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HOUSE BILL 2017

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State of Washington

65th Legislature

2017 Regular Session

By Representative Sells

1 AN ACT Relating to the lemon law's application to recreational  
2 vehicles; and amending RCW 19.118.021.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 19.118.021 and 2009 c 351 s 1 are each amended to  
5 read as follows:

6 Unless the context clearly requires otherwise, the definitions in  
7 this section apply throughout this chapter.

8 (1) "Board" means new motor vehicle arbitration board.

9 (2) "Collateral charges" means any sales or lease related charges  
10 including but not limited to sales tax, use tax, arbitration service  
11 fees, unused license fees, unused registration fees, unused title  
12 fees, finance charges, prepayment penalties, credit disability and  
13 credit life insurance costs not otherwise refundable, any other  
14 insurance costs prorated for time out of service, transportation  
15 charges, dealer preparation charges, or any other charges for service  
16 contracts, undercoating, rustproofing, or factory or dealer installed  
17 options.

18 (3) "Condition" means a general problem that results from a  
19 defect or malfunction of one or more parts, or their improper  
20 installation by the manufacturer, its agents, or the new motor  
21 vehicle dealer.

1 (4) "Consumer" means any person who has entered into an agreement  
2 or contract for the transfer, lease, or purchase of a new motor  
3 vehicle, other than for purposes of resale or sublease, during the  
4 duration of the eligibility period defined under this section.

5 (5) "Court" means the superior court in the county where the  
6 consumer resides, except if the consumer does not reside in this  
7 state, then the superior court in the county where an arbitration  
8 hearing or determination was conducted or made pursuant to this  
9 chapter.

10 (6) "Eligibility period" means the period ending two years after  
11 the date of the original delivery to the consumer of a new motor  
12 vehicle, or the first twenty-four thousand miles of operation,  
13 whichever occurs first.

14 (7) "Incidental costs" means any reasonable expenses incurred by  
15 the consumer in connection with the repair of the new motor vehicle,  
16 including any towing charges and the costs of obtaining alternative  
17 transportation.

18 (8) "Manufacturer" means any person engaged in the business of  
19 constructing or assembling new motor vehicles or engaged in the  
20 business of importing new motor vehicles into the United States for  
21 the purpose of selling or distributing new motor vehicles to new  
22 motor vehicle dealers. "Manufacturer" includes to the extent the  
23 modification affects the use, value, or safety of a new motor  
24 vehicle, a postmanufacturing modifier of a new motor vehicle that  
25 modifies or has a modification done to a new motor vehicle before the  
26 initial retail sale or lease of a new motor vehicle, except as  
27 provided in this chapter. "Manufacturer" does not include any person  
28 engaged in the business of set-up of motorcycles as an agent of a new  
29 motor vehicle dealer if the person does not otherwise construct or  
30 assemble motorcycles.

31 (9) "Motorcycle" means any motorcycle as defined in RCW 46.04.330  
32 which has an engine displacement of at least seven hundred fifty  
33 cubic centimeters.

34 (10) "Motor home" means:

35 (a) A vehicular unit designed to provide temporary living  
36 quarters for recreational, camping, or travel use, built on or  
37 permanently attached to a self-propelled motor vehicle chassis or on  
38 a chassis cab or van that is an integral part of the completed  
39 vehicle; or

40 (b) A "recreational vehicle" as defined in RCW 46.70.011.

1 (11) "Motor home manufacturer" means the first stage  
2 manufacturer, the component manufacturer, ~~((and))~~ the final stage  
3 manufacturer, and, if applicable, the additional manufacturer.

4 (a) "First stage manufacturer" means a person who manufactures  
5 incomplete new motor vehicles such as chassis, chassis cabs, or vans,  
6 that are directly warranted by the first stage manufacturer to the  
7 consumer, and are completed by a final stage manufacturer into a  
8 motor home.

9 (b) "Component manufacturer" means a person who manufactures  
10 components used in the manufacture or assembly of a chassis, chassis  
11 cab, or van that is completed into a motor home and whose components  
12 are directly warranted by the component manufacturer to the consumer.

13 (c) "Final stage manufacturer" means a person who assembles,  
14 installs, or permanently affixes a body, cab, or equipment to an  
15 incomplete new motor vehicle such as a chassis, chassis cab, or van  
16 provided by a first stage manufacturer, to complete the vehicle into  
17 a motor home.

18 (d) "Additional manufacturer" means a person who manufactures,  
19 assembles, or installs any part, equipment, or component of a motor  
20 home, and who is not a first stage manufacturer, a component  
21 manufacturer, or a final stage manufacturer, and whose parts,  
22 equipment, or components of the motor home are directly warranted by  
23 the additional manufacturer to the consumer.

