

SB 372 INTRODUCED BY PINSONEAULT
REVISE LEMON LAW PROCEDURES, I.E., DISPUTE
SETTLEMENT PROCEDURES INVOLVING NEW MOTOR
VEHICLE WARRANTIES

2/17 RULES SUSPENDED TO ALLOW INTRODUCTION
OF BILL AFTER DEADLINE
2/18 INTRODUCED
2/18 REFERRED TO BUSINESS & INDUSTRY
2/20 HEARING
2/21 COMMITTEE REPORT--BILL PASSED AS AMENDED
2/24 2ND READING PASSED AS AMENDED 50 0
2/25 3RD READING PASSED 50 0
TRANSMITTED TO HOUSE
3/03 REFERRED TO JUDICIARY
3/19 HEARING
3/27 COMMITTEE REPORT--NOT CONCURRED AS AMENDED
3/28 ADVERSE COMMITTEE REPORT ADOPTED 66 27
3/28 RETURNED TO SENATE NOT CONCURRED
AS AMENDED

1 Senate BILL NO. 372
2 INTRODUCED BY [Signature]

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE DISPUTE
5 SETTLEMENT PROCEDURES INVOLVING NEW MOTOR VEHICLE
6 WARRANTIES; PROVIDING FOR NOTICE TO THE DEALER AS AN AGENT
7 OF THE MANUFACTURER; IMPOSING AN OBLIGATION OF GOOD FAITH;
8 PROVIDING A LIMITED REVIEW OF DECISIONS; INCREASING
9 PENALTIES FOR VIOLATIONS; AMENDING SECTIONS 61-4-502,
10 61-4-511, 61-4-512, 61-4-526, AND 61-4-533, MCA; AND
11 REPEALING SECTION 61-4-507, MCA."
12

13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14 Section 1. Section 61-4-502, MCA, is amended to read:
15 "61-4-502. Notice -- warranty enforceable after
16 warranty period ----when. (1) If a consumer notifies in
17 writing the manufacturer or its agent during the warranty
18 period that a new motor vehicle does not conform to all
19 applicable express warranties, the repairs necessary to
20 conform the new motor vehicle to the express warranties
21 shall be made by or at the expense of the warrantor,
22 regardless of the expiration of the warranty period after
23 notification of nonconformity is given by the consumer. For
24 purposes of the notice required under this subsection, a new
25 motor vehicle dealer, as defined in 61-4-201, is an agent of

1 the manufacturer. Each new motor vehicle dealer shall record
2 warranty repairs on a work order, and a copy of the work
3 order must be provided to the consumer.

4 (2) The warranty period of an express warranty is
5 extended to equal the time that repair services are not
6 available because of war or invasion or because of strike or
7 fire, flood, or other natural disaster. The presumption
8 provided herein may not apply against a manufacturer who has
9 not received prior written notification from or on behalf of
10 the consumer and has not had an opportunity to cure the
11 alleged defect. A warranty work order issued by a new motor
12 vehicle dealer is considered written notice to the
13 manufacturer of a warranty nonconformity.

14 ~~(3) The manufacturer must clearly and conspicuously~~
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16 ~~that written notification of a nonconformity is required~~
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18 ~~replacement of the vehicle. The manufacturer must include~~
19 ~~with the warranty or owner's manual the name and address~~
20 ~~where the written notification must be sent to which written~~
21 ~~demand for an informal dispute settlement procedure must be~~
22 ~~made."~~

23 Section 2. Section 61-4-511, MCA, is amended to read:
24 "61-4-511. Manufacturer's dispute settlement procedure
25 -- certification -- prohibited contents practices. (1) A



1 manufacturer who has established an informal dispute
 2 settlement procedure under the provisions of Title 16, Code
 3 of Federal Regulations, part 703 (16 CFR, part 703) ~~as~~
 4 ~~those provisions read on October 17, 1983~~, shall submit a
 5 copy of the procedure to the department of commerce. The
 6 department of commerce shall issue a certificate of approval
 7 to a manufacturer whose procedure ~~complies in all respects~~
 8 is determined to be in substantial compliance with such
 9 federal regulations and subsection (2). The department of
 10 commerce shall report to the department of justice all
 11 manufacturer's procedures certified. The department of
 12 commerce may issue subpoenas requiring the attendance of
 13 witnesses and the production of records, documents, or other
 14 evidence necessary to it in an investigation related to the
 15 certification of a manufacturer's informal dispute
 16 settlement procedure.

17 (2) A manufacturer's informal dispute settlement
 18 procedure must afford the consumer or his representative an
 19 opportunity to appear and present evidence in Montana at a
 20 location reasonably convenient to the consumer and, further,
 21 may not include any practices that:

22 (a) delay a decision in any dispute beyond 60 days
 23 after the date on which the consumer initially resorts to
 24 the dispute settlement procedure;

25 (b) delay performance of remedies awarded in a

1 settlement beyond 10 days after a decision, except that a
 2 manufacturer may have 30 days following the date of decision
 3 to replace a motor vehicle or make refund to the consumer as
 4 provided in 61-4-503;

5 (c) require the consumer to make the vehicle available
 6 for inspection by a manufacturer's representative more than
 7 once;

8 (d) fail to consider in decisions any remedies
 9 provided by this part; or

10 (e) require the consumer to take any action or assume
 11 any obligation not specifically authorized under the federal
 12 regulations referred to in subsection (1).

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 14 procedure must allow for hearing a grievance by at least
 15 three individuals. An individual may not be a manufacturer's
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 22 16, Code of Federal Regulations, part 703 (16 CFR, part
 23 703), ~~as those provisions read on October 17, 1983~~, along
 24 with any additional information the department of commerce
 25 may require, including the number of refunds and

1 replacements made by the manufacturer during the period
2 audited.

