



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB5531

Introduced 2/9/2010, by Rep. Lisa M. Dugan

SYNOPSIS AS INTRODUCED:

| | |
|----------------|-----------------------------|
| 815 ILCS 380/1 | from Ch. 121 1/2, par. 1201 |
| 815 ILCS 380/2 | from Ch. 121 1/2, par. 1202 |
| 815 ILCS 380/3 | from Ch. 121 1/2, par. 1203 |
| 815 ILCS 380/4 | from Ch. 121 1/2, par. 1204 |
| 815 ILCS 380/7 | from Ch. 121 1/2, par. 1207 |
| 815 ILCS 380/8 | from Ch. 121 1/2, par. 1208 |

Amends the New Vehicle Buyer Protection Act. Changes the short title to the New or Used Vehicle Buyer Protection Act. Adds a definition of "used vehicle" and makes other changes to make the Act applicable to used vehicles as well as new vehicles. Provides that a used vehicle may not be sold in this State by a seller to a consumer unless accompanied by an express written warranty covering the full cost of both parts and labor necessary to repair any defect that impairs the used vehicle's safety or use. Sets forth statutory warranty periods applicable to used vehicles, which vary according to a vehicle's mileage or age. Provides for no warranty in the case of a used vehicle that has been operated for 125,000 miles or more. Provides that the used vehicle warranty provisions do not apply to any used vehicle sold by a seller to a consumer for less than \$700.

LRB096 19100 DRJ 34491 b

1 AN ACT concerning business.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The New Vehicle Buyer Protection Act is amended
5 by changing Sections 1, 2, 3, 4, 7, and 8 as follows:

6 (815 ILCS 380/1) (from Ch. 121 1/2, par. 1201)

7 Sec. 1. Short title. This Act shall be known and may be
8 cited as the New or Used Vehicle Buyer Protection Act.

9 (Source: P.A. 85-1350.)

10 (815 ILCS 380/2) (from Ch. 121 1/2, par. 1202)

11 Sec. 2. Definitions. For the purposes of this Act, the
12 following words have the meanings ascribed to them in this
13 Section.

14 (a) "Consumer" means (i) an individual who purchases or
15 leases for a period of at least one year a new vehicle, or
16 purchases a used vehicle, from the seller for the purposes of
17 transporting himself and others, as well as their personal
18 property, for primarily personal, household or family purposes
19 or (ii) a fire department, fire protection district, or
20 township fire department that purchases or leases for a period
21 of at least one year a new vehicle, or purchases a used
22 vehicle, from the seller.

1 (b) "Express warranty" has the same meaning, for the
2 purposes of this Act, as it has for the purposes of the Uniform
3 Commercial Code.

4 (c) "New vehicle" means a passenger car, as defined in
5 Section 1-157 of the Illinois Vehicle Code, a motor vehicle of
6 the Second Division having a weight of under 8,000 pounds, as
7 defined in Section 1-146 of that Code, a vehicle purchased by a
8 fire department, a fire protection district, or a township fire
9 department, and a recreational vehicle, except for a camping
10 trailer or travel trailer, that does not qualify under the
11 definition of a used motor vehicle, as set forth in Section
12 1-216 of that Code.

13 (d) "Nonconformity" refers to a new vehicle's failure to
14 conform to all express warranties applicable to such vehicle,
15 which failure substantially impairs the use, market value or
16 safety of that vehicle.

17 (e) "Seller" means the manufacturer of a new vehicle, that
18 manufacturer's agent or distributor or that manufacturer's
19 authorized dealer. "Seller" also means, with respect to a used
20 vehicle, a person who is required to be licensed under Section
21 5-102 of the Illinois Vehicle Code. "Seller" also means, with
22 respect to a new or used vehicle which is also a modified
23 vehicle, as defined in Section 1-144.1 of the Illinois Vehicle
24 Code, as now or hereafter amended, the person who modified the
25 vehicle and that person's agent or distributor or that person's
26 authorized dealer. "Seller" also means, with respect to leased

1 new vehicles, the manufacturer, that manufacturer's agent or
2 distributor or that manufacturer's dealer, who transfers the
3 right to possession and use of goods under a lease.

4 (f) "Statutory warranty period" means:

5 (1) In the case of a new vehicle, the period of one
6 year or 12,000 miles, whichever occurs first after the date
7 of the delivery of the a new vehicle to the consumer who
8 purchased or leased it.

9 (2) In the case of a used vehicle:

10 (A) The period of 90 days or 3,750 miles, whichever
11 occurs first after the date of the delivery of the used
12 vehicle to the consumer who purchased it, (i) if the
13 vehicle, at the time of sale, has been operated less
14 than 40,000 miles or (ii) if the vehicle's true mileage
15 is unknown at the time of sale and the vehicle is 3
16 years old or less.

