

- (1) The license and title numbers of the state in which the last license was issued;
- (2) A description of the vehicle;
- (3) The name and address of person from whom purchased;
- (4) The name of legal owner, if any;
- (5) The name and address of purchaser;
- (6) If purchased from a dealer, the name, business address, dealer license number, and resale tax number of the dealer;
- (7) The price paid for the vehicle and the method of payment;
- (8) The vehicle odometer disclosure statement given by the seller to the dealer, and the vehicle odometer disclosure statement given by the dealer to the purchaser;
- (9) The written agreement to allow a dealer to sell between the dealer and the consignor, or the listing dealer and the seller;
- (10) Trust account records of receipts, deposits, and withdrawals;
- (11) All sale documents, which shall show the full name of dealer employees involved in the sale;
- (12) Any additional information the department may require.

Such record shall be maintained separate and apart from all other business records of the dealer and shall at all times be available for inspection by the director or his duly authorized agent.

NEW SECTION. Sec. 8. Section 4, chapter 99, Laws of 1972 ex. sess. and RCW 46.12.125 are each repealed.

NEW SECTION. Sec. 9. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect May 1, 1990. The director of licensing shall immediately take such steps as are necessary to ensure that this act is implemented on its effective date.

Passed the Senate March 6, 1990.

Passed the House March 2, 1990.

Approved by the Governor March 28, 1990.

Filed in Office of Secretary of State March 28, 1990.

CHAPTER 239

[Substitute House Bill No. 2430]

MOTOR VEHICLE WARRANTIES AND SERVICE CONTRACTS

AN ACT Relating to motor vehicle warranties; amending RCW 19.118.021, 48.96.030, 48.96.040, 48.96.050, and 48.96.060; adding new sections to chapter 48.96 RCW; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 2, chapter 344, Laws of 1987 as amended by section 1, chapter 347, Laws of 1989 and RCW 19.118.021 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Board" means new motor vehicle arbitration board.

(2) "Collateral charges" means any sales or lease related charges including but not limited to sales tax, use tax, arbitration service fees, unused license fees, unused registration fees, unused title fees, finance charges, prepayment penalties, credit disability and credit life insurance costs not otherwise refundable, any other insurance costs prorated for time out of service, transportation charges, dealer preparation charges, or any other charges for service contracts, undercoating, rustproofing, or factory or dealer installed options.

(3) "Condition" means a general problem that results from a defect or malfunction of one or more parts, or their improper installation by the manufacturer, its agents, or the new motor vehicle dealer.

(4) "Consumer" means any person who has entered into an agreement or contract for the transfer, lease, or purchase of a new motor vehicle, other than for purposes of resale or sublease, during the duration of the warranty period defined under this section.

(5) "Court" means the superior court in the county where the consumer resides, except if the consumer does not reside in this state, then the superior court in the county where an arbitration hearing or determination was conducted or made pursuant to this chapter.

(6) "Incidental costs" means any reasonable expenses incurred by the consumer in connection with the repair of the new motor vehicle, including any towing charges and the costs of obtaining alternative transportation.

(7) "Manufacturer" means any person engaged in the business of constructing or assembling new motor vehicles or engaged in the business of importing new motor vehicles into the United States for the purpose of selling or distributing new motor vehicles to new motor vehicle dealers. "Manufacturer" does not include any person engaged in the business of set-up of motorcycles as an agent of a new motor vehicle dealer if the person does not otherwise construct or assemble motorcycles.

(8) "Motorcycle" means any motorcycle as defined in RCW 46.04.330 which has an engine displacement of at least seven hundred fifty cubic centimeters.

~~((8))~~ (9) "New motor vehicle" means any new self-propelled vehicle, including a new motorcycle, primarily designed for the transportation of persons or property over the public highways that, after original retail purchase or lease in this state, was initially registered in this state or for which a temporary motor vehicle license was issued pursuant to RCW 46.16.460, but does not include vehicles purchased or leased by a business as part of a

fleet of ten or more vehicles. If the motor vehicle is a motor home, this chapter shall apply to the self-propelled vehicle and chassis, but does not include those portions of the vehicle designated, used, or maintained primarily as a mobile dwelling, office, or commercial space. The term "new motor vehicle" does not include ~~((motorcycles or))~~ trucks with nineteen thousand pounds or more gross vehicle weight rating. The term "new motor vehicle" includes a demonstrator or lease-purchase vehicle as long as a manufacturer's warranty was issued as a condition of sale.