3 (2) The department of commerce may, after notice and
4 hearing as provided in Title 2, chapter 4, suspend or revoke
5 the certification of a manufacturer's informal dispute
6 resolution procedure upon a finding that the procedure is
7 being used to create hardship to consumers. The department
8 of commerce shall notify the department of justice of any
9 revocation or suspension of a certification. The department
10 of justice may consider the revocation or suspension in
11 licensing manufacturers under Title 61, chapter 4, part 2."

12 Section 4. Section 61-4-526, MCA, is amended to read:

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14 commerce ~~shall~~ may maintain records of each dispute as it
15 determines, including an index of disputes by brand name and
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24 Section 5. Section 61-4-533, MCA, is amended to read:

25 "61-4-533. Penalty. A violation of any provision of

1 this part is an unfair or deceptive trade practice under
2 Title 30, chapter 14, part 2 1, and the penalties provided
3 in ~~30-14-224(1)~~ 30-14-142 apply."

4 NEW SECTION. Section 6. Obligation of good faith.
5 Each duty under this part and each act required to be
6 performed by the consumer, a manufacturer or his agent, or a
7 new motor vehicle dealer in the exercise of a right or
8 remedy under this part imposes an obligation of good faith
9 in its performance or enforcement.

10 NEW SECTION. Section 7. Review of decision. This part
11 is intended to provide a swift and inexpensive remedy to a
12 consumer who owns a motor vehicle which does not conform to
13 all applicable express warranties. An arbitration award or
14 final decision of an informal dispute settlement procedure
15 is reviewable only as provided in 27-5-311 through 27-5-314.

16 NEW SECTION. Section 8. Repealer. Section 61-4-507,
17 MCA, is repealed.

18 NEW SECTION. Section 9. Codification instruction.
19 Sections 6 and 7 are intended to be codified as an integral
20 part of Title 61, chapter 4, part 5, and the provisions of
21 Title 61, chapter 4, part 5, apply to sections 6 and 7.

22 NEW SECTION. Section 10. Extension of authority. Any
23 existing authority of the department of commerce to make
24 rules on the subject of the provisions of this act is
25 extended to the provisions of this act.

-End-

-6-

APPROVED BY COMM. ON
BUSINESS & INDUSTRY

SENATE BILL NO. 372
INTRODUCED BY PINSONEAULT

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the manufacturer. Each new motor vehicle dealer shall record warranty repairs on a work order, and a copy of the work order must be provided to the consumer.

(2) The warranty period of an express warranty is extended to equal the time that repair services are not available because of war or invasion or because of strike or fire, flood, or other natural disaster. The presumption provided herein may not apply against a manufacturer who has not received prior written notification from or on behalf of the consumer and has not had an opportunity to cure the alleged defect. A warranty work order issued by a new motor vehicle dealer is considered written notice to the manufacturer of a warranty nonconformity.

~~(3) The manufacturer must clearly and conspicuously disclose to the consumer in the warranty or owner's manual that written notification of a nonconformity is required before a consumer may be eligible for a refund or replacement of the vehicle. The manufacturer must include with the warranty or owner's manual the name and address where the written notification must be sent to which written demand for an informal dispute settlement procedure must be made.~~

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SB 0372/03

1 rules on the subject of the provisions of this act is
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-End-

HOUSE STANDING COMMITTEE REPORT

MARCH 27, 1987

Mr. Speaker: We, the committee on JUDICIARY
report SENATE BILL NO. 372

do pass be concurred in as amended
 do not pass be not concurred in statement of intent attached

Earl Long
Chairman

- Title, lines 6 and 7.
Strike: "THE DEALER AS AN AGENT OF"
- Title, line 7.
Strike: "IMPOSING AN OBLIGATION OF GOOD FAITH;"
- Page 1, line 23 through line 3 of page 2.
Strike: "For" on page 1, line 23 through end of line 3 on page 2
Insert: "A dealer performing warranty repair work on a new motor vehicle shall give the owner a repair invoice that states the warranty repair work completed. The invoice must include, in bold face print on the face of the invoice, the following:

" This invoice includes warranty work. Keep it. If the repairs are unsatisfactory, consult your dealer. If you believe the vehicle has defects covered under the warranty which persist despite attempts to repair them, you should notify the manufacturer before the warranty expires to protect your rights under state law. In this state, the new car warranty period must be at least 2 years or 18,000 miles, whichever comes first. See your warranty agreement for further details, or consult your dealer. "

The provision of the invoice to the owner by the dealer does not impose any responsibility or liability on the dealer for warranty compliance, which remains a contractual obligation of the manufacturer and an agreement between the manufacturer and the owner to which the dealer is not a party."

- Page 2, lines 11 through 13.
Strike: "A warranty" on line 11 through end of line 13.
- Page 2, line 18.
Following: "vehicle."
Insert: "The manufacturer must clearly and conspicuously disclose to the consumer in the warranty or owner's manual that written notification of a nonconformity is required

before a consumer may be eligible for a refund or replacement of the vehicle."

- Page 2, line 20.
Following: "sent"
Insert: "where the written notification must be sent and the name and address"
- Page 6, lines 4 through 9.
Strike: section 6 of the bill in its entirety
Renumber: subsequent section 7 as section 6
- Page 6, lines 19 through 23.
Strike: section 8 of the bill in its entirety
Renumber: subsequent section 9 as section 7.

IP

MS.

THIRD reading copy (BLUE color)

REP. BULGER WILL CARRY THE BILL!

PP MS