

COMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend SB812
_____ Of the printed Bill
Page _____ Section _____ Lines _____
_____ Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____

Amendment submitted by: Rex Duncan

Reading Clerk

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 PROPOSED COMMITTEE
4 SUBSTITUTE
5 FOR ENGROSSED
6 SENATE BILL NO. 812

By: Stanislawski of the Senate

and

Liebmann of the House

7
8
9 PROPOSED COMMITTEE SUBSTITUTE

10 An Act relating to consumer protection; creating the
11 Oklahoma Lemon Law; amending 15 O.S. 2001, Section
12 901, which relates to manufacturer warranties;
13 modifying motor vehicle return policy; modifying
14 method of determining prior use of vehicle; modifying
15 certain time limitation; requiring the Attorney
16 General to make certain written statement;
17 prohibiting resale of certain vehicles; providing
18 exception; requiring manufacturers to provide certain
19 written statement to consumer; specifying method of
20 resale of certain vehicles; providing for attorney
21 fees and costs; providing procedures for
22 manufacturers to retitle certain vehicles; defining
23 terms; requiring credit reporting agencies to provide
24 certain information to a business under certain
circumstances; authorizing imposition of a reasonable
charge for purchasing information; providing for
codification; providing for noncodification; and
providing an effective date.

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

1 SECTION 1. NEW LAW A new section of law not to be
2 codified in the Oklahoma Statutes reads as follows:

3 This act shall be known and may be cited as the "Oklahoma Lemon
4 Law".

5 SECTION 2. AMENDATORY 15 O.S. 2001, Section 901, is
6 amended to read as follows:

7 Section 901. A. As used in this ~~act~~ section:

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

13 2. "Motor vehicle" means any motor-driven vehicle required to
14 be registered under the Oklahoma Motor Vehicle License and
15 Registration Act, ~~Sections 22 et seq. of Title 47 of the Oklahoma~~
16 ~~Statutes~~, excluding vehicles above ten thousand (10,000) pounds
17 gross vehicle weight and the living facilities of motor homes.

18 B. For the purposes of this act, if a new motor vehicle does
19 not conform to all applicable express warranties, and the consumer
20 reports the nonconformity, directly in writing, to the manufacturer,
21 its agent or its authorized dealer during the term of such express
22 warranties or during the period of one (1) year following the date
23 of original delivery of the motor vehicle to a consumer, whichever
24 is the earlier date, the manufacturer, its agent or its authorized

1 dealer shall make such repairs as are necessary to conform the
2 vehicle to such express warranties, notwithstanding the fact that
3 such repairs are made after the expiration of such term or such
4 one-year period.

5 C. If the manufacturer, or its agents or authorized dealers are
6 unable to conform the motor vehicle to any applicable express
7 warranty by repairing or correcting any defect or condition which
8 substantially impairs the use and value of the motor vehicle to the
9 consumer after a reasonable number of attempts, the manufacturer
10 shall ~~replace the motor vehicle with a new motor vehicle or, at the~~
11 discretion of the consumer, either accept a return of the vehicle
12 from the consumer and refund to the consumer the full purchase price
13 including all taxes, license, registration fees and all similar
14 governmental fees, excluding interest, less a reasonable allowance
15 for the consumer's use of the vehicle or replace the motor vehicle
16 with a comparable model acceptable to the consumer. If a comparable
17 model vehicle cannot be agreed upon, the purchase price shall be
18 refunded less a reasonable allowance for the consumer's use of the
19 vehicle. Refunds shall be made to the consumer, and lienholder if
20 any, as their interests may appear. A reasonable allowance for use
21 shall be ~~that amount directly attributable to use by the consumer~~
22 ~~prior to his first written report of the nonconformity to the~~
23 ~~manufacturer, agent or dealer and during any subsequent period when~~
24 ~~the vehicle is not out of service by reason of repair~~ the purchase

1 or lease price of the new motor vehicle multiplied by a fraction
2 having as the denominator one hundred twenty thousand (120,000)
3 miles and having as the numerator the miles directly attributable to
4 use by the consumer beyond fifteen thousand (15,000) miles. It
5 shall be an affirmative defense to any claim under this act ~~(1)~~
6 that:

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

9 2. That a nonconformity is the result of abuse, neglect or
10 unauthorized modifications or alterations of a motor vehicle.

11 In no event shall the presumption described in this subsection
12 apply against a manufacturer unless the manufacturer has received
13 prior direct written notification from or on behalf of the consumer
14 and has had an opportunity to cure the defect alleged.

