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OFFICIAL BUSINESS

# ALASKA STATE LEGISLATURE - SENATE

## COMMITTEE ON LABOR AND COMMERCE

SENATOR RICHARD I. ELIASON  
CHAIRMAN

POUCH V - JUNEAU, ALASKA 99811  
207) 465-3844

TO: Senator Dick Eliason  
FROM: Sheila Peterson  
DATE: May 2, 1984  
RE: SB 286 - "Lemon Law"

At your request I have reviewed the Senate passed version of SB 286 and the version of this same legislation that is being seriously considered in the House Labor and Commerce Committee.

### SENATE BILL

1. An owner of a "lemon" shall receive the full purchase price less a reasonable allowance for use from the manufacturer.
2. Full purchase price is defined to include "accrued finance charges."
3. An owner shall receive a refund 30 days after notifying the manufacturer of the non-conformity.
4. The manufacturer shall deliver a notice to the original owner on the procedure for making a claim under the "lemon law".
5. A manufacturer shall maintain repair facilities or authorize repairing agents within the state that are able to make

### HOUSE BILL

1. An owner of a "lemon" shall have the option to receive a new, comparable vehicle or the full purchase price less a reasonable allowance for use from the manufacturer.
2. Full purchase price is defined NOT to include "accrued finance charges".
3. The owner shall receive a refund/ replacement 60 days after notifying the manufacturer of the nonconformity. Within 30 days after receiving the notice, the manufacturer may make a final attempt to repair the "lemon".
4. Contains no provision regarding an informative notice regarding the "lemon law".
5. A manufacturer who authorizes the sale of motor vehicles shall maintain authorized dealership facilities within the state that are able to make

necessary repairs.

6. A "lemon" may be resold by manufacturer, dealer, or individual designated by the manufacturer if a full disclosure is made.

7. Definition of "repairing agent" includes dealer.

necessary repairs.

6. A "lemon" may be resold by the manufacturer only if a full disclosure is made.

7. "Dealer" is listed as a separate entity and is not included as a "repairing agent".

\* \* \* \* \*

This comparison is based on the House version which supposedly will pass out of House Labor and Commerce. However, the Committee has considered a version that

(1) allows for a 10 year depreciation method;

(2) allows for another method to define a "lemon". "The nonconformity makes the vehicle unsafe to operate and the nonconformity has been subject to repair at least two times."

Original sponsor: Ray by request

BY THE LABOR AND  
COMMERCE COMMITTEE

1 IN THE SENATE

2 HOUSE CS FOR CS 1 STATE 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 <sup>(intends)</sup> demands a refund  
11 or replacement vehicle to be delivered on the <sup>(30)</sup> 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;

6 *will be* (2) the nonconformity makes the vehicle unsafe to operate  
7 *deleted* and the same nonconformity has been subject to repair at least twice  
8 by the manufacturer, distributor, dealer, or repairing agent during  
9 the express warranty term or the one-year period referred to in (1) of  
10 this section, whichever period terminates first, but the nonconformity  
11 continues to exist; or

12 (3) the vehicle is out of service for repair for a total of  
13 30 or more business days during the express warranty term or the  
14 one-year period referred to in (1) of this subsection, whichever  
15 period terminates first; any period of time that repairs are not  
16 performed for reasons that are beyond the control of the manufacturer,  
17 distributor, dealer, or repairing agent is excluded from the 30-day  
18 time period referred to in this paragraph.

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

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

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

5 (i) The provisions of this section do not limit other rights and  
6 remedies that may be available to the owner of a motor vehicle under  
7 other provisions of law. This subsection does not create a new cause  
8 of action against a dealer or repairing agent who sells or attempts to  
9 repair a motor vehicle found to be nonconforming under this section.

10 (j) A manufacturer or distributor of motor vehicles who author-  
11 izes the sale of the manufacturer's or distributor's motor vehicles in  
12 the state shall maintain authorized dealership facilities within the  
13 state that are able to perform the service and make the repairs re-  
14 quired by the manufacturer's express warranty and by this section.

