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286

#1

FISCAL NOTE

Revision Date: _____

REQUEST CSSB 286 (Labor & Commerce) FISCAL DETAIL
 Bill/Resolution No.: 286 Agency Affected: Department of Law
 Title: "motor vehicle warranties." Program Category Affected: Public Protection
 Sponsor: Sen. Ray BRU, Program or Subprogram(s) Affected: Consumer Protection
 Requestor: Sen. Labor & Commerce
 Date of Request: 2/20/84

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Richard I. Piques, Director Phone: 465-3672
 Division: Administrative Services Division Date: 2-21-84
 Approved by Commissioner: Norman C. Gorsuch Date: 2-21-84
 Agency: Department of Law

Distribution (by Agency preparing fiscal note):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

Fiscal Note 12/1/83

Fiscal Note
Analysis
CSSB 286 (Labor & Commerce)

February 21, 1984

The latest version of SB 286, ^{CSSB}~~SCSB~~ 286 (Labor & Commerce), clarifies and defines the legal warranty rights and responsibilities between owners of new motor vehicles and the vehicle manufacturer, when a new vehicle is seriously defective. Subsection (h) of the bill makes the manufacturer's refusal or failure to fulfill its warranty duties an unfair trade practice under AS 45.50.471. AS 45.50.471, which is enforced by the Consumer Protection Section of the Department of Law, already covers warranties and repairs in a more general manner. The specific legal standards of CSSB 286 should not cause additional fiscal impact on Consumer Protection because CSSB 286 merely gives a better definition and therefore a better enforcement tool in the auto warranty area.

AS 45.50.471 also provides for the vehicle owner's private enforcement lawsuit, so some of CSSB 286's impact will be in the private legal sector.

"Lemon law" measure nears passage

By DEAN FOSDICK
The Associated Press

JUNEAU — A Senate-passed "lemon law" measure that would require manufacturers to issue refunds or replacements for cars under warranty that can't be fixed should make its way to the floor of the House this week, according to Speaker Joe Hayes, who predicted it will pass.

Hayes, R-Anchorage, said Monday the lemon law legislation and his own mandatory insurance bill are "the big two" consumer measures moving through the legislature this session.

The mandatory insurance bill is the product of two conference committees and would make it illegal to drive

in Alaska without liability insurance coverage. The measure was approved earlier this month and has been sent to Gov. Bill Sheffield. The governor is expected to sign the measure into law, press aide Pete Spivey has said.

Meanwhile, House members did some tinkering of their own on the lemon law bill before moving it from the Labor and Commerce Committee to House Rules, where it awaits a date for floor action.

"There's a good chance it'll come up this week," Hayes said. "It's been re-written so it's acceptable to the industry and to most legislators. It also should be welcomed by consumers."

Rep. John Cowdery, R-Anchorage, who chairs the House Labor and Commerce Committee, said the problem with the Senate bill was that manufacturers would have to foot the full purchase price plus finance charges on refunds for problem vehicles.

"Nobody returns finance charges on an exchange like that," Cowdery said. "We also included the replacement option so now you can get a new car or your money back."

Under the Senate version, a new vehicle would be considered a "lemon" if dealers failed to correct a serious defect after three attempts, or if it had spent more than 30 working days during the warranty period undergoing re-

pairs.

The manufacturer then would have to refund the purchase price — with interest and less depreciation.

The House, however, inserted several key changes to make the bill more palatable to that body. Among other things, it:

- added a replacement vehicle to the refund provision;
- deleted finance charges from the purchase price, and
- gave manufacturers an additional 30 days or another chance to make good on repairs before issuing a refund or replacement.

"My feeling is that the bill will go through unamended," Cowdery said. "I think everybody's happy with it."

Senate passes 'lemon law' bill

Associated Press

Juneau — A proposed "lemon law" that would require manufacturers to issue refunds for cars under warranty if they can't be repaired after three tries was sent to the House on Wednesday.

The measure sped through the Senate, 20-0, after Sen. Dick Eliason, R-Sitka and chairman of the Senate Labor and Commerce Committee, said it would "allow Alaskans to recover their loss if they find themselves owning vehicles that can't be fixed.

"This means strong, new protection for consumers . . . when they make the second largest purchase of their lives — the purchase of a new automobile," Eliason said. "This might not be the total vehicle to solve (consumer) problems, but it will certainly get us down the road."