17 (B) The period of 60 days or 2,500 miles, whichever
18 occurs first after the date of the delivery of the used
19 vehicle to the consumer who purchased it, (i) if the
20 vehicle, at the time of sale, has been operated at
21 least 40,000 miles but less than 80,000 miles or (ii)
22 if the vehicle's true mileage is unknown at the time of
23 sale and the vehicle is more than 3, but less than 6,
24 years old.

25 (C) The period of 30 days or 1,250 miles, whichever
26 occurs first after the date of the delivery of the used

1 vehicle to the consumer who purchased it, (i) if the
2 vehicle, at the time of sale, has been operated at
3 least 80,000 miles but less than 125,000 miles or (ii)
4 if the vehicle's true mileage is unknown at the time of
5 sale and the vehicle is 6 years old or more.

6 For purposes of this paragraph (2), a used vehicle's
7 age shall be determined by subtracting its model year from
8 the year in which the consumer purchased the used vehicle.

9 (g) "Lease cost" includes deposits, fees, taxes, down
10 payments, periodic payments, and any other amount paid to a
11 seller by a consumer in connection with the lease of a new
12 vehicle.

13 (h) "Used vehicle" means a passenger car, as defined in
14 Section 1-157 of the Illinois Vehicle Code, a motor vehicle of
15 the Second Division having a weight of under 8,000 pounds, as
16 defined in Section 1-146 of that Code, a vehicle purchased by a
17 fire department, a fire protection district, or a township fire
18 department, and a recreational vehicle, except for a camping
19 trailer or travel trailer, that does not qualify under the
20 definition of a new vehicle as set forth in Section 1-148.4 of
21 that Code.

22 (Source: P.A. 95-802, eff. 1-1-09.)

23 (815 ILCS 380/3) (from Ch. 121 1/2, par. 1203)

24 Sec. 3. Failure of vehicle to conform; remedies;
25 presumptions.

1 (a) If after a reasonable number of attempts the seller is
2 unable to conform the new vehicle to any of its applicable
3 express warranties, the manufacturer shall either provide the
4 consumer with a new vehicle of like model line, if available,
5 or otherwise a comparable motor vehicle as a replacement, or
6 accept the return of the vehicle from the consumer and refund
7 to the consumer the full purchase price or lease cost of the
8 new vehicle, including all collateral charges, less a
9 reasonable allowance for consumer use of the vehicle. For
10 purposes of this subsection ~~Section~~, "collateral charges" does
11 not include taxes paid by the purchaser on the initial purchase
12 of the new vehicle. The retailer who initially sold the vehicle
13 may file a claim for credit for taxes paid pursuant to the
14 terms of Sections 6, 6a, 6b, and 6c of the Retailers'
15 Occupation Tax Act. Should the vehicle be converted, modified
16 or altered in a way other than the manufacturer's original
17 design, the party which performed the conversion or
18 modification shall be liable under the provisions of this Act,
19 provided the part or parts causing the vehicle not to perform
20 according to its warranty were altered or modified.

21 (a-5) A used vehicle may not be sold in this State by a
22 seller to a consumer unless accompanied by an express written
23 warranty covering the full cost of both parts and labor
24 necessary to repair any defect that impairs the used vehicle's
25 safety or use. The consumer may, however, be required to pay no
26 more than \$100 total toward the repair of any covered defect,

1 series of defects, or combination of defects during the
2 warranty period. Defects that affect only appearance shall not
3 be deemed to impair safety or use for the purposes of this
4 subsection. For the purposes of this subsection, "defect"
5 includes a defect, a malfunction, or any combination of defects
6 or malfunctions.

7 Defects or malfunctions that involve parts or components
8 that are covered or are warranted under an express warranty
9 issued by the seller of the used vehicle shall be excluded from
10 this subsection if the following conditions have been met:

11 (1) The manufacturer's warranty has been duly assigned
12 or transferred to the consumer, is enforceable according to
13 its terms, and is not inconsistent with this subsection.

14 (2) The seller has assured that the repair authorized
15 by the manufacturer's express warranty was made.

16 The terms of the seller's warranty shall be tolled for any
17 period of time the used vehicle is out of service by reason of
18 repair under the manufacturer's warranty.

19 If after a reasonable number of attempts the seller is
20 unable to conform the used vehicle to any of its applicable
21 express warranties, the seller shall accept the return of the
22 vehicle from the consumer and refund to the consumer the full
23 purchase price of the used vehicle, including all collateral
24 charges, less a reasonable allowance for consumer use of the
25 vehicle. For purposes of this subsection (a-5), "collateral
26 charges" does not include taxes paid by the consumer on the

1 initial purchase of the used vehicle. The seller who sold the
2 used vehicle may file a claim for credit for taxes paid
3 pursuant to the terms of Sections 6, 6a, 6b, and 6c of the
4 Retailers' Occupation Tax Act. Should the vehicle be converted,
5 modified, or altered in a way other than the manufacturer's
6 original design, the party that performed the conversion or
7 modification shall be liable under the provisions of this Act,
8 provided the part or parts causing the vehicle not to perform
9 according to its warranty were altered or modified.

