
By Mr. Hall, a petition (accompanied by bill, Senate, No. 105) of Robert A. Hall for legislation relative to the sale and merchantability of motor vehicles. Commerce and Labor.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty.

AN ACT RELATING TO THE SALE AND MERCHANTABILITY
OF MOTOR VEHICLES.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Notwithstanding any special or general law to
2 the contrary a new section is created to read as follows:

3 (1) A "major correctable defect" is one which would cost
4 the vehicle owner more than five percent (5%) of the price
5 paid by the owner to repair if he were paying the cost of the
6 repair, and which when repaired in a normal fashion would not
7 leave any permanent effects on the performance or enjoy-
8 ment of the motor vehicle.

9 (2) A "major non-correctable defect" is one which would
10 cost the vehicle owner more than five percent (5%) of the
11 price paid by the owner to repair if he were paying the cost
12 of the repair, and which, when repaired in the normal fashion,
13 would substantially impair the performance or enjoyment of
14 the motor vehicle.

15 (3) A "major non-correctable defect" is one which would
16 cost the vehicle owner more than five percent of the price
17 paid by the owner to repair if he were paying the cost of the
18 repair, and which, when repaired in the normal fashion, would
19 substantially impair the performance or enjoyment of the
20 motor vehicle.

1 SECTION 2. No manufacturer or dealer shall disclaim, ex-
2 clude, or impair the warranty of merchantability of a new
3 motor vehicle.

1 SECTION 3. (1) Any motor vehicle that, within the first
2 twelve (12) months or first twelve thousand (12,000) miles,
3 whichever occurs first, has a major non-correctable defect,
4 requires the repair of a given major correctable defect three
5 (3) times, or is out of service by reason of repair at a fran-
6 chised dealer for a cumulative total of more than forty (40)
7 days since delivery of the motor vehicle, shall be presumed
8 to be non-merchantable.

9 (2) In computing the forty (40) days pursuant to subsec-
10 tion (1) of this section, a day shall mean a calendar day or
11 any portion thereof.

1 SECTION 4. The presumption of non-merchantability of a
2 motor vehicle set out in Section 3 of this Act may be rebutted
3 by a showing that the condition of the motor vehicle is due
4 to hard usage by the owner, by an accident, or some other
5 condition outside of the control of the manufacturer or the
6 dealer.

1 SECTION 5. A consumer shall give the manufacturer notice
2 by certified mail, with return receipt requested, with a copy
3 to the dealer in Mass. from whom he originally purchased the
4 vehicle as soon as practicable, a list of the conditions that
5 render the motor vehicle non-merchantable under Section 3
6 of this Act and of his decision to exercise his rights under
7 Section 9 of this Act.

1 SECTION 6. Within twenty (20) days after the receipt of a
2 notice under Section 5 of this Act, the manufacturer or his
3 representative shall either examine the motor vehicle within
4 twenty (20) miles of the owner's home or pay for transport-
5 ing the motor vehicle to a place designated by the manu-
6 facturer for examination and shall notify the owner in writing
7 that the manufacturer either:

8 (1) Finds no defect;

9 (2) Finds a defect but believes it is due to abuse or wreck;

10 (3) Finds a defect but can and will put the motor vehicle
11 in a merchantable condition and will agree to a four (4)
12 month, or four thousand (4,000) miles extension of the own-
13 er's right under this Act, or;

14 (4) Accepts the owner's determination that it is non-
15 merchantable.

1 SECTION 7. If the manufacturer notifies the owner that the
2 motor vehicle can be put in a merchantable condition pursuant
3 to Section 6 of this Act, the owner must make the vehicle
4 available within three (3) days after such notification for such
5 repair before any rights vest under this Act; but if the con-
6 dition that rendered the vehicle non-merchantable continues
7 to exist after repair, there is created an absolute presumption
8 of non-merchantability.

1 SECTION 8. If any examination or repair, for mechanical
2 malfunction, by a manufacturer, his representative or a dealer
3 pursuant to this Act or within the first twelve (12) months
4 or twelve thousand (12,000) miles results in a motor vehicle
5 being kept by such manufacturer, his representative, or a
6 dealer for more than ten (10) days with the subsequent loss
7 of use by the owner, the manufacturer shall on the eleventh
8 day furnish a motor vehicle without cost to the owner for
9 suitable use during this intervening time or compensate the
10 owner for renting such a vehicle.