Under the bill, if dealers fail to correct a serious defect in a new vehicle after three attempts, or if a car has spent more than 30 working days during the warranty period undergoing repairs, then it would be considered a "lemon" and the manufacturer would have to refund the purchase price — less depreciation.

A manufacturer or distributor failing to refund the purchase

price of a car when there is a requirement to do so would be "presumed to have committed an unfair trade practice" under the bill, sponsored by Sen. Bill Ray, D-Juneau.

Such a violation means that a consumer could file suit asking for a refund, replacement or triple damages if subject to a willful refusal, said Connie Sipe, an assistant attorney general and chief of the Consumer Protection Section, who has been testifying in support of the bill.

"It could also mean that if manufacturers would start getting into the habit of waiting six months to send refund checks, the attorney general's office could file under the Uniform Trade Practices Act," she said Wednesday from her Anchorage office.

A similar bill was introduced in the House last year by Rep. Mike Miller, D-Juneau, but that was before the dealers were able to organize and begin lobbying for changes in the legislation, Sipe said.

"The bill is similar but has not had the industry compromises worked into it like the Senate bill," she said. "I hope it will make a difference (for passage) in the House."

House Speaker Joe Hayes, R-Anchorage, said "support for the Senate bill looks good." The House probably will act on the Senate measure, Hayes said, instead of dealing with Miller's bill, which has been in the House Labor and Commerce Committee since last March.



OFFICIAL BUSINESS

ALASKA STATE LEGISLATURE - SENATE

COMMITTEE ON LABOR AND COMMERCE

SENATOR RICHARD I. ELIASON
CHAIRMAN

POUCH V • JUNEAU, ALASKA 99811
(907) 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 nonconformity.
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."

POSSIBLE QUESTIONS

- 1) HOW LONG IS A NEW VEHICLE COVERED UNDER THE "LEMON LAW" PROTECTION?

THE "LEMON LAW" COVERS A VEHICLE FOR ONE YEAR OF NEW OWNERSHIP -
SUBSECTION B

HOWEVER, A MANUFACTURER MUST HONOR ALL WARRANTIES - SUBSECTION A

- 2) CAN AN OWNER GET A NEW VEHICLE IN PLACE OF A DEFECTIVE CAR?

NO, THE MANUFACTURER MUST ONLY REFUND THE FULL PURCHASE PRICE MINUS
A REASONABLE ALLOWANCE FOR USE. THE COMMITTEE FELT THE CONSUMER
WOULD PREFER MONEY TO PURCHASE ANOTHER CAR AND RECEIVING CASH MAKES
THE SETTLEMENT MUCH EASIER TO ACHIEVE - SUBSECTION B

- 3) HOW WILL THE CONSUMER KNOW HOW TO CLAIM A REFUND?

THE MANUFACTURER MUST DELIVER SOME TYPE OF EXPLANATION TO ALL NEW
OWNERS OF VEHICLES ABOUT THEIR RIGHTS UNDER THE "LEMON LAW" -
SUBSECTION D

(THE DEALERS WILL PROBABLY HAND OUT A PAMPHLET, BUT THE INFORMATION
COULD BE PLACED IN GLOVE COMPARTMENT ALONG WITH OTHER INFO)

- 4) WHAT IS CONSIDERED A "LEMON"?

A CAR WHICH HAS BEEN IN THE REPAIR SHOP FOR A TOTAL OF 30 OR MORE BUSINESS DAYS DURING THE ONE-YEAR PERIOD OR HAS BEEN SUBJECT TO REPAIR 3 OR MORE TIMES WITHIN ONE YEAR. (MOST STATES LIST " 4 OR MORE", BUT A COUPLE STATES "3 TIMES") - SUBSECTION F

- 5) WILL THE CONSUMER HAVE TO PAY TO GET THE CAR TO A REPAIR SHOP?

YES, IT IS THE RESPONSIBILITY OF THE CONSUMER TO GET THE CAR REPAIRED BY AN AUTHORIZED DEALER/REPAIRING AGENT. BUT IF THE CAR IS DECLARED A LEMON, THE MANUFACTURER MUST COMPENSATE THE OWNER FOR ALL REASONABLE COSTS WHICH THE OWNER INCURRED IN SHIPPING THE VEHICLE BACK AND FORTH - SUBSECTION L

- 6) ONCE A "LEMON" IS RETURNED, CAN THE DEALER RESELL THE VEHICLE?

