

Nothing in this (~~1974 act shall~~) chapter affects the provisions of chapters 19.28, 43.22, 70.77, 70.79, 70.87, 48.48, 18.20, 18.46, 18.51, 28A-.02, 28A.04, 70.41, 70.62, 70.75, 70.108, 71.12, 74.15, 70.94, ((or)) 76.04, or 90.— (sections 2 through 14 of this act) RCW or grant rights to duplicate the authorities provided under chapters 70.94 or 76.04 RCW.

NEW SECTION. Sec. 20. (1) Except as provided in subsection (2) of this section, sections 1 through 5, 7 through 11, 13, and 14 of this act are necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

(2) This act shall take effect only if House Bill 1180 or Senate Bill 5280, as amended or substituted, or any other bill establishing a state reinsurance program for the owners and operators of underground storage tanks, is enacted before July 1, 1989. If the enactment of such reinsurance bill is subsequent to the date of enactment of this act, this act shall take effect on the date of the enactment of the reinsurance bill.

Passed the House April 20, 1989.

Passed the Senate April 19, 1989.

Approved by the Governor May 12, 1989.

Filed in Office of Secretary of State May 12, 1989.

CHAPTER 347

[House Bill No. 1103]

MOTOR VEHICLE WARRANTIES—REVISED PROVISIONS

AN ACT Relating to motor vehicle warranties; amending RCW 19.118.021, 19.118.041, 19.118.061, 19.118.080, 19.118.090, 19.118.100, 19.118.110, 19.118.150, and 19.118.160; providing an effective date; and declaring an emergency.

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

Sec. 1. Section 2, chapter 344, Laws of 1987 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-related~~) 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.

(8) "New motor vehicle" means any new self-propelled vehicle primarily designed for the transportation of persons or property over the public highways that, after original retail purchase or lease in this state, was ~~((leased or purchased in this state and registered in this state))~~ 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) "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) "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) "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) "Reasonable offset for use" means ((an amount directly attributable to use by the consumer before repurchase or replacement by the manufacturer. The reasonable offset for use 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 one hundred thousand))~~ the definition provided in RCW 19.118.041(1)(c).

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

(14) "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) "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.

(16) "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.

(17) "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.

(18) "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.

Sec. 2. Section 4, chapter 344, Laws of 1987 and RCW 19.118.041 are each amended to read as follows:

(1) If the manufacturer, its agent, or the new motor vehicle dealer is unable to conform the new motor vehicle to the warranty by repairing or correcting any nonconformity after a reasonable number of attempts, the manufacturer, within forty calendar days of a consumer's written request to the manufacturer's corporate, dispute resolution, zone, or regional office address shall, at the option of the consumer, replace or repurchase the new motor vehicle.

(a) The replacement motor vehicle shall be 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. Where the manufacturer supplies a replacement motor vehicle, the manufacturer shall be responsible for sales tax, license, and registration fees. Compensation for a reasonable offset for use shall be paid by the consumer to the manufacturer in the event that the consumer accepts a replacement motor vehicle.

(b) When repurchasing the new motor vehicle, the manufacturer shall refund to the consumer the purchase price, all collateral charges, and incidental costs, less a reasonable offset for use. ((Refunds)) When repurchasing the new motor vehicle, in the instance of a lease, the manufacturer shall refund to the consumer all payments made by the consumer under the lease including but not limited to all lease payments, trade-in value or inception payment, security deposit, all collateral charges and incidental costs less a reasonable offset for use. The manufacturer shall ((be made)) make such payment to the ((consumer and)) lessor and/or lienholder of record((, if any, as his or her interests may appear)) as necessary to obtain clear title to the motor vehicle and upon the lessor's and/or lienholder's receipt of that payment and payment by the consumer of any late payment charges, the consumer shall be relieved of any future obligation to the lessor and/or lienholder.

(c) The reasonable offset for use shall be computed by multiplying the number of miles that the vehicle traveled directly attributable to use by the consumer times the purchase price, and dividing the product by one hundred thousand. Where the consumer is a second or subsequent purchaser, lessee, or transferee of the motor vehicle and the consumer selects repurchase of the motor vehicle, "the number of miles that the vehicle traveled" shall be calculated from the date of purchase or lease by the consumer. Where the consumer is a second or subsequent purchaser, lessee, or transferee of the motor vehicle and the consumer selects replacement of the motor vehicle, "the number of miles that the vehicle traveled" shall be calculated from the original purchase, lease, or in-service date.

