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SFA



BILL ANALYSIS

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Senate Bill 599 (as reported without amendment)
Sponsor: Senator Mat J. Dunaskiss
Committee: Economic Development, International Trade and Regulatory Affairs

Date Completed: 6-2-98

RATIONALE

Public Act 87 of 1986 provides protection to consumers who have purchased new motor vehicles with serious defects that the manufacturer cannot or will not fix under warranty. The Act gives the manufacturer of a defective motor vehicle the option of either replacing the vehicle with one acceptable to the consumer or refunding its full purchase price no later than 30 days after failing in a reasonable number of attempts to repair the defect, subject to certain conditions. (See **BACKGROUND** for more details.) Some people believe that motorcycle buyers should receive the same benefits as motor vehicle buyers under the law.

CONTENT

The bill would amend Public Act 87 of 1986 (commonly called the auto lemon law) to include a motorcycle, but not a moped or an autocycle, in the definition of "motor vehicle".

Currently, "motor vehicle" means a car, van, or pickup truck used as a passenger vehicle. It does not include a motor home, bus, truck (other than a pickup truck or van), or any vehicle designed to travel on less than four wheels.

MCL 257.1401

BACKGROUND

The Act's protections are available to people who buy any number of new cars each year for personal, family, or household use, and to owners of small commercial fleets who buy fewer than 10 new vehicles a year.

Under the Act, the defect must impair the use or value of the vehicle, or prevent its conforming to the manufacturer's warranty. The manufacturer or

a seller must repair the defect if the consumer reports it to either the manufacturer or dealer before the end of the manufacturer's warranty or no later than a year after accepting delivery, whichever is earlier.

The Act requires the consumer, before claiming a refund or replacement, to allow the manufacturer or dealer a "reasonable number of attempts" to repair a vehicle. A reasonable number of attempts has been allowed when either the repair is attempted four or more times for the same defect, or repair attempts for any defects total 30 or more days during the first year of ownership. The defect must continue or recur after a reasonable number of repair attempts to qualify the vehicle as a lemon.

In addition, the consumer must make use of a manufacturer's informal dispute settlement procedure, if available, and a judge must consider the granting of attorney's fees as part of the judgment awarded to a consumer who wins an action for recovery or replacement. Further, the Act requires the Secretary of State to include, with new vehicle titles, a notice revealing that a buyer has the right to replacement of a defective vehicle or a refund if the customer reports the defect in writing to the manufacturer, and that the buyer might also have to undergo arbitration.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The bill would include motorcycles in the definition of "motor vehicle" to provide motorcycle consumers with the same procedure for pressing claims against manufacturers of defective motorcycles. It

would include specific time limits and actions required of both the buyer and the maker, and give manufacturers reasonable time and opportunity to repair defective motorcycles. In order to enforce a claim for a refund or replacement of a defective motorcycle, a consumer would have to provide its manufacturer with written notice so that one or more repairs could be made. In addition, the consumer would have to make use of a manufacturer's arbitration proceeding as prescribed in the Act.

Legislative Analyst: N. Nagata

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: B. Bowerman

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.