YES, BUT THE DEALER MUST GIVE A FULL DISCLOSURE OF THE VEHICLE'S HISTORY - SUBSECTION I

- 7) HOW DOES THE CONSUMER GET HIS/HER REFUND FROM THE MANUFACTURER?

THE CONSUMER AFTER NOTIFYING THE MANUFACTURER OF THE BASIC PROBLEM WILL SUBMIT TO AN ARBITRATION PROCESS. THE DECISION RENDERED IS BINDING ON THE MANUFACTURER, BUT NOT ON THE CONSUMER - SUBSECTION M

(IF THE CONSUMER WISHES, THE COURT SYSTEM IS ALWAYS AVAILABLE)

- 8) EXACTLY WHAT TYPE OF VEHICLE IS COVERED BY THE "LEMON LAW"?

A MOTOR VEHICLE IS DEFINED AS LAND VEHICLES WITH FOUR WHEELS "NORMALLY" USED FOR PERSONAL, FAMILY OR HOUSEHOLD PURPOSES. MOTOR HOMES ARE INCLUDED AS THE CHASSIS IS COVERED BY A WARRANTY - SUBSECTION N (6)

9) WHO DECIDES HOW MUCH THE REFUND WILL BE?

DURING THE ARBITRATION PROCESS, THE PRICE WILL BE SETTLED ON. THE PRICE WILL BE BASED ON THE "FULL PURCHASE PRICE" (ALL FEES PAID, INCLUDING FINANCE CHARGES) MINUS "REASONABLE ALLOWANCE" FOR USE (WON'T BE ANY GREATER THAN 1/7 OF PURCHASE PRICE - SUBSECTION N (4) & N (9))

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K - STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

ALASKA'S "LEMON LAW"
May 23, 1984

For Further Information,
contact Scotty Dawkins
(907)465-3692

FOR IMMEDIATE RELEASE

JUNEAU - Attorney General Norman C. Gorsuch announced today that he was pleased by today's action of the House in passing their Labor and Commerce Committee's version of the "Lemon Law." Gorsuch said, "I was 100% behind this legislation. My staff has been working with both the House and Senate in the development of the bill. I am sure the Senate will concur with this latest version and that Governor Sheffield will quickly sign this bill into law to provide the protection Alaskans deserve from 'lemon' vehicles."

The bill, once signed by the Governor, will provide Alaskan buyers of defective vehicles that are not speedily repaired the option of a refund or replacement vehicle. Gorsuch said, "Alaska's 'Lemon Law' has provisions to protect the buyer, dealer and the manufacturer, and while we lost some of what we were

-more-

after, the legislation is still strongly oriented to protect the consumer."

This legislation, which stirred up intense lobbying efforts by the motor vehicle manufactureres, the automobile dealers and testimony from disgruntled consumers, has been being considered since last year when it was first introduced by Representative Mike Miller of Juneau. Later in last year's session Senator Bill Ray of Juneau introduced a companion bill in the Senate. Several hearings were held, but the bills were never moved from their respective committees.

This year the Senate Labor and Commerce Committee, chaired by Senator Dick Eliason of Sitka, after conducting several hearings where testimony from all sides was taken, introduced a committee substitute. The Senate then voted unanimously in favor of the legislation 20 to 0. The bill then moved over to the House where it was assigned to the House Labor and Commerce Committee, chaired by Representative John Cowdery of Anchorage. Again, after several hearings, a committee substitute was drafted and sent on. The House also voted unanimously in favor-- 37 to 0. It is our understanding that the Senate will concur with this latest version. Once this bill is signed into law, Alaskans will be on equal footing with the manufacturers when dealing with "lemon" vehicles. This was long overdue.

ALASKA'S "LEMON LAW"
Page 3

"My Consumer Protection Section is preparing an informational kit on the 'Lemon Law.' Copies of this kit will be available in late June. Alaskans who wish to receive a kit can do so by calling my Anchorage Consumer Protection Office at (907)279-0428 and requesting a 'Lemon Law' Package."

SECTIONAL ANALYSIS LEMON LAW

Subsection (a)

If a new vehicle does not conform to an express warranty, the manufacturer must make the necessary repairs. No time limitation is mentioned in this section. It merely requires the manufacturers to honor their own express warranty for whatever term they give it (1 to 5 years, or by mileage limits).