(2) Reasonable number of attempts shall be deemed to have been undertaken by the manufacturer, its agent, or the new motor vehicle dealer to conform the new motor vehicle to the warranty within the warranty period,

if: (a) The same serious safety defect has been subject to diagnosis or repair two or more times, at least one of which is during the period of coverage of the applicable manufacturer's written warranty, and the serious safety defect continues to exist; (b) the same nonconformity has been subject to diagnosis or repair four or more times, at least one of which is during the period of coverage of the applicable manufacturer's written warranty, and the nonconformity continues to exist; or (c) the vehicle is out-of-service by reason of diagnosis or repair of one or more nonconformities for a cumulative total of thirty calendar days, at least fifteen of them during the period of the applicable manufacturer's written warranty. For purposes of this subsection, the manufacturer's written warranty shall be at least one year after the date of the original delivery to the consumer of the vehicle or the first twelve thousand miles of operation, whichever occurs first.

(3) No new motor vehicle dealer may be held liable by the manufacturer for any collateral charges, incidental costs, purchase price refunds, or vehicle replacements. Manufacturers shall not have a cause of action against dealers under this chapter (~~(; but may pursue rights and remedies in other proceedings in accordance with the manufacturer-dealer franchise agreement)~~). Consumers shall not have a cause of action against dealers under this chapter, but a violation of any responsibilities imposed upon dealers under this chapter is a per se violation of chapter 19.86 RCW. Consumers may pursue rights and remedies against dealers under any other law, including chapters 46.70 and 46.71 RCW. Manufacturers and consumers may not make dealers parties to arbitration board proceedings under this chapter.

Sec. 3. Section 5, chapter 344, Laws of 1987 and RCW 19.118.061 are each amended to read as follows:

(1) A manufacturer shall be prohibited from reselling any motor vehicle determined or adjudicated as having a serious safety defect unless the serious safety defect has been corrected and the manufacturer warrants upon the resale that the defect has been corrected.

(2) After the replacement or repurchase of a motor vehicle (~~((with a nonconformity uncorrected))~~) determined to have a nonconformity or to have been out of service for thirty or more calendar days pursuant to this chapter, the manufacturer shall notify the attorney general and the department of licensing, by certified mail or by personal service, upon receipt of the ((manufacturer's)) motor vehicle. If ((such)) the nonconformity in the motor vehicle is corrected, the manufacturer shall notify the attorney general and the department of licensing of such correction.

(3) Upon the resale, either at wholesale or retail, or transfer of title of a motor vehicle (~~((with an uncorrected nonconformity))~~) and which was previously returned after a final determination, adjudication, or settlement under this chapter or under a similar statute of any other state, the manufacturer, its agent, or the new motor vehicle dealer shall execute and

deliver to the buyer before sale an instrument in writing setting forth information identifying the nonconformity in a manner to be specified by the attorney general, and the department of licensing shall place on the certificate of title information indicating the vehicle was returned under this chapter.

(4) Upon receipt of the manufacturer's notification under subsection (2) of this section that the nonconformity has been corrected and upon the manufacturer's request and payment of any fees, the department of licensing shall issue a new title with information indicating the vehicle was returned under this chapter and that the nonconformity has been corrected. Upon the resale, either at wholesale or retail, or transfer of title of a motor vehicle for which a new title has been issued under this subsection, the manufacturer shall warrant upon the resale that the nonconformity has been corrected, and the manufacturer, its agent, or the new motor vehicle dealer shall execute and deliver to the buyer before sale an instrument in writing setting forth information identifying the nonconformity and indicating that it has been corrected in a manner to be specified by the attorney general.

Sec. 4. Section 6, chapter 344, Laws of 1987 and RCW 19.118.080 are each amended to read as follows:

(1) Except as provided in RCW 19.118.160, the attorney general shall contract with one or more private entities to ~~((establish new motor vehicle arbitration boards))~~ conduct arbitration proceedings in order to settle disputes between consumers and manufacturers as provided in this chapter, and each private entity shall constitute a new motor vehicle arbitration board for purposes of this chapter. The entities shall not be affiliated with any manufacturer or new motor vehicle dealer and shall have available the services of persons with automotive technical expertise to assist in resolving disputes under this chapter. No private entity or its officers or employees conducting board proceedings and no arbitrator presiding at such proceedings shall be directly involved in the manufacture, distribution, sale, or warranty service of any motor vehicle. Payment to the entities for the arbitration services shall be made from the new motor vehicle arbitration account.

(2) The attorney general shall adopt rules for the uniform conduct of the arbitrations by the boards whether conducted by a private entity or by the attorney general pursuant to RCW 19.118.160, which rules shall include but not be limited to the following procedures:

(a) At all arbitration proceedings, the parties are entitled to present oral and written testimony, to present witnesses and evidence relevant to the dispute, to cross-examine witnesses, and to be represented by counsel.