15 (k) A manufacturer or distributor who accepts the return of a  
16 nonconforming motor vehicle under (b) of this section shall reimburse  
17 the owner for any reasonable cost incurred in shipping the vehicle to  
18 and from the nearest authorized facility for warranty service and  
19 repair of a nonconformity that causes the return of the vehicle.

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

1 section concerning shipping costs do not apply to an owner who has not  
2 first resorted to the informal dispute settlement procedure or arbi-  
3 tration or mediation process.

4 (m) In this section,

5 (1) "dealer" means a person who has obtained a franchise  
6 from, or is authorized by, a motor vehicle manufacturer to engage in  
7 the retail sale and warranty repair of the manufacturer's new motor  
8 vehicles in the state;

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

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

14 (4) "full purchase price" means the total price paid for a  
15 motor vehicle by the original owner, including costs added to the  
16 retail price, such as original registration fees, transportation fees,  
17 dealer preparation, and dealer installed options;

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

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

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

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

4 (9) "reasonable allowance" means an amount attributable to  
5 an owner's use of a motor vehicle; a "reasonable allowance" may not  
6 exceed an amount equal to the depreciation in value of the vehicle for  
7 the period during which the vehicle is available for use by the owner,  
8 calculated by a straight line depreciation method over <sup>7 (7)</sup>10 years, plus  
9 an amount equal to the depreciation in value of the vehicle that is  
10 caused by

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

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

13 (10) "repairing agent" means a <sup>dealer</sup> person who has been specifi-  
14 cally authorized by a motor vehicle manufacturer or distributor to  
15 perform warranty repairs in the state on one or more of the manufac-  
16 turer's or distributor's motor vehicles;

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

21 (12) "substantially impairs the use" means a nonconformity  
22 that prevents a motor vehicle from being operated or makes the vehicle  
23 unsafe to operate.  
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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 shall refund the full purchase price  
24 to the owner, less a reasonable allowance for the use of the motor  
25 vehicle from the time it was delivered to the original owner. A  
26 refund under this subsection shall be made to a lienholder of record,  
27 if any, and the owner, as their interests may appear.

28 (c) Before claiming a refund under (b) of this section, the  
29 owner shall give written notice by certified mail to the manufacturer

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

13 (d) An owner may not receive a refund under this section if the  
14 manufacturer or distributor shows that the nonconformity complained of

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

17 (2) is the result of

18 (A) alteration of the motor vehicle by the owner or a  
19 person other than a dealer or repairing agent that is not au-  
20 thorized by the manufacturer or distributor; or

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

23 (e) A presumption that a reasonable number of attempts have been  
24 made to conform a motor vehicle under an applicable express warranty  
25 is established if:

26 (1) the same nonconformity has been subject to repair three  
27 or more times by the manufacturer, distributor, dealer, or repairing  
28 agent during the term of the express warranty or the one-year period  
29 after delivery of the motor vehicle to the original owner, whichever

1 period terminates first, but the nonconformity continues to exist;

2 (2) the nonconformity makes the vehicle unsafe to operate  
3 and the same nonconformity has been subject to repair at least twice  
4 by the manufacturer, distributor, dealer, or repairing agent during  
5 the express warranty term or the one-year period referred to in (1) of  
6 this section, whichever period terminates first, but the nonconformity  
7 continues to exist; or

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

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

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

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

1 (i) The provisions of this section do not limit other rights and  
 2 remedies that may be available to the owner of a motor vehicle under  
 3 other provisions of law. This subsection does not create a new cause  
 4 of action against a dealer or repairing agent who sells or attempts to  
 5 repair a motor vehicle found to be nonconforming under this section.

