

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 950 Session of
1999

INTRODUCED BY KENNEY, WOGAN, McCALL, LEH, WOJNAROSKI, LAUGHLIN,
FICHTER, SAINATO, RAYMOND, BUXTON, B. SMITH, TULLI, SEMMEL,
ADOLPH, ORIE, ROBINSON, GANNON, BAKER, TRELLO, ROHRER,
SHANER, STABACK, LYNCH, READSHAW, SEYFERT, LaGROTTA, TIGUE,
ALLEN, ROONEY, FAIRCHILD, MANDERINO, MELIO, VAN HORNE, JAMES,
PIPPY, PESCI, L. I. COHEN, CLARK, GIGLIOTTI, ROSS, HARHAI,
DeLUCA, WILLIAMS, HENNESSEY, CIVERA, SERAFINI, HORSEY, RAMOS,
COLAFELLA, YOUNGBLOOD, MAHER AND WILT, MARCH 22, 1999

AS REPORTED FROM COMMITTEE ON CONSUMER AFFAIRS, HOUSE OF
REPRESENTATIVES, AS AMENDED, APRIL 20, 1999

AN ACT

1 Requiring disclosure of new motor vehicle damage; and providing
2 for enforcement.

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

5 Section 1. Short title.

6 This act shall be known and may be cited as the New Motor
7 Vehicle Damage Disclosure Act.

8 Section 2. Definitions.

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

12 "Damage." Any physical harm sustained or incurred by a NEW <—
13 MOTOR vehicle, whether ~~or not~~ repaired or replaced. <—

14 "New motor vehicle." A motor vehicle, regardless of mileage,

1 which has never been registered or titled to an ultimate
2 purchaser in this Commonwealth or any other state or
3 jurisdiction or which has not been sold, ~~bargained, exchanged or~~ <—
4 ~~given away to an ultimate purchaser.~~ OR BARGAINED TO OR <—
5 EXCHANGED WITH AN ULTIMATE PURCHASER OR WHICH HAS NOT BEEN GIVEN
6 AWAY. A transfer between dealers for the purpose of resale shall
7 not be considered as a transfer to an ultimate purchaser.

8 Section 3. New motor vehicle damage disclosure.

9 (a) Notice to purchaser.--The selling vehicle dealer shall
10 notify the purchaser of a new vehicle in writing at the time of
11 sale of any damage or damage repairs incurred by the new
12 vehicle, regardless of whether ~~or not~~ the damaged portion was <—
13 repaired or replaced to its predamaged condition, which exceeds
14 the greater of \$500 or 3% of the manufacturer's suggested retail
15 price. Damage exceeding the disclosure amount shall be disclosed
16 by the vehicle dealer when:

17 (1) the manufacturer or its agent, in accordance with
18 the act of December 22, 1983 (P.L.306, No.84), known as the
19 Board of Vehicles Act, discloses that, at any time after the
20 manufacturing process is complete, damage occurred or damage
21 repairs were made;

22 (2) the vehicle dealer knows or should know based on
23 facts indicating that other damage or damage repair exists in
24 addition to the damage or repairs required to be disclosed
25 under paragraph (1); or

26 (3) the combined total of damage or damage repairs made
27 under paragraphs (1) and (2) exceeds the ~~greater of \$500 or~~ <—
28 ~~3% of the manufacturer's suggested retail price.~~ AMOUNT <—
29 SPECIFIED IN THIS SECTION.

30 A vehicle dealer shall not misrepresent or mislead a purchaser

1 if the purchaser inquires about the existence of damage or
2 damage repairs made.

3 (b) Damage repair cost calculation.--In determining whether
4 damage disclosure is required, repair costs shall be calculated
5 at the vehicle dealer's retail charge on the date the repairs
6 were made for:

7 (1) Parts.

8 (2) Labor multiplied by the time taken to make the
9 repairs as established by a time allowance based on the
10 standard retail repair practices regularly employed by that
11 dealer.