(b) A dealer, ~~((or a))~~ manufacturer, or other ~~((party))~~ persons shall produce records and documents requested by a party which ~~((the board~~

finds)) are reasonably related to the dispute. If a dealer, ~~((or a))~~ manufacturer, or other ~~((party))~~ person refuses to comply with ~~((the board's determination))~~ such a request, a party may request the attorney general to issue a subpoena on behalf of the board. ~~((A party may also request the attorney general to issue a subpoena on behalf of the board for the records and documents of other persons:))~~

The subpoena shall be issued only for the production of records and documents which the board has determined are reasonably related to the dispute, including but not limited to documents described in RCW 19.118-.031 (4) or (5).

If a party fails to comply with the subpoena, the arbitrator may at the outset of the arbitration hearing impose any of the following sanctions: (i) Find that the matters which were the subject of the subpoena, or any other designated facts, shall be taken to be established for purposes of the hearing in accordance with the claim of the party which requested the subpoena; (ii) refuse to allow the disobedient party to support or oppose the designated claims or defenses, or prohibit that party from introducing designated matters into evidence; (iii) strike claims or defenses, or parts thereof; or (iv) render a decision by default against the disobedient party.

If a nonparty fails to comply with a subpoena and upon an arbitrator finding that without such compliance there is insufficient evidence to render a decision in the dispute, the attorney general shall enforce such subpoena in superior court and the arbitrator shall continue the arbitration hearing until such time as the nonparty complies with the subpoena or the subpoena is quashed.

(c) A party may obtain written affidavits from employees and agents of a dealer, a manufacturer or other party, or from other potential witnesses, and may submit such affidavits for consideration by the board.

(d) Records of the board proceedings shall be open to the public. The hearings shall be open to the public to the extent practicable.

(e) Where the board proceedings are conducted by one or more private entities, a single arbitrator may be designated to preside at such proceedings.

(3) A consumer shall exhaust the new motor vehicle arbitration board remedy or informal dispute resolution settlement procedure under RCW 19.118.150 before filing any superior court action.

(4) The attorney general shall maintain records of each dispute submitted to the new motor vehicle arbitration board, including an index of new motor vehicles by year, make, and model.

(5) The attorney general shall compile aggregate annual statistics for all disputes submitted to, and decided by, the new motor vehicle arbitration board, as well as annual statistics for each manufacturer that include, but shall not be limited to, the number and percent of: (a) Replacement motor vehicle requests; (b) purchase price refund requests; (c) replacement motor

vehicles obtained in prehearing settlements; (d) purchase price refunds obtained in prehearing settlements; (e) replacement motor vehicles awarded in arbitration; (f) purchase price refunds awarded in arbitration; (g) board decisions neither complied with during the forty calendar day period nor petitioned for appeal within the thirty calendar day period; (h) board decisions appealed categorized by consumer or manufacturer; (i) the nature of the court decisions and who the prevailing party was; (j) appeals that were held by the court to be brought without good cause; and (k) appeals that were held by the court to be brought solely for the purpose of harassment. The statistical compilations shall be public information.

(6) The attorney general shall submit biennial reports of the information in this section to the senate and house of representatives committees on commerce and labor, with the first report due January 1, 1990.

(7) The attorney general shall adopt rules to implement this chapter. Such rules shall include uniform standards by which the boards shall make determinations under this chapter, including but not limited to rules which provide:

(a) A board shall find that a nonconformity exists if it determines that the consumer's new motor vehicle has a defect, serious safety defect, or condition that substantially impairs the use, value, or safety of the vehicle.

(b) A board shall find that a reasonable number of attempts to repair a nonconformity have been undertaken if: (i) The same serious safety defect has been subject to diagnosis or repair two or more times, at least one of which is during the period of coverage of the applicable manufacturer's written warranty, and the serious safety defect continues to exist; (ii) the same nonconformity has been subject to diagnosis or repair four or more times, at least one of which is during the period of coverage of the applicable manufacturer's written warranty, and the nonconformity continues to exist; or (iii) the vehicle is out-of-service by reason of diagnosis or repair of one or more nonconformities for a cumulative total of thirty calendar days, at least fifteen of them during the period of the applicable manufacturer's written warranty. For purposes of this subsection, the manufacturer's written warranty shall be at least one year after the date of the original delivery to the consumer of the vehicle or the first twelve thousand miles of operation, whichever occurs first.