Subsection (b)

If the manufacturer is unable to repair a nonconformity vehicle within one year, the manufacturer must accept the return of the car and, at the owner's option, shall refund the full purchase price to the consumer (less a reasonable allowance for use) or shall replace the "lemon" with a new, comparable vehicle.

Subsection (c)

This section clarifies exactly how and when a consumer must give notice to the manufacturer that the consumer believes he or she has a lemon car for which a refund is requested. 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".

Subsection (d)

This section states that an owner may not receive a refund if the manufacturer can show that the nonconformity does not impair the use or value of the vehicle or that the nonconformity is the result of alteration or abuse by the owner or a person other than the repairing agent.

Subsection (e)

A vehicle is considered a "lemon" if the same nonconformity has been subject to repair three or more times within a one-year period or if the vehicle has been in the repair shop for a total of 30 or more business days during the one-year period.

Subsection (f)

A manufacturer must provide its dealers with any part necessary to make repairs of a nonconformity covered under the warranty as soon as possible without additional charge for freight or handling.

Subsection (g)

Under this subsection, a manufacturer who fails to refund the purchase price of a "lemon" is "presumed to have committed" an unfair trade practice. "Presumed to have committed" sets out a legal presumption which the manufacturer can then rebut by showing the courts that the manufacturer had some valid reason (when applicable).

Subsection (h)

This subsection states that when a "lemon" is resold by a manufacturer or distributor, a full disclosure of the reason for the return must be made to the prospective buyer.

Subsection (i)

This bill does not limit the rights of a vehicle owner as stated in other provisions of law.

Subsection (j)

This subsection requires manufacturers to retain repair facilities or authorize repairing agents within the state, able to service the vehicles they sell.

Subsection (k)

Once a "lemon" car has been returned to the manufacturer for a refund, the manufacturer must compensate the owner for all reasonable costs which the owner incurred in shipping the vehicle back and forth from the nearest authorized repair facility for warranty service.

Subsection (l)

This subsection allows the manufacturer to use any arbitration or mediation process, even if the manufacturer has not set up in advance a Magnuson-Moss type (16.C.F.R. 703) informal dispute settlement procedure. In all cases, the attorney general must approve the process and the arbitration decision must be binding on the manufacturer but not on the owner. This subsection insures that as many of these lemon law disputes as possible will stay out of the court system, and that both consumer and manufacturer will be encouraged to use informal settlement processes.

Subsection (m)

The definition section outlines the specific meanings of terms used in this legislation. Note should be taken of the following definitions:

Subsection (m) (4) - "full purchase price" includes all fees paid at the time of the sale. Finance charges are not included.

Subsection (m) (6) - "motor vehicle" includes land vehicles with four wheels "normally" used for personal, family or household purposes.

Subsection (m) (9) - "reasonable allowance" is set at a sum which will include no more than straight-line depreciation figured over seven years, plus, when applicable, an amount for depreciation in value of the vehicle caused by neglect or abuse by the owner.

Floor Speech

THE COMMITTEE SUBSTITUTE FOR SB 286 (L & C) WILL ALLOW ALASKANS TO RECOVER THEIR LOSS IF THEY FIND THEMSELVES THE OWNER OF A NEW VEHICLE WHICH IS A "LEMON" - A VEHICLE WITH A PROBLEM THAT SEEMINGLY CANNOT BE FIXED. UNDER THIS LEGISLATION, A CAR OWNER CAN DEMAND REIMBURSEMENT FROM THE VEHICLE'S MANUFACTURER FOR THE FULL PURCHASE PRICE MINUS A REASONABLE DEDUCTION FOR USE IF IT CAN BE SHOWN THAT THE CAR IN QUESTION IS INDEED A "LEMON". SB 286 DEFINES A "LEMON" AS A VEHICLE THAT HAS BEEN IN FOR REPAIRS MORE THAN 30 BUSINESS DAYS WITHIN THE FIRST YEAR OF OWNERSHIP OR IF THE SAME PROBLEM HAS BEEN SUBJECT TO REPAIR THREE OR MORE TIMES WITHIN THIS SAME TIME FRAME.