6 (j) A manufacturer or distributor of motor vehicles who author-  
 7 izes the sale of the manufacturer's or distributor's motor vehicles in  
 8 the state shall maintain authorized dealership facilities within the  
 9 state that are able to perform the service and make the repairs re-  
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11 (k) A manufacturer or distributor who accepts the return of a  
 12 nonconforming motor vehicle under (b) of this section shall reimburse  
 13 the owner for any reasonable cost incurred in shipping the vehicle to  
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16 (l) If a manufacturer or distributor has established an informal  
 17 dispute settlement procedure that substantially complies with the  
 18 requirements of 16 C.F.R. 703, as that section may be amended, or if  
 19 the manufacturer or distributor, after receipt of notice required by  
 20 (c) of this section, offers in writing to participate in an arbitra-  
 21 tion or mediation process with the owner and the arbitration or me-  
 22 diation decision is binding on the manufacturer or distributor but not  
 23 on the owner, and if the informal dispute settlement or arbitration or  
 24 mediation process is approved by the attorney general, the provisions  
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29 (m) In this section,

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

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

15 (5) "manufacturer" means a person who by labor transforms  
16 raw materials and component parts into motor vehicles for wholesale or  
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18 (6) "motor vehicle" or "vehicle" means a land vehicle  
19 having four or more wheels, that is self-propelled by a motor, is  
20 normally used for personal, family, or household purposes, and is  
21 required to be registered under AS 28.10; but does not include a  
22 tractor, farm vehicle, or a vehicle designed primarily for off-road  
23 use;

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

27 (8) "owner" means a purchaser, other than for resale, of a  
28 new motor vehicle, and a person to whom ownership of the motor vehicle  
29 is transferred in conformity with AS 23;

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2 (9) "reasonable allowance" means an amount attributable to  
3 an owner's use of a motor vehicle; a "reasonable allowance" may not  
4 exceed an amount equal to the depreciation in value of the vehicle for  
5 the period during which the vehicle is available for use by the owner,  
6 calculated by a straight line depreciation method over seven years,  
7 plus an amount equal to the depreciation in value of the vehicle that  
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9 (A) any neglect or abuse by the owner; or

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Next Wed - hearing

Furnance ★  
Ringstad  
Kopenew

Offered: 2/29/84  
Referred: Rules

Original sponsor: Ray by request

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COMMERCE COMMITTEE

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3 date of delivery of the motor vehicle to the original owner, whichever  
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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  
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22 (A) alteration of the motor vehicle by the owner or a  
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29 remedies that may be available to the owner of a motor vehicle under

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3 repair a motor vehicle found to be nonconforming under this section.

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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  
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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 <sup>AKPIRG</sup> [substantially] complies with the  
16 requirements of 16 C.F.R. 703, as that section may be amended, or if  
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18 (c) of this section, offers in writing to participate in an arbitra-  
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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, *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.

Walter Johnson - Kodiak - special  
consideration for rural - consumer fraud

AKPIRG - applied + expressed warranty

Ralph Seckins - difference between repairing  
agent + dealer

Jim Austin - replacement in addition to \$ after  
notice; get opportunity to fix - air receipt - revamp  
j - hold harmless



# SEEKINS FORD-LINCOLN-MERCURY, INC.

1625 Old Steese Highway Telephone (907) 452-1991  
FAIRBANKS, ALASKA 99701

April 3, 1984

John Ringstad  
Alaska State Legislature  
Pouch V (MS 3100)  
Juneau, Alaska 99811

Dear John:

The Fairbanks dealers of the Alaska Automobile Dealers Association recently met and considered Senate Bill No. 286, as passed through the Labor and Commerce Committee and adopted by the entire Senate (The Lemon Law).

Although we had opportunity to give some input into the Committee we still have changes we would like made before it passes the House. Since you are on the Labor and Commerce Committee, I have been delegated to explain to you what changes we would like to see and our supporting rationale on an item by item basis. I hope to be able to do so in such a way that it's obvious we are not trying to water down the bill but rather to make it even better.

In order to show you exactly what we suggest, I have prepared a draft, enclosed with this letter, and also have enclosed a marked copy of the Senate Bill showing those areas we have addressed.