~~((9))~~ (10) "New motor vehicle dealer" means a person who holds a dealer agreement with a manufacturer for the sale of new motor vehicles, who is engaged in the business of purchasing, selling, servicing, exchanging, or dealing in new motor vehicles, and who is licensed as a dealer by the state of Washington.

~~((10))~~ (11) "Nonconformity" means a defect, serious safety defect, or condition that substantially impairs the use, value, or safety of a new motor vehicle, but does not include a defect or condition that is the result of abuse, neglect, or unauthorized modification or alteration of the new motor vehicle.

~~((11))~~ (12) "Purchase price" means the cash price of the new motor vehicle appearing in the sales agreement or contract, including any allowance for a trade-in vehicle; "purchase price" in the instance of a lease means the purchase price or value of the vehicle declared to the department of licensing for purposes of tax collection.

Where the consumer is a second or subsequent purchaser, lessee, or transferee and the consumer selects repurchase of the motor vehicle, "purchase price" means the purchase price of the second or subsequent purchase or lease. Where the consumer is a second or subsequent purchaser, lessee, or transferee and the consumer selects replacement of the motor vehicle, "purchase price" means the original purchase price.

~~((12))~~ (13) "Reasonable offset for use" means the definition provided in RCW 19.118.041(1)(c) for a new motor vehicle other than a new motorcycle. The reasonable offset for use for a new motorcycle shall be computed by the number of miles that the vehicle traveled before the manufacturer's acceptance of the vehicle upon repurchase or replacement multiplied by the purchase price, and divided by twenty-five thousand.

~~((13))~~ (14) "Reasonable number of attempts" means the definition provided in RCW 19.118.041.

~~((14))~~ (15) "Replacement motor vehicle" means a new motor vehicle that is identical or reasonably equivalent to the motor vehicle to be replaced, as the motor vehicle to be replaced existed at the time of original purchase or lease, including any service contract, undercoating, rustproofing, and factory or dealer installed options.

~~((15))~~ (16) "Serious safety defect" means a life-threatening malfunction or nonconformity that impedes the consumer's ability to control or

operate the new motor vehicle for ordinary use or reasonable intended purposes or creates a risk of fire or explosion.

~~((+6))~~ (17) "Substantially impair" means to render the new motor vehicle unreliable, or unsafe for ordinary use, or to diminish the resale value of the new motor vehicle below the average resale value for comparable motor vehicles.

~~((+7))~~ (18) "Warranty" means any implied warranty, any written warranty of the manufacturer, or any affirmation of fact or promise made by the manufacturer in connection with the sale of a new motor vehicle that becomes part of the basis of the bargain. The term "warranty" pertains to the obligations of the manufacturer in relation to materials, workmanship, and fitness of a new motor vehicle for ordinary use or reasonably intended purposes throughout the duration of the warranty period as defined under this section.

~~((+8))~~ (19) "Warranty period" means the period ending two years after the date of the original delivery to the consumer of a new motor vehicle, or the first twenty-four thousand miles of operation, whichever occurs first.

NEW SECTION. Sec. 2. The purpose of this chapter is to protect the public and contract providers from losses arising from the mismanagement of funds paid for motor vehicle service contracts, to better inform the public of their rights and obligations under the contracts, to permit purchasers of such contracts the opportunity to return the contract for a refund, and to require the liabilities owed under these contracts to be fully insured, rather than partially insured, or insured only in the event of provider default.

NEW SECTION. Sec. 3. (1) Every insurer issuing a reimbursement insurance policy shall include, as a part of the policy, the motor vehicle service contract(s) that the reimbursement insurance policy is intended to cover. Notwithstanding RCW 48.18.100, subsequent changes to the motor vehicle service contract(s) must be filed by the insurer with the commissioner no later than thirty days after the date of the change.

(2) Every insurer issuing a reimbursement insurance policy must require that premiums due for coverage under the policy be paid directly by the provider to the insurer or its agent.

NEW SECTION. Sec. 4. A motor vehicle service contract shall not be issued, sold, or offered for sale in this state unless the contract contains a conspicuous statement that has been initialed by the service contract holder and discloses:

(1) Any material conditions that the service contract holder must meet to maintain coverage under the contract including, but not limited to any maintenance schedule to which the service contract holder must adhere, any requirement placed on the service contract holder for documenting repair or

maintenance work, and any procedure to which the service contract holder must adhere for filing claims;

(2) The work and parts covered by the contract;

(3) Any time or mileage limitations;

(4) That the implied warranty of merchantability on the motor vehicle is not waived if the contract has been purchased within ninety days of the purchase date of the motor vehicle from a provider who also sold the motor vehicle covered by the contract;

(5) Any exclusions of coverage; and

(6) The contract holder's right to return the contract for a refund, which right can be no more restrictive than provided for in section 5 of this act.

NEW SECTION. Sec. 5. (1) At a minimum, every provider shall permit the service contract holder to return the contract within thirty days of its purchase if no claim has been made under the contract, and shall refund to the holder the full purchase price of the contract unless the service contract holder returns the contract ten or more days after its purchase, in which case the provider may charge a cancellation fee not exceeding twenty-five dollars. A ten percent penalty shall be added to any refund that is not paid within thirty days of return of the contract to the provider. If a contract holder returns the contract within thirty days of its purchase or within such longer time period as permitted under the contract, the contract shall be void from the beginning and the parties shall be in the same position as if no contract had been issued.

(2) If a service contract holder returns the contract in accordance with this section, the insurer issuing the reimbursement insurance policy covering the contract shall refund to the provider the full premium paid by the provider for coverage of the contract.

Sec. 6. Section 3, chapter 99, Laws of 1987 and RCW 48.96.030 are each amended to read as follows:

A motor vehicle service contract reimbursement insurance policy shall not be issued, sold, or offered for sale in this state unless the reimbursement insurance policy conspicuously states that the issuer of the policy shall pay on behalf of the provider all sums which the provider is legally obligated to pay (~~for failure to perform~~) according to the provider's contractual obligations under the motor vehicle service contracts issued or sold by the provider.

Sec. 7. Section 4, chapter 99, Laws of 1987 and RCW 48.96.040 are each amended to read as follows:

A motor vehicle service contract shall not be issued, sold, or offered for sale in this state unless the contract conspicuously states that the obligations of the provider to the service contract holder are guaranteed under the (~~service contract~~) reimbursement insurance policy, and unless the contract

conspicuously states the name and address of the issuer of the reimbursement insurance policy, the applicable policy number, and the means by which a service contract holder may file a claim under the policy.

Sec. 8. Section 5, chapter 99, Laws of 1987 and RCW 48.96.050 are each amended to read as follows:

~~((This chapter does))~~ RCW 48.96.020, 48.96.030, and 48.96.040 do not apply to motor vehicle service contracts issued by a motor vehicle manufacturer or ((importer)) import distributor covering vehicles manufactured or imported by the motor vehicle manufacturer or import distributor.

Sec. 9. Section 6, chapter 99, Laws of 1987 and RCW 48.96.060 are each amended to read as follows:

Failure to comply with the provisions of this chapter is an unfair method of competition and an unfair or deceptive act or practice in the conduct of a trade or commerce, as specifically contemplated by RCW 19.86.020, and is a violation of the Consumer Protection Act, chapter 19.86 RCW. Any service contract holder injured as a result of a violation of a provision of this chapter shall be entitled to maintain an action pursuant to chapter 19.86 RCW against the motor vehicle service contract provider and the insurer issuing the applicable motor vehicle service contract reimbursement insurance policy and shall be entitled to all of the rights and remedies afforded by that chapter. Any successful claimant under this section shall also be entitled to reasonable attorneys' fees.

NEW SECTION. Sec. 10. Sections 2 through 5 of this act are each added to chapter 48.96 RCW.

NEW SECTION. Sec. 11. Sections 2 through 10 of this act shall take effect January 1, 1991.

Passed the House March 8, 1990.

Passed the Senate March 8, 1990.

Approved by the Governor March 28, 1990.

Filed in Office of Secretary of State March 28, 1990.

CHAPTER 240

[Substitute Senate Bill No. 6426]
SCENIC HIGHWAY SYSTEM

AN ACT Relating to the scenic highway system; amending RCW 47.39.020; adding a new section to chapter 47.39 RCW; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. The legislature finds that scenic and recreational highways are designated because of a need to develop management plans that will protect and preserve the scenic and recreational resources