE OF EQUAL VALUE OR
22 ACCEPT RETURN OF THE VEHICLE FROM THE PURCHASER AND REFUND TO
23 THE PURCHASER THE FULL PURCHASE PRICE OR LEASE PRICE, INCLUDING
24 ALL COLLATERAL CHARGES, LESS A REASONABLE ALLOWANCE FOR THE
25 PURCHASER'S USE OF THE VEHICLE NOT EXCEEDING 10¢ PER MILE DRIVEN
26 OR 10% OF THE PURCHASE PRICE OR LEASE PRICE OF THE VEHICLE,
27 WHICHEVER IS LESS. REFUNDS SHALL BE MADE TO THE PURCHASER AND
28 LIENHOLDER, IF ANY, AS THEIR INTERESTS MAY APPEAR. A REASONABLE
29 ALLOWANCE FOR USE SHALL BE THAT AMOUNT DIRECTLY ATTRIBUTABLE TO
30 USE BY THE PURCHASER PRIOR TO HIS FIRST REPORT OF THE

1 NONCONFORMITY TO THE MANUFACTURER. IN THE EVENT THE CONSUMER
2 ELECTS A REFUND, PAYMENT SHALL BE MADE WITHIN 30 DAYS OF SUCH
3 ELECTION. A CONSUMER SHALL NOT BE ENTITLED TO A REFUND OR
4 REPLACEMENT IF THE NONCONFORMITY DOES NOT SUBSTANTIALLY IMPAIR
5 THE USE, VALUE OR SAFETY OF THE VEHICLE OR THE NONCONFORMITY IS
6 THE RESULT OF ABUSE, NEGLIGENCE OR MODIFICATION OR ALTERATION OF
7 THE MOTOR VEHICLE BY THE PURCHASER. FOR PURPOSES OF THIS
8 SECTION, THE PHRASE "MODIFICATION OR ALTERATION BY THE
9 PURCHASER" SHALL INCLUDE, IN RELATION TO A MOTORCYCLE, A
10 MODIFICATION OR ALTERATION MADE AFTER THE DATE OF ACTUAL
11 DELIVERY OF THE MOTORCYCLE TO THE PURCHASER.

12 SECTION 1.2. SECTION 6(B) OF THE ACT IS AMENDED BY ADDING A
13 PARAGRAPH AND THE SECTION IS AMENDED BY ADDING A SUBSECTION TO
14 READ:

15 SECTION 6. PRESUMPTION OF A REASONABLE NUMBER OF ATTEMPTS.

16 * * *

17 (B) TIME PERIOD EXTENSION.--

18 * * *

19 (4) THE MINIMUM NUMBER OF CALENDAR DAYS PROVIDED FOR
20 UNDER SUBSECTION (A) (2) SHALL NOT APPLY TO THE PERIOD DURING
21 WHICH A MOTORCYCLE IS BEING STORED AT A MANUFACTURER'S
22 AUTHORIZED SERVICE AND REPAIR FACILITY, EITHER AS A COURTESY
23 TO THE PURCHASER OR FOR COMPENSATION, EVEN IF REPAIRS TO
24 CORRECT A NONCONFORMITY ARE MADE DURING THE STORAGE PERIOD.
25 THIS PARAGRAPH SHALL APPLY IF THE PURCHASER WAIVES THE
26 MINIMUM CALENDAR DAY PERIOD IN WRITING OR ENTERS INTO A
27 CONTRACT FOR STORAGE OF THE MOTORCYCLE. A WAIVER UNDER THIS
28 PARAGRAPH MUST CONTAIN THE SIGNATURE OF THE PURCHASER AND A
29 REPRESENTATIVE OF THE MANUFACTURER'S AUTHORIZED SERVICE AND
30 REPAIR FACILITY.

1 (C) APPLICABILITY.--SUBSECTIONS (A) AND (B) SHALL ONLY APPLY
2 TO A MOTORCYCLE IF ALL ATTEMPTS TO CORRECT A NONCONFORMITY ARE
3 MADE BY THE SAME MANUFACTURER'S AUTHORIZED SERVICE AND REPAIR
4 FACILITY OR IF THE PURCHASER PROVIDES A COMPLETE SET OF REPAIR
5 RECORDS, RELATED TO THE NONCONFORMITY, TO A MANUFACTURER'S
6 AUTHORIZED SERVICE AND REPAIR FACILITY THAT HAS NOT PREVIOUSLY
7 ATTEMPTED TO REPAIR THE NONCONFORMITY.

8 Section 2. This act shall take effect in 60 days.