THIS SUBSTITUTE IS THE RESULT OF MANY HEARINGS HELD BY THE SENATE LABOR AND COMMERCE COMMITTEE. THE COMMITTEE ATTEMPTED AT ALL TIMES TO BALANCE THE INTERESTS OF CONSUMERS, DEALERS, AND MANUFACTURERS. HOWEVER, THERE STILL ARE A FEW MINOR POINTS OF DISAGREEMENT WHICH THE AUTO DEALERS PROBABLY WILL DISCUSS IN THE HOUSE. (FOR EXAMPLE, ALLOWING 4 REPAIR ATTEMPTS ON THE SAME PROBLEM.) NOTWITHSTANDING THE DESIRE TO MAKE THESE CHANGES, THE DEALERS SEE THE NEED FOR THIS LEGISLATION AND SUPPORT ITS PASSAGE. THE BALANCE REFLECTED IN THIS BILL WILL PROVIDE A STRONG NEW PROTECTION TO THE CONSUMERS OF OUR STATE WHEN THEY MAKE THE SECOND LARGEST FINANCIAL INVESTMENT OF THEIR LIVES, THE PURCHASE OF A NEW AUTOMOBILE.

THROUGH THIS LEGISLATION THE VEHICLE MANUFACTURERS WILL BE ENCOURAGED TO PROVIDE CONSUMERS BETTER WARRANTY SERVICE AND TO BE MORE RESPONSIVE TO EACH CAR OWNER WHO MAY HAVE PURCHASED A DEFECTIVE VEHICLE.

I FULLY SUPPORT THIS LEGISLATION AND URGE ITS PASSAGE.

TELECONFERENCE -

MON - DEBATE CONSUMER PROTECT

Strong support of Council Protection Div.
Dept of Law.

perfect Vehicle to do the job

long way down the road

40 States - many

jump.

SECTIONAL ANALYSIS CSSB 286

Subsection (a)

If a new vehicle does not conform to an express warranty, the manufacturer must make the necessary repairs. No time limitation is mentioned in this section. It merely requires the manufacturers to honor their own express warranty for whatever term they give it (1 to 5 years, or by mileage limits).

Subsection (b)

If the manufacturer is unable to repair a nonconformity vehicle within one year, the manufacturer must accept the return of the car and shall refund the full purchase price to the consumer.

Subsection (c)

This section clarifies exactly how and when a consumer must give notice to the manufacturer that the consumer believes he or she has a lemon car for which a refund is requested.

Subsection (d)

This section, following the lemon laws in the states of Massachusetts and California, requires the manufacturer to deliver some type of explanation to all new owners of vehicles about their rights under the lemon law.

Subsection (e)

This section states that an owner may not receive a refund if the manufacturer can show that the nonconformity does not impair the use or value of the vehicle or that the nonconformity is the result of alteration or abuse by the owner or a person other than the repairing agent.

Subsection (f)

A vehicle is considered a "lemon" if the same nonconformity has been subject to repair three or more times within a one-year period or if the vehicle has been in the repair shop for a total of 30 or more business days during the one-year period.

Subsection (g)

A manufacturer must provide its dealers with any part necessary to make repairs of a nonconformity covered under the warranty as soon as possible without additional charge for freight or handling.

Subsection (h)

Under this subsection, a manufacturer who fails to refund the purchase price of a "lemon" is "presumed to have committed" an unfair trade practice. "Presumed to have committed" sets out a legal presumption which the manufacturer can then rebut by showing the courts that the manufacturer had some valid reason (when applicable).

Subsection (i)

This subsection states that when a "lemon" is resold, a full disclosure of the reason for the return must be made to the prospective buyer.

Subsection (j)

This bill does not limit the rights of a vehicle owner as stated in other provisions of law.

Subsection (k)

This subsection requires manufacturers to retain repair facilities or authorize repairing agents within the state, able to service the vehicles they sell.

Subsection (l)

Once a "lemon" car has been returned to the manufacturer for a refund, the manufacturer must compensate the owner for all reasonable costs which the owner incurred in shipping the vehicle back and forth from the nearest authorized repair facility for warranty service.

Subsection (m)

This subsection allows the manufacturer to use any arbitration or mediation process, even if the manufacturer has not set up in advance a Magnuson-Moss type (16.C.F.R. 703) informal dispute settlement procedure. In all cases, the attorney general must approve the process and the arbitration decision must be binding on the manufacturer but not on the owner. This subsection insures that as many of these lemon law disputes as possible will stay out of the court system, and that both consumer and manufacturer will be encouraged to use informal settlement processes.