12 All parts shall be replaced only with new, original equipment
13 manufacturer parts. Replacement of any permanently sealed-glass
14 window shall be disclosed to the purchaser regardless of the
15 cost of the replacement window. The value of any permanently
16 sealed-glass window replacement shall not be included in the
17 calculation process to determine whether damage disclosure is
18 required under this act. The value of any portion of a motor
19 home designed, used or maintained primarily for human habitation
20 shall not be included in the calculation process to determine
21 whether damage disclosure is required under this act.

22 (c) Form for damage disclosure notice.--If damage disclosure
23 to the purchaser is required under this act, the purchaser prior
24 to the time of sale shall be provided with a fully completed
25 copy of a damage disclosure form which shows the date of the
26 disclosure and the name and address of the seller, indicates
27 whether any manufacturer's warranty applicable to the vehicle is
28 affected by the damage or damage repairs and whether the damage
29 or damage repairs are covered by any manufacturer's warranty and
30 contains in immediate proximity to the space provided for the

1 signature of the purchaser in boldface type of a minimum size of
2 ten points, a statement in substantially the following form:

3 New Vehicle Damage Disclosure Notice

4 In accordance with the Commonwealth of Pennsylvania's New Motor
5 Vehicle Damage Disclosure Act and in connection with the
6 purchase from _____ (Dealer) of the motor
7 vehicle described
8 as follows:

9 Year_____Make_____Type_____

10 Serial No._____Stock No._____

11 I/we the undersigned, hereby acknowledge that Dealer
12 has disclosed to me/us before I/we agreed to purchase
13 the above listed vehicle that the vehicle has been
14 subjected to postmanufacturing damage as follows:

15 Damage Description: _____

16 _____

17 _____

18 _____

19 _____

20 _____

21 The above disclosed damage or repaired damage is:

22 () covered () not covered (check one)

23 by the manufacturer's warranty.

24 The above disclosed damage or repaired damage has

25 (check one):

26 () no effect on the manufacturer's warranty

27 () the following effect on the manufacturer's warranty

28 (specify) _____

29 _____

30 I/we further acknowledge that the listed damage has

1 been repaired to my/our satisfaction.

2 Date: _____

3 _____

4 Signature of Purchaser Signature of Co-Purchaser

5 _____

6 Printed Name Printed Name

7 _____

8 Signature of Dealer Representative

9 Section 4. No rescission of sale.

10 If disclosure is not required under this act, a purchaser may
11 not revoke or rescind a sales contract and is not entitled to
12 other damages or relief under section 8 due solely to the fact
13 that the vehicle was damaged and repaired prior to the sale.

14 Section 5. Other statutory rights reserved.

15 Nothing in this act shall diminish any other rights or
16 remedies which the purchaser has under the act of March 28, 1984
17 (P.L.150, No.28), known as the Automobile Lemon Law, as amended,
18 reenacted or superseded. If damage is not required to be
19 disclosed under this act, nothing in this act shall diminish any
20 rights or remedies which the purchaser has for that damage under
21 13 Pa.C.S. (relating to commercial code).

22 Section 6. Board of Vehicles Act inapplicable.

23 Section 10(b) of the act of December 22, 1983 (P.L.306,
24 No.84), known as the Board of Vehicles Act, shall not apply and
25 is superseded by this act.

26 Section 7. Exemptions.

27 The provisions of this act shall not apply to manufacturers,
28 distributors or dealers of manufactured housing, or the
29 following:

30 (1) Manufacturers, distributors or dealers of

motorcycles.

(2) A new motor vehicle, the current ownership document for which is a certificate of salvage ~~or similar document,~~ ~~provided that~~ ISSUED UNDER 75 PA.C.S. (RELATING TO VEHICLES), OR SIMILAR DOCUMENT ISSUED BY ANOTHER STATE OR JURISDICTION IF the purchaser is furnished with a copy of the certificate of salvage OR SIMILAR DOCUMENT or is otherwise notified of the salvage or reconstructed nature of the vehicle pursuant to statute or regulation.

Section 8. Application of Consumer Protection Law.

A violation of this act shall constitute a violation under the act of December 17, 1968 (P.L.1224, No.387), known as the Unfair Trade Practices and Consumer Protection Law, and shall be subject to the enforcement provisions and private rights of action contained in that act.

Section 9. Effective date.

This act shall take effect in 60 days.