

AUTOMOBILE LEMON LAW - AMEND RETURNED MOTOR VEHICLE RESALE

Act of Oct. 2, 2002, P.L. 809, No. 117

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Session of 2002

No. 2002-117

HB 767

AN ACT

Amending the act of March 28, 1984 (P.L.150, No.28), entitled "An act relating to the rights of purchasers of defective new motor vehicles," further providing for definitions and for resale of returned motor vehicle.

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

Section 1. Sections 2 and 10 of the act of March 28, 1984 (P.L.150, No.28), known as the Automobile Lemon Law, amended December 13, 2001 (P.L.868, No.94), are amended to read:

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:

"Dealer" or "motor vehicle dealer." A person in the business of buying, selling, leasing or exchanging vehicles.

"Department." The Department of Transportation of the Commonwealth.

"Manufacturer." Any person engaged in the business of constructing or assembling new and unused motor vehicles or engaged in the business of importing new and unused motor vehicles into the United States for the purpose of selling or distributing new and unused motor vehicles to motor vehicle dealers in this Commonwealth.

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

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

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

"Purchaser." A person, or his successors or assigns, who has obtained possession or ownership of a new motor vehicle by

lease, transfer or purchase or who has entered into an agreement or contract for the lease or purchase of a new motor vehicle which is used, leased or bought for use primarily for personal, family or household purposes.

Section 10. Resale of returned motor vehicle.

(a) Vehicles may not be resold , **transferred or leased at retail or wholesale** .--If a motor vehicle has been [returned] **repurchased** under the provisions of this act or a similar statute of another state, it may not be resold , **transferred** or leased 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, **transfer or lease** whichever is earlier.

(2) The manufacturer provides the [consumer] **purchaser, lessee or transferee** 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] **REPURCHASED BY** 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."

(3) **The motor vehicle dealer, lessor or transferor clearly and conspicuously discloses the manufacturer's written notification prior to the resale or lease of the repurchased motor vehicle.**

(4) The motor vehicle dealer, lessor or transferor obtains a signed receipt certifying in a conspicuous and understandable manner that the written statement required under this subsection has been provided. Access to the receipt shall be maintained for four years. The Attorney General shall approve the form and content of the disclosure statement supplied by the manufacturer.

(5) The manufacturer, dealer, lessor or transferor applies for and receives the designation of a branded title from the department.

(6) The department shall update its records and issue a title with a designation indicating that the motor vehicle was repurchased under the provisions of this act. The department shall forward to subsequent purchasers or lienholders, in accordance with 75 Pa.C.S. §§ 1107 (relating to delivery of certificate of title) and 1132.1 (relating to perfection of security interest in a vehicle), a certificate of title which indicates that the vehicle was branded under the provisions of this act. The department shall determine the exact form and content of the title brand.

The provisions of this section apply to the resold , **transferred or leased** motor vehicle for the full term of the warranty required under this subsection. **Failure of the manufacturer, dealer, lessor or transferor to notify its immediate purchaser of the requirements of this section subjects the manufacturer, dealer, lessor or transferor to pay to the Commonwealth a civil penalty of \$2,000 per violation and, at the option of the**

purchaser, to replace the motor vehicle with a comparable motor vehicle of equal value or accept return of the vehicle from the purchaser and refund to the purchaser the full purchase price, including all collateral charges, less a reasonable allowance for the purchaser's use of the vehicle not exceeding 10¢ per mile driven or 10% of the purchase price of the vehicle, whichever is less.

(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.

(c) Agreement waiving, limiting or disclaiming rights.--Any agreement entered into by a purchaser that waives, limits or disclaims the rights set forth in this act is void as contrary to public policy. Where applicable, the rights set forth in this act shall extend to a subsequent purchaser, lessee or transferee of the motor vehicle.

Section 2. The amendments of this act shall apply to the purchase or lease of a new motor vehicle on or after the effective date of this amendatory act.

Section 3. This act shall take effect in 60 days.

APPROVED--The 2nd day of October, A. D. 2002.

MARK S. SCHWEIKER