

STATE OF OKLAHOMA

2nd Session of the 56th Legislature (2018)

HOUSE BILL 3050

By: Bennett (John)

AS INTRODUCED

An Act relating to contracts; amending 15 O.S. 2011, Section 901, which relates to motor vehicle warranties; modifying definition; and providing an effective date.

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

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

Section 901. A. As used in this section:

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

2. "Motor vehicle" means any motor-driven vehicle required to be registered under the Oklahoma Motor Vehicle License and Registration Act, ~~excluding vehicles above ten thousand (10,000) pounds gross vehicle weight and the living facilities of motor homes~~

1 and any recreational vehicle, provided such vehicle is self-
2 propelled or is a towed vehicle that is equipped to serve as
3 temporary living quarters for recreational, camping or travel
4 purposes and is used solely as a family or personal conveyance.
5 This definition shall not include truck tractors as defined in
6 Section 1-183 of Title 47 of the Oklahoma Statutes.

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

18 C. If the manufacturer, or its agents or authorized dealers are
19 unable to conform the motor vehicle to any applicable express
20 warranty by repairing or correcting any defect or condition which
21 substantially impairs the use and value of the motor vehicle to the
22 consumer after a reasonable number of attempts, the manufacturer
23 shall either accept a return of the vehicle from the consumer and
24 refund to the consumer the full purchase price including all taxes,

1 license, registration fees and all similar governmental fees,
2 excluding interest, less a reasonable allowance for the consumer's
3 use of the vehicle or replace the motor vehicle with a comparable
4 new model acceptable to the consumer. If a comparable model vehicle
5 cannot be agreed upon, the purchase price shall be refunded less a
6 reasonable allowance for the consumer's use of the vehicle. Refunds
7 shall be made to the consumer, and lienholder if any, as their
8 interests may appear. A reasonable allowance for use shall be the
9 purchase or lease price of the new motor vehicle multiplied by a
10 fraction having as the denominator one hundred twenty thousand
11 (120,000) miles and having as the numerator the miles directly
12 attributable to use by the consumer beyond fifteen thousand (15,000)
13 miles. It shall be an affirmative defense to any claim under this
14 act:

15 1. That an alleged nonconformity does not substantially impair
16 such use and value; or

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

19 In no event shall the presumption described in this subsection
20 apply against a manufacturer unless the manufacturer has received
21 prior direct written notification from or on behalf of the consumer
22 and has had an opportunity to cure the defect alleged.
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1 D. It shall be presumed that a reasonable number of attempts
2 have been undertaken to conform a motor vehicle to the applicable
3 express warranties, if:

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

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

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

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

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

3 G. The Oklahoma Attorney General shall prepare and place on the
4 Attorney General's website a written statement explaining the rights
5 of a purchaser under this law. The dealer shall provide to the
6 purchaser at the time of the original purchase of a new motor
7 vehicle the written statement prepared by the Attorney General.

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

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

15 2. The manufacturer, through the licensed dealer, provides the
16 consumer with a written statement on a separate piece of paper that
17 clearly discloses the reason or reasons the vehicle was reacquired
18 by the manufacturer.

19 I. Notwithstanding the provisions of subsection H of this
20 section, returned vehicles shall not be resold if a new motor
21 vehicle has been returned pursuant to the provisions of this act or
22 a similar statute in another state because of nonconformity
23 resulting in a complete failure of the braking or steering system
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1 likely to cause death or serious bodily injury if the vehicle is
2 driven.

3 J. In any civil action pursuant to this section wherein the
4 consumer is the prevailing party in the civil action, the consumer
5 shall recover all costs and reasonable attorney fees as determined
6 by the court.

7 SECTION 2. This act shall become effective November 1, 2018.

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