

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 457

Session of
1983

INTRODUCED BY GREENLEAF, ANDREZESKI, PECORA AND RHOADES,
MARCH 14, 1983

AS REPORTED FROM COMMITTEE ON CONSUMER AFFAIRS, HOUSE OF
REPRESENTATIVES, AS AMENDED, NOVEMBER 21, 1984

AN ACT

1 ~~Providing for the enforcement of automobile warranties; and~~ <—
2 ~~imposing rights and liabilities on consumers and automobile~~
3 ~~manufacturers and dealers.~~
4 AMENDING THE ACT OF MAY 2, 1947 (P.L.143, NO.62), ENTITLED "AN <—
5 ACT REGULATING THE SALE AND RESALE FOR PROFIT AND THE
6 CARRYING ON OF THE BUSINESS OF SELLING OR RESELLING TICKETS
7 OR OTHER DEVICES FOR ADMISSION TO PLACES OF AMUSEMENT;
8 PROVIDING FOR THE LICENSING OF PERSONS RESELLING SUCH TICKETS
9 FOR PROFIT; PROVIDING FOR THE SUSPENSION AND REVOCATION OF
10 SUCH LICENSES; IMPOSING DUTIES ON LICENSEES AND OWNERS OR
11 OPERATORS OF PLACES OF AMUSEMENT; IMPOSING POWERS AND DUTIES
12 ON THE DEPARTMENT OF REVENUE, COUNTY TREASURERS, DISTRICT
13 ATTORNEYS, AND THE RECEIVER OF TAXES, AND CITY SOLICITORS IN
14 CITIES OF THE FIRST CLASS; MAKING DISPOSITION OF MONEYS
15 COLLECTED AND PROVIDING PENALTIES," FURTHER REGULATING
16 PREMIUMS FOR RESALE OF TICKETS AND THE PRINTING OF THE AMOUNT
17 THEREOF ON TICKETS.

18 The General Assembly of the Commonwealth of Pennsylvania
19 hereby enacts as follows:

20 ~~Section 1. Short title.~~ <—

21 ~~This act shall be known and may be cited as the Automobile~~
22 ~~Warranty Enforcement Law.~~

23 ~~Section 2. Definitions.~~

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

~~"Consumer." Any of the following classes of persons:~~

~~(1) A purchaser of a motor vehicle other than for purposes of resale.~~

~~(2) A person to whom a motor vehicle is transferred during the duration of an express warranty applicable to such motor vehicle.~~

~~(3) A person entitled by the terms of the warranty to enforce the obligations of the warranty.~~

~~"Motor vehicle." Any motor vehicle the registration fee of which is set under 75 Pa.C.S. §§ 1912 (relating to passenger cars), 1913 (relating to motor homes), 1914 (relating to motorcycles), 1916 (relating to trucks and truck tractors) insofar as it applies to classes 1 through 7 and 1919 (relating to electric vehicles).~~

~~"Not in conformity." A defect or condition which substantially impairs the use, value or safety of a vehicle and does not conform to the manufacturer's express warranty.~~

~~Section 3. Repair obligation.~~

~~If a new motor vehicle is not in conformity with all applicable express warranties and the consumer reports the nonconformity to the manufacturer, its agent or its authorized dealer during the term of such express warranties or during the period of one year following the date of original delivery of the motor vehicle to a consumer, whichever is the earlier date, the manufacturer, its agent or its authorized dealer shall make such repairs as are necessary to conform the vehicle to such express warranties, notwithstanding the fact that such repairs~~