10 This Act does not apply to any used vehicle sold by a
11 seller to a consumer for less than \$700.

12 (b) A presumption that a reasonable number of attempts have
13 been undertaken to conform a new or used vehicle to its express
14 warranties shall arise where, within the statutory warranty
15 period:7

16 (1) the same nonconformity has been subject to repair
17 by the seller, its agents or authorized dealers during the
18 statutory warranty period, 4 or more times, and such
19 nonconformity continues to exist; or

20 (2) the vehicle has been out of service by reason of
21 repair of nonconformities for a total of 30 or more
22 business days (in the case of a new vehicle) or 10 or more
23 business days (in the case of a used vehicle) during the
24 statutory warranty period.

25 (c) A reasonable allowance for consumer use of a vehicle is
26 that amount directly attributable to the wear and tear incurred

1 by the new or used vehicle as a result of its having been used
2 prior to the first report of a nonconformity to the seller, and
3 during any subsequent period in which it is not out of service
4 by reason of repair.

5 (d) The fact that a new or used vehicle's failure to
6 conform to an express warranty is the result of abuse, neglect
7 or unauthorized modifications or alterations is an affirmative
8 defense to claims brought under this Act.

9 (e) The statutory warranty period of a new or used vehicle
10 shall be suspended for any period of time during which repair
11 services are not available to the consumer because of a war,
12 invasion or strike, or a fire, flood or other natural disaster.

13 (f) Refunds made pursuant to this Act shall be made to the
14 consumer, and lien holder if any exists, as their respective
15 interests appear.

16 (g) For the purposes of this Act, a manufacturer sells a
17 new vehicle to a consumer when he provides that consumer with a
18 replacement vehicle pursuant to subsection (a).

19 (h) In no event shall the presumption herein provided apply
20 against a manufacturer, his agent, distributor or dealer unless
21 the manufacturer has received prior direct written
22 notification from or on behalf of the consumer, and has an
23 opportunity to correct the alleged defect.

24 (Source: P.A. 89-359, eff. 8-17-95; 89-375, eff. 8-18-95;
25 89-626, eff. 8-9-96.)

1 (815 ILCS 380/4) (from Ch. 121 1/2, par. 1204)

2 Sec. 4. Informal settlement procedure.

3 (a) The provisions of subsection (a) or (a-5) of Section 3
4 shall not apply unless the consumer has first resorted to an
5 informal settlement procedure applicable to disputes to which
6 either of those subsections ~~that subsection~~ would apply where:

7 (1) The manufacturer of the new vehicle or the seller
8 of the used vehicle has established such a procedure;

9 (2) The procedure conforms:

10 (i) substantially with the provisions of ~~Title 16~~
11 ~~CFR, Code of Federal Regulation,~~ Part 703, as from time
12 to time amended, and

13 (ii) to the requirements of subsection (c); and

14 (3) The consumer has received from the seller adequate
15 written notice of the existence of the procedure.

16 Adequate written notice includes but is not limited to
17 the incorporation of the informal dispute settlement
18 procedure into the terms of the written warranty to which
19 the vehicle does not conform.

20 (b) If the consumer is dissatisfied with the decision
21 reached in an informal dispute settlement procedure or the
22 results of such a decision, he or she may bring a civil action
23 to enforce his or her rights under subsection (a) or (a-5) of
24 Section 3. The decision reached in the informal dispute
25 settlement procedure is admissible in such a civil action. The
26 period of limitations for a civil action to enforce a

1 consumer's rights or remedies under subsection (a) or (a-5) of
2 Section 3 shall be extended for a period equal to the number of
3 days the subject matter of the civil action was pending in the
4 informal dispute settlement procedure.

5 (c) A disclosure of the decision in an informal dispute
6 settlement procedure shall include notice to the consumer of
7 the provisions of subsection (b).

8 (Source: P.A. 85-1350.)

9 (815 ILCS 380/7) (from Ch. 121 1/2, par. 1207)

10 Sec. 7. Written statement of consumer's rights. The seller
11 who sells a new or used vehicle to a consumer, shall, upon
12 delivery of that vehicle to the consumer, provide the consumer
13 with a written statement clearly and conspicuously setting
14 forth in full detail the consumer's rights under subsection (a)
15 or (a-5) of Section 3, and the presumptions created by
16 subsection (b) of that Section.

17 (Source: P.A. 85-1350.)

18 (815 ILCS 380/8) (from Ch. 121 1/2, par. 1208)

19 Sec. 8. Application of Act. This Act shall apply to new
20 ~~motor~~ vehicles beginning with the model year following the
21 effective date of this Act. Except as otherwise provided in
22 this Act, this Act shall apply to any used vehicle sold by a
23 seller to a consumer on or after the effective date of this
24 amendatory Act of the 96th General Assembly.

HB5531

- 11 -

LRB096 19100 DRJ 34491 b

1 (Source: P.A. 83-768.)