1 SECTION 9. (1) In the case of a non-merchantable motor
2 vehicle, the manufacturer shall, at his option, return the price
3 paid by the seller less any depreciation incurred by abuse or
4 accident, or shall supply a new motor vehicle of the same
5 model at the owner's residence which shall be warranted by
6 the manufacturer as though originally purchased.

7 (2) In the case of a motor vehicle deemed non-merchant-
8 able where the manufacturer returns the purchase price or
9 furnishes a new motor vehicle pursuant to subsection (1) of
10 this section the consumer shall surrender and transfer to the
11 manufacturer the originally purchased motor vehicle at the
12 time the new vehicle is delivered or the purchase price re-
13 funded and the consumer shall pay to the manufacturer or
14 have deducted from the refund the sum of .04 cents per mile
15 the motor vehicle has been driven; provided, however, that
16 such sum shall not be less than fifty dollars (\$50). For the
17 basis of computing the amount to be deducted from the refund

18 or paid to the manufacturer the mileage appearing on the
19 motor vehicle's odometer shall be prima facie evidence of the
20 number of miles the vehicle has been driven.

21 (3) No state sales tax shall be charged when motor vehi-
22 cles are transferred pursuant to subsection (1) of this sec-
23 tion; provided, however, that to avoid such tax the consumer
24 shall be required to provide a notarized statement certifying
25 the transaction on a form which shall be prescribed by the
26 commissioner of Corp. & Tax. and the manufacturer or his
27 agent must file a notarized statement certifying the above
28 fact to the commissioner of Corp. & Taxation.

1 SECTION 10. Any case in which a consumer timely notifies
2 the manufacturer of the non-merchantability of the motor
3 vehicle under Section 3 of this Act and the manufacturer
4 wrongfully refuses to replace the motor vehicle under Section
5 9 of this Act, the owner may bring an action to recover the
6 price paid by the owner less any depreciation incurred by
7 abuse or accident, and shall be entitled to his reasonable
8 attorney fees if he prevails in the action.

1 SECTION 11. (1) No manufacturer shall exclude any war-
2 ranty issued elsewhere in the sale of its motor vehicles in
3 Massachusetts in retaliation for the provisions of this bill.

4 (2) The cost of any replacement or repair necessitated by
5 this Act shall be borne by the manufacturer and shall not be
6 directly or indirectly passed on to the dealer, by way of pen-
7 alty as to commission, rebated or any other method.

8 (3) Nothing in this section shall prevent the manufacturer
9 from increasing the price of its motor vehicles in Mass. by
10 the amount actually necessary to meet the costs incurred
11 by this Act; provided, however, that the manufacturer shall
12 be required to furnish the attorney general's office with
13 verified actuarial data supporting any such increase before it
14 is put into effect.

1 SECTION 12. Any dealer or manufacturer making a repair
2 on a new motor vehicle must state in writing to the consumer
3 at the time of the delivery of the motor vehicle after repair
4 the nature of any defect repaired by such dealer or manu-

5 facturer. The statement must contain sufficient detail so that
6 a determination can be made as to whether the consumer may
7 have a right that is accruing pursuant to this act.

1 SECTION 13. Each purchaser of a new motor vehicle shall
2 be furnished by the dealer selling the vehicle with a listing
3 of his rights under this Act and the address of the manu-
4 facturer or manufacturer's regional director.

1 SECTION 14. (1) Any dealer who fails to provide a state-
2 ment under Section 12 of this Act or a notice under Section
3 13 of this Act shall be liable for a civil penalty of one hundred
4 dollars (\$100) per violation to be collected in the name of
5 the Commonwealth upon action of the attorney general.

6 (2) Any dealer or manufacturer who falsifies a statement
7 under Section 12 of this Act shall be liable for a civil penalty
8 not exceeding one thousand dollars (\$1,000) to be collected
9 in the name of the Commonwealth upon action of the attorney
10 general.

The first part of the history is a general account of the state of the country at the beginning of the reign of King Henry the Second. It describes the various provinces and the different manners of the people. It also mentions the wars which were carried on between the king and the nobles, and the manner in which the king at last prevailed upon them to submit to his authority.

The second part of the history is a particular account of the reign of King Henry the Second. It describes the various wars which he carried on, and the manner in which he at last prevailed upon the nobles to submit to his authority. It also mentions the various reforms which he made in the laws and the constitution of the country.

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The first of these is the fact that the...

THE STATE OF NEW YORK

In SENATE, January 10, 1917.

REPORT OF THE COMMISSIONER OF EDUCATION

Presented to the Senate at the opening of the session, January 10, 1917.

The Commission on the State of Education...

