

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,
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SHANER, STABACK, LYNCH, READSHAW, SEYFERT, LaGROTTA, TIGUE,
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PIPPY, PESCI, L. I. COHEN, CLARK, GIGLIOTTI, ROSS, HARHAI,
DeLUCA, WILLIAMS, HENNESSEY, CIVERA, SERAFINI, HORSEY, RAMOS,
COLAFELLA, YOUNGBLOOD AND MAHER, MARCH 22, 1999

REFERRED TO COMMITTEE ON CONSUMER AFFAIRS, MARCH 22, 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
13 vehicle, whether or not repaired or replaced.

14 "New motor vehicle." A motor vehicle, regardless of mileage,
15 which has never been registered or titled to an ultimate

1 purchaser in this Commonwealth or any other state or
2 jurisdiction or which has not been sold, bargained, exchanged or
3 given away to an ultimate purchaser. A transfer between dealers
4 for the purpose of resale shall not be considered as a transfer
5 to an ultimate purchaser.

6 Section 3. New motor vehicle damage disclosure.

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

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

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

24 (3) the combined total of damage or damage repairs made
25 under paragraphs (1) and (2) exceeds the greater of \$500 or
26 3% of the manufacturer's suggested retail price.

27 A vehicle dealer shall not misrepresent or mislead a purchaser
28 if the purchaser inquires about the existence of damage or
29 damage repairs made.

30 (b) Damage repair cost calculation.--In determining whether

1 damage disclosure is required, repair costs shall be calculated
2 at the vehicle dealer's retail charge on the date the repairs
3 were made for:

4 (1) Parts.

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

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

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

30 New Vehicle Damage Disclosure Notice

1 In accordance with the Commonwealth of Pennsylvania's New Motor
2 Vehicle Damage Disclosure Act and in connection with the
3 purchase from _____ (Dealer) of the motor
4 vehicle described

5 as follows:

6 Year_____Make_____Type_____

7 Serial No._____Stock No._____

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

12 Damage Description: _____

13 _____

14 _____

15 _____

16 _____

17 _____

18 The above disclosed damage or repaired damage is:

19 () covered () not covered (check one)

20 by the manufacturer's warranty.

21 The above disclosed damage or repaired damage has

22 (check one):

23 () no effect on the manufacturer's warranty

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

25 (specify) _____

26 _____

27 I/we further acknowledge that the listed damage has

28 been repaired to my/our satisfaction.

29 Date: _____

30 _____

1 Signature of Purchaser Signature of Co-Purchaser

2 _____

3 Printed Name Printed Name

4 _____

5 Signature of Dealer Representative

6 Section 4. No rescission of sale.

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

11 Section 5. Other statutory rights reserved.

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

19 Section 6. Board of Vehicles Act inapplicable.

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

23 Section 7. Exemptions.

24 The provisions of this act shall not apply to manufacturers,
25 distributors or dealers of manufactured housing, or the
26 following:

27 (1) Manufacturers, distributors or dealers of
28 motorcycles.

29 (2) A new motor vehicle, the current ownership document
30 for which is a certificate of salvage or similar document,

1 provided that the purchaser is furnished with a copy of the
2 certificate of salvage or is otherwise notified of the
3 salvage or reconstructed nature of the vehicle pursuant to
4 statute or regulation.

5 Section 8. Application of Consumer Protection Law.

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

11 Section 9. Effective date.

12 This act shall take effect in 60 days.