

No. 1984-28

AN ACT

HB 1405

Relating to the rights of purchasers of defective new motor vehicles.

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

Section 1. Short title.

This act shall be known and may be cited as the Automobile Lemon Law.

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 or exchanging vehicles.

“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 and is registered in the Commonwealth and is used 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 ownership of a new motor vehicle by transfer or purchase or who has entered into an agreement or contract for the purchase of a new motor vehicle which is used or bought for use primarily for personal, family or household purposes.

Section 3. Disclosure.

The Attorney General shall prepare and publish in the Pennsylvania Bulletin a statement which explains a purchaser’s rights under this law. Manufacturers shall provide to each purchaser at the time of original purchase of a new motor vehicle a written statement containing a copy of the Attorney

General's statement and a listing of zone offices, with addresses and phone numbers, which can be contacted by the purchaser for the purpose of securing the remedies provided for in this act.

Section 4. Repair obligations.

(a) Repairs required.—The manufacturer of a new motor vehicle sold and registered in the Commonwealth shall repair or correct, at no cost to the purchaser, a nonconformity which substantially impairs the use, value or safety of said motor vehicle which may occur within a period of one year following the actual delivery of the vehicle to the purchaser, within the first 12,000 miles of use or during the term of the warranty, whichever may first occur.

(b) Delivery of vehicle.—It shall be the duty of the purchaser to deliver the nonconforming vehicle to the manufacturer's authorized service and repair facility within the Commonwealth, unless, due to reasons of size and weight or method of attachment or method of installation or nature of the nonconformity, such delivery cannot reasonably be accomplished. Should the purchaser be unable to effect return of the nonconforming vehicle, he shall notify the manufacturer or its authorized service and repair facility. Written notice of nonconformity to the manufacturer or its authorized service and repair facility shall constitute return of the vehicle when the¹ purchaser is unable to return the vehicle due to the nonconformity. Upon receipt of such notice of nonconformity, the manufacturer shall, at its option, service or repair the vehicle at the location of nonconformity or pick up the vehicle for service and repair or arrange for transporting the vehicle to its authorized service and repair facility. All costs of transporting the vehicle when the² purchaser is unable to effect return, due to nonconformity, shall be at the manufacturer's expense.

Section 5. Manufacturer's duty for refund or replacement.

If the manufacturer fails to repair or correct a nonconformity after a reasonable number of attempts, the manufacturer shall, at the option of the purchaser, 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. Refunds shall be made to the purchaser and lienholder, if any, as their interests may appear. A reasonable allowance for use shall be that amount directly attributable to use by the purchaser prior to his first report of the nonconformity to the manufacturer. In the event the consumer elects a refund, payment shall be made within 30 days of such election. A consumer shall not be entitled to a refund or replacement if the nonconformity does not substantially impair the use, value or safety of the vehicle or the nonconformity is the result of abuse, neglect or modification or alteration of the motor vehicle by the purchaser.

Section 6. Presumption of a reasonable number of attempts.

It shall be presumed that a reasonable number of attempts have been undertaken to repair or correct a nonconformity if:

¹ "the" omitted in original.

² "the" omitted in original.

(1) the same nonconformity has been subject to repair three times by the manufacturer, its agents or authorized dealers and the nonconformity still exists; or

(2) the vehicle is out-of-service by reason of any nonconformity for a cumulative total of 30 or more calendar days.

Section 7. Itemized statement required.

The manufacturer or dealer shall provide to the purchaser each time the purchaser's vehicle is returned from being serviced or repaired a fully itemized statement indicating all work performed on said vehicle including, but not limited to, parts and labor. It shall be the duty of a dealer to notify the manufacturer of the existence of a nonconformity within seven days of the delivery by a purchaser of a vehicle subject to a nonconformity when it is delivered to the same dealer for the second time for repair of the same nonconformity. The notification shall be by certified mail, return receipt requested.

Section 8. Civil cause of action.

Any purchaser of a new motor vehicle who suffers any loss due to nonconformity of such vehicle as a result of the manufacturer's failure to comply with this act may bring a civil action in a court of common pleas and, in addition to other relief, shall be entitled to recover reasonable attorneys' fees and all court costs.

Section 9. Informal dispute settlement procedure.

If the manufacturer has established an informal dispute settlement procedure which complies with the provisions of 16 CFR Pt. 703, as from time to time amended, the provisions of section 8 shall not apply to any purchaser who has not first resorted to such procedure as it relates to a remedy for defects or conditions affecting the substantial use, value or safety of the vehicle. The informal dispute settlement procedure shall not be binding on the purchaser and, in lieu of such settlement, the purchaser may pursue a remedy under section 8.

Section 10. Resale of returned motor vehicle.

(a) Vehicles may not be resold.—If a motor vehicle has been returned under the provisions of this act or a similar statute of another state, it may not be resold 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, whichever is earlier.

(2) The manufacturer provides the consumer 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 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.”

The provisions of this section apply to the resold motor vehicle for the full term of the warranty required under this subsection.

(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.

Section 11. Application of unfair trade act.

A violation of this act shall also be a violation of the act of December 17, 1968 (P.L.1224, No.387), known as the Unfair Trade Practices and Consumer Protection Law.

Section 12. Rights preserved.

Nothing in this act shall limit the purchaser from pursuing any other rights or remedies under any other law, contract or warranty.

Section 13. Nonwaiver of act.

The provisions of this act shall not be waived.

Section 14. Effective date.

This act shall take effect in 60 days and shall apply to new motor vehicles purchased after the effective date of this act.

APPROVED—The 28th day of March, A. D. 1984.

DICK THORNBURGH