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BILL REQUEST - CODE REVISER'S OFFICE

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BILL REQ. #: Z-0169.1/23

ATTY/TYPIST: AI:lel

BRIEF DESCRIPTION: Enacting the used motor vehicles express warranties act.

AN ACT Relating to enacting the used motor vehicles express warranties act; and adding a new chapter to Title 46 RCW.

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

NEW SECTION. **Sec.**  The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Manufacturer's warranty" includes an express warranty issued by the manufacturer of a motor vehicle.

(2) "Purchase price" includes the total of all payments made for the purchase of the vehicle, including finance charges, registration fees, payments made for credit life, accident, health, and damage insurance, collision and related comprehensive insurance coverages and service contracts, and the value of a trade-in.

(3) "Reasonable allowance for use" is 15 cents for each mile the used motor vehicle has been operated between its sale and the dealer's repurchase.

(4) "Repurchase price" includes the purchase price, as defined in subsection (2) of this section, less any cash award that was made by the used motor vehicle dealer in an attempt to resolve the dispute and was accepted by the consumer, and less any refunds or rebates to which the consumer is entitled, plus any incidental damages not previously reimbursed.

(5) "Used motor vehicle" or "used vehicle" includes any vehicle driven more than the limited use necessary in moving or road testing a new vehicle prior to delivery to a consumer, including a demonstrator vehicle, except that it does not include auto homes, vehicles built primarily for off-road use, motorcycles, or any vehicle used primarily for business purposes.

(6) "Used motor vehicle dealer" includes any person, firm, association, corporation, or trust, not excluded by RCW 46.70.011(18), engaged in the business of buying, selling, listing, exchanging, offering, brokering, leasing with an option to purchase, auctioning, soliciting, or advertising the sale of used vehicles, or arranging or offering or attempting to solicit or negotiate on behalf of others, a sale, purchase, or exchange of an interest in used motor vehicles, irrespective of whether the used motor vehicles are owned by that person.

NEW SECTION. **Sec.**  The express warranties required in this section are of the following durations:

(1) For a used motor vehicle which, at the time of sale, has been operated less than 40,000 miles, 90 days or 3,750 miles, whichever occurs first.

(2) For a used motor vehicle which, at the time of sale, has been operated 40,000 miles or more, but less than 80,000 miles, 60 days or 2,500 miles, whichever occurs first.

(3) For a used motor vehicle which, at the time of sale, has been operated 80,000 miles or more, but less than 125,000 miles, 30 days or 1,250, whichever occurs first.

(4) If the used motor vehicle's true mileage is not known, the warranty period is determined by the age of the used motor vehicle in the following manner: A used motor vehicle three years old or less shall have a warranty as provided in subsection (1) of this section; a used motor vehicle more than three, but less than six years old, shall have a warranty as provided in subsection (2) of this section; and a used motor vehicle six years old or more shall have a warranty as provided in subsection (3) of this section. A used motor vehicle's age is determined by subtracting its model year from the year in which the warranty holder purchased said used vehicle. In calculating time under this subsection, a day on which the warranty is breached is excluded and all subsequent days in which the used motor vehicle fails to conform with the express warranty are also excluded. In calculating distance under this subsection, the miles driven to obtain or in connection with the repair, servicing, or testing of the used motor vehicle that fails to conform with the express warranty are excluded.

NEW SECTION. **Sec.**  For the purposes of this chapter, the express warranty is met if a used motor vehicle is substantially free of any defects that significantly limits the use of the used motor vehicle for the ordinary purpose of transportation on any public highway for the durations set forth in section 2 of this act. A defect significantly limits the use of the used motor vehicle if the vehicle cannot be operated with reasonable safety, efficiency, and comfort.

NEW SECTION. **Sec.**  If the used motor vehicle remains subject to a manufacturer's warranty at time of sale, and the warranty has been duly assigned or transferred to the buyer, the duration of the express warranty set forth in section 2 of this act is reduced by the remaining duration of the manufacturer's warranty.

NEW SECTION. **Sec.**  If the express warranty described in this chapter is breached, the purchaser shall give reasonable notice to the used motor vehicle dealer. Before the purchaser exercises any other remedies, the dealer shall have a reasonable opportunity to repair the vehicle. The purchaser's payment(s) for repair(s) described in this section is one-half of the cost of repairs. At no time, however, shall the purchaser's cumulative payments for repair(s) exceed $200.

