

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 286 Session of 2001

INTRODUCED BY GREENLEAF, BOSCOLA, TOMLINSON, KUKOVICH, M. WHITE, MELLOW, COSTA, EARLL, HOLL, LEMMOND, RHOADES, SCHWARTZ, STACK, STOUT, THOMPSON AND FUMO, FEBRUARY 5, 2001

SENATOR TILGHMAN, APPROPRIATIONS, RE-REPORTED AS AMENDED, JUNE 12, 2001

AN ACT

1 Amending the act of March 28, 1984 (P.L.150, No.28), entitled
2 "An act relating to the rights of purchasers of defective new
3 motor vehicles," amending the title of the act; and further
4 providing for definitions, for repair obligations, for
5 manufacturer's duty for refund or replacement and for resale
6 of returned motor vehicle.

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

9 Section 1. The title of the act of March 28, 1984 (P.L.150,
10 No.28), known as the Automobile Lemon Law, is amended to read:

AN ACT

11 Relating to the rights of purchasers and lessees of defective
12 new motor vehicles.

13 Section 2. Sections 2, 4, 5 and 10 of the act are amended to
14 read:

15 Section 2. Definitions.

16 The following words and phrases when used in this act shall
17 have the meanings given to them in this section unless the
18 context clearly indicates otherwise:
19

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

3 ~~"Department." The Department of Transportation of the~~ <—
4 ~~Commonwealth.~~

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

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

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

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

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

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

5 Section 4. Repair obligations.

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

14 (b) Delivery of vehicle.--It shall be the duty of the
15 purchaser to deliver the nonconforming vehicle to the
16 manufacturer's authorized service and repair facility within the
17 Commonwealth, unless, due to reasons of size and weight or
18 method of attachment or method of installation or nature of the
19 nonconformity, such delivery cannot reasonably be accomplished.
20 Should the purchaser be unable to effect return of the
21 nonconforming vehicle, he shall notify the manufacturer or its
22 authorized service and repair facility. Written notice of
23 nonconformity to the manufacturer or its authorized service and
24 repair facility shall constitute return of the vehicle when the
25 purchaser is unable to return the vehicle due to the
26 nonconformity. Upon receipt of such notice of nonconformity, the
27 manufacturer shall, at its option, service or repair the vehicle
28 at the location of nonconformity or pick up the vehicle for
29 service and repair or arrange for transporting the vehicle to
30 its authorized service and repair facility. All costs of

1 transporting the vehicle when the purchaser is unable to effect
2 return, due to nonconformity, shall be at the manufacturer's
3 expense.

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

5 If the manufacturer fails to repair or correct a
6 nonconformity after a reasonable number of attempts, the
7 manufacturer shall, at the option of the purchaser, replace the
8 motor vehicle with a comparable motor vehicle of equal value or
9 accept return of the vehicle from the purchaser and refund to
10 the purchaser the full purchase price or lease price, including
11 all collateral charges, less a reasonable allowance for the
12 purchaser's use of the vehicle not exceeding 10c / per mile
13 driven or 10% of the purchase price or lease price of the
14 vehicle, whichever is less. Refunds shall be made to the
15 purchaser and lienholder, if any, as their interests may appear.
16 A reasonable allowance for use shall be that amount directly
17 attributable to use by the purchaser prior to his first report
18 of the nonconformity to the manufacturer. In the event the
19 consumer elects a refund, payment shall be made within 30 days
20 of such election. A consumer shall not be entitled to a refund
21 or replacement if the nonconformity does not substantially
22 impair the use, value or safety of the vehicle or the
23 nonconformity is the result of abuse, neglect or modification or
24 alteration of the motor vehicle by the purchaser.

25 Section 10. Resale of returned motor vehicle.

26 (a) Vehicles may not be resold.--If a motor vehicle has been
27 returned under the provisions of this act or a similar statute
28 of another state, it may not be resold or leased in this State
29 unless:

30 (1) The manufacturer provides the same express warranty

1 it provided to the original purchaser, except that the term
2 of the warranty need only last for 12,000 miles or 12 months
3 after the date of resale, whichever is earlier.

4 (2) The manufacturer provides the consumer with a
5 written statement on a separate piece of paper, in ten point
6 all capital type, in substantially the following form:

7 "IMPORTANT: THIS VEHICLE WAS RETURNED TO THE MANUFACTURER
8 BECAUSE IT DID NOT CONFORM TO THE MANUFACTURER'S EXPRESS
9 WARRANTY AND THE NONCONFORMITY WAS NOT CURED WITHIN A
10 REASONABLE TIME AS PROVIDED BY PENNSYLVANIA LAW."

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

14 ~~(a.1) Title branding. A manufacturer who accepts the return~~ ←
15 ~~of a new motor vehicle pursuant to a consumer's claim under this~~
16 ~~act or a similar statute of any other state shall notify the~~
17 ~~department and report the vehicle identification number of the~~
18 ~~motor vehicle within ten days after the acceptance. The~~
19 ~~department shall note on the title issued for the motor vehicle~~
20 ~~that the motor vehicle was returned under this act or a similar~~
21 ~~statute of any other state, and the department shall then issue~~
22 ~~a title with a designation which includes the written statement~~
23 ~~required under subsection (a)(2).~~

24 (b) Returned vehicles not to be resold.--Notwithstanding the
25 provisions of subsection (a), if a new motor vehicle has been
26 returned under the provisions of this act or a similar statute
27 of another state because of a nonconformity resulting in a
28 complete failure of the braking or steering system of the motor
29 vehicle likely to cause death or serious bodily injury if the
30 vehicle was driven, the motor vehicle may not be resold in this

1 Commonwealth.

2 ~~Section 3. (a) The addition of section 10(a.1) of the act~~ <—
3 ~~shall apply to vehicles returned pursuant to a consumer's claim,~~
4 ~~on or after the effective date of this act.~~

5 ~~(b) The remainder of this act shall apply to the purchase or~~
6 SECTION 3. THIS ACT SHALL APPLY TO THE PURCHASE OR lease of <—
7 a new motor vehicle on or after the effective date of this act.

8 Section 4. This act shall take effect in 60 days.