1 ~~are made after the expiration of such term or such one year~~
2 ~~period.~~

3 ~~Section 4. Duties for unrepairable defects.~~

4 ~~If the manufacturer or its agents or authorized dealers are~~
5 ~~unable to conform the motor vehicle to any applicable express~~
6 ~~warranty by repairing or correcting any defect or condition~~
7 ~~which substantially impairs the use and value or safety of the~~
8 ~~motor vehicle to the consumer after a reasonable number of~~
9 ~~attempts, the manufacturer shall at the option of the consumer,~~
10 ~~either replace the motor vehicle with a comparable motor vehicle~~
11 ~~of equal value to that of the vehicle when originally purchased~~
12 ~~or accept return of the vehicle from the consumer and refund to~~
13 ~~the consumer the full purchase price, including all collateral~~
14 ~~charges including, but not limited to, sales tax, finance~~
15 ~~charges and registration fees, less a reasonable allowance for~~
16 ~~the consumer's use of the vehicle not exceeding 10¢ per mile~~
17 ~~driven or 10% of the purchase price of the vehicle, whichever is~~
18 ~~less. Refunds shall be made within 30 days after determination~~
19 ~~to the consumer and lienholder, if any, as their interests may~~
20 ~~appear. A reasonable allowance for use shall be that amount~~
21 ~~directly attributable to use by the consumer prior to his first~~
22 ~~report of the nonconformity to the manufacturer, agent or dealer~~
23 ~~and during any subsequent period when the vehicle is not out of~~
24 ~~service by reason of repair. It shall be an affirmative defense~~
25 ~~to any claim under this act that an alleged nonconformity does~~
26 ~~not substantially impair such use and value or safety or that a~~
27 ~~nonconformity is the result of abuse, neglect or unauthorized~~
28 ~~modifications or alterations of a motor vehicle by a consumer.~~

29 ~~Section 5. Presumption.~~

30 ~~(a) Time. It shall be presumed that a reasonable number of~~

~~attempts have been undertaken to conform a motor vehicle to the applicable express warranties if:~~

~~(1) the same nonconformity has been subject to repair four or more times by the manufacturer or its agents or authorized dealers within the express warranty term or during the period of one year following the date of original delivery of the motor vehicle to a consumer, whichever is the earlier date, but such nonconformity continues to exist; or~~

~~(2) the vehicle is out of service by reason of repair for a cumulative total of 30 or more days during such term or during such period, whichever is the earlier date. Part of a day shall be counted as a full day for purposes of this act.~~

~~(b) Extension. The term of an express warranty, such one-year period and such 30-day period shall be extended by any period of time during which repair services are not available to the consumer because of a war; invasion; strike or fire, flood or other natural disaster.~~

~~Section 6. Noninterference with other remedies.~~

~~Nothing in this act shall in any way limit the rights or remedies which are otherwise available to a consumer under any other law.~~

~~Section 7. Civil cause of action.~~

~~(a) Recovery of damages. A consumer who suffers any loss due to nonconformity of such vehicle as a result of any failure to comply with the requirements of this act may bring a civil action in a court of common pleas and shall be entitled to recover actual and consequential damages.~~

~~(b) Recovery of attorney fees. Any consumer who prevails in an action under this act or other applicable law against a manufacturer, its agent or its authorized dealer shall be~~

~~awarded reasonable attorney fees in addition to any other order or award.~~

~~Section 8. Application of informal settlement procedures.~~

~~If a manufacturer has established an informal dispute settlement procedure which complies in all respects with 16 C.F.R. Part 703 (relating to informal dispute settlement procedures), the provisions of section 7 shall not apply to any purchaser who has not first resorted to such procedure as it relates to a remedy for defects or conditions affecting the substantial use, value or safety of the vehicle. The informal dispute settlement procedure shall not be binding on a purchaser and, in lieu of such settlement, the purchaser may pursue a remedy under section 7.~~

~~Section 9. Resale of returned motor vehicle.~~

~~(a) Vehicles may not be resold. If a motor vehicle has been returned under the provisions of this act or a similar statute of another state, it may not be resold in this State unless:~~

~~(1) The manufacturer provides the same express warranty it provided to the original purchaser, except that the term of the warranty need only last for 12,000 miles or 12 months after the date of resale whichever is earlier.~~

~~(2) The manufacturer provides the consumer with a written statement on a separate piece of paper, in ten point all capital type, in substantially the following form:~~

~~"IMPORTANT: THIS VEHICLE WAS RETURNED TO THE MANUFACTURER BECAUSE IT DID NOT CONFORM TO THE MANUFACTURER'S EXPRESS WARRANTY AND THE NONCONFORMITY WAS NOT CURED WITHIN A REASONABLE TIME AS PROVIDED BY PENNSYLVANIA LAW."~~

~~The provisions of this section apply to the resold motor vehicle for full term of the warranty required under this subsection.~~

~~(b) Returned vehicles not to be resold. Notwithstanding the provisions of subsection (a), if a new motor vehicle has been returned under the provisions of this act or a similar statute of another state because of a nonconformity resulting in a complete failure of the braking or steering system of the motor vehicle likely to cause death or serious bodily injury if the vehicle was driven, the motor vehicle may not be resold in this Commonwealth.~~