(1) If the used motor vehicle dealer or its agent fails to repair the same defect after three attempts, the dealer shall accept return of the vehicle from the purchaser and refund the full repurchase price, less a reasonable allowance for use.

(2) Regardless of the number of defects, if the used motor vehicle is out of service for a total of 45 days during the warranty period, the dealer shall accept return of the vehicle from the consumer and refund the full purchase price, less a reasonable allowance for use. The 45-day period does not include the time from when the defect manifested and when the purchaser notified the used car dealer of same.

NEW SECTION. **Sec.**  An agreement for the sale of a used motor vehicle by a used motor vehicle dealer is voidable at the option of the purchaser unless it contains on its face the following conspicuous statement printed in bold-faced twelve point or larger type set off from the body of the agreement:

The seller hereby provides an express warranty covering the full costs of both parts and labor necessary to repair any defect that significantly limits the use of this vehicle for the ordinary purpose of transportation on any public highway. The warranty shall apply:

(1) For a used motor vehicle which, at the time of sale, has been operated less than 40,000 miles, 90 days or 3,750 miles, whichever occurs first.

(2) For a used motor vehicle which, at the time of sale, has been operated 40,000 miles or more, but less than 80,000 miles, 60 days or 2,500 miles, whichever occurs first.

(3) For a used motor vehicle which, at the time of sale, has been operated 80,000 miles or more, but less than 125,000 miles, 30 days or 1,250 miles, whichever occurs first.

(4) If the used motor vehicle's true mileage is not known, the warranty period is determined by the age of said used motor vehicle in the following manner: A used motor vehicle three years old or less has a warranty as provided in subsection (1) of this section; a used motor vehicle more than three, but less than six years old, has a warranty as provided in subsection (2) of this section; and a used motor vehicle six years old or more has a warranty as provided in subsection (3) of this section. A used motor vehicle's age is determined by subtracting its model year from the year in which the warranty holder purchased the used vehicle.

The used motor vehicle dealer has the burden to prove by a preponderance of the evidence that the dealer complied with this section, if applicable.

NEW SECTION. **Sec.**  A used motor vehicle dealer shall disclose in writing to purchasers at the time of sale the existence of any open, unremedied recalls. The dealer is deemed to have complied with the disclosure requirement in this section by providing the purchaser a paper copy of a report obtained from the publicly accessible website safecar.gov, or a successor government website, based on the vehicle identification number search.

NEW SECTION. **Sec.**  Except as provided in section 9 of this act, any agreement entered into by a consumer for the purchase of a used motor vehicle that the used motor vehicle dealer waives, limits, or disclaims rights set forth in this chapter is void as contrary to public policy. The rights extend to a transferee of the used motor vehicle.

NEW SECTION. **Sec.**  This chapter does not apply to any used motor vehicle that is more than 20 years old at the time of sale, as determined by subtracting the used motor vehicle's model year from the year in which it was sold by the used motor vehicle dealer. The used motor vehicle dealer has the burden of proof by a preponderance of the evidence that the dealer complied with this section, if applicable.

NEW SECTION. **Sec.**  This chapter does not apply to any used motor vehicle sold by a used motor vehicle dealer to a consumer if the car is not roadworthy and that fact is disclosed in writing at the time of sale. The used motor vehicle dealer has the burden of proof by a preponderance of the evidence that the dealer complied with this section, if applicable.

NEW SECTION. **Sec.**  The express warranty described in this chapter does not extend to damage that occurs after the sale of the used motor vehicle and that is the result of any abuse, misuse, neglect, failure to perform regular maintenance, or to maintain adequate oil, coolant, or other required fluid or lubricant or off-road use, racing, or towing. The used motor vehicle dealer has the burden to prove by a preponderance of the evidence if relying on this section.

NEW SECTION. **Sec.**  The legislature finds that the practices covered by this chapter are matters vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW. A violation of this chapter is not reasonable in relation to the development and preservation of business and is an unfair or deceptive act in trade or commerce and an unfair method of competition for purposes of applying the consumer protection act, chapter 19.86 RCW.

NEW SECTION. **Sec.**  This act may be known and cited as the used motor vehicles express warranties act.

NEW SECTION. **Sec.**  Sections 1 through 13 of this act constitute a new chapter in Title 46 RCW.

**--- END ---**