
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 671

Session of
1983

INTRODUCED BY HOLL, APRIL 21, 1983

REFERRED TO TRANSPORTATION, APRIL 21, 1983

AN ACT

1 Regulating automobile warranties.

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

4 Section 1. Definitions.

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

8 "Consumer."

9 (1) The purchaser, other than for purposes of resale, of
10 an automobile.

11 (2) A person to whom an automobile is transferred during
12 the duration of an express warranty applicable to the
13 automobile.

14 (3) Any other person entitled by the terms of the
15 warranty to enforce the obligations of the warranty.

16 "Dealer." A person actively engaged in the business of
17 buying, selling or exchanging automobiles at retail and who has

1 an established place of business.

2 "Lien." A security interest in an automobile.

3 "Lienholder." A person with a security interest in an
4 automobile pursuant to a lien.

5 "Manufacturer." A person engaged in the business of
6 manufacturing, assembling or distributing automobiles, who will,
7 under normal business conditions during the year, manufacture,
8 assemble or distribute to dealers at least ten new automobiles.

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

13 "Nonconformity." A defect or condition which substantially
14 impairs the use, value or safety of an automobile.

15 Section 2. Nonconformity.

16 If a new automobile does not conform to the manufacturer's
17 express warranty, and the consumer reports the nonconformity to
18 the manufacturer or its agent or dealer during the term of the
19 warranty or during the period of one year following the date of
20 original delivery of an automobile to the consumer, whichever is
21 earlier, the manufacturer shall make, or arrange with its dealer
22 or agent to make, within a reasonable period of time, all
23 repairs necessary to conform the new automobile to the warranty,
24 notwithstanding that the repairs or corrections are made after
25 the expiration of the term of the warranty or the one-year
26 period.

27 Section 3. Inability to correct defect.

28 If the manufacturer is unable to conform the new automobile
29 to the warranty by repairing or correcting a defect or condition
30 which substantially impairs the use, value or safety of the new

1 automobile to the consumer after a reasonable number of
2 attempts, the manufacturer shall accept return of the automobile
3 from the consumer and either:

4 (1) replace the automobile with a comparable new
5 automobile and the consumer shall pay the manufacturer a
6 reasonable allowance for his use of the automobile being
7 returned and shall not pay, on the new replacement
8 automobile, the taxes, preparation fees or any other charges
9 or fees usually paid by a consumer; or

10 (2) refund to the consumer the full purchase price of
11 the original automobile, including all taxes, preparation
12 fees and any other charges or fees paid by the consumer, less
13 a reasonable allowance for the consumer's use of the original
14 automobile.

15 The provisions of this section shall not affect the interests of
16 a lienholder, unless the lienholder consents to the replacement
17 of the lien with a corresponding lien on the automobile accepted
18 by the consumer in exchange for the automobile having a
19 nonconformity, in which case the lienholder shall be paid in
20 full the amount due on the lien, including interest and other
21 charges, before an exchange of automobiles or a refund to the
22 consumer is made.

23 Section 4. Attempts to conform to warranty.

24 It shall be presumed that a reasonable number of attempts
25 have been undertaken to conform a new automobile to the
26 manufacturer's express warranty if, within the warranty term or
27 during the period of one year following the date of original
28 delivery of the motor vehicle to a consumer, whichever is the
29 earlier date:

30 (1) the same nonconformity has been subject to repair or

1 correction four or more times by the manufacturer, its agents
2 or its dealers and the nonconformity continues to exist; or

3 (2) the automobile is out of service by reason of
4 waiting for the dealer to begin or complete repair or
5 correction of a nonconformity by the manufacturer, its agents
6 or its dealers for a cumulative total of more than 30
7 business days since the original delivery of the motor
8 vehicle to the consumer.

9 The 30-day limit shall commence with the first day on which the
10 consumer presents the automobile to the manufacturer, its agent
11 or dealer for service of the nonconformity and a written
12 document describing the nonconformity is prepared by the
13 manufacturer, its agent or dealer. The 30-day limit shall be
14 extended only if repairs cannot be performed due to conditions
15 beyond the control of the manufacturer, its agents or its
16 dealers, including war, invasion, strike, fire, flood or other
17 natural disaster. The presumption provided in this section shall
18 not apply against a manufacturer unless the manufacturer has
19 received prior direct written notification from or on behalf of
20 the consumer and has had an opportunity to repair or correct the
21 nonconformity. If the manufacturer does not directly attempt or
22 arrange with its dealer or agent to repair or correct the
23 nonconformity, the manufacturer may not defend a claim by a
24 consumer under this act on the ground that the agent or dealer
25 failed to properly repair or correct the nonconformity or that
26 the repairs or corrections made by the agent or dealer caused or
27 contributed to the nonconformity.

28 Section 5. Allowance for use.

29 A reasonable allowance for use shall be the total amount
30 directly attributable to the use of the new automobile by the

1 consumer and any previous consumer, prior to the first report of
2 the nonconformity to the manufacturer by the consumer of the new
3 automobile and during any subsequent period when the vehicle is
4 not out of service by reason of repair or correction of the
5 nonconformity so reported.

6 Section 6. Affirmative defense.

7 It shall be an affirmative defense to a claim under this act
8 that the alleged nonconformity does not substantially impair the
9 use, value or safety of the new automobile or that the
10 nonconformity is the result of abuse or neglect or of
11 unauthorized modifications or alterations of the new automobile
12 by anyone other than the manufacturer, its agent or dealer.

13 Section 7. Settlement procedure.

14 If a manufacturer has established a qualified informal
15 dispute settlement procedure pursuant to section 110 of Public
16 Law 93-637 (15 U.S.C. § 2310) and the rules promulgated
17 thereunder, the remedies provided by this act shall not be
18 available to a consumer who has not first resorted to that
19 procedure.

20 Section 8. The Bureau of Consumer Affairs.

21 The Bureau of Consumer Affairs in the Office of Attorney
22 General shall periodically make known to the public whether or
23 not the dispute settlement procedure of each manufacturer doing
24 business in this Commonwealth complies with procedures pursuant
25 to section 110 of Public Law 93-637 (15 U.S.C. § 2310) and the
26 rules promulgated thereunder.

27 Section 9. Breach of warranty.

28 Nothing in this act shall in any way limit the rights or
29 remedies for breach of warranty otherwise available to a
30 consumer.

1 Section 10. Liability.

2 Nothing in this act shall be construed as imposing any
3 liability on a dealer or creating a cause of action by a
4 consumer against a dealer under section 3.

5 Section 11. Applicability.

6 This act shall apply only to new automobiles purchased after
7 the effective date of this act.

8 Section 12. Effective date.

9 This act shall take effect immediately.