~~Section 10. Nonwaiver.~~

~~The provisions of this act shall not be deemed waived under any conditions.~~

~~Section 11. Unfair trade practice.~~

~~Any violation of this act by a manufacturer, its agent or authorized dealer shall also constitute an unfair trade practice under the act of December 17, 1968 (P.L.1224, No.387), known as the Unfair Trade Practices and Consumer Protection Law.~~

~~Section 12. Applicability.~~

~~This act shall apply to all motor vehicles purchased after the effective date of this act.~~

~~Section 13. Effective date.~~

~~This act shall take effect in 60 days.~~

SECTION 1. SECTION 11 OF THE ACT OF MAY 2, 1947 (P.L.143, NO.62), ENTITLED "AN ACT REGULATING THE SALE AND RESALE FOR PROFIT AND THE CARRYING ON OF THE BUSINESS OF SELLING OR RESELLING TICKETS OR OTHER DEVICES FOR ADMISSION TO PLACES OF AMUSEMENT; PROVIDING FOR THE LICENSING OF PERSONS RESELLING SUCH TICKETS FOR PROFIT; PROVIDING FOR THE SUSPENSION AND REVOCATION OF SUCH LICENSES; IMPOSING DUTIES ON LICENSEES AND OWNERS OR OPERATORS OF PLACES OF AMUSEMENT; IMPOSING POWERS AND DUTIES ON THE DEPARTMENT OF REVENUE, COUNTY TREASURERS, DISTRICT

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1 ATTORNEYS, AND THE RECEIVER OF TAXES, AND CITY SOLICITORS IN
2 CITIES OF THE FIRST CLASS; MAKING DISPOSITION OF MONEYS
3 COLLECTED AND PROVIDING PENALTIES," AMENDED FEBRUARY 2, 1966
4 (1965 P.L.1869, NO.590), IS AMENDED TO READ:

5 SECTION 11. PRINTING PRICES ON TICKETS.--(A) THE OWNER OF
6 EVERY PLACE OF AMUSEMENT SHALL, IF A PRICE BE CHARGED FOR
7 ADMISSION THERETO, CAUSE TO BE PLAINLY STAMPED OR PRINTED OR
8 WRITTEN ON THE FACE OF EVERY TICKET TO BE SO USED, THE
9 ESTABLISHED PRICE. SUCH OWNER SHALL LIKEWISE CAUSE TO BE PLAINLY
10 STAMPED, PRINTED OR WRITTEN ON THE FACE OF EACH SUCH TICKET THE
11 MAXIMUM PREMIUM, WHICH SHALL NOT EXCEED ONE-HALF THE PRICE OF
12 THE TICKET OR THE SUM OF TWO DOLLARS (\$2.00) WHICHEVER SHALL BE
13 LESS, PLUS LAWFUL TAXES, AT WHICH SUCH TICKET MAY BE RESOLD OR
14 OFFERED FOR RESALE. THE PROVISIONS OF THIS SUBSECTION RELATING
15 TO TICKET PREMIUMS SHALL NOT APPLY TO CITIES OF THE FIRST CLASS.

16 (B) IN CITIES OF THE FIRST CLASS, THE MAXIMUM PREMIUM SHALL
17 NOT EXCEED TWENTY-FIVE PERCENT (25%) OF THE PRICE OF THE TICKET
18 OR THE SUM OF FIVE DOLLARS (\$5.00) WHICHEVER SHALL BE MORE, PLUS
19 LAWFUL TAXES, AT WHICH SUCH TICKET MAY BE RESOLD OR OFFERED FOR
20 RESALE.

21 SECTION 2. THE ACT IS AMENDED BY ADDING A SECTION TO READ:

22 SECTION 11.1. APPLICATION OF ACT.--THE PROVISIONS OF THIS
23 ACT SHALL APPLY ONLY TO THE SALE AND RESALE OF THOSE TICKETS OR
24 OTHER DEVICES FOR ADMISSIONS TO PLACES OF AMUSEMENT WITHIN THE
25 COMMONWEALTH OF PENNSYLVANIA.

26 SECTION 3. THIS ACT SHALL TAKE EFFECT IMMEDIATELY.