

Accompanying the sixteenth recommendation of the Executive Office of Consumer Affairs (House, No. 43). Commerce and Labor.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-Three.

AN ACT RELATIVE TO NEW 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 Chapter 90 of the General Laws is hereby further amended by
2 inserting after section 7N the following new section: —

3 Section 7N½. (1) For purposes of this section the following
4 terms have the following meanings: —

5 (a) "Nonconformity" means a nonconformity which substan-
6 tially impairs the use, value or safety of the new motor vehicle
7 including but not limited to the following major components: —

- 8 (i) Engine — including the cooling system and fuel system parts
- 9 (ii) Transmission — including the drive train and drive axle
- 10 (iii) Suspension and/or Steering
- 11 (iv) Brakes, Wheels and/or Tires
- 12 (v) Electrical Systems
- 13 (vi) Frame and/or Chassis
- 14 (vii) Exhaust and/or Emission Systems

15 (b) "New motor vehicle" means a new motor vehicle including
16 motorcycle which is used or bought for use primarily for personal,
17 family or household purposes.

18 (2) Every manufacturer of new motor vehicles sold in the com-
19 monwealth shall maintain in the commonwealth sufficient service
20 and repair facilities reasonably close to all areas where its new
21 motor vehicles are sold or designate and authorize in this common-
22 wealth as service and repair facilities, independent repair or service
23 facilities reasonably close to all areas where its vehicles are sold.

24 (3) Where such service and repair facilities are maintained in the
25 commonwealth and service or repair of the vehicle is necessary
26 because the vehicle does not conform with express or implied

27 warranties, service and repair shall be commenced on the day the
28 vehicle is delivered to the manufacturer or its agent or representa-
29 tive in the commonwealth. Unless the buyer agrees in writing to the
30 contrary, the vehicle must be serviced or repaired so as to conform
31 to applicable warranties on the same day the buyer delivers the
32 vehicle unless the facility can show that the delay was caused by
33 unanticipated circumstances beyond its control.

34 (4) After a reasonable number of attempts have been made to
35 conform a new motor vehicle to the applicable express or implied
36 warranties, the manufacturer shall accept return of the vehicle
37 from the buyer and refund to the buyer, and lienholder if any, as
38 their interests may appear, the full purchase price including all
39 collateral charges. It shall be presumed that a reasonable number
40 of attempts have been made to conform a new motor vehicle to the
41 applicable express or implied warranties if within one year from
42 delivery to the buyer or 12,000 miles, whichever occurs first, either:

43 (a) the same nonconformity has been subject to repair three or
44 more times by the manufacturer or its agents or representatives and
45 the buyer has at least once directly notified the manufacturer of the
46 need for the repair of the nonconformity, or

47 (b) the vehicle is out of service by reason of repair of noncon-
48 formities by the manufacturer of its agents or representatives for a
49 cumulative total of more than 20 full or partial calendar days since
50 delivery of the vehicle to the buyer. The 20-day limit shall be
51 extended only if repairs cannot be performed due to conditions
52 beyond the control of the manufacturer or its agents or representa-
53 tives. In computing the 20 days under this section, a day shall mean
54 a calendar day or any portion thereof that the manufacturer or its
55 nearest service or repair facility is open for business. The 20 days
56 shall commence on the day when, after the defect is first reported or
57 known, a written repair order is prepared.

58 (c) The buyer shall be required to directly notify the manufac-
59 turer pursuant to paragraph (a) of this subsection only if the
60 manufacturer has clearly and conspicuously disclosed to the buyer
61 with the owner's manual the provisions of this section including the
62 requirement that the buyer must notify the manufacturer directly
63 pursuant to paragraph (a). This presumption shall be a rebuttable
64 presumption affecting the burden of proof in any action to enforce
65 the buyer's rights and shall not be construed to limit those rights.

66 (5) Failure to comply with the provisions of this section shall
67 constitute an unfair or deceptive act or practice under the provi-
68 sions of chapter ninety-three A. Dispute resolution under this
69 section shall be pursued under section 9 of chapter ninety-three A
70 commencing with a thirty day written demand for relief as set forth
71 in subsection (3) of section 9.

72 (6) Nothing in this section shall preclude the agent or represent-
73 ative of the manufacturer from recovering costs incurred as a result
74 of this section from the manufacturer. Such agent or representative
75 shall be required to regularly report to the manufacturer on vehi-
76 cles delivered to its facility under the provisions of this section.

77 (7) Nothing in this section shall in any way limit the rights or
78 remedies which are otherwise available to a buyer under any other
79 law.

