

Offered: 5/4/84
Referred: Rules

Original sponsor: Ray by request

1 IN THE SENATE

BY THE LABOR AND
COMMERCE COMMITTEE

2

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

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6

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

7

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

8

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

9

ARTICLE 6. MOTOR VEHICLE WARRANTIES.

10

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

11

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

12

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

13

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

14

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

15

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

16

conform the vehicle to the express warranty.

17

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

18

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

19

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

20

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

21

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

22

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

23

nonconforming motor vehicle, and, at the owner's option, shall replace

24

the nonconforming vehicle with a new, comparable vehicle or shall

25

refund the full purchase price to the owner less a reasonable allow-

26

ance for the use of the motor vehicle from the time it was delivered

27

to the original owner. A refund under this subsection shall be made

28

to a lienholder of record, if any, and the owner, as their interests

29

may appear.

1 (c) In order to claim a refund or replacement under (b) of this
2 section, the owner shall give written notice by certified mail to the
3 manufacturer and its dealer or repairing agent at any time before 60
4 days have elapsed after the expiration of the express warranty or the
5 one-year period after the date of delivery of the motor vehicle to the
6 original owner, whichever period terminates first (1) stating that the
7 vehicle has a nonconformity; (2) providing a reasonable description of
8 the nonconformity; (3) stating that the manufacturer, distributor,
9 dealer, or repairing agent has made a reasonable number of attempts to
10 conform the vehicle; and (4) stating that the owner demands a refund
11 or replacement vehicle to be delivered on the 60th day after the
12 mailing of the written notice. Within 30 days after receiving the
13 notice required by this subsection the manufacturer may make a final
14 attempt to conform the vehicle before a refund or replacement is made
15 under (b) of this section.

16 (d) An owner may not receive a refund or replacement under this
17 section if the manufacturer or distributor shows that the nonconform-
18 ity 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 dealer or repairing agent that is not au-
24 thorized by the manufacturer or distributor; or

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

27 (e) 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 (f) 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 (g) A manufacturer or distributor who fails to refund the full
21 purchase price of a motor vehicle or replace the motor vehicle when
22 there is a requirement to do so under this section is presumed to have
23 committed an unfair trade practice under AS 45.50.471.

24 (h) A motor vehicle returned under (b) of this section may not
25 be resold by the manufacturer or distributor in the state unless full
26 disclosure of the reason for the return is made to the prospective
27 buyer before the resale is concluded.

28 (i) 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 (j) A manufacturer or distributor of motor vehicles who author-
5 izes the sale of the manufacturer's or distributor's motor vehicles in
6 the state shall maintain authorized dealership facilities within the
7 state that are able to perform the service and make the repairs re-
8 quired by the manufacturer's express warranty and by this section.

9 (k) 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 (l) 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 replacement or (k) of this
24 section concerning shipping costs do not apply to an owner who has not
25 first resorted to the informal dispute settlement procedure or arbi-
26 tration or mediation process.

27 (m) 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 warranty repair of the manufacturer's new motor
2 vehicles in 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 retail price, such as original registration fees, transportation fees,
11 dealer preparation, and dealer installed options;

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

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

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

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

27 (9) "reasonable allowance" means an amount attributable to
28 an owner's use of a motor vehicle; a "reasonable allowance" may not
29 exceed an amount equal to the depreciation in value of the vehicle for

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

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

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

7 (10) "repairing agent" means a person who has been specifi-
8 cally authorized by a motor vehicle manufacturer or distributor to
9 perform warranty repairs in the state on one or more of the manufac-
10 turer's or distributor's motor vehicles;

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

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