

Offered: 2/29/84  
Referred: Rules

Original sponsor: Ray by request

1 IN THE SENATE

BY THE LABOR AND  
COMMERCE COMMITTEE

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CS FOR SENATE BILL NO. 286 (L&C)

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IN THE LEGISLATURE OF THE STATE OF ALASKA

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THIRTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

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For an Act entitled: "An Act relating to motor vehicle warranties."

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

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\* Section 1. AS 45.45 is amended by adding a new section to read:

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ARTICLE 6. MOTOR VEHICLE WARRANTIES.

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Sec. 45.45.300. MOTOR VEHICLE WARRANTIES. (a) If a new motor

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vehicle does not conform to an express warranty that is applicable to

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it and the owner of the vehicle reports the defect or condition to the

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manufacturer of the vehicle or to the manufacturer's or distributor's

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dealer during the term of the warranty, the manufacturer, distributor,

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dealer, or a repairing agent shall make the necessary repairs to

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conform the vehicle to the express warranty.

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(b) If during the term of the express warranty or within one

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year from the date of delivery of the motor vehicle to the original

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owner, whichever period terminates first, the manufacturer, distribu-

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tor, dealer, or repairing agent is unable to conform the motor vehicle

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to an applicable express warranty after a reasonable number of at-

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tempts, the manufacturer or distributor shall accept the return of the

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nonconforming motor vehicle, and shall refund the full purchase price

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to the owner, less a reasonable allowance for the use of the motor

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vehicle from the time it was delivered to the original owner. A

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refund under this subsection shall be made to a lienholder of record,

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if any, and the owner, as their interests may appear.

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(c) Before claiming a refund under (b) of this section, the

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owner shall give written notice by mail to the manufacturer and its

1 repairing agent at any time before 60 days have elapsed after the  
2 expiration of the express warranty or the one-year period after the  
3 date of delivery of the motor vehicle to the original owner, whichever  
4 period terminates first

5 (1) stating that the vehicle has a nonconformity;

6 (2) providing a reasonable description of the nonconform-  
7 ity;

8 (3) stating that the manufacturer, distributor, dealer, or  
9 repairing agent has made a reasonable number of attempts to conform  
10 the vehicle; and

11 (4) stating that the owner intends to claim a refund 30  
12 days or more after mailing the written notice.

13 (d) A manufacturer or distributor of new motor vehicles shall  
14 deliver a notice to an original owner of a motor vehicle that explains  
15 in clear and easily understood language the procedure for making a  
16 claim for refund under this section.

17 (e) An owner may not receive a refund under this section if the  
18 manufacturer or distributor shows that the nonconformity complained of

19 (1) does not substantially impair either the use or the  
20 market value of the motor vehicle; or

21 (2) is the result of

22 (A) alteration of the motor vehicle by the owner or a  
23 person other than a repairing agent that is not authorized by the  
24 manufacturer or distributor; or

25 (B) abuse or neglect by the owner or a person other  
26 than the repairing agent.

27 (f) A presumption that a reasonable number of attempts have been  
28 made to conform a motor vehicle under an applicable express warranty  
29 is established if:

1           (1) the same nonconformity has been subject to repair three  
2 or more times by the manufacturer, distributor, dealer, or repairing  
3 agent during the term of the express warranty or the one-year period  
4 after delivery of the motor vehicle to the original owner, whichever  
5 period terminates first, but the nonconformity continues to exist; or

6           (2) the vehicle is out of service for repair for a total of  
7 30 or more business days during the express warranty term or the  
8 one-year period referred to in (1) of this subsection, whichever  
9 period terminates first; any period of time that repairs are not  
10 performed for reasons that are beyond the control of the manufacturer,  
11 distributor, dealer, or repairing agent is excluded from the 30-day  
12 time period referred to in this paragraph.

13           (g) A manufacturer whose vehicles are sold in the state through  
14 an authorized dealer shall provide its dealer or repairing agent with  
15 any part necessary to make a repair of a nonconformity covered under  
16 an express warranty, as soon as possible, without additional charge  
17 for freight or handling, if the part is not in the dealer's or agent's  
18 inventory when the nonconforming vehicle is brought to the dealer or  
19 repairing agent for repair.

20           (h) A manufacturer or distributor who fails to refund the pur-  
21 chase price of a motor vehicle when there is a requirement to do so  
22 under this section is presumed to have committed an unfair trade  
23 practice under AS 45.50.471.

