
SENATE BILL 6196

State of Washington 52nd Legislature 1992 Regular Session

By Senators Rinehart, Conner and Madsen

Read first time 01/21/92. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to used motor vehicle warranties; adding a new
2 chapter to Title 19 RCW; prescribing penalties; providing effective
3 dates; and declaring an emergency.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** Unless the context clearly requires
6 otherwise, the definitions in this section apply throughout this
7 chapter.

8 (1) "Consumer" means any person who has entered into an agreement
9 or contract for the transfer, lease, or purchase of a used motor
10 vehicle, other than for purposes of resale or sublease, subject to a
11 warranty under this chapter.

12 (2)(a) "Dealer" means any vehicle dealer as defined in RCW
13 46.70.011 not excluded by (b) of this subsection, engaged in the
14 business of selling, offering for sale, leasing, or offering for lease

1 used motor vehicles. A person is engaged in the business of selling
2 used motor vehicles if such person has sold or leased five or more used
3 motor vehicles in the preceding twelve consecutive months.

4 (b) "Dealer" does not include:

5 (i) Receivers, trustees, administrators, executors, guardians, or
6 other persons appointed by, or acting under a judgment or order of, any
7 court;

8 (ii) Public officers while performing their official duties;

9 (iii) Employees of dealers who are engaged in the specific
10 performance of their duties as such employees;

11 (iv) Any person, firm, association, corporation, or trust, engaged
12 in the selling of equipment other than vehicles, subject to
13 registration, used for agricultural or industrial purposes;

14 (v) Any bank, trust company, savings bank, mutual savings bank,
15 savings and loan association, credit union, and any parent, subsidiary,
16 or affiliate thereof, authorized to do business in this state under
17 state or federal law with respect to the acquisition and sale or other
18 disposition of a motor vehicle in which the entity has acquired an
19 interest as a lessor, lessee, or secured party; or

20 (vi) The state of Washington or any political subdivision thereof.

21 (3) "Purchase price" means all amounts charged for the purchase of
22 a motor vehicle, including tax, license, finance charge, and the value
23 of a trade-in vehicle.

24 (4) "Serious safety defect" means a malfunction or defect that
25 impedes the consumer's ability to control or operate the motor vehicle
26 for ordinary use or reasonable intended purposes or creates a risk of
27 fire or explosion.

28 (5)(a) "Used motor vehicle" means any motor vehicle, registered in
29 the state of Washington at the time of sale as a used motor vehicle,
30 that is (i) not a new vehicle under chapter 19.118 RCW, (ii) not

1 excluded by (b) of this subsection, and (iii) driven more than the
2 limited use necessary in moving or road testing a new vehicle prior to
3 delivery to a customer.

4 (b) "Used motor vehicle" does not include:

5 (i) Vehicles sold for less than a purchase price of one thousand
6 five hundred dollars;

7 (ii) Leased vehicles when the value of the vehicle, as agreed by
8 the dealer and the consumer, is less than one thousand five hundred
9 dollars;

10 (iii) Vehicles with over one hundred twenty-five thousand miles;

11 (iv) Motorcycles;

12 (v) Vehicles built primarily for off-road use;

13 (vi) Trucks with nineteen thousand pounds or more gross vehicle
14 weight rating;

15 (vii) Those portions of a motor home designated, used, or
16 maintained primarily as a mobile dwelling, office, or commercial space;
17 or

18 (viii) Vehicles over twenty years old.

19 (6) "Warranted parts" means, at a minimum, the following items:

20 (a) All lubricated engine parts, water pump, fuel pump, manifolds,
21 engine block, cylinder head, rotary engine housing, and fly wheel; (b)
22 the transmission case, internal parts, and torque converter; (c) the
23 front and rear drive axle housings, internal parts, shafts, and
24 universal joints; (d) the brakes, including the master cylinder, vacuum
25 assist booster, wheel cylinders, hydraulic lines, fittings, and
26 calipers; (e) the radiator; (f) the steering gear housing, internal
27 parts, pump, valve body, piston, and rack; (g) the alternator,
28 generator, starter, and ignition system, excluding the battery; and (h)
29 the windshield wiper motor.

1 (7) "Warranty" means the written undertaking by a dealer in
2 connection with the sale or lease of a used motor vehicle, which
3 requires the dealer to refund, repair, replace, maintain, or take other
4 action to ensure the safety and fitness of the vehicle for its
5 reasonable and ordinary use. The services, parts, and labor provided
6 under the warranty shall be rendered at no extra charge beyond the
7 purchase price of the vehicle.