Subsection (n)

The definition section outlines the specific meanings of terms used in this legislation. Note should be taken of the following definitions:

Subsection (n) (4) - "full purchase price" includes all fees paid at the time of the sale, including finance charges.

Subsection (n) (6) - "motor vehicle" includes land vehicles with four wheels "normally" used for personal, family or household purposes.

Subsection (n) (9) - "reasonable allowance" is set at a sum which will include no more than straight-line depreciation figured over seven years, plus, when applicable, an amount for depreciation in value of the vehicle caused by neglect or abuse by the owner.

COMMITTEE REPORT

SENATE

FURTHER:

6/1/82

Date: 2/24/84

Mr. President:

The Committee on LABOR & INDUSTRY

has had 30 250

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for AP 276(4-5) same title
 new title
- and recommends to pass
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING

DO PASS

MEMBERS MAKING

OTHER RECOMMENDATIONS:

Chairman
CHAIRMAN

SECTIONAL ANALYSIS CSSB 286

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STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

Bill Sheffield, Governor

POUCH K - STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

February 28, 1984

The Honorable Richard Eliason
Chairman, Senate Labor and
Commerce Committee
Alaska State Senate
Pouch V
Juneau, AK 99811

Re: Committee Substitute for
House Bill 286

Dear Senator Eliason:

My testimony before this Committee this day can be concise and to the point: namely, that on behalf of the consuming public in the State of Alaska, I urge you to now pass out, with "do-pass" recommendations, the Committee Substitute for House Bill 286, known as the "Lemon Law".

I thank the Committee, and especially the Committee Chair, for the significant effort and time which has been spent studying this bill. It is worthy of note how much time this Committee gave to the important task of hearing public testimony, from industry representatives and from consumers all over the state.

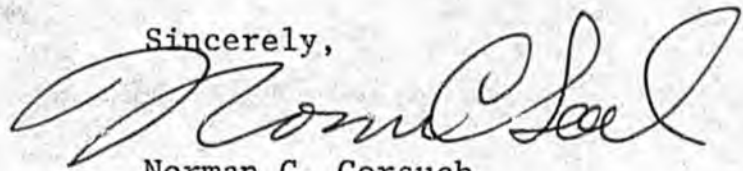
In the final draft of this Committee Substitute it is also clear that the Committee has succeeded in its endeavor to refine the concepts of this bill to Alaskan needs; both the needs of our consumers and of our automobile dealers. The Committee has made reasonable accommodation to the interests of the manufacturers, attempting at all times to balance the interests of consumers, dealers and manufacturers. The balance reflected in this bill will further the underlying intent of this bill, to provide a strong new protection to the consumers of our State when they make the second largest financial investment of their lives, the purchase of a new automobile.

Honorable Richard Eliason
Chairman, Senate Labor and
Commerce Committee

February 28, 1984
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Nationwide, forty states are expected to have lemon laws by the end of the 1984 legislative sessions. Alaskans need this bill passed into law now. I would urge the Committee and all members of the Legislature to remember that should this bill be delayed from passage for another year, over 20,000 Alaskan consumers will purchase new vehicles in this state, without the much needed protections offered by the Lemon Law. Therefore, I urge the Committee to pass this bill out, and for each Committee member to voice strong support for its passage on the floor of the Senate.

Sincerely,

A handwritten signature in cursive script, appearing to read "Norman C. Gorsuch".

Norman C. Gorsuch
Attorney General

NCG:vrh

STATE OF ALASKA

Bill Sheffield, Governor

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K - STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

January 31, 1984

The Honorable Dick Eliason
Chair, Senate Labor and Commerce
Committee
Alaska State Senate
Pouch V
Juneau, AK 99811

Re: Committee Substitute for
SB 286 "Lemon Law"

Dear Senator Eliason:

The Office of the Attorney General takes the position that it supports and urges the Legislature to adopt the proposed "Lemon Law" before it.

My decision to support this bill is based on the realities of the automotive industry. Today a consumer's purchase of an automobile is the second largest purchase, next to a home, made throughout the consumer's lifetime. In Alaska, where consumers pay the highest retail prices for automobiles of anywhere in the United States, new, basic automobile prices start at \$7,000, and quickly mount to \$12,000 or \$15,000. Consumers reasonably expect to be able to use and enjoy these automobiles for five to ten years after their purchase, and if sold earlier, to be able to recoup a reasonable portion of their purchase price upon resale.

The Lemon Law before you merely addresses how the manufacturers are required to perform upon the express warranties that they themselves offer to consumers as part of the inducement to buy their vehicles. The mass-marketing of automobiles puts heavy emphasis on warranties. We can estimate that the cost of a new car warranty, which is rolled into the sale price of a vehicle, is as much as \$500 to \$1,000 on every new car.

Across the nation, numerous states have recognized the need to address this problem of consumer warranties. Within a year after the first lemon laws were passed in Connecticut and California, 16 states had passed similar statutes. By the end of this legislative session there may be 25 states with lemon laws. This indicates national recognition of a problem, namely, con-

sumers' inability to obtain adequate redress under the warranties that they purchase as part of their vehicles, and a need to restore consumer confidence and manufacturer responsiveness in the new car market.

I support the "lemon law," not only for these general reasons, but as a fitting answer to problems in the Alaskan new car market. For many Alaskans, as soon as they take a new vehicle, wherever purchased, more than a few miles from the four major cities, they have rendered the warranty portion of their vehicle purchase useless. Very few Alaskans living outside major cities ever receive any benefit for the warranties that they purchase.

Even those Alaskans who can get their ailing vehicle to a manufacturer's authorized repair facility (dealership) are often met with inordinate delays due to the nonavailability of parts, the shortage of repair personnel or facilities, and at times, additional expenses incurred through the need to supply their own alternative transportation while their vehicle is being repaired or parts are being shipped.

Alaskans have more reason to complain against the manufacturers than anyone else in the country, since it is apparent through the experience of the staff in my consumer protection office, that the major manufacturers consistently discriminate against Alaskan consumers and dealers. They provide less backup to our dealers and service to our customers on their warranties than to residents of other states. This discriminatory treatment is especially grievous in light of the huge volume of sales made by these manufacturers in our state. This type of discrimination by manufacturers against Alaskans can be seen in these facts:

A. Despite the fact that many of the highest volume-selling dealerships in the country are in Alaska, until a few months ago not a single manufacturer authorized even one service representative employee to be stationed in the state of Alaska, nor travel here more than once every six to eight weeks in order for a service representative to review consumer warranty disputes and to authorize major warranty repairs. (Without this authorization dealers cannot satisfy their own customers, or else run the risk of not being compensated for their warranty work.) These same manufacturers have numerous employees in the state to deal with the financing and selling of these vehicles but none to deal with the warranties.

B. Several of the major manufacturers are willing to airfreight, at their own expense, necessary parts for warranty repairs to 49 of the 50 states including Hawaii, when the dealer does not have a part readily available. The one state where the manufacturer insists that the consumer must pay to have a part airfreighted if he/she does not wish to wait for surface freight is Alaska.

C. Despite the fact that many of the vehicles sold to Alaskans are used in remote parts of the state where the residents do not have access to the few dealerships, and despite the fact that the manufacturers have programs on their corporate books for designating independent repair shops as authorized repair facilities, as they do all over Europe, no manufacturer has ever authorized a shop anywhere in Alaska to be designated as an authorized repair facility for those consumers who cannot reach a dealership.

D. Many of our dealerships have often complained that the manufacturer does not adequately reimburse the dealers for their labor on doing warranty work, refusing to take into account the higher cost of doing business in Alaska and therefore a need for a higher reimbursement level.

E. In many other parts of the country manufacturers have set up "Autolines" or other types of consumer complaint handling programs, but despite the fact that several major manufacturers state in their warranty booklets that such programs are available to Alaskans, to this date not a single manufacturer has set up a consumer complaint handling program in the state of Alaska.

I wish to emphasize that I understand that our Alaskan dealers are often caught in the middle between their unhappy consumers and their manufacturers. We know that the Alaskan dealers do not always sell all the cars that they are being asked to service, and we also understand that dealers do not wish to jeopardize their relationship with the manufacturer. However, we know that every franchise dealership takes on both the benefits inherent therein and the burdens, such as the requirement to honor the manufacturer's national warranties for all vehicles which come to their facility. In addition, we know that if prodding a recalcitrant manufacturer to fix a problem car is difficult for the dealer, that difficulty is magnified ten-fold for the consumer. This bill should help our local dealers, not hurt them, as it should help them to better service and satisfy their own customers.

Senator Dick Eliason
Chair, Senate Labor and
Commerce Committee

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It is my understanding that the National Automobile Manufacturers Association does not oppose the passage of a lemon law in our state and in other states. Many consumers appeared last year at public teleconferences to testify to the need for a lemon law. Alaskan consumers continue to have numerous problems with manufacturers. For example, since late December when a Federal Trade Commission consent judgment with General Motors over several major defects was settled, over 350 Alaskan consumers have contacted my consumer protection office to say that they have suffered economic harm due to one of these defects and would like to seek redress.

The concept of a lemon law is one my office supports because whether or not we have lemon law statutes, consumers and their attorneys are bringing "lemon" lawsuits against the manufacturers over what they allege to be defective autos. With the lemon law in place, the manufacturers, the consumers, and the courts have clear standards to apply as to what is a "lemon", what is a reasonable number of attempts or time period for repair of a vehicle, how a consumer should be compensated, and what type of notice the consumer should give the manufacturer before demanding a refund or replacement. A lemon law clearly places the obligation to provide a refund or replacement upon the manufacturer, but only based upon the express warranties written by the manufacturer itself.

A lemon law actually saves the public time and money, as consumers are required to go to informal mediation and arbitration procedures before they run into court. Statistics around the country show that 95 to 98 percent of the cases get settled at these levels and will never reach the courts. The clear guidelines of the lemon law provide a backdrop for the settlement and arbitration proceedings. Without these guidelines, consumer willingness to settle in mediation or arbitration would be greatly diminished, as the consumer and manufacturer would both jockey for the "best" position.

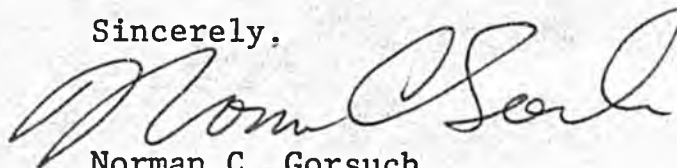
Eighteen other states have enacted a lemon law. It is clear that Alaskans pay more than any other residents in the United States for their new automobiles, receive in many instances less value from their warranties, and are probably most deserving of a well thought out lemon law establishing clearly their rights and responsibilities vis-a-vis the manufacturer.

Senator Dick Eliason
Chair, Senate Labor and
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Therefore I urge this committee and the rest of the
Legislature to duly pass out the lemon law.

Sincerely,

A handwritten signature in cursive script, appearing to read "Norm Gorsuch".

Norman C. Gorsuch
Attorney General

NCG:CJS:vrh

Dealers

- Full refund and not replacement of vehicle was at dealer's request (sec. b)
- Written notice to dealer at dealer's request (c)
- Manufacturers must provide warranty parts to dealers as soon as possible. (sec g)
- Clarified that dealers do not have any new legal liability for a "lemon" (sec j)
- Dropped service repair facility in each population center of 7,500 as they didn't want to encourage new dealerships
- Dealer wanted definition to be limited to franchise dealers (sec n)
- Motorcycles, scooters, ATV excluded (sec n)
- Strict def. of "nonconformity" at dealers request (sec. n)
- Repairing agent defined to make manufacturer liable for agents authorized warranty work (so dealer not held accountable for agent's mistakes (sec n)

Manufacturers

- Consumer must give written notice to manufacturer at request of manufacturer. (c)
- Thirty business days to repair nonconformity was at manufacturer's request (Some have 15 days) (Sec f)
- Added "nonconformity" parts and as "reasonably" possible to accommodate some of manufacturers concern (sec g)
- Dropped service repair facility in each population center of 7,500 (was part sec k)
- Manufacturer can require consumer to go to arbitration first before qualifying for a refund (sec m)
- Reasonable allowance also to include depreciation due to abuse by owner (at dealers request) (sec. n)
- After required consumer notice (sec c) manufacturer has 30 days to make final effort to negotiate settlement with consumer
- All consumer warranties are not extended by time in shop for repair

Consumers

- Manufacturer must make necessary repairs under warranty (sec a)
- If a car is a "lemon," manufacturer must refund \$ (sec b)
- Explanatory to consumer re: lemon law (d)
- A full disclosure of a "lemon" must be made when resold (sec i)
- Manufacturer must pay transportation cost to repair facilities if it is proven a lemon. (sec l)
- Full purchase price includes "finance charges" (Conn. putting in revision to include finance charges (sec n)