

1 HOUSE BILL NO. 63

2 INTRODUCED BY HARRINGTON

3 BY REQUEST OF THE DEPARTMENT OF COMMERCE
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING THE SALES TAX ON NEW MOTOR VEHICLES BY
6 \$1; PROVIDING THAT THE REVENUE BE USED BY THE DEPARTMENT OF COMMERCE TO ADMINISTER
7 THE NEW VEHICLE WARRANTY LAWS; EXCLUDING FROM THE DEFINITION OF "CONSUMER" THE
8 PURCHASE OF MOTOR VEHICLES TO BE USED AS PART OF A FLEET; AMENDING SECTIONS 61-3-502
9 AND 61-4-501, MCA; AND PROVIDING AN EFFECTIVE DATE."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
12

13 **Section 1.** Section 61-3-502, MCA, is amended to read:

14 **"61-3-502. Sales tax on new motor vehicles -- exemptions.** (1) In consideration of the right to use
15 the highways of the state, there is imposed a tax upon all sales of new motor vehicles, excluding trailers,
16 semitrailers, and housetrailers, for which a license is sought and an original application for title is made. The
17 tax must be paid by the purchaser when the purchaser applies for an original Montana license through the
18 county treasurer. For purposes of this section, "new motor vehicle" means a new motor vehicle for which
19 original registration is sought or a motor vehicle previously furnished without charge by a dealer to a school
20 district for use in a state-approved traffic education program, whether or not titled by the dealer or the
21 school district, and for which original registration is sought.

22 (2) Except as provided in subsections (4) and (5), the sales tax is:

23 (a) 1 1/2% of the f.o.b. factory list price or f.o.b. port-of-entry list price, during the first quarter
24 of the year or for a registration period other than a calendar year or calendar quarter;

25 (b) 1 1/8% of the list price during the second quarter of the year;

26 (c) 3/4 of 1% during the third quarter of the year;

27 (d) 3/8 of 1% during the fourth quarter of the year; and

28 (e) \$1 in addition to the amount collected in subsections (2)(a) through (2)(d).

29 (3) If the manufacturer or importer fails to furnish the f.o.b. factory list price or f.o.b. port-of-entry
30 list price, the department may use published price lists.

1 (4) The new car sales tax on vehicles subject to the provisions of 61-3-313 through 61-3-316 is;
2 (a) 1 1/2% of the f.o.b. factory list price or f.o.b. port-of-entry list price regardless of the month
3 in which the new vehicle is purchased; and

4 (b) \$1 in addition to the amount collected in subsection (4)(a).

5 (5) The sales tax on new motor vehicles registered as part of a fleet under 61-3-318 is;

6 (a) 3/4 of 1% of the f.o.b. factory list price or f.o.b. port-of-entry list price; and

7 (b) \$1 in addition to the amount collected in subsection (5)(a).

8 (6) (a) Except as provided in subsection (6)(b), the The proceeds from this tax must be remitted
9 to the state treasurer every 30 days for credit to the highway nonrestricted account of the state special
10 revenue fund. The county treasurer shall retain 5% of the taxes collected to pay for the cost of
11 administration.

12 (b) The state treasurer shall place the \$1 tax collected pursuant to subsections (2)(e), (4)(b), and
13 (5)(b) in a special revenue account to be used by the department of commerce in carrying out its duties
14 under Title 61, chapter 4, part 5.

15 (7) The new vehicle is not subject to any other assessment, fee in lieu of tax, or tax during the
16 calendar year in which the original application for title is made.

17 (8) A motor vehicle may not be registered or licensed unless the application for registration is
18 accompanied by a statement of origin that is furnished by the dealer selling the vehicle and that shows that
19 the vehicle has not previously been registered or owned, except as otherwise provided in this section, by
20 any person, firm, corporation, or association other than a new motor vehicle dealer holding a franchise or
21 distribution agreement from a new car manufacturer, distributor, or importer.

22 (9) (a) Motor vehicles operating exclusively for transportation of persons for hire within the limits
23 of incorporated cities or towns and within 15 miles from the limits are exempt from the provisions of
24 subsection (1).

25 (b) Motor vehicles brought or driven into Montana by nonresident, migratory, bona fide agricultural
26 workers who are temporarily employed in agricultural work in this state, when those motor vehicles are
27 used exclusively for transportation of agricultural workers, are also exempt from the provisions of
28 subsection (1).

29 (c) Vehicles lawfully displaying a licensed dealer's plate as provided in 61-4-103 are exempt from
30 the provisions of subsection (1):

1 (i) when moving to or from a dealer's place of business when unloaded or loaded with dealer's
2 property only; and

3 (ii) in the case of vehicles having a gross loaded weight of less than 24,000 pounds, while being
4 demonstrated in the course of the dealer's business.

5 (d) Motor vehicles owned or controlled by a special district, as defined in 18-8-202, are exempt
6 from subsection (1).

7 (e) A vehicle registered under 61-3-456 is exempt from the provisions of subsection (1)."
8

9 **Section 2.** Section 61-4-501, MCA, is amended to read:

10 **"61-4-501. Definitions.** For purposes of this part, the following definitions apply:

11 (1) "Collateral charge" means all governmental charges, including but not limited to sales tax,
12 property tax, license and registration fees, and fees in lieu of tax.

13 (2) "Consumer" means the purchaser, other than for purposes of resale or as part of a fleet as
14 defined in 61-3-318, of a motor vehicle that has not been brought into nonconformity as the result of
15 abuse, neglect, or unauthorized modifications or alterations by the purchaser, any person to whom the
16 motor vehicle is transferred during the duration of an express warranty applicable to the motor vehicle, or
17 any other person entitled by the terms of the warranty to the benefits of its provisions.

18 (3) "Incidental damage" means incidental and consequential damage as defined in 30-2-715.

19 (4) "Manufacturer" has the meaning applied to that word in 61-4-201.

20 (5) (a) "Motor vehicle" means a vehicle, including the nonresidential portion of a motor home as
21 defined in 61-1-130, propelled by its own power, designed primarily to transport persons or property upon
22 the public highways, and sold in this state.

23 (b) The term does not include a truck with 10,000 pounds or more gross vehicle weight rating or
24 a motorcycle as defined in 61-1-105. Motor vehicle does not include components, systems, fixtures,
25 appliances, furnishings, accessories, and features that are designed, used, and maintained primarily for
26 residential purposes.

27 (6) "Reasonable allowance for use" is an amount directly attributable to use of the motor vehicle
28 by the consumer and any previous consumers prior to the first written notice of the nonconformity to the
29 manufacturer or its agent and during any subsequent period when the vehicle is not out of service because
30 of nonconformity. The reasonable allowance for use ~~shall~~ must be computed by multiplying the total

1 contract price of the vehicle by a fraction having as its denominator 100,000 and having as its numerator
2 the number of miles that the vehicle traveled prior to the manufacturer's acceptance of its return.

3 (7) "Warranty period" means the period ending 2 years after the date of the original delivery to the
4 consumer of a new motor vehicle or during the first 18,000 miles of operation, whichever is earlier."

5

6 **NEW SECTION. Section 3. Effective date.** [This act] is effective July 1, 1997.

7

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0063, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act increasing the sales tax on new motor vehicles by \$1; providing that the revenue be used by the Department of Commerce to administer the new vehicle warranty laws; excluding from the definition of "consumer" the purchase of motor vehicles to be used as part of a fleet; amending Sections 61-3-502 and 61-4-501, MCA; and providing an effective date.

ASSUMPTIONS:

1. The Department of Justice (DOJ), Motor Vehicle Division processed 68,857 MCOs (manufacturers certificate of origin) in calendar 1994, 63,547 MCOs in calendar 1995, and 61,836 MCOs in calendar 1996. Therefore, annual revenue estimates based on a \$1.00 sales tax on new motor vehicles would be approximately \$60,000 deposited to the new state special revenue (SSR) account.
2. Pursuant to 61-4-517, MCA, filing fees of \$300 are required by consumers(\$50) and manufacturers(\$250) who file arbitration requests. The Department of Commerce (DOC) estimates that it will receive approximately 20 arbitration requests and receive \$6,000 in each year of the biennium to conduct arbitration proceedings.
3. The DOC estimates that 1.00 FTE grade 12 would be required to administer the New Vehicle Warranty Act. Estimated FTE cost is \$27,338 in fiscal year 1998 and fiscal year 1999.
4. Operating costs, which include estimated arbitration proceeding expenses, are estimated at \$10,500 in fiscal year 1998 and \$10,750 in fiscal year 1999.
5. Equipment costs are estimated at \$3,500 in fiscal year 1998 and \$500 in fiscal year 1999.
6. The Department of Justice, Motor Vehicle Division will need to complete computer programming changes to accommodate the effects of this bill. Costs for approximately 80 hours of programming time are estimated at \$1,600 for the DOJ, Motor Vehicle Division.
7. The Department of Administration will only need to make slight administrative changes to the County Collection Report.

FISCAL IMPACT:

Department of Administration:
No fiscal impact

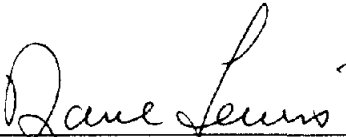
Expenditures:

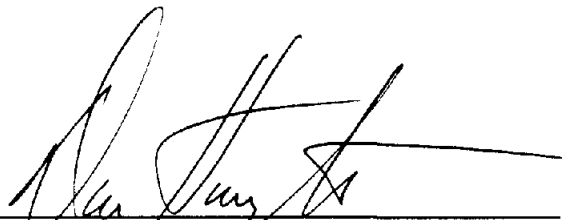
	<u>FY98</u>	<u>FY99</u>
	<u>Difference</u>	<u>Difference</u>
Department of Commerce		
Office of Consumer Affairs:		
FTE	1.00	1.00
Personal Services	27,338	27,338
Operating Expenses	10,500	10,750
Equipment	<u>3,500</u>	<u>500</u>
Total	41,338	38,588

Funding:

Consumer Affairs SSR (02)	41,338	38,588
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(continued)

 1-7-97
 DAVID LEWIS, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning


 DAN HARRINGTON, PRIMARY SPONSOR DATE

Fiscal Note for HB0063, as introduced

HB 63

(continued)

	<u>FY98</u> <u>Difference</u>	<u>FY99</u> <u>Difference</u>
<u>Expenditures:</u>		
Department of Justice		
Motor Vehicle Division:		
Operating Expenses	1,600	0
<u>Funding:</u>		
Consumer Affairs SSR (02)	1,600	0
<u>Revenues:</u>		
Department of Commerce		
Consumer Affairs:		
NVWA Fees	60,000	60,000
Arbitration Fees	<u>6,000</u>	<u>6,000</u>
Total	66,000	66,000

Net Impact:

Department of Commerce		
Consumer Affairs:		
Consumer Affairs SSR (02)	23,062	27,412

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

None anticipated.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

Enhancement of state consumer protection efforts under Montana's New Vehicle Warranty Act (NVWA), or "Lemon Law", by providing new vehicle purchasers with an intermediate avenue of appeal if manufacturers have not established an informal dispute settlement procedure certified by the Department of Commerce.

DEDICATION OF REVENUE:

- a) Are there persons or entities that benefit from this dedicated revenue that do not pay? (Please explain)

The proposed legislation would establish a state special revenue account funded by a \$1 per vehicle tax on the purchase of all new consumer vehicles within Montana to fund the New Vehicle Warranty Act. Therefore, it is highly unlikely that any persons or entities would benefit from enactment of this legislation without paying the \$1 per vehicle fee.

- b) What special information or other advantages exist as a result of using a state special revenue fund that could not be obtained if the revenue were allocated to the general fund?

By placing the proceeds of this proposed legislation into a state special revenue account, consumers, manufacturers, and the Legislature is assured that the program is enacted and working as intended. Additionally, problems which arise in regard to consumers and manufacturers would be addressed by funds directly collected for and allocated to the New Vehicle Warranty Act.

- c) Is the source of revenue relevant to current use of the funds and adequate to fund the program/activity that is intended? Yes No (if no, explain)

- d) Does the need for this state special revenue provision still exist? Yes No (Explain)

The proposed legislation establishes a state special revenue account which is necessary to provide for the administration and accountability of the New Vehicle Warranty Act.

- e) Does the dedicated revenue affect the legislature's ability to scrutinize budgets, control expenditures, or establish priorities for state spending? (Please explain)

No. The dedicated revenue provision of this proposed legislation does not diminish the Legislature's ability to control expenditures or establish priorities.

- f) Does the dedicated revenue fulfill a continuing, legislatively recognized need?
(Please explain)

Yes, provided the Legislature continues to mandate state responsibility for the New Motor Vehicle Warranty Act.

- g) How does the dedicated revenue provision result in accounting/auditing efficiencies or inefficiencies in your agency? (Please explain. Also, if the program/activity were general funded, could you adequately account for the program/activity?)

The dedicated revenue provision, which is required in the proposed legislation, would provide accounting efficiencies within the Department of Commerce. It would allow for the quick and accurate analysis of how effective and efficient the NVA is operating. If this proposal were to be funded through the general fund it would be much more difficult to determine program effectiveness and efficiency.

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6 TAX ON NEW MOTOR VEHICLES BY DEPOSITING \$1 PER VEHICLE IN A SPECIAL REVENUE ACCOUNT;
7 PROVIDING THAT THE REVENUE REALLOCATED FUNDS BE USED BY THE DEPARTMENT OF COMMERCE
8 TO ADMINISTER THE NEW VEHICLE WARRANTY LAWS; EXCLUDING FROM THE DEFINITION OF
9 "CONSUMER" THE PURCHASE OF MOTOR VEHICLES TO BE USED AS PART OF A FLEET; AMENDING
10 SECTIONS SECTION 61-3-502 AND 61-4-601, MCA; AND PROVIDING AN EFFECTIVE DATE."

11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:13
14 **Section 1.** Section 61-3-502, MCA, is amended to read:

15 **"61-3-502. Sales tax on new motor vehicles -- exemptions.** (1) In consideration of the right to use
16 the highways of the state, there is imposed a tax upon all sales of new motor vehicles, excluding trailers,
17 semitrailers, and housetrailers, for which a license is sought and an original application for title is made. The
18 tax must be paid by the purchaser when the purchaser applies for an original Montana license through the
19 county treasurer. For purposes of this section, "new motor vehicle" means a new motor vehicle for which
20 original registration is sought or a motor vehicle previously furnished without charge by a dealer to a school
21 district for use in a state-approved traffic education program, whether or not titled by the dealer or the
22 school district, and for which original registration is sought.

23 (2) Except as provided in subsections (4) and (5), the sales tax is:

24 (a) 1 1/2% of the f.o.b. factory list price or f.o.b. port-of-entry list price, during the first quarter
25 of the year or for a registration period other than a calendar year or calendar quarter;

26 (b) 1 1/8% of the list price during the second quarter of the year;

27 (c) 3/4 of 1% during the third quarter of the year;

28 (d) 3/8 of 1% during the fourth quarter of the year; ~~and~~29 ~~(e) \$1 in addition to the amount collected in subsections (2)(a) through (2)(d).~~

30 (3) If the manufacturer or importer fails to furnish the f.o.b. factory list price or f.o.b. port-of-entry

1 list price, the department may use published price lists.

2 (4) The new car sales tax on vehicles subject to the provisions of 61-3-313 through 61-3-316 is:

3 ~~(a) 1 1/2% of the f.o.b. factory list price or f.o.b. port-of-entry list price regardless of the month~~
4 ~~in which the new vehicle is purchased; and~~

5 ~~(b) \$1 in addition to the amount collected in subsection (4)(a).~~

6 (5) The sales tax on new motor vehicles registered as part of a fleet under 61-3-318 is:

7 ~~(a) 3/4 of 1% of the f.o.b. factory list price or f.o.b. port-of-entry list price; and~~

8 ~~(b) \$1 in addition to the amount collected in subsection (5)(a).~~

9 (6) ~~(a) Except as provided in subsection (6)(b), the~~ THE proceeds from this tax must be
10 remitted to the state treasurer every 30 days ~~for credit.~~ THE STATE TREASURER SHALL DEPOSIT \$1 OF
11 THE TAX ON EACH NEW MOTOR VEHICLE IN A SPECIAL REVENUE ACCOUNT TO BE USED BY THE
12 DEPARTMENT OF COMMERCE IN CARRYING OUT ITS DUTIES UNDER TITLE 61, CHAPTER 4, PART 5,
13 WITH THE BALANCE OF THE PROCEEDS TO BE CREDITED to the highway nonrestricted account of the
14 state special revenue fund. The county treasurer shall retain 5% of the taxes collected to pay for the cost
15 of administration.

16 ~~(b) The state treasurer shall place the \$1 tax collected pursuant to subsections (2)(c), (4)(b), and~~
17 ~~(5)(b) in a special revenue account to be used by the department of commerce in carrying out its duties~~
18 ~~under Title 61, chapter 4, part 5.~~

19 (7) The new vehicle is not subject to any other assessment, fee in lieu of tax, or tax during the
20 calendar year in which the original application for title is made.

21 (8) A motor vehicle may not be registered or licensed unless the application for registration is
22 accompanied by a statement of origin that is furnished by the dealer selling the vehicle and that shows that
23 the vehicle has not previously been registered or owned, except as otherwise provided in this section, by
24 any person, firm, corporation, or association other than a new motor vehicle dealer holding a franchise or
25 distribution agreement from a new car manufacturer, distributor, or importer.

26 (9) (a) Motor vehicles operating exclusively for transportation of persons for hire within the limits
27 of incorporated cities or towns and within 15 miles from the limits are exempt from the provisions of
28 subsection (1).

29 (b) Motor vehicles brought or driven into Montana by nonresident, migratory, bona fide agricultural
30 workers who are temporarily employed in agricultural work in this state, when those motor vehicles are

1 used exclusively for transportation of agricultural workers, are also exempt from the provisions of
2 subsection (1).

3 (c) Vehicles lawfully displaying a licensed dealer's plate as provided in 61-4-103 are exempt from
4 the provisions of subsection (1):

5 (i) when moving to or from a dealer's place of business when unloaded or loaded with dealer's
6 property only; and

7 (ii) in the case of vehicles having a gross loaded weight of less than 24,000 pounds, while being
8 demonstrated in the course of the dealer's business.

9 (d) Motor vehicles owned or controlled by a special district, as defined in 18-8-202, are exempt
10 from subsection (1).

11 (e) A vehicle registered under 61-3-456 is exempt from the provisions of subsection (1)."

12

13 **Section 2.** ~~Section 61-4-501, MCA, is amended to read:~~

14 ~~"61-4-501. Definitions. For purposes of this part, the following definitions apply:~~

15 (1) ~~"Collateral charge" means all governmental charges, including but not limited to sales tax,~~
16 ~~property tax, license and registration fees, and fees in lieu of tax.~~

17 (2) ~~"Consumer" means the purchaser, other than for purposes of resale or as part of a fleet as~~
18 ~~defined in 61-3-318, of a motor vehicle that has not been brought into nonconformity as the result of~~
19 ~~abuse, neglect, or unauthorized modifications or alterations by the purchaser, any person to whom the~~
20 ~~motor vehicle is transferred during the duration of an express warranty applicable to the motor vehicle, or~~
21 ~~any other person entitled by the terms of the warranty to the benefits of its provisions.~~

22 (3) ~~"Incidental damage" means incidental and consequential damage as defined in 30-2-715.~~

23 (4) ~~"Manufacturer" has the meaning applied to that word in 61-4-201.~~

24 (5) ~~(a) "Motor vehicle" means a vehicle, including the nonresidential portion of a motor home as~~
25 ~~defined in 61-1-130, propelled by its own power, designed primarily to transport persons or property upon~~
26 ~~the public highways, and sold in this state.~~

27 ~~(b) The term does not include a truck with 10,000 pounds or more gross vehicle weight rating or~~
28 ~~a motorcycle as defined in 61-1-105. Motor vehicle does not include components, systems, fixtures,~~
29 ~~appliances, furnishings, accessories, and features that are designed, used, and maintained primarily for~~
30 ~~residential purposes.~~

1 ~~(6) "Reasonable allowance for use" is an amount directly attributable to use of the motor vehicle~~
2 ~~by the consumer and any previous consumers prior to the first written notice of the nonconformity to the~~
3 ~~manufacturer or its agent and during any subsequent period when the vehicle is not out of service because~~
4 ~~of nonconformity. The reasonable allowance for use shall must be computed by multiplying the total~~
5 ~~contract price of the vehicle by a fraction having as its denominator 100,000 and having as its numerator~~
6 ~~the number of miles that the vehicle traveled prior to the manufacturer's acceptance of its return.~~

7 ~~(7) "Warranty period" means the period ending 2 years after the date of the original delivery to the~~
8 ~~consumer of a new motor vehicle or during the first 18,000 miles of operation, whichever is earlier."~~

9
10 NEW SECTION. Section 2. Effective date. [This act] is effective July 1, 1997.

11 -END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0063, second reading

DESCRIPTION OF PROPOSED LEGISLATION:

A bill for an act reallocating the proceeds of the sales tax on new motor vehicles by depositing \$1 per vehicle in a state special revenue account to be used by the Department of Commerce to administer the New Vehicle Warranty Act (NVWA), or "Lemon Law".

ASSUMPTIONS:

Department of Commerce:

1. Estimated new car sales in Montana are 35,000 each year of the biennium, resulting in \$35,000 in revenue each year.
2. Pursuant to 61-4-517, MCA, filing fees of \$300 are required by consumers (\$50) and manufacturers (\$250) who file arbitration requests. The Department of Commerce (DOC) estimates that it will receive approximately 20 arbitration requests and receive \$6,000 each year of the biennium to conduct arbitration proceedings.
3. The DOC estimates that 1.00 FTE program manager, grade 12, would be required to administer the new vehicle warranty act. The estimated personal services are \$27,338 in fiscal year 1998 and fiscal year 1999.
4. Operating costs, which include arbitration proceeding expenses are estimated at \$10,500 in fiscal year 1998 and \$10,750 in fiscal year 1999.
5. Equipment costs are estimated at \$3,500 in fiscal year 1998 and \$500 in fiscal year 1999.

Department of Justice:

6. The Department of Justice (DOJ), Motor Vehicle Division will need to complete computer programming changes to accommodate the effects of this bill. Costs for approximately 80 hours of programming time are estimated at \$1,600.
7. The DOJ, Motor Vehicle Division processed 35,000 manufacturers certificate of origin (MCOs) in calendar year 1996 for new passenger cars, vans, four-by-fours, motorhomes, trucks, and buses.

Department of Administration:

8. The Department of Administration will only need to make slight administrative changes to the county collect report as result of the proposed legislation. There would be no fiscal impact.

FISCAL IMPACT:

Department of Commerce
Office of Consumer Affairs:

Expenditures:

	<u>FY98</u>	<u>FY99</u>
	<u>Difference</u>	<u>Difference</u>
FTE	1.00	1.00
Personal Services	27,338	27,338
Operating Expenses	10,500	10,750
Equipment	<u>3,500</u>	<u>500</u>
Total	41,338	38,588

Funding:

Consumer Affairs SSR (02)	41,338	38,588
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(continued)

David Lewis 2-21-97

 DAVID LEWIS, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning

Dan Harrington

 DAN HARRINGTON, PRIMARY SPONSOR DATE

Fiscal Note for HB0063, second reading

HB 63-#2

(continued)

Department of Justice
Motor Vehicle Division:

Expenditures:

	<u>FY98</u>	<u>FY99</u>
	<u>Difference</u>	<u>Difference</u>
Operating Expenses	1,600	0

Funding:

Consumer Affairs SSR (02)	1,600	0
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Revenues:

NVWA Fees (02)	35,000	35,000
Highway Account (02)	(35,000)	(35,000)
Arbitration Fees	<u>6,000</u>	<u>6,000</u>
Total	6,000	6,000

Net Impact on Fund Balance: (Revenue minus expense)

Consumer Affairs SSR (02)	(1,938)	2,412
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LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

Enhancement of the state consumer protection efforts under Montana's New Vehicle Warranty Act by providing new vehicle purchasers with an intermediate avenue of appeal if manufacturers have not established an informal dispute settlement procedure certified by the Department of Commerce.

DEDICATION OF REVENUE:

- a) Are there persons or entities that benefit from this dedicated revenue that do not pay? (Please explain)

The proposed legislation would establish a state special revenue account funded by a \$1 reallocation of the existing state vehicle tax on the purchase of new vehicles within Montana to fund the New Vehicle Warranty Act.

- b) What special information or other advantages exist as a result of using a state special revenue fund that could not be obtained if the revenue were allocated to the general fund?

By placing the proceeds of this proposed legislation into a state special revenue account consumers, manufacturers, and the Legislature is assured that the program is enacted and working as intended. Additionally, problems which arise in regard to consumers and manufacturers would be addressed by funds directly collected for and allocated to the New Vehicle Warranty Act.

- c) Is the source of revenue relevant to current use of the funds and adequate to fund the program/activity that is intended? X Yes ___ No (if no, explain)

- d) Does the need for this state special revenue provision still exist? X Yes ___ No (Explain)

The proposed legislation establishes a state special revenue account which is necessary to provide for the administration and accountability of the New Vehicle Warranty Act.

- e) Does the dedicated revenue affect the legislature's ability to scrutinize budgets, control expenditures, or establish priorities for state spending? (Please explain)

No. The dedicated revenue provision of this proposed legislation does not diminish the Legislature's ability to control expenditures or establish priorities.

- f) Does the dedicated revenue fulfill a continuing, legislatively recognized need? (Please explain)

Yes, provided the Legislature continues to mandate State responsibility for the New Motor Vehicle Warranty Act.

- g) How does the dedicated revenue provision result in accounting/auditing efficiencies or inefficiencies in your agency? (Please explain. Also, if the program/activity were general funded, could you adequately account for the program/activity?)

The dedicated revenue provision, which is required in the proposed legislation, would provide accounting efficiencies within the Department of Commerce. It would allow for the quick and accurate analysis of how effective and efficient the NVWA is operating. If this proposal were to be funded through the general fund it would be much more difficult to determine program effectiveness and efficiency.

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 7 PROVIDING THAT THE REVENUE REALLOCATED FUNDS BE USED BY THE DEPARTMENT OF COMMERCE
 8 TO ADMINISTER THE NEW VEHICLE WARRANTY LAWS; EXCLUDING FROM THE DEFINITION OF
 9 "CONSUMER" THE PURCHASE OF MOTOR VEHICLES TO BE USED AS PART OF A FLEET; AMENDING
 10 SECTIONS SECTION 61-3-502 AND 61-4-501, MCA; AND PROVIDING AN EFFECTIVE DATE."

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 17 semitrailers, and housetrailers, for which a license is sought and an original application for title is made. The
 18 tax must be paid by the purchaser when the purchaser applies for an original Montana license through the
 19 county treasurer. For purposes of this section, "new motor vehicle" means a new motor vehicle for which
 20 original registration is sought or a motor vehicle previously furnished without charge by a dealer to a school
 21 district for use in a state-approved traffic education program, whether or not titled by the dealer or the
 22 school district, and for which original registration is sought.

23 (2) Except as provided in subsections (4) and (5), the sales tax is:

24 (a) 1 1/2% of the f.o.b. factory list price or f.o.b. port-of-entry list price, during the first quarter
 25 of the year or for a registration period other than a calendar year or calendar quarter;

26 (b) 1 1/8% of the list price during the second quarter of the year;

27 (c) 3/4 of 1% during the third quarter of the year;

28 (d) 3/8 of 1% during the fourth quarter of the year; ~~and~~

29 ~~(e) \$1 in addition to the amount collected in subsections (2)(a) through (2)(d).~~

30 (3) If the manufacturer or importer fails to furnish the f.o.b. factory list price or f.o.b. port-of-entry

1 list price, the department may use published price lists.

2 (4) The new car sales tax on vehicles subject to the provisions of 61-3-313 through 61-3-316 is:

3 ~~(a) 1 1/2% of the f.o.b. factory list price or f.o.b. port-of-entry list price regardless of the month~~
4 ~~in which the new vehicle is purchased; and~~

5 ~~(b) \$1 in addition to the amount collected in subsection (4)(a).~~

6 (5) The sales tax on new motor vehicles registered as part of a fleet under 61-3-318 is:

7 ~~(a) 3/4 of 1% of the f.o.b. factory list price or f.o.b. port-of-entry list price; and~~

8 ~~(b) \$1 in addition to the amount collected in subsection (5)(a).~~

9 (6) ~~(a) Except as provided in subsection (6)(b), the~~ THE proceeds from this tax must be
10 remitted to the state treasurer every 30 days ~~for credit.~~ THE STATE TREASURER SHALL DEPOSIT \$1 OF
11 THE TAX ON EACH NEW MOTOR VEHICLE IN A SPECIAL REVENUE ACCOUNT TO BE USED BY THE
12 DEPARTMENT OF COMMERCE IN CARRYING OUT ITS DUTIES UNDER TITLE 61, CHAPTER 4, PART 5,
13 WITH THE BALANCE OF THE PROCEEDS TO BE CREDITED to the highway nonrestricted account of the
14 state special revenue fund. The county treasurer shall retain 5% of the taxes collected to pay for the cost
15 of administration.

16 ~~(b) The state treasurer shall place the \$1 tax collected pursuant to subsections (2)(c), (4)(b), and~~
17 ~~(5)(b) in a special revenue account to be used by the department of commerce in carrying out its duties~~
18 ~~under Title 61, chapter 4, part 5.~~

19 (7) The new vehicle is not subject to any other assessment, fee in lieu of tax, or tax during the
20 calendar year in which the original application for title is made.

21 (8) A motor vehicle may not be registered or licensed unless the application for registration is
22 accompanied by a statement of origin that is furnished by the dealer selling the vehicle and that shows that
23 the vehicle has not previously been registered or owned, except as otherwise provided in this section, by
24 any person, firm, corporation, or association other than a new motor vehicle dealer holding a franchise or
25 distribution agreement from a new car manufacturer, distributor, or importer.

26 (9) (a) Motor vehicles operating exclusively for transportation of persons for hire within the limits
27 of incorporated cities or towns and within 15 miles from the limits are exempt from the provisions of
28 subsection (1).

29 (b) Motor vehicles brought or driven into Montana by nonresident, migratory, bona fide agricultural
30 workers who are temporarily employed in agricultural work in this state, when those motor vehicles are

1 used exclusively for transportation of agricultural workers, are also exempt from the provisions of
2 subsection (1).

3 (c) Vehicles lawfully displaying a licensed dealer's plate as provided in 61-4-103 are exempt from
4 the provisions of subsection (1):

5 (i) when moving to or from a dealer's place of business when unloaded or loaded with dealer's
6 property only; and

7 (ii) in the case of vehicles having a gross loaded weight of less than 24,000 pounds, while being
8 demonstrated in the course of the dealer's business.

9 (d) Motor vehicles owned or controlled by a special district, as defined in 18-8-202, are exempt
10 from subsection (1).

11 (e) A vehicle registered under 61-3-456 is exempt from the provisions of subsection (1)."

12

13 ~~Section 2. Section 61-4-501, MCA, is amended to read:~~

14 ~~"61-4-501. Definitions. For purposes of this part, the following definitions apply:~~

15 ~~(1) "Collateral charge" means all governmental charges, including but not limited to sales tax,~~
16 ~~property tax, license and registration fees, and fees in lieu of tax.~~

17 ~~(2) "Consumer" means the purchaser, other than for purposes of resale or as part of a fleet as~~
18 ~~defined in 61-3-318, of a motor vehicle that has not been brought into nonconformity as the result of~~
19 ~~abuse, neglect, or unauthorized modifications or alterations by the purchaser, any person to whom the~~
20 ~~motor vehicle is transferred during the duration of an express warranty applicable to the motor vehicle, or~~
21 ~~any other person entitled by the terms of the warranty to the benefits of its provisions.~~

22 ~~(3) "Incidental damage" means incidental and consequential damage as defined in 30-2-715.~~

23 ~~(4) "Manufacturer" has the meaning applied to that word in 61-4-201.~~

24 ~~(5) (a) "Motor vehicle" means a vehicle, including the nonresidential portion of a motor home as~~
25 ~~defined in 61-1-130, propelled by its own power, designed primarily to transport persons or property upon~~
26 ~~the public highways, and sold in this state.~~

27 ~~(b) The term does not include a truck with 10,000 pounds or more gross vehicle weight rating or~~
28 ~~a motorcycle as defined in 61-1-105. Motor vehicle does not include components, systems, fixtures,~~
29 ~~appliances, furnishings, accessories, and features that are designed, used, and maintained primarily for~~
30 ~~residential purposes.~~

1 HOUSE BILL NO. 63

2 INTRODUCED BY HARRINGTON

3 BY REQUEST OF THE DEPARTMENT OF COMMERCE
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT ~~INCREASING~~ REALLOCATING THE PROCEEDS OF THE SALES
6 TAX ON NEW MOTOR VEHICLES BY DEPOSITING \$1 PER VEHICLE IN A SPECIAL REVENUE ACCOUNT;
7 PROVIDING THAT THE REVENUE REALLOCATED FUNDS BE USED BY THE DEPARTMENT OF COMMERCE
8 TO ADMINISTER THE NEW VEHICLE WARRANTY LAWS; EXCLUDING FROM THE DEFINITION OF
9 "CONSUMER" THE PURCHASE OF MOTOR VEHICLES TO BE USED AS PART OF A FLEET; AMENDING
10 SECTIONS SECTION 61-3-502 AND 61-4-501, MCA; AND PROVIDING AN EFFECTIVE DATE."

11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
1314 **Section 1.** Section 61-3-502, MCA, is amended to read:

15 **"61-3-502. Sales tax on new motor vehicles -- exemptions.** (1) In consideration of the right to use
16 the highways of the state, there is imposed a tax upon all sales of new motor vehicles, excluding trailers,
17 semitrailers, and housetrailers, for which a license is sought and an original application for title is made. The
18 tax must be paid by the purchaser when the purchaser applies for an original Montana license through the
19 county treasurer. For purposes of this section, "new motor vehicle" means a new motor vehicle for which
20 original registration is sought or a motor vehicle previously furnished without charge by a dealer to a school
21 district for use in a state-approved traffic education program, whether or not titled by the dealer or the
22 school district, and for which original registration is sought.

23 (2) Except as provided in subsections (4) and (5), the sales tax is:

24 (a) 1 1/2% of the f.o.b. factory list price or f.o.b. port-of-entry list price, during the first quarter
25 of the year or for a registration period other than a calendar year or calendar quarter;

26 (b) 1 1/8% of the list price during the second quarter of the year;

27 (c) 3/4 of 1% during the third quarter of the year;

28 (d) 3/8 of 1% during the fourth quarter of the year; ~~and~~29 ~~(e) \$1 in addition to the amount collected in subsections (2)(a) through (2)(d).~~

30 (3) If the manufacturer or importer fails to furnish the f.o.b. factory list price or f.o.b. port-of-entry

1 list price, the department may use published price lists.

2 (4) The new car sales tax on vehicles subject to the provisions of 61-3-313 through 61-3-316 is:

3 ~~(a) 1 1/2% of the f.o.b. factory list price or f.o.b. port-of-entry list price regardless of the month~~
4 ~~in which the new vehicle is purchased; and~~

5 ~~(b) \$1 in addition to the amount collected in subsection (4)(a).~~

6 (5) The sales tax on new motor vehicles registered as part of a fleet under 61-3-318 is:

7 ~~(a) 3/4 of 1% of the f.o.b. factory list price or f.o.b. port-of-entry list price; and~~

8 ~~(b) \$1 in addition to the amount collected in subsection (5)(a).~~

9 (6) ~~(a) Except as provided in subsection (6)(b), the~~ THE proceeds from this tax must be
10 remitted to the state treasurer every 30 days ~~for credit.~~ THE STATE TREASURER SHALL DEPOSIT \$1 OF
11 THE TAX ON EACH NEW MOTOR VEHICLE IN A SPECIAL REVENUE ACCOUNT TO BE USED BY THE
12 DEPARTMENT OF COMMERCE IN CARRYING OUT ITS DUTIES UNDER TITLE 61, CHAPTER 4, PART 5,
13 WITH THE BALANCE OF THE PROCEEDS TO BE CREDITED to the highway nonrestricted account of the
14 state special revenue fund. The county treasurer shall retain 5% of the taxes collected to pay for the cost
15 of administration.

16 ~~(b) The state treasurer shall place the \$1 tax collected pursuant to subsections (2)(c), (4)(b), and~~
17 ~~(5)(b) in a special revenue account to be used by the department of commerce in carrying out its duties~~
18 ~~under Title 61, chapter 4, part 5.~~

19 (7) The new vehicle is not subject to any other assessment, fee in lieu of tax, or tax during the
20 calendar year in which the original application for title is made.

21 (8) A motor vehicle may not be registered or licensed unless the application for registration is
22 accompanied by a statement of origin that is furnished by the dealer selling the vehicle and that shows that
23 the vehicle has not previously been registered or owned, except as otherwise provided in this section, by
24 any person, firm, corporation, or association other than a new motor vehicle dealer holding a franchise or
25 distribution agreement from a new car manufacturer, distributor, or importer.

26 (9) (a) Motor vehicles operating exclusively for transportation of persons for hire within the limits
27 of incorporated cities or towns and within 15 miles from the limits are exempt from the provisions of
28 subsection (1).

29 (b) Motor vehicles brought or driven into Montana by nonresident, migratory, bona fide agricultural
30 workers who are temporarily employed in agricultural work in this state, when those motor vehicles are

1 used exclusively for transportation of agricultural workers, are also exempt from the provisions of
2 subsection (1).

3 (c) Vehicles lawfully displaying a licensed dealer's plate as provided in 61-4-103 are exempt from
4 the provisions of subsection (1):

5 (i) when moving to or from a dealer's place of business when unloaded or loaded with dealer's
6 property only; and

7 (ii) in the case of vehicles having a gross loaded weight of less than 24,000 pounds, while being
8 demonstrated in the course of the dealer's business.

9 (d) Motor vehicles owned or controlled by a special district, as defined in 18-8-202, are exempt
10 from subsection (1).

11 (e) A vehicle registered under 61-3-456 is exempt from the provisions of subsection (1)."

12

13 ~~Section 2. Section 61-4-501, MCA, is amended to read:~~

14 ~~"61-4-501. Definitions. For purposes of this part, the following definitions apply:~~

15 (1) ~~"Collateral charge" means all governmental charges, including but not limited to sales tax,~~
16 ~~property tax, license and registration fees, and fees in lieu of tax.~~

17 (2) ~~"Consumer" means the purchaser, other than for purposes of resale or as part of a fleet as~~
18 ~~defined in 61-3-318, of a motor vehicle that has not been brought into nonconformity as the result of~~
19 ~~abuse, neglect, or unauthorized modifications or alterations by the purchaser, any person to whom the~~
20 ~~motor vehicle is transferred during the duration of an express warranty applicable to the motor vehicle, or~~
21 ~~any other person entitled by the terms of the warranty to the benefits of its provisions.~~

22 (3) ~~"Incidental damage" means incidental and consequential damage as defined in 30-2-715.~~

23 (4) ~~"Manufacturer" has the meaning applied to that word in 61-4-201.~~

24 (5) (a) ~~"Motor vehicle" means a vehicle, including the nonresidential portion of a motor home as~~
25 ~~defined in 61-1-130, propelled by its own power, designed primarily to transport persons or property upon~~
26 ~~the public highways, and sold in this state.~~

27 (b) ~~The term does not include a truck with 10,000 pounds or more gross vehicle weight rating or~~
28 ~~a motorcycle as defined in 61-1-105. Motor vehicle does not include components, systems, fixtures,~~
29 ~~appliances, furnishings, accessories, and features that are designed, used, and maintained primarily for~~
30 ~~residential purposes.~~

1 ~~(6) "Reasonable allowance for use" is an amount directly attributable to use of the motor vehicle~~
2 ~~by the consumer and any previous consumers prior to the first written notice of the nonconformity to the~~
3 ~~manufacturer or its agent and during any subsequent period when the vehicle is not out of service because~~
4 ~~of nonconformity. The reasonable allowance for use shall must be computed by multiplying the total~~
5 ~~contract price of the vehicle by a fraction having as its denominator 100,000 and having as its numerator~~
6 ~~the number of miles that the vehicle traveled prior to the manufacturer's acceptance of its return.~~

7 ~~(7) "Warranty period" means the period ending 2 years after the date of the original delivery to the~~
8 ~~consumer of a new motor vehicle or during the first 18,000 miles of operation, whichever is earlier."~~

9

10 **NEW SECTION. Section 2. Effective date.** [This act] is effective July 1, 1997.

11

-END-

HOUSE BILL NO. 63

INTRODUCED BY HARRINGTON

BY REQUEST OF THE DEPARTMENT OF COMMERCE

A BILL FOR AN ACT ENTITLED: "~~AN ACT INCREASING~~ REALLOCATING THE PROCEEDS OF THE SALES TAX ON NEW MOTOR VEHICLES BY DEPOSITING \$1 PER VEHICLE IN A SPECIAL REVENUE ACCOUNT; PROVIDING THAT THE ~~REVENUE REALLOCATED FUNDS~~ BE USED BY THE DEPARTMENT OF COMMERCE TO ADMINISTER THE NEW VEHICLE WARRANTY LAWS; ~~EXCLUDING FROM THE DEFINITION OF "CONSUMER" THE PURCHASE OF MOTOR VEHICLES TO BE USED AS PART OF A FLEET~~; AMENDING ~~SECTIONS~~ SECTION 61-3-502 AND ~~61-4-501~~, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 61-3-502, MCA, is amended to read:

"61-3-502. Sales tax on new motor vehicles -- exemptions. (1) In consideration of the right to use the highways of the state, there is imposed a tax upon all sales of new motor vehicles, excluding trailers, semitrailers, and housetrailers, for which a license is sought and an original application for title is made. The tax must be paid by the purchaser when the purchaser applies for an original Montana license through the county treasurer. For purposes of this section, "new motor vehicle" means a new motor vehicle for which original registration is sought or a motor vehicle previously furnished without charge by a dealer to a school district for use in a state-approved traffic education program, whether or not titled by the dealer or the school district, and for which original registration is sought.

(2) Except as provided in subsections (4) and (5), the sales tax is:

(a) 1 1/2% of the f.o.b. factory list price or f.o.b. port-of-entry list price, during the first quarter of the year or for a registration period other than a calendar year or calendar quarter;

(b) 1 1/8% of the list price during the second quarter of the year;

(c) 3/4 of 1% during the third quarter of the year;

(d) 3/8 of 1% during the fourth quarter of the year; ~~and~~

~~(e) \$1 in addition to the amount collected in subsections (2)(a) through (2)(d).~~

(3) If the manufacturer or importer fails to furnish the f.o.b. factory list price or f.o.b. port-of-entry

1 list price, the department may use published price lists.

2 (4) The new car sales tax on vehicles subject to the provisions of 61-3-313 through 61-3-316 is:

3 ~~(a) 1 1/2% of the f.o.b. factory list price or f.o.b. port-of-entry list price regardless of the month~~
4 ~~in which the new vehicle is purchased; and~~

5 ~~(b) \$1 in addition to the amount collected in subsection (4)(a).~~

6 (5) The sales tax on new motor vehicles registered as part of a fleet under 61-3-318 is:

7 ~~(a) 3/4 of 1% of the f.o.b. factory list price or f.o.b. port-of-entry list price; and~~

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12 DEPARTMENT OF COMMERCE IN CARRYING OUT ITS DUTIES UNDER TITLE 61, CHAPTER 4, PART 5,
13 WITH THE BALANCE OF THE PROCEEDS TO BE CREDITED to the highway nonrestricted account of the
14 state special revenue fund. The county treasurer shall retain 5% of the taxes collected to pay for the cost
15 of administration.

16 ~~(b) The state treasurer shall place the \$1 tax collected pursuant to subsections (2)(c), (4)(b), and~~
17 ~~(5)(b) in a special revenue account to be used by the department of commerce in carrying out its duties~~
18 ~~under Title 61, chapter 4, part 5.~~

19 (7) The new vehicle is not subject to any other assessment, fee in lieu of tax, or tax during the
20 calendar year in which the original application for title is made.

21 (8) A motor vehicle may not be registered or licensed unless the application for registration is
22 accompanied by a statement of origin that is furnished by the dealer selling the vehicle and that shows that
23 the vehicle has not previously been registered or owned, except as otherwise provided in this section, by
24 any person, firm, corporation, or association other than a new motor vehicle dealer holding a franchise or
25 distribution agreement from a new car manufacturer, distributor, or importer.

26 (9) (a) Motor vehicles operating exclusively for transportation of persons for hire within the limits
27 of incorporated cities or towns and within 15 miles from the limits are exempt from the provisions of
28 subsection (1).

29 (b) Motor vehicles brought or driven into Montana by nonresident, migratory, bona fide agricultural
30 workers who are temporarily employed in agricultural work in this state, when those motor vehicles are

1 used exclusively for transportation of agricultural workers, are also exempt from the provisions of
2 subsection (1).

3 (c) Vehicles lawfully displaying a licensed dealer's plate as provided in 61-4-103 are exempt from
4 the provisions of subsection (1):

5 (i) when moving to or from a dealer's place of business when unloaded or loaded with dealer's
6 property only; and

7 (ii) in the case of vehicles having a gross loaded weight of less than 24,000 pounds, while being
8 demonstrated in the course of the dealer's business.

9 (d) Motor vehicles owned or controlled by a special district, as defined in 18-8-202, are exempt
10 from subsection (1).

11 (e) A vehicle registered under 61-3-456 is exempt from the provisions of subsection (1)."

12

13 ~~Section 2. Section 61-4-501, MCA, is amended to read:~~

14 ~~"61-4-501. Definitions. For purposes of this part, the following definitions apply:~~

15 ~~(1) "Collateral charge" means all governmental charges, including but not limited to sales tax,~~
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18 ~~defined in 61-3-318, of a motor vehicle that has not been brought into nonconformity as the result of~~
19 ~~abuse, neglect, or unauthorized modifications or alterations by the purchaser, any person to whom the~~
20 ~~motor vehicle is transferred during the duration of an express warranty applicable to the motor vehicle, or~~
21 ~~any other person entitled by the terms of the warranty to the benefits of its provisions.~~

22 ~~(3) "Incidental damage" means incidental and consequential damage as defined in 30-2-715.~~

23 ~~(4) "Manufacturer" has the meaning applied to that word in 61-4-201.~~

24 ~~(5) (a) "Motor vehicle" means a vehicle, including the nonresidential portion of a motor home as~~
25 ~~defined in 61-1-130, propelled by its own power, designed primarily to transport persons or property upon~~
26 ~~the public highways, and sold in this state.~~

27 ~~(b) The term does not include a truck with 10,000 pounds or more gross vehicle weight rating or~~
28 ~~a motorcycle as defined in 61-1-105. Motor vehicle does not include components, systems, fixtures,~~
29 ~~appliances, furnishings, accessories, and features that are designed, used, and maintained primarily for~~
30 ~~residential purposes.~~

1 ~~(6) "Reasonable allowance for use" is an amount directly attributable to use of the motor vehicle~~
2 ~~by the consumer and any previous consumers prior to the first written notice of the nonconformity to the~~
3 ~~manufacturer or its agent and during any subsequent period when the vehicle is not out of service because~~
4 ~~of nonconformity. The reasonable allowance for use shall must be computed by multiplying the total~~
5 ~~contract price of the vehicle by a fraction having as its denominator 100,000 and having as its numerator~~
6 ~~the number of miles that the vehicle traveled prior to the manufacturer's acceptance of its return.~~

7 ~~(7) "Warranty period" means the period ending 2 years after the date of the original delivery to the~~
8 ~~consumer of a new motor vehicle or during the first 18,000 miles of operation, whichever is earlier."~~

9
10 NEW SECTION. Section 2. Effective date. [This act] is effective July 1, 1997.

11 -END-