8 (8) "Warranty period" means the following durations: (a) If the
9 used motor vehicle has forty thousand miles or less at the time of
10 original delivery to the consumer, the warranty shall be ninety days or
11 four thousand miles, whichever comes first; (b) if the used motor
12 vehicle has more than forty thousand miles, but less than eighty
13 thousand miles at the time of original delivery to the consumer, the
14 warranty shall be sixty days or three thousand miles, whichever comes
15 first; or (c) if the used motor vehicle has eighty thousand miles or
16 more, but less than one hundred twenty-five thousand miles at the time
17 of original delivery to the consumer, the warranty shall be thirty days
18 or one thousand miles, whichever comes first. If a consumer purchases
19 a used motor vehicle from a dealer and subsequently sells it to another
20 person within the warranty period, the warranty provided by the dealer
21 does not remain with the used motor vehicle. If a consumer conveys or
22 transfers the title of a used motor vehicle to a member of the
23 consumer's immediate family, the warranty remains in effect for the
24 duration of the warranty period.

25 NEW SECTION. **Sec. 2.** (1) No dealer shall sell or lease a used
26 motor vehicle to a consumer without giving the consumer a written
27 warranty which shall, at a minimum, cover all warranted parts for the
28 warranty period.

1 (2) At the time of purchase, the dealer shall provide the consumer
2 with (a) a written statement setting forth the mileage of the used
3 motor vehicle at the date the consumer takes initial possession; and
4 (b) a written statement that explains the consumer's rights under this
5 chapter. The written statements shall be prepared and supplied by the
6 attorney general and shall contain a toll-free number that the consumer
7 can contact for information regarding the procedures and remedies under
8 this chapter.

9 (3) For the purposes of this chapter, if a used motor vehicle does
10 not conform to the warranty and the consumer reports the nonconformity
11 during the term of the warranty period to the dealer who sold the used
12 motor vehicle, the dealer or its agent shall make repairs as are
13 necessary to conform the vehicle to the warranty, regardless of whether
14 such repairs are made after the expiration of the warranty period.

15 (4) Upon request from the consumer, the dealer shall provide a copy
16 of any report or computer reading regarding any inspection, diagnosis,
17 or test-drive of the consumer's used motor vehicle performed on the
18 vehicle while in the dealer's possession conducted prior to the sale.

19 (5) The dealer shall provide to the consumer each time the
20 consumer's vehicle is returned from being diagnosed or repaired under
21 the warranty, a fully itemized, legible statement or repair order
22 indicating any diagnosis made, and all work performed on the vehicle
23 including but not limited to, a general description of the problem
24 reported by the consumer or an identification of the defect or
25 condition, parts and labor, the date and the odometer reading when the
26 vehicle was submitted for repair, and the date when the vehicle was
27 made available to the consumer.

28 (6) No dealer may refuse to diagnose or repair any nonconformity
29 covered by the warranty for the purpose of avoiding liability under
30 this chapter.

1 (7) If a dealer does not possess the ability to repair a
2 nonconformity, the dealer may elect to have the work performed by any
3 responsible party, but such election does not interfere with the
4 operation and protection of the warranty.

5 (8) The warranty period and out-of-service period shall be extended
6 by any time that repair services are not available to the consumer as
7 a direct result of a strike, war, invasion, fire, flood, or other
8 natural disaster.

9 (9) The warranty periods shall be tolled during any period in which
10 the used motor vehicle is out of service as a result of any repair
11 attempt pursuant to any warranty created by this section. The
12 applicable warranty period shall be extended thirty days from the date
13 of completion of any repair required by this section as to the defect
14 repaired if the warranty would otherwise have expired during such
15 period.

16 NEW SECTION. **Sec. 3.** A dealer's warranty may exclude coverage
17 for the following:

18 (1) Failure of a covered part caused by a lack of customary
19 maintenance;

20 (2) Failure of a covered part caused by collision, abuse,
21 negligence, theft, vandalism, fire, or environmental casualty and
22 damage;

23 (3) Vehicles for which the odometer has been stopped or altered so
24 that the vehicle's actual milage cannot be readily determined; or
25 vehicles for which any covered part has been altered so that a covered
26 part was thereby caused to fail;

27 (4) Customary services and the parts used in connection with such
28 services such as seals, gaskets, oil, or grease unless required in
29 connection with the repair of a warranted part;

- 1 (5) Motor tuneups;
- 2 (6) Failure due to racing or other competition;
- 3 (7) Failure caused by towing a trailer or other vehicle unless the
4 used vehicle is properly equipped as recommended by the manufacturer;
- 5 (8) Vehicles used to carry passengers for hire;
- 6 (9) Vehicles rented to a third party;
- 7 (10) Repair of valves or rings to correct low compression or oil
8 consumption which are considered normal wear;
- 9 (11) Property damage arising out of the failure of a warranted
10 part; or
- 11 (12) Except as otherwise permitted by law, loss of use, loss of
12 time, inconvenience, commercial loss, or consequential damages.

13 NEW SECTION. **Sec. 4.** (1) If the dealer is unable to conform
14 the used motor vehicle to the warranty by repairing or correcting any
15 nonconformity after a reasonable number of attempts, the dealer shall,
16 within thirty calendar days of a consumer's written request, repurchase
17 the motor vehicle. The dealer may offer to replace the vehicle with a
18 comparably priced vehicle, with such adjustment in price as the parties
19 may agree. The consumer shall not be obligated to accept a replacement
20 vehicle, but may elect to receive the refund provided under this
21 section.

