

ENGROSSED SENATE
BILL NO. 1098

By: Bell of the Senate
and
Erwin of the House

An Act relating to warranties; amending 15 O.S. 1991, Section 901, which relates to repair of motor vehicles under express warranty; adding definition; modifying language; modifying statutory reference; requiring reimbursement of certain expenses of purchaser of nonconforming motor vehicle under certain circumstances; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 15 O.S. 1991, Section 901, is amended to read as follows:

Section 901. A. As used in this act:

1. "Consumer" means the purchaser, other than for purposes of resale, of a motor vehicle, any person to whom ~~such~~ the motor vehicle is transferred during the duration of an express warranty applicable to ~~such~~ the motor vehicle, and any other person entitled by the terms of ~~such~~ the warranty to enforce the obligations of the warranty; ~~and~~

2. "Motor vehicle" means any motor-driven vehicle required to be registered under the ~~Motor~~ Oklahoma Vehicle License and Registration Act, Sections ~~22~~ 1101 et seq. of Title 47 of the

Oklahoma Statutes, excluding vehicles above ten thousand (10,000) pounds gross vehicle weight and the living facilities of motor homes; and

3. "Serious safety hazard" means a life-threatening malfunction or nonconformity that substantially impedes a person's ability to control or operate a motor vehicle for ordinary use or intended purposes or that creates a substantial risk of fire or explosion.

B. For the purposes of this act, if a new motor vehicle does not conform to all applicable express warranties, and the consumer reports the nonconformity, directly in writing, to the manufacturer, its agent, or its authorized dealer during the term of ~~such~~ the express warranties or during the period of one (1) year following the date of original delivery of the motor vehicle to a consumer, whichever is the earlier date, the manufacturer, its agent, or its authorized dealer shall make ~~such~~ repairs as are necessary to conform the vehicle to ~~such~~ the express warranties, notwithstanding the fact that ~~such~~ any repairs are made after the expiration of ~~such~~ the term or ~~such~~ the one-year period.

C. If the manufacturer, or its agents or authorized dealers are unable to conform the motor vehicle to any applicable express warranty by repairing or correcting any defect or condition which creates a serious safety hazard or substantially impairs the use and value of the motor vehicle to the consumer after a reasonable number of attempts, the manufacturer shall replace the motor vehicle with a new motor vehicle or accept return of the vehicle from the consumer and refund to the consumer the full purchase price including all taxes, license, registration fees, and all similar governmental fees, ~~excluding~~ including interest paid, less a reasonable allowance for the consumer's use of the vehicle. In addition to replacing the vehicle or accepting the return of the vehicle, the manufacturer shall reimburse the owner for reasonable incidental costs resulting from loss of use of the motor vehicle because of the nonconformity

or defect. Refunds shall be made to the consumer, and lienholder, if any, as their interests may appear. A reasonable allowance for use shall be that amount directly attributable to use by the consumer prior to ~~his~~ the consumer's first written report of the nonconformity to the manufacturer, agent, or dealer and during any subsequent period when the vehicle is not out of service by reason of repair. It shall be an affirmative defense to any claim under this act: ~~(1) that~~

1. That an alleged nonconformity does not substantially impair ~~such the~~ use and value; ~~or (2) that~~

2. That a nonconformity is the result of abuse, neglect, or unauthorized modifications or alterations of a motor vehicle. In no event shall the presumption described in this subsection apply against a manufacturer unless the manufacturer has received prior direct written notification from or on behalf of the consumer and has had an opportunity to cure the defect alleged.

D. It shall be presumed that a reasonable number of attempts have been undertaken to conform a motor vehicle to the applicable express warranties, if ~~(1) the~~:

1. The same nonconformity has been subject to repair four or more times by the manufacturer or its agents or authorized dealers within the express warranty term or during the period of one (1) year following the date of original delivery of the motor vehicle to a consumer, whichever is the earlier date, but ~~such the~~ nonconformity continues to exist; ~~or (2) the~~

2. The vehicle is out of service by reason of repair for a cumulative total of forty-five (45) or more calendar days during ~~such the~~ term or during ~~such the~~ period, whichever is the earlier date. The term of an express warranty, ~~such the~~ one-year period and ~~such the~~ forty-five-day period shall be extended by any period of time during which repair services are not available to the consumer

because of a war, invasion, strike, or fire, flood or other natural disaster.

E. Nothing in this act shall in any way limit the rights or remedies which are otherwise available to a consumer under any other law.

F. If a manufacturer has established an informal dispute settlement procedure which complies in all respects with the provisions of Title 16, Code of Federal Regulations, Part 703, as from time to time amended, the provisions of subsection C of this section concerning refunds or replacement shall not apply to any consumer who has not first resorted to ~~such~~ that procedure.

SECTION 2. This act shall become effective November 1, 1996.

Passed the Senate the 26th day of February, 1996.

President of the Senate

Passed the House of Representatives the ____ day of

_____, 1996.

Speaker of the House of Representatives