

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 146

Session of
1987

INTRODUCED BY LLOYD, VEON, PISTELLA, CAPPABIANCA, MICHLOVIC,
KOSINSKI, TRUMAN, CESSAR, HECKLER, TRELLO, DeLUCA, KUKOVICH
AND OLASZ, FEBRUARY 4, 1987

REFERRED TO COMMITTEE ON TRANSPORTATION, FEBRUARY 4, 1987

AN ACT

1 Regulating motor vehicle rustproofing; and providing penalties.

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 Vehicle

6 Rustproofing Protection Act.

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 "Manufacturer." A person engaged directly or indirectly in

12 manufacture or wholesale distribution of motor vehicles.

13 "Motor vehicle." A vehicle which is self-propelled, except

14 one which is propelled solely by human power or electrical power

15 obtained from overhead trolley wires, but not operated upon

16 rails.

17 "Motor vehicle dealer." A person engaged in the business of

1 buying, selling or exchanging motor vehicles at retail within
2 this Commonwealth.

3 "New motor vehicle." A motor vehicle which has not
4 previously been sold or exchanged at retail.

5 "Person." A natural person, firm, partnership, association
6 or corporation.

7 Section 3. Unlawful activity.

8 It shall be unlawful for a motor vehicle dealer to rustproof
9 a new motor vehicle prior to the sale or exchange of that new
10 motor vehicle at retail unless the motor vehicle dealer has:

11 (1) Informed the person who is buying the vehicle or
12 receiving it in exchange that such person has the right to
13 buy or receive the vehicle even if such person refuses to
14 have the vehicle rustproofed by the dealer.

15 (2) Informed such person of any rustproofing of the
16 vehicle by the manufacturer of the vehicle and of any
17 warranty applicable to such rustproofing by the manufacturer.

18 (3) Obtained the consent of such person to have the
19 vehicle rustproofed by the dealer.

20 Section 4. Regulations.

21 The Attorney General may adopt such rules and regulations as
22 may be necessary for the enforcement and administration of this
23 act.

24 Section 5. Restraining prohibited acts.

25 Whenever the Attorney General or a district attorney has
26 reason to believe that a motor vehicle dealer is violating, or
27 is about to violate, section 3, he may bring an action in the
28 name of the Commonwealth against such motor vehicle dealer to
29 restrain such violation by temporary or permanent injunction.

30 Section 6. Payment of costs and restitution.

1 Whenever any court issues a permanent injunction to restrain
2 and prevent violations of section 3, the court may, in its
3 discretion, direct that the defendant or defendants restore to
4 any person in interest any moneys or property, real or personal,
5 which may have been acquired by means of any violation of
6 section 3, under terms and conditions to be established by the
7 court.

8 Section 7. Assurances of voluntary compliance.

9 In the administration of this act, the Attorney General may
10 accept an assurance of voluntary compliance with respect to
11 section 3 from any motor vehicle dealer who has engaged or was
12 about to engage in a violation of section 3. Such assurance may
13 include a stipulation for voluntary payment by the alleged
14 violator providing for the restitution by the alleged violator
15 to consumers, of money, property or other things received from
16 them in connection with a violation of section 3. Any such
17 assurance shall be in writing and be filed with the court. Such
18 assurance of voluntary compliance shall not be considered an
19 admission of violation for any purpose. Matters thus closed may
20 at any time be reopened by the Attorney General for further
21 proceedings in the public interest.

22 Section 8. Civil penalties.

23 (a) Voluntary complaint.--Any person who violates the terms
24 of an injunction issued in an action brought under section 5 or
25 any of the terms of an assurance of voluntary compliance duly
26 filed in court under section 7 shall forfeit and pay to the
27 Commonwealth a civil penalty of not more than \$5,000 for each
28 violation. For the purposes of this section, the court issuing
29 an injunction or in which an assurance of voluntary compliance
30 is filed shall retain jurisdiction; and the cause shall be

1 continued; and, in such cases, the Attorney General or the
2 appropriate district attorney, acting in the name of the
3 Commonwealth of Pennsylvania, may petition for recovery of civil
4 penalties and any other equitable relief deemed needed or
5 proper.

6 (b) Additional penalty.--In any action brought under section
7 5, if the court finds that a motor vehicle dealer is violating
8 or about to violate section 3, the Attorney General or the
9 appropriate district attorney, acting in the name of the
10 Commonwealth, may recover, on behalf of the Commonwealth, a
11 civil penalty of not more than \$1,000 per violation, which civil
12 penalty shall be in addition to other relief which may be
13 granted under sections 5 and 6.

14 Section 9. Other remedies.

15 (a) Private action.--Nothing in this act shall be construed
16 to prohibit a private action for a violation of section 3. Any
17 permanent injunction, judgment or order of the court made under
18 section 5 shall be prima facie evidence in any private action
19 for a violation of section 3.

20 (b) Independent remedy.--Any actions brought by the Attorney
21 General or a district attorney under this act shall be in
22 addition to any actions which the Attorney General or a district
23 attorney may bring under any other law.

24 Section 10. Effective date.

25 This act shall take effect in 60 days.