22 (2) When repurchasing the motor vehicle, the dealer shall refund to
23 the consumer the purchase price, all collateral charges, and incidental
24 costs, less a reasonable offset for use. When repurchasing the motor
25 vehicle, in the instance of a lease, the dealer shall refund to the
26 consumer all payments made by the consumer under the lease including
27 but not limited to all lease payments, trade-in value or inception
28 payment, security deposit, all collateral charges and incidental costs
29 less a reasonable offset for use. The dealer shall make such payment

1 to the lessor or lienholder of record as necessary to obtain clear
2 title to the motor vehicle and upon the lessor's or lienholder's
3 receipt of that payment and payment by the consumer of any late payment
4 charges, the consumer shall be relieved of any future obligation to the
5 lessor or lienholder.

6 (3) The reasonable offset for use shall be computed by multiplying
7 the number of miles that the vehicle traveled directly attributable to
8 use by the consumer times the purchase price, and dividing the product
9 by one hundred thousand.

10 (4) A reasonable number of attempts are deemed to have been
11 undertaken by the dealer to conform the vehicle to the warranty within
12 the warranty period, if: (a) The same malfunction or defect has been
13 subject to repair three or more times, within the warranty period, and
14 the malfunction or defect continues to exist; or (b) the vehicle is out
15 of service by reason of diagnosis or repair of one or more
16 nonconformities for a cumulative total of fifteen calendar days during
17 the warranty period.

18 NEW SECTION. **Sec. 5.** (1) A dealer is prohibited from
19 reselling any motor vehicle determined or adjudicated as having a
20 serious safety defect unless the serious safety defect has been
21 corrected and the dealer warrants upon the resale that the defect has
22 been corrected.

23 (2) After the replacement or repurchase of a motor vehicle
24 determined to have a nonconformity or to have been out of service for
25 fifteen or more calendar days pursuant to this chapter, the dealer
26 shall notify the attorney general and the department of licensing of
27 such replacement or repurchase, by certified mail or by personal
28 service, upon receipt of the motor vehicle. If the nonconformity in

1 the motor vehicle is corrected, the dealer shall notify the attorney
2 general and the department of licensing of such correction.

3 (3) Upon receipt of the dealer's notification under subsection (2)
4 of this section that the nonconformity has been corrected and upon the
5 dealer's request and payment of any fees, the department of licensing
6 shall issue a new title with information indicating the vehicle was
7 returned under this chapter and that the nonconformity has been
8 corrected.

9 (4) Before the resale, either at wholesale or retail, or transfer
10 of title of a motor vehicle for which a new title has been issued under
11 this subsection, the dealer shall warrant that the nonconformity has
12 been corrected, and shall execute and deliver to the buyer a written
13 instrument setting forth information identifying the nonconformity in
14 a manner specified by the attorney general and indicating that it has
15 been corrected.

16 NEW SECTION. **Sec. 6.** (1) Any agreement entered into by a
17 consumer for the purchase or lease of a used motor vehicle that waives,
18 limits, or disclaims the rights set forth in this chapter shall be void
19 as contrary to public policy.

20 (2) If any dealer fails to give a written warranty as required by
21 this chapter, the dealer shall be deemed to have given the warranty as
22 a matter of law.

23 (3) The sale of motor vehicles is a matter affecting the public
24 interest for the purpose of applying chapter 19.86 RCW. A violation of
25 any responsibilities imposed upon dealers under this chapter is not
26 reasonable in relation to the development and preservation of business.
27 A violation of this chapter constitutes an unfair or deceptive act or
28 practice in trade or commerce for the purpose of applying chapter 19.86
29 RCW.

1 (4) Consumers may pursue rights and remedies against dealers under
2 any other law, including chapters 46.70 and 46.71 RCW. The provisions
3 of this chapter supplement, but do not supplant, any other right,
4 remedy, or relief available to any party under law.

5 NEW SECTION. **Sec. 7.** (1) Except as provided in section 12 of
6 this act, the attorney general shall contract with one or more private
7 entities to conduct arbitration proceedings in order to settle disputes
8 between consumers and dealers as provided in this chapter, and each
9 private entity shall constitute a used motor vehicle arbitration board
10 for purposes of this chapter. The entities shall not be affiliated
11 with any motor vehicle manufacturer, new motor vehicle dealer, or used
12 motor vehicle dealer and shall have available the services of persons
13 with automotive technical expertise to assist in resolving disputes
14 under this chapter. No private entity or its officers or employees
15 conducting board proceedings and no arbitrator presiding at such
16 proceedings shall be directly involved in the manufacture,
17 distribution, sale, or warranty service of any motor vehicle. