

THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 908      Session of  
1999

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INTRODUCED BY READSHAW, CIVERA, PESCI, CORRIGAN, YOUNGBLOOD,  
LEDERER, SHANER, SOLOBAY, GIGLIOTTI, LYNCH, RAMOS, WOGAN,  
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VAN HORNE, JAMES, M. COHEN, WOJNAROSKI, ROONEY, WALKO,  
STABACK, BELFANTI, SAYLOR, YEWIC AND STEELMAN,  
MARCH 17, 1999

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REFERRED TO COMMITTEE ON CONSUMER AFFAIRS, MARCH 17, 1999

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AN ACT

1    Relating to the rights of purchasers of defective new vessels.

2        The General Assembly of the Commonwealth of Pennsylvania  
3    hereby enacts as follows:

4    Section 1.    Short title.

5        This act shall be known and may be cited as the Vessel Lemon  
6    Law.

7    Section 2.    Definitions.

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

11        "Dealer."    A person in the business of buying, selling or  
12   exchanging vessels.

13        "Manufacturer."    Any person engaged in the business of  
14   constructing or assembling new and unused vessels or engaged in  
15   the business of importing new and unused vessels into the United

1 States for the purpose of selling or distributing new and unused  
2 vessels to dealers in this Commonwealth.

3 "Manufacturer's express warranty" or "warranty." The written  
4 warranty of the manufacturer of a new vessel of its condition  
5 and fitness for use, including any terms or conditions precedent  
6 to the enforcement of obligations under the warranty.

7 "New vessel." Any new and unused vessel propelled by other  
8 than muscular power, which was purchased and is registered in  
9 this Commonwealth and is used or bought for use primarily for  
10 personal purposes.

11 "Nonconformity." A defect or condition which substantially  
12 impairs the use, value or safety of a new vessel and does not  
13 conform to the manufacturer's express warranty.

14 "Purchaser." A person, or his successors or assigns, who has  
15 obtained ownership of a new vessel by transfer or purchase or  
16 who has entered into an agreement or contract for the purchase  
17 of a new vessel which is used or bought for use primarily for  
18 personal purposes.

### 19 Section 3. Disclosure.

20 The Attorney General shall prepare and publish in the  
21 Pennsylvania Bulletin a statement which explains a purchaser's  
22 rights under this law. Manufacturers shall provide to each  
23 purchaser at the time of original purchase of a new vessel a  
24 written statement containing a copy of the Attorney General's  
25 statement and a listing of zone offices with addresses and  
26 telephone numbers and which can be contacted by the purchaser  
27 for the purpose of securing the remedies provided for in this  
28 act.

### 29 Section 4. Repair obligations.

30 (a) Repairs required.--The manufacturer of a new vessel sold

1 and registered in this Commonwealth shall repair or correct, at  
2 no cost to the purchaser, a nonconformity which substantially  
3 impairs the use, value or safety of the vessel which may occur  
4 within a period of one year following the actual delivery of the  
5 vessel to the purchaser.

6 (b) Delivery of vessel.--It shall be the duty of the  
7 purchaser to deliver the nonconforming vessel to the  
8 manufacturer's authorized service and repair facility within  
9 this Commonwealth unless due to reasons of the nature of the  
10 nonconformity such delivery cannot reasonably be accomplished.  
11 If the purchaser is unable to effect return of the nonconforming  
12 vessel, he shall notify the manufacturer or its authorized  
13 service and repair facility. Written notice of nonconformity to  
14 the manufacturer or its authorized service and repair facility  
15 shall constitute return of the vessel when the purchaser is  
16 unable to return the vessel due to the nonconformity. Upon  
17 receipt of such notice of nonconformity, the manufacturer shall,  
18 at its option, service or repair the vessel at the location of  
19 nonconformity or arrange for transporting the vessel to its  
20 authorized service and repair facility. All costs of  
21 transporting the vessel when the purchaser is unable to effect  
22 return due to nonconformity shall be at the manufacturer's  
23 expense.

24 Section 5. Manufacturer's duty to refund or replace.

25 If the manufacturer fails to repair or correct a  
26 nonconformity after a reasonable number of attempts, the  
27 manufacturer shall, at the option of the purchaser, replace the  
28 vessel with a comparable vessel of equal value or accept return  
29 of the vessel from the purchaser and refund to the purchaser the  
30 full purchase price, including all collateral charges, less a

1 reasonable allowance for the purchaser's use of the vessel not  
2 exceeding 10% of the purchase price of the vessel. Refunds shall  
3 be made to the purchaser and lienholder, if any, as their  
4 interests may appear. A reasonable allowance for use shall be  
5 that amount directly attributable to use by the purchaser prior  
6 to his first report of the nonconformity to the manufacturer. In  
7 the event the consumer elects a refund, payment shall be made  
8 within 30 days of such election. A consumer shall not be  
9 entitled to a refund or replacement if the nonconformity does  
10 not substantially impair the use, value or safety of the vessel  
11 or the nonconformity is the result of abuse, neglect or  
12 modification or alteration of the vessel by the purchaser.

13 Section 6. Presumption of a reasonable number of attempts.

14 It shall be presumed that a reasonable number of attempts  
15 have been undertaken to repair or correct a nonconformity if:

16 (1) the same nonconformity has been subject to repair  
17 three times by the manufacturer, its agents or authorized  
18 dealers and the nonconformity still exists; or

19 (2) the vessel is out-of-service by reason of any  
20 nonconformity for a cumulative total of 30 or more calendar  
21 days.

22 Section 7. Itemized statement required.

23 The manufacturer or dealer shall provide to the purchaser  
24 each time the vessel is returned from being serviced or repaired  
25 a fully itemized statement indicating all work performed on the  
26 vessel, including, but not limited to, parts and labor. It shall  
27 be the duty of a dealer to notify the manufacturer of the  
28 existence of a nonconformity within seven days of the delivery  
29 by a purchaser of a vessel subject to a nonconformity when it is  
30 delivered to the same dealer for the second time for repair of

1 the same nonconformity. The notification shall be by certified  
2 mail, return receipt requested.

3 Section 8. Civil cause of action.

4 Any purchaser of a new vessel who suffers any loss due to  
5 nonconformity of the vessel as a result of the manufacturer's  
6 failure to comply with this act may bring a civil action in a  
7 court of common pleas and, in addition to other relief, shall be  
8 entitled to recover reasonable attorney fees and all court  
9 costs.

10 Section 9. Informal dispute settlement procedure.

11 If the manufacturer has established an informal dispute  
12 settlement procedure which complies with the provisions of 16  
13 CFR Pt. 703, the provisions of section 8 shall not apply to a  
14 purchaser who has not first resorted to the settlement procedure  
15 as it relates to a remedy for defects or conditions affecting  
16 the substantial use, value or safety of the vessel. The informal  
17 dispute settlement procedure shall not be binding on the  
18 purchaser, and, in lieu of the settlement procedure, the  
19 purchaser may pursue a remedy under section 8.

20 Section 10. Resale of returned vessel.

21 (a) Vehicles may not be resold.--If a vessel has been  
22 returned under the provisions of this act or a similar statute  
23 of another state, it may not be resold in this Commonwealth  
24 unless:

25 (1) The manufacturer provides the same express warranty  
26 it provided to the original purchaser except that the term of  
27 the warranty need only last for 12 months after the date of  
28 resale.

29 (2) The manufacturer provides the consumer with a  
30 written statement on a separate piece of paper in ten point

1 all capital type in substantially the following form:

2 IMPORTANT: THIS VESSEL WAS RETURNED TO THE MANUFACTURER  
3 BECAUSE IT DID NOT CONFORM TO THE MANUFACTURER'S EXPRESS  
4 WARRANTY AND THE NONCONFORMITY WAS NOT CURED WITHIN A  
5 REASONABLE TIME AS PROVIDED BY PENNSYLVANIA LAW.

6 The provisions of this section apply to the resold vessel for  
7 the full term of the warranty required under this subsection.

8 (b) Returned vessels not to be resold.--Notwithstanding the  
9 provisions of subsection (a), if a new vessel has been returned  
10 under the provisions of this act or a similar statute of another  
11 state because of a nonconformity resulting in a complete failure  
12 of the steering system of the vessel likely to cause death or  
13 serious bodily injury, the vessel may not be resold in this  
14 Commonwealth.

15 Section 11. Application of unfair trade act.

16 A violation of this act shall also be a violation of the act  
17 of December 17, 1968 (P.L.1224, No.387), known as the Unfair  
18 Trade Practices and Consumer Protection Law.

19 Section 12. Rights preserved.

20 Nothing in this act shall limit the purchaser from pursuing  
21 any other rights or remedies under any other law, contract or  
22 warranty.

23 Section 13. Nonwaiver of act.

24 The provisions of this act shall not be waived.

25 Section 14. Applicability.

26 This act shall apply to new vessels purchased after the  
27 effective date of this act.

28 Section 15. Effective date.

29 This act shall take effect in 60 days.