(c) A board shall find that a manufacturer has failed to comply with RCW 19.118.041 if it finds that the manufacturer, its agent, or the new motor vehicle dealer has failed to correct a nonconformity after a reasonable number of attempts and the manufacturer has failed, within forty days of the consumer's written request, to repurchase the vehicle or replace the vehicle with a vehicle identical or reasonably equivalent to the vehicle being replaced.

(8) The attorney general shall provide consumers with information regarding the procedures and remedies under this chapter.

Sec. 5. Section 7, chapter 344, Laws of 1987 and RCW 19.118.090 are each amended to read as follows:

(1) A consumer may request arbitration under this chapter by submitting the request to the attorney general. Within ten days after receipt of an arbitration request, the attorney general shall make a reasonable determination of the cause of the request for arbitration and provide necessary information to the consumer regarding the consumer's rights and remedies under this chapter. The attorney general shall assign the dispute to a board, except that if it clearly appears from the materials submitted by the consumer that the dispute is not eligible for arbitration, the attorney general may refuse to assign the dispute and shall explain any required procedures to the consumer.

(2) Manufacturers shall submit to arbitration if such arbitration is requested by the consumer within thirty months from the date of the original delivery of the new motor vehicle to ~~((the))~~ a consumer at retail and if the consumer's dispute is deemed eligible for arbitration by the board.

(3) The new motor vehicle arbitration board may reject for arbitration any dispute that it determines to be frivolous, fraudulent, filed in bad faith, res judicata or beyond its authority. Any dispute deemed by the board to be ineligible for arbitration due to insufficient evidence may be reconsidered by the board upon the submission of other information or documents regarding the dispute that would allegedly qualify for relief under this chapter. Following a second review, the board may reject the dispute for arbitration if evidence is still clearly insufficient to qualify the dispute for relief under this chapter. A rejection by the board is subject to review by the attorney general or may be appealed under RCW 19.118.100.

A decision to reject any dispute for arbitration shall be sent by certified mail to the consumer and the manufacturer, and shall contain a brief explanation as to the reason therefor.

(4) The arbitration board shall award the remedies under RCW 19.118.041 if it finds a nonconformity and that a reasonable number of attempts have been undertaken to correct the nonconformity. The board shall award reasonable costs and attorneys' fees incurred by the consumer in connection with board proceedings where the manufacturer is represented by counsel.

(5) It is an affirmative defense to any claim under this chapter that: (a) The alleged nonconformity does not substantially impair the use, value, or safety of the new motor vehicle; or (b) the alleged nonconformity is the result of abuse, neglect, or unauthorized modifications or alterations of the new motor vehicle.

(6) The board shall have ~~((thirty))~~ forty-five calendar days from the date the board receives the consumer's request for arbitration to hear the dispute. If the board determines that additional information is necessary, the board may continue the arbitration proceeding on a subsequent date

within ten calendar days of the initial hearing. The board shall decide the dispute within sixty calendar days from the date the board receives the consumer's request for arbitration.

The decision of the board shall be ~~((sent))~~ delivered by certified mail or personal service to the consumer and the manufacturer, and shall contain a written finding of whether the new motor vehicle meets the standards set forth under this chapter.

(7) The consumer may accept the arbitration board decision or appeal to superior court, pursuant to RCW 19.118.100. Upon acceptance by the consumer, the arbitration board decision shall become final. The consumer shall send written notification of acceptance or rejection to the arbitration board ~~((who))~~ within sixty days of receiving the decision and the arbitration board shall immediately ~~((send))~~ deliver a copy of the consumer's acceptance to the manufacturer by certified mail, return receipt requested, or by personal service. Failure of the consumer to respond to the arbitration board within sixty calendar days of receiving the decision shall be considered a rejection of the decision by the consumer. The consumer shall have one hundred twenty calendar days from the date of rejection to file a petition of appeal in superior court. At the time the petition of appeal is filed, the consumer shall deliver, by certified mail or personal service, a conformed copy of such petition to the attorney general.

(8) Upon receipt of the consumer's acceptance, the manufacturer shall have forty calendar days to comply with the arbitration board decision or thirty calendar days to file a petition of appeal in superior court. At the time the petition of appeal is filed, the manufacturer shall ~~((send))~~ deliver, by certified mail or personal service, a conformed copy of such petition to the attorney general. If the attorney general receives no notice of petition of appeal after forty calendar days, the attorney general shall contact the consumer to verify compliance.