We specifically object to any statement or inference which might mislead anyone into believing that dealerships are "agents" of manufacturers or distributors. We absolutely are not "agents" of the manufacturer or distributor. We have sales and service agreements (contracts) with manufacturers or distributors which specifically outline our respective relationships. I have enclosed a copy of page 14 of the Ford Sales and Service Agreement under which this dealership operates. Notice that paragraph 14 specifically addresses this concern and absolutely supports our argument. Therefore, we feel it necessary to make a distinct difference between "dealers" and "repairing agents", which will be evident in our suggested changes.

With that out of the way, let me address each concern on an item by item basis.

Page 2, line 1...add "dealer or" just prior to "repairing agent". This request results from our earlier discussion.

Page 2, lines 11 & 12...remove (30 days or more) and add "within 30 days". We feel there should be a time certain under which this process should begin. In it's present form, the customer could wait for months or even years before claiming the refund. To leave it open-ended would be unfair to the manufacturer.

Page 2, lines 13, 14, 15 & 16...Delete this entire section. We can not find any other industry, in any other state, which is required to give the purchasers of it's merchandise a notice that explains how that buyer can bring legal action against it.

Page 2, line 23...add "dealer or" just prior to "repairing agent".

Page 2, line 25...add "dealer or" just prior to "repairing agent".

Page 3, line 1...delete (three) and substitute "four". This is the number used in ALL other similar legislation nation-wide.

Page 3, line 25...delete (or repairing agent) and add, in it's place, "in the state". We do not believe "repairing agents" should be in the sales business and we would just as soon see the vehicle leave the state.

Page 4, lines 4 & 5...delete (sold in the state shall maintain repair facilities or authorize repairing agents) and replace it with "who authorizes the sale of their motor vehicles in the state shall maintain authorized dealership facilities". First, we don't feel any manufacturer or distributor should be required by law to supply repair facilities in the state, either through dealerships or repairing agents, unless their vehicles are authorized for sale in the state. Secondly, we don't want legislation which would infer that any manufacturer or distributor was either required by or allowed by state law to step around the normal dealer/manufacturer relationship and maintain their own repair facilities in Alaska, either in lieu of or in addition to those which we are required to maintain in order to be authorized dealers. We feel the wording presently in the Senate version would open that door.

Page 4, line 28...Insert "or entity" between "person" and "who". Most of us operate as corporations and would feel

more comfortable with this insertion.

Page 5, line 1...Insert "warranty" just prior to "repair". This is for obvious reasons since this is a bill referencing just that, warranty repair.

Page 5, line 3...Insert "or entity" between "person" and "who". Same reasoning as above.

Page 5, line 12...Delete (and accrued finance charges). The owner has enjoyed the use of the vehicle for a specific time, chose to finance the vehicle rather than pay in full for it at the time of purchase, has probably written these charges off on his income taxes and, for these and other sound reasons, we feel would not fairly expect to have them refunded.

Page 5, line 13...Insert "or entity" between "person" and "who".

Page 6, line 3...Substitute "five" for (seven). We believe a seven year straight line depreciation unfairly burdens the manufacturer. Standard depreciation within the industry for the first year of ownership is 2.5% per month. We feel five years on a straight line basis is more than fair to the owner and urge you to adopt this shorter period of time.

Page 6, line 8...Delete (includes a dealer or other person) and substitute "means a person or entity, other than a dealer,". This change in definition helps accomplish the differentiation between dealers and repairing agents and is consistent with the contractual relationships we have with our manufacturers or distributors.

Additionally, we have, in our enclosed draft, re-arranged the definition section in a more logical and sequential order. This was done simply for easier comparison in our local discussions but may be something which you may wish to consider.

The one portion we do NOT want changed in any manner is section (g) on page 3. We definitely believe this section alone will do much to mitigate current problems experienced by Fairbanks dealerships in administering warranty repairs and will avoid many future problems. This section will do the most for the owner by keeping us dealers from being caught between the manufacturers or distributors and the owners.

With these changes, we feel we can whole-heartedly support this bill as a dealer body.

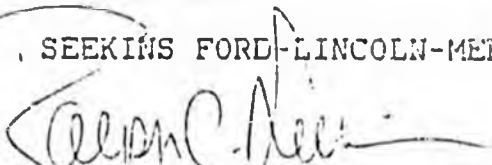
We look forward to your positive actions regarding our requests and carrying this legislation into action. The Fairbanks dealer body is willing to discuss any portion of this legislation with you at any time and would like to do so if you are in Fairbanks any time in the near future.

I am sending an identical letter to Niilo Koponen since he is on the committee with you.

Thank you for your time and consideration.

Sincerely,

SEEKINS FORD-LINCOLN-MERCURY, INC.



Ralph C. Seekins  
President

cc: Fairbanks Dealer Body

enclosures

### **CHANGES IN COMPANY PRODUCTS (Continued)**

time to time, without notice or obligation to the Dealer, including any obligation with respect to any COMPANY PRODUCT theretofore ordered or purchased by or delivered to the Dealer. Such changes shall not be considered model year changes as contemplated by the provisions of any VEHICLE TERMS OF SALE BULLETIN. The Company may discontinue any VEHICLE or other COMPANY PRODUCT at any time without liability to the Dealer.

### **DEALER NOT AGENT OF THE COMPANY**

14. This agreement does not in any way create the relationship of principal and agent between the Company and the Dealer and under no circumstances shall the Dealer be considered to be an agent of the Company. The Dealer shall not act or attempt to act, or represent himself, directly or by implication, as agent of the Company or in any manner assume or create any obligation on behalf of or in the name of the Company.

### **TRADEMARKS AND TRADE NAMES**

15. (a) *Use in Firm Name.* The Dealer may not use any trademark or trade name used or claimed by the Company or any of its subsidiaries in the Dealer's firm name or trade name except with the Company's prior written approval. If, after such approval, the Company should at any time so request, the Dealer shall promptly discontinue such use and take all steps necessary or appropriate in the opinion of the Company to eliminate such trademark or trade name from the Dealer's firm name or trade name.

15. (b) *Limitations on Use.* The Dealer shall not use any trademark or trade name used or claimed by the Company or any of its subsidiaries, or any part of a combination containing the same or parts thereof, in connection with any business conducted by the Dealer other than in advertising COMPANY PRODUCTS to which such trademark or trade name refers, and then only in the manner and form approved by the Company; provided that the word "Ford" may be used in connection with a business operated by or affiliated with the Dealer as the Dealer's used vehicle outlet if the Dealer obtains the Company's prior written approval, which may be revoked at any time, and if the Dealer retains the right to require any such affiliated business to discontinue such use at any time the Dealer may direct. The Dealer shall direct such discontinuance on request of the Company at any time.

The Dealer shall not contest the right of the Company to exclusive use of any trademark or trade name used or claimed by the Company or any of its subsidiaries.

### **REPORTS TO FORD MOTOR COMPANY'S DEALER POLICY BOARD**

16. In the interest of maintaining harmonious relationships between the parties to this agreement, the Dealer shall report promptly in writing to the Company - Dealer Policy Board (hereafter called "Policy Board") any act or failure to act on the part of the Company or any of its representatives which the Dealer believes was not in accordance with this agreement or was not reasonable, fair, for good cause or provocation or in good faith as to the Dealer. For the purposes of this agreement, the term "good faith" shall mean the Company and its representatives acting in a fair and equitable manner toward the Dealer so as to guarantee the Dealer freedom from coercion or intimidation from the Company. It is the purpose of the Policy Board to receive, carefully evaluate and, to the extent possible, resolve any such claim to the mutual satisfaction of the parties. Any decision of the Policy Board shall be binding on the Company but shall not be binding on the Dealer.