

CHAPTER 240

[Substitute Senate Bill No. 3034]

MOTOR VEHICLE MANUFACTURERS—CONFORMANCE WITH EXPRESS WARRANTIES

AN ACT Relating to consumer protection; and adding a new chapter to Title 19 RCW.

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

NEW SECTION. Sec. 1. Every manufacturer of motor vehicles sold in this state and for which the manufacturer has made an express warranty shall maintain in this state sufficient service and repair facilities reasonably close to all areas in which its motor vehicles are sold to carry out the terms of the warranties or designate and authorize in this state as service and repair facilities independent repair or service facilities reasonably close to all areas in which its motor vehicles are sold to carry out the terms of the warranties. As a means of complying with this section, a manufacturer may enter into warranty service contracts with independent service and repair facilities.

NEW SECTION. Sec. 2. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Motor vehicle" means an automobile, truck, motorcycle, moped, or motor home, if the motor vehicle is used primarily for personal, noncommercial use.

(2) "Nonconformity" means a failure to conform with an express warranty in a manner which substantially impairs the use, value, or safety of the item.

(3) "Buyer" means the purchaser of a motor vehicle, any person to whom the motor vehicle is transferred during an express warranty applicable to the motor vehicle and any other person entitled to enforcement of the obligations of an express warranty by its terms.

(4) (a) "Express warranty" means:

(i) A written statement arising out of a sale to the consumer of a motor vehicle pursuant to which the manufacturer, dealer, or retailer undertakes to preserve or maintain the utility or performance of the motor vehicle as provided in the warranty or provide compensation if there is a failure in utility or performance; or

(ii) In the event of any sample or model, that the whole of the goods conforms to such sample or model.

(b) It is not necessary to the creation of an express warranty that formal words such as "warrant" or "guarantee" be used, but if such words are used then an express warranty is created. An affirmation merely of the value of the vehicle or a statement purporting to be merely an opinion or commendation of the vehicle does not create a warranty.

(c) Statements or representations such as expressions of general policy concerning customer satisfaction which are not subject to any limitation do not create an express warranty.

NEW SECTION. Sec. 3. If a motor vehicle does not conform to all applicable express warranties and the nonconformity is not the result of misuse or abuse of the motor vehicle by the buyer, and the buyer reports in writing the nonconformity to the manufacturer, and its agent or authorized dealer during the term of the express warranties, the manufacturer, its agent, or its authorized dealer shall, within a reasonable period of time, begin to make such repairs as are necessary to conform the vehicle to such express warranties, notwithstanding the fact that such repairs are made after the expiration of such term or such one-year period. Unless the buyer agrees in writing to the contrary, the motor vehicle must be serviced or repaired so as to conform to the applicable express warranties within thirty days of the written notice of nonconformity. Delays caused by conditions beyond the control of the manufacturer, its agent, or its authorized representative shall serve to extend the thirty-day requirement. When such delay arises, the conforming services or repairs shall be rendered as soon as possible after termination of the conditions which gave rise to the delay.

NEW SECTION. Sec. 4. If the manufacturer or its representative or its authorized dealer is unable to service or repair the motor vehicle to conform to the applicable express warranties after a reasonable number of attempts, the manufacturer shall reimburse the buyer in an amount equal to the purchase price paid by the buyer, less that amount directly attributable to use by the buyer.

NEW SECTION. Sec. 5. It shall be presumed that a reasonable number of attempts have been undertaken to conform a motor vehicle to the applicable express warranties if during the term of such express warranties or during the period of one year following the date of original delivery of the motor vehicle to a buyer: (1) The same nonconformity has been subject to repair four or more times by the manufacturer or its agents; or (2) the vehicle is out of service by reason of repair for a cumulative total of more than thirty days since the delivery of the vehicle to the buyer. The thirty-day period includes each calendar day or portion thereof during which the service shop is open for business, but does not include periods during which repairs cannot be made due to conditions beyond the control of the service facility and does not include periods during which the buyer has been provided with a comparable replacement vehicle by the dealer or manufacturer.

NEW SECTION. Sec. 6. If a manufacturer has established an informal dispute resolution settlement procedure which substantially complies with the applicable provision of Title 16, Code of Federal Regulations, Part 703,

as from time to time amended, the provisions of section 4 of this act concerning reimbursements do not apply unless the buyer has resorted to such procedure.

NEW SECTION. Sec. 7. The remedies provided under this chapter are cumulative and are in addition to any other remedies provided by law.

NEW SECTION. Sec. 8. Sections 1 through 7 of this act shall constitute a new chapter in Title 19 RCW.

Passed the Senate April 22, 1983.

Passed the House April 18, 1983.

Approved by the Governor May 17, 1983.

Filed in Office of Secretary of State May 17, 1983.

CHAPTER 241

[Substitute Senate Bill No. 3068]

FOOD DONORS AND DISTRIBUTING ORGANIZATIONS—IMMUNE FROM CIVIL LIABILITY—CONDITIONS—INFORMATION SERVICE

AN ACT Relating to donated food; adding a new chapter to Title 69 RCW; and repealing section 1, chapter 115, Laws of 1979 and RCW 69.04.385.

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

NEW SECTION. Sec. 1. The purpose of this chapter is to promote the free distribution of food to needy persons, prevent waste of food products, and provide liability protection for persons and organizations donating or distributing such food products.

NEW SECTION. Sec. 2. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Distributing organization" means a charitable nonprofit organization under section 501(c) of the federal internal revenue code which distributes food free of charge and includes any nonprofit organization that distributes food free of charge to other nonprofit organizations or to the public.

(2) "Donor" means a person, corporation, association, or other organization which donates food to a distributing organization. "Donor" includes, but is not limited to, farmers, processors, distributors, wholesalers, and retailers of food. "Donor" also includes persons who harvest agricultural crops or perishable foods which have been donated by the owner to a distributing organization.

(3) "Food" means food products for human consumption as defined in RCW 69.04.008.

NEW SECTION. Sec. 3. Donors and distributing organizations are not liable for civil damages or criminal penalties resulting from the nature, age, condition, or packaging of the donated food, including any liability under