(9) If, at the end of the forty calendar day period, neither compliance with, nor a petition to appeal the board's decision has occurred, the attorney general may impose a fine of one thousand dollars per day until compliance occurs or a maximum penalty of one hundred thousand dollars accrues unless the manufacturer can provide clear and convincing evidence that any delay or failure was beyond its control or was acceptable to the consumer as evidenced by a written statement signed by the consumer. If the manufacturer fails to provide such evidence or fails to pay the fine, the attorney general shall initiate proceedings against the manufacturer for failure to pay any fine that accrues until compliance with the board's decision occurs or the maximum penalty of one hundred thousand dollars results. Where the attorney general prevails in an enforcement action regarding any fine imposed under this subsection, the attorney general shall be entitled to reasonable costs and attorneys' fees. Fines and recovered costs and fees shall be returned to the new motor vehicle arbitration account.

Sec. 6. Section 8, chapter 344, Laws of 1987 and RCW 19.118.100 are each amended to read as follows:

(1) The consumer or the manufacturer may request a trial de novo of the arbitration decision, including a rejection, in superior court.

(2) If the manufacturer appeals, the court may require the manufacturer to post security for the consumer's financial loss due to the passage of time for review.

(3) If the consumer prevails, recovery shall include the monetary value of the award, attorneys' fees and costs incurred in the superior court action, and, if the board awarded the consumer replacement or repurchase of the vehicle and the manufacturer did not comply, continuing damages in the amount of twenty-five dollars per day for all days beyond the forty calendar day period following the manufacturer's receipt of the consumer's acceptance of the board's decision in which the manufacturer did not provide the consumer with the free use of a comparable loaner replacement motor vehicle. If it is determined by the court that the ~~((manufacturer))~~ party that appealed acted without good cause in bringing the appeal or brought the appeal solely for the purpose of harassment, the court may triple, but at least shall double, the amount of the total award.

Sec. 7. Section 9, chapter 344, Laws of 1987 and RCW 19.118.110 are each amended to read as follows:

A five-dollar arbitration fee shall be collected by either the new motor vehicle dealer or vehicle lessor from the consumer ~~((at completion of))~~ upon execution of a retail sale or lease agreement. The fee shall be forwarded to the department of licensing at the time of title application for deposit in the new motor vehicle arbitration account hereby created in the state treasury. Moneys in the account shall be used for the purposes of this chapter, subject to appropriation.

At the end of each fiscal year, the attorney general shall prepare a report listing the annual revenue generated and the expenses incurred in implementing and operating the arbitration program under this chapter.

Sec. 8. Section 14, chapter 344, Laws of 1987 and RCW 19.118.150 are each amended to read as follows:

~~((+))~~ 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, a consumer may choose to first submit a dispute under this chapter to the informal dispute resolution settlement procedure.

~~((2))~~ ~~After the new motor vehicle arbitration board has been established and is operational and until December 31, 1988, consumers who have a pending case in the informal dispute resolution settlement procedure in this section may choose to transfer the case to be heard before the new motor vehicle arbitration board:))~~

Sec. 9. Section 15, chapter 344, Laws of 1987 and RCW 19.118.160 are each amended to read as follows:

If the attorney general is unable(~~(, or will be unable,)~~) at any time to contract with private entities to conduct arbitrations under the procedures and standards in this chapter, (~~(by January 1, 1988,)~~) the attorney general shall establish one or more new motor vehicle arbitration boards. Each such board shall consist of three members appointed by the attorney general, only one of whom may be directly involved in the manufacture, distribution, sale, or service of any motor vehicle. Board members shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060 and shall be compensated pursuant to RCW 43.03.240.

NEW SECTION. Sec. 10. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 11. 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 June 1, 1989.

Passed the House April 23, 1989.
Passed the Senate April 23, 1989.
Approved by the Governor May 12, 1989.
Filed in Office of Secretary of State May 12, 1989.

CHAPTER 348

[Substitute House Bill No. 1397]

WATER USE EFFICIENCY AND CONSERVATION

AN ACT Relating to water use efficiency and conservation; amending RCW 90.54.020, 90.03.005, 90.54.120, 90.03.360, and 19.27.031; adding new sections to chapter 90.54 RCW; adding a new section to chapter 19.27 RCW; adding a new section to chapter 43.20 RCW; adding a new section to chapter 90.44 RCW; adding a new section to chapter 90.48 RCW; and creating a new section.

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

Sec. 1. Section 2, chapter 225, Laws of 1971 ex. sess. as amended by section 2, chapter 399, Laws of 1987 and RCW 90.54.020 are each amended to read as follows:

Utilization and management of the waters of the state shall be guided by the following general declaration of fundamentals:

- (1) Uses of water for domestic, stock watering, industrial, commercial, agricultural, irrigation, hydroelectric power production, mining, fish and wildlife maintenance and enhancement, recreational, and thermal power