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

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

24

1 2. The vehicle is out of service by reason of repair for a
2 cumulative total of ~~forty five (45) or more calendar~~ thirty (30)
3 business days during such term or during such period, whichever is
4 the earlier date.

5 The term of an express warranty, such one-year period and such
6 ~~forty five day~~ thirty-day period shall be extended by any period of
7 time during which repair services are not available to the consumer
8 because of a war, invasion, strike ~~or~~, fire, flood or other natural
9 disaster.

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

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

19 G. The Oklahoma Attorney General shall prepare a written
20 statement explaining the rights of a purchaser under this law.
21 Dealers shall provide to each purchaser at the time of original
22 purchase of a new motor vehicle a written statement containing a
23 copy of the statement of the Attorney General.

24

1 H. Vehicles returned pursuant to the provisions of this act may
2 not be resold in this state unless:

3 1. The manufacturer provides the same express warranty the
4 manufacturer provided the original purchaser, except that the term
5 of the warranty need only last for twelve thousand (12,000) miles or
6 twelve (12) months after the date of resale, whichever is earlier;
7 or

8 2. The manufacturer provides the consumer with a written
9 statement on a separate piece of paper that clearly discloses the
10 reason or reasons the vehicle was reacquired by the manufacturer.

11 I. Notwithstanding the provisions of subsection H of this
12 section, returned vehicles shall not be resold if a new motor
13 vehicle has been returned pursuant to the provisions of this act or
14 a similar statute in another state because of nonconformity
15 resulting in a complete failure of the braking or steering system
16 likely to cause death or serious bodily injury if the vehicle is
17 driven.

18 J. In any civil action pursuant to this section wherein the
19 consumer is the prevailing party in the civil action, the consumer
20 shall recover all costs and reasonable attorney fees as determined
21 by the court.

22 SECTION 3. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 901.1 of Title 15, unless there
24 is created a duplication in numbering, reads as follows:

1 A. Any manufacturer who reacquires or assists a dealer or
2 lienholder to reacquire a motor vehicle registered in this state,
3 prior to any sale, lease, or transfer of the vehicle in this state,
4 or prior to exporting the vehicle to another state for sale, lease,
5 or transfer if the vehicle was registered in this state and
6 reacquired pursuant to this law shall:

7 1. Cause the vehicle to be retitled in the name of the
8 manufacturer;

9 2. Request the Oklahoma Tax Commission to brand the certificate
10 of title with the notation "Lemon Law Buyback"; and

11 3. Affix a decal to the vehicle stating the following: "This
12 vehicle was repurchased by the manufacturer under the Lemon Law of
13 the State of Oklahoma. The vehicle certificate of title has been
14 branded as a 'Lemon Law Buyback'."

15 B. The decal shall be permanently and conspicuously affixed to
16 the front door frame of the left side of the vehicle, or if there is
17 no front door frame, then the decal shall be affixed as directed by
18 the Oklahoma Tax Commission. No person shall knowingly remove or
19 alter any decal required by the provisions of this section.

20 SECTION 4. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 170 of Title 24, unless there is
22 created a duplication in numbering, reads as follows:

23 A. For purposes of this section, the following definitions
24 shall apply:

1 1. "Credit reporting agency" means any individual, partnership,
2 corporation, limited liability company, trust, estate, cooperative,
3 association or other entity which for monetary fees, regularly
4 engages in whole or in part in the practice of assembling or
5 evaluating credit information or other information on businesses for
6 the purpose of furnishing credit reports and/or assisting businesses
7 with their credit rating, and which uses any means or facility of
8 interstate commerce for the purpose of preparing or furnishing such
9 reports and any affiliated debt collection agency of such entity,
10 and who notifies a business located within this state about
11 information concerning one or more specific incidents of a fraud
12 alert, adverse action or other incident that negatively affects the
13 business' credit. Credit reporting agency does not include such
14 agency that has a pre-existing relationship with the business to
15 provide credit or credit assistance services; and

16 2. "Business" means any sole proprietorship, partnership,
17 corporation, or limited liability company located within this state.

18 B. Any credit reporting agency that notifies a business located
19 in this state that there is information concerning one or more
20 specific incidents of a fraud alert, adverse action or other
21 incident that negatively affects the credit of the business, shall
22 provide such information free of charge to the business if the
23 business requests such information within thirty (30) days after
24 receipt of the notification. If the business does not request such

1 information within thirty (30) days, then the credit reporting
2 agency may impose a reasonable charge for the information if the
3 business later chooses to purchase it.

4 SECTION 5. This act shall become effective November 1, 2009.

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