24           (i) A motor vehicle returned under (b) of this section may not  
25 be resold by the manufacturer, distributor, or repairing agent unless  
26 full disclosure of the reason for the return is made to the prospec-  
27 tive buyer before the resale is concluded.

28           (j) The provisions of this section do not limit other rights and  
29 remedies that may be available to the owner of a motor vehicle under

1 other provisions of law. This subsection does not create a new cause  
2 of action against a dealer or repairing agent who sells or attempts to  
3 repair a motor vehicle found to be nonconforming under this section.

4 (k) A manufacturer or distributor of motor vehicles sold in the  
5 state shall maintain repair facilities or authorize repairing agents  
6 within the state that are able to perform the service and make the  
7 repairs required by the manufacturer's express warranty and by this  
8 section.

9 (l) A manufacturer or distributor who accepts the return of a  
10 nonconforming motor vehicle under (b) of this section shall reimburse  
11 the owner for any reasonable cost incurred in shipping the vehicle to  
12 and from the nearest authorized facility for warranty service and  
13 repair of a nonconformity that causes the return of the vehicle.

14 (m) If a manufacturer or distributor has established an informal  
15 dispute settlement procedure that substantially complies with the  
16 requirements of 16 C.F.R. 703, as that section may be amended, or if  
17 the manufacturer or distributor, after receipt of notice required by  
18 (c) of this section, offers in writing to participate in an arbitra-  
19 tion or mediation process with the owner and the arbitration or me-  
20 diation decision is binding on the manufacturer or distributor but not  
21 on the owner, and if the informal dispute settlement or arbitration or  
22 mediation process is approved by the attorney general, the provisions  
23 of (b) of this section concerning refund or (k) of this section  
24 concerning shipping costs do not apply to an owner who has not first  
25 resorted to the informal dispute settlement procedure or arbitration  
26 or mediation process.

27 (n) In this section,

28 (1) "dealer" means a person who has obtained a franchise  
29 from, or is authorized by, a motor vehicle manufacturer to engage in

1 the retail sale and repair of the manufacturer's new motor vehicles in  
2 the state;

3 (2) "distributor" means a person who is authorized by a  
4 manufacturer to engage in the wholesale distribution of the manufac-  
5 turer's new motor vehicles in the state;

6 (3) "express warranty" or "warranty" means an express  
7 written warranty provided by the manufacturer of a new motor vehicle;

8 (4) "full purchase price" means the total price paid for a  
9 motor vehicle by the original owner, including costs added to the  
10 manufacturer's suggested retail price, such as original registration  
11 fees, transportation fees, dealer preparation, dealer installed op-  
12 tions, and accrued finance charges;

13 (5) "manufacturer" means a person who by labor transforms  
14 raw materials and component parts into motor vehicles for wholesale or  
15 retail sale;

16 (6) "motor vehicle" or "vehicle" means a land vehicle  
17 having four or more wheels, that is self-propelled by a motor, is  
18 normally used for personal, family, or household purposes, and is  
19 required to be registered under AS 28.10; but does not include a  
20 tractor, farm vehicle, or a vehicle designed primarily for off-road  
21 use;

22 (7) "nonconformity" means a defect or condition in a motor  
23 vehicle caused by a manufacturer, distributor, dealer or repairing  
24 agent that substantially impairs the use or market value of a vehicle;

25 (8) "owner" means a purchaser, other than for resale, of a  
26 new motor vehicle, and a person to whom ownership of the motor vehicle  
27 is transferred in conformity with AS 28;

28 (9) "reasonable allowance" means an amount attributable to  
29 an owner's use of a motor vehicle; a "reasonable allowance" may not

1 exceed an amount equal to the depreciation in value of the vehicle for  
2 the period during which the vehicle is available for use by the owner,  
3 calculated by a straight line depreciation method over seven years,  
4 plus an amount equal to the depreciation in value of the vehicle that  
5 is caused by

6 (A) any neglect or abuse by the owner; or

7 (B) body damage not caused by a nonconformity;

8 (10) "repairing agent" includes a dealer or other person who  
9 has been specifically authorized by a motor vehicle manufacturer or  
10 distributor to perform warranty repairs in the state on one or more of  
11 the manufacturer's or distributor's motor vehicles;

12 (11) "substantially impairs the market value" means a non-  
13 conformity that substantially decreases the dollar value of a vehicle  
14 to the owner when compared to the dollar value of a similar vehicle  
15 that does not have the nonconformity;

16 (12) "substantially impairs the use" means a nonconformity  
17 that prevents a motor vehicle from being operated or makes the vehicle  
18 unsafe to operate.