

1 STATE OF OKLAHOMA

2 2nd Session of the 55th Legislature (2016)

3 SENATE BILL 868

By: Sharp

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5
6 AS INTRODUCED

7 An Act relating to recreational vehicles; amending 15
8 O.S. 2011, Sections 901 and 901.1, which relate to
9 the motor vehicle lemon law; adding definition;
including certain recreational vehicles under lemon
law provisions; and providing an effective date.

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

13 SECTION 1. AMENDATORY 15 O.S. 2011, Section 901, is
14 amended to read as follows:

15 Section 901. A. As used in this section:

16 1. "Consumer" means the purchaser, other than for purposes of
17 resale, of a motor vehicle or recreational vehicle as defined
18 herein, any person to whom such motor vehicle is transferred during
19 the duration of an express warranty applicable to such motor
20 vehicle, and any other person entitled by the terms of such warranty
21 to enforce the obligations of the warranty; ~~and~~

22 2. "Motor vehicle" means any motor-driven vehicle required to
23 be registered under the Oklahoma Motor Vehicle License and
24 Registration Act, excluding vehicles above ten thousand (10,000)

1 pounds gross vehicle weight and the living facilities of motor
2 homes; and

3 3. "Recreational vehicle" or "RV" means a motorized vehicle
4 used for both highway driving and temporary living space during
5 periods of travel which is commercially manufactured upon a standard
6 or extended truck or van chassis not exceeding thirty (30) feet in
7 length and characterized by the RV manufacturer as a Class B, B+, or
8 C recreational vehicle, and does not include any Class A RV, fifth-
9 wheeler trailer, travel trailer, truck camper, folding trailer, pop-
10 up trailer or any other towable unit or trailer, or any professional
11 or homemade conversion of any bus, van, truck, or other vehicle.

12 B. For the purposes of this ~~act~~ section and Section 901.1 of
13 this title, if a new motor vehicle or new RV does not conform to all
14 applicable express warranties, and the consumer reports the
15 nonconformity, directly in writing, to the manufacturer, its agent
16 or its authorized dealer during the term of such express warranties
17 or during the period of one (1) year following the date of original
18 delivery of the motor vehicle or RV to a consumer, whichever is the
19 earlier date, the manufacturer, its agent or its authorized dealer
20 shall make such repairs as are necessary to conform the vehicle or
21 RV to such express warranties, notwithstanding the fact that such
22 repairs are made after the expiration of such term or such one-year
23 period.
24

1 C. If the manufacturer, or its agents or authorized dealers are
2 unable to conform the motor vehicle or RV to any applicable express
3 warranty by repairing or correcting any defect or condition which
4 substantially impairs the use and value of the motor vehicle to the
5 consumer after a reasonable number of attempts, the manufacturer
6 shall either accept a return of the vehicle or RV from the consumer
7 and refund to the consumer the full purchase price including all
8 taxes, license, registration fees and all similar governmental fees,
9 excluding interest, less a reasonable allowance for the consumer's
10 use of the vehicle or replace the motor vehicle or RV with a
11 comparable new model acceptable to the consumer. If a comparable
12 model vehicle or RV cannot be agreed upon, the purchase price shall
13 be refunded less a reasonable allowance for the consumer's use of
14 the vehicle or RV. Refunds shall be made to the consumer, and
15 lienholder if any, as their interests may appear. A reasonable
16 allowance for use shall be the purchase or lease price of the new
17 motor vehicle or RV multiplied by a fraction having as the
18 denominator one hundred twenty thousand (120,000) miles and having
19 as the numerator the miles directly attributable to use by the
20 consumer beyond fifteen thousand (15,000) miles. It shall be an
21 affirmative defense to any claim under this ~~act~~ section:

22 1. That an alleged nonconformity does not substantially impair
23 such use and value; or
24

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

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

7 D. It shall be presumed that a reasonable number of attempts
8 have been undertaken to conform a motor vehicle or RV to the
9 applicable express warranties, if:

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

16 2. The vehicle or RV is out of service by reason of repair for
17 a cumulative total of thirty (30) business days during such term or
18 during such period, whichever is the earlier date.

19 The term of an express warranty, such one-year period and such
20 thirty-day period shall be extended by any period of time during
21 which repair services are not available to the consumer because of a
22 war, invasion, strike, fire, flood or other natural disaster.

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

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

10 G. The Oklahoma Attorney General shall prepare and place on the
11 Attorney General's website a written statement explaining the rights
12 of a purchaser under this law. The dealer shall provide to the
13 purchaser at the time of the original purchase of a new motor
14 vehicle or new RV the written statement prepared by the Attorney
15 General.

16 H. Vehicles returned pursuant to the provisions of this ~~act~~
17 section may not be resold in this state unless:

18 1. The manufacturer provides the same express warranty the
19 manufacturer provided the original purchaser, except that the term
20 of the warranty need only last for twelve thousand (12,000) miles or
21 twelve (12) months after the date of resale, whichever is earlier;
22 or

23 2. The manufacturer, through the licensed dealer, provides the
24 consumer with a written statement on a separate piece of paper that

1 clearly discloses the reason or reasons the vehicle was reacquired
2 by the manufacturer.

3 I. Notwithstanding the provisions of subsection H of this
4 section, returned vehicles shall not be resold if a new motor
5 vehicle or new RV has been returned pursuant to the provisions of
6 this ~~act~~ section or a similar statute in another state because of
7 nonconformity resulting in a complete failure of the braking or
8 steering system likely to cause death or serious bodily injury if
9 the vehicle is driven.

10 J. In any civil action pursuant to this section wherein the
11 consumer is the prevailing party in the civil action, the consumer
12 shall recover all costs and reasonable attorney fees as determined
13 by the court.

14 SECTION 2. AMENDATORY 15 O.S. 2011, Section 901.1, is
15 amended to read as follows:

16 Section 901.1. Any manufacturer who reacquires or assists a
17 dealer or lienholder to reacquire a motor vehicle or RV registered
18 in this state, prior to any sale, lease, or transfer of the vehicle
19 or RV in this state, or prior to exporting the vehicle or RV to
20 another state for sale, lease, or transfer if the vehicle or RV was
21 registered in this state and reacquired pursuant to this law shall:

22 1. Cause the vehicle or RV to be retitled in the name of the
23 manufacturer; and
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2. Request the Oklahoma Tax Commission to brand the certificate of title with the notation "Lemon Law Buyback".

SECTION 3. This act shall become effective November 1, 2016.

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