24 (12) "New motor vehicle" means any new self-propelled vehicle,  
25 including a new motorcycle, primarily designed for the transportation  
26 of persons or property over the public highways that was originally  
27 purchased or leased at retail from a new motor vehicle dealer or  
28 leasing company in this state, but does not include vehicles  
29 purchased or leased by a business as part of a fleet of ten or more  
30 vehicles at one time or under a single purchase or lease agreement.  
31 This chapter shall apply to a motor vehicle purchased or leased with  
32 a manufacturer written warranty by a member of the armed forces  
33 regardless of in which state the vehicle was purchased or leased, if  
34 the vehicle otherwise meets the definition of a new motor vehicle and  
35 the consumer is a member of the armed forces stationed or residing in  
36 this state at the time the consumer submits a request for arbitration  
37 to the attorney general. If the motor vehicle is a motor home, this  
38 chapter ~~((shall apply))~~ applies to the entire motor home, including  
39 the self-propelled vehicle and chassis, ~~((but does not include))~~ if  
40 applicable, as well as those portions of the vehicle designated,

1 used, or maintained primarily as a mobile dwelling, office, ((~~or~~))  
2 commercial space, or other space. The term "new motor vehicle"  
3 includes motor homes that are not self-propelled vehicles, in  
4 accordance with subsection (10)(b) of this section. The term "new  
5 motor vehicle" does not include trucks with nineteen thousand pounds  
6 or more gross vehicle weight rating. The term "new motor vehicle"  
7 includes a demonstrator or lease-purchase vehicle as long as a  
8 manufacturer's warranty was issued as a condition of sale.

9 (13) "New motor vehicle dealer" means a person who holds a dealer  
10 agreement with a manufacturer for the sale of new motor vehicles, who  
11 is engaged in the business of purchasing, selling, servicing,  
12 exchanging, or dealing in new motor vehicles, and who is licensed or  
13 required to be licensed as a vehicle dealer by the state of  
14 Washington.

15 (14) "Nonconformity" means a defect, serious safety defect, or  
16 condition that substantially impairs the use, value, or safety of a  
17 new motor vehicle, but does not include a defect or condition that is  
18 the result of abuse, neglect, or unauthorized modification or  
19 alteration of the new motor vehicle.

20 (15) "Purchase price" means the cash price of the new motor  
21 vehicle appearing in the sales agreement or contract.

22 (a) "Purchase price" in the instance of a lease means the actual  
23 written capitalized cost disclosed to the consumer contained in the  
24 lease agreement. If there is no disclosed capitalized cost in the  
25 lease agreement the "purchase price" is the manufacturer's suggested  
26 retail price including manufacturer installed accessories or items of  
27 optional equipment displayed on the manufacturer label, required by  
28 15 U.S.C. Sec. 1232.

29 (b) "Purchase price" in the instance of both a vehicle purchase  
30 or lease agreement includes any allowance for a trade-in vehicle but  
31 does not include any manufacturer-to-consumer rebate appearing in the  
32 agreement or contract that the consumer received or that was applied  
33 to reduce the purchase or lease cost.

34 Where the consumer is a subsequent transferee and the consumer  
35 selects repurchase of the motor vehicle, "purchase price" means the  
36 consumer's subsequent purchase price. Where the consumer is a  
37 subsequent transferee and the consumer selects replacement of the  
38 motor vehicle, "purchase price" means the original purchase price.

39 (16) "Reasonable offset for use" means the definition provided in  
40 RCW 19.118.041(1)(c).

1 (17) "Reasonable number of attempts" means the definition  
2 provided in RCW 19.118.041.

3 (18) "Replacement motor vehicle" means a new motor vehicle that  
4 is identical or reasonably equivalent to the motor vehicle to be  
5 replaced, as the motor vehicle to be replaced existed at the time of  
6 original purchase or lease, including any service contract,  
7 undercoating, rustproofing, and factory or dealer installed options.

8 (19) "Serious safety defect" means a life-threatening malfunction  
9 or nonconformity that impedes the consumer's ability to control or  
10 operate the new motor vehicle for ordinary use or reasonable intended  
11 purposes or creates a risk of fire or explosion.

12 (20) "Subsequent transferee" means a consumer who acquires a  
13 motor vehicle, within the eligibility period, as defined in this  
14 section, with an applicable manufacturer's written warranty and where  
15 the vehicle otherwise met the definition of a new motor vehicle at  
16 the time of original retail sale or lease.

17 (21) "Substantially impair" means to render the new motor vehicle  
18 unreliable, or unsafe for ordinary use, or to diminish the resale  
19 value of the new motor vehicle below the average resale value for  
20 comparable motor vehicles.

21 (22) "Warranty" means any implied warranty, any written warranty  
22 of the manufacturer, or any affirmation of fact or promise made by  
23 the manufacturer in connection with the sale of a new motor vehicle  
24 that becomes part of the basis of the bargain. The term "warranty"  
25 pertains to the obligations of the manufacturer in relation to  
26 materials, workmanship, a modification by a new motor vehicle dealer  
27 installing the new motor vehicle manufacturer's authorized parts or  
28 their equivalent for the specific new motor vehicle pursuant to the  
29 manufacturer approved specifications, and fitness of a new motor  
30 vehicle for ordinary use or reasonably intended purposes throughout  
31 the duration of the eligibility period as defined under this section.

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