

- 725 -

WisACT 48

1983 Assembly Bill 16

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1983 Wisconsin Act 48

AN ACT to create 218.015 of the statutes, relating to repair, replacement and refund under new motor vehicle warranties.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 218.015 of the statutes is created to read:

218.015 Repair, replacement and refund under new motor vehicle warranties. (1) In this section:

(a) "Collateral costs" means expenses incurred by a consumer in connection with the repair of a nonconformity, including the costs of obtaining alternative transportation.

(b) "Consumer" means any of the following:

1. The purchaser of a new motor vehicle, if the motor vehicle was purchased from a motor vehicle dealer for purposes other than resale.
2. A person to whom the motor vehicle is transferred for purposes other than resale, if the transfer occurs before the expiration of an express warranty applicable to the motor vehicle.
3. A person who may enforce the warranty.

(c) "Manufacturer" means a manufacturer as defined in s. 218.01 (1) (n) and agents of the manufacturer, including an importer, a distributor, factory branch, distributor branch and any warrantors of the manufacturer's motor vehicles, but not including a motor vehicle dealer.

(d) "Motor vehicle" means a motor vehicle as defined in s. 218.01 (1) (k), but does not include any vehicle that is not motor-driven.

(e) "Motor vehicle dealer" has the meaning given under s. 218.01 (1) (a).

(f) "Nonconformity" means a condition or defect which substantially impairs the use, value or safety of a motor vehicle, and is covered by an express warranty applicable to the motor vehicle, but does not include a condition or defect which is the result of abuse, neglect or unauthorized modification or alteration of the motor vehicle by a consumer.

(g) "Reasonable allowance for use" means an amount attributable to a consumer's use of a motor vehicle, but does not include any period after the consumer's first report to the manufacturer or any of its authorized motor vehicle dealers of a nonconformity with an express warranty applicable to the motor vehicle during which the motor vehicle is out of service due to the nonconformity.

(h) "Reasonable attempt to repair" means any of the following occurring within the term of an express warranty applicable to a new motor vehicle or within one year after first delivery of the motor vehicle to a consumer, whichever is sooner:

1. The same nonconformity with the warranty is subject to repair by the manufacturer or any of its authorized motor vehicle dealers at least 4 times and the nonconformity continues.
2. The motor vehicle is out of service for an aggregate of at least 30 days because of warranty nonconformities.

(2) (a) If a new motor vehicle does not conform to an applicable express warranty and the consumer reports the nonconformity to the manufacturer or any of its authorized motor vehicle dealers and makes the motor vehicle available for repair before the expiration of the warranty or one year after first delivery of the motor vehicle to a consumer, whichever is sooner, the nonconformity shall be repaired.

(b) If after a reasonable attempt to repair the nonconformity cannot be repaired, the manufacturer shall, at the direction of the consumer, either replace the motor vehicle with a comparable new motor vehicle or accept return of the motor vehicle and refund the full purchase price plus any amounts paid by the consumer at the point of sale and all collateral costs associated with the repair of the nonconformity less a reasonable allowance for use to the consumer and any holder of a perfected security interest in the motor vehicle, as their interests may appear.

(c) At the time of receiving the comparable new motor vehicle or refund under par. (b), the consumer shall surrender the motor vehicle subject to the nonconformity to the manufacturer together with the certificate of title with all endorsements necessary to transfer title to the manufacturer. The manufacturer shall provide the consumer with the comparable new motor vehicle or refund no later than 30 days after an offer to transfer title in compliance with this paragraph by the consumer.

(d) No motor vehicle returned by a consumer under par. (b) may be resold unless full disclosure of the reasons for return is made to any prospective buyer.

(3) All time periods under subs. (1) (h) and (2) (a) are extended by any period during which repair services are not available to the consumer because of war, invasion, civil disturbance, strike, casualty or natural disaster.

(4) Subsection (2) (b) does not apply to a consumer who has not resorted to an informal dispute settlement procedure available to the consumer and:

(a) Complying with 16 CFR Part 703; or

(b) Providing protections for the consumer equal to or greater than those provided under 16 CFR Part 703.

(5) This section does not limit rights or remedies available to a consumer under any other law.

(6) Any waiver by a consumer of rights under this section is void.

(7) In addition to any other remedies, a consumer damaged by a violation of this section may bring an action for twice the amount of any pecuniary loss, together with costs and disbursements and reasonable attorney fees, and for equitable relief determined by the court.

SECTION 2. Initial applicability. This act applies to new motor vehicles sold in this state to consumers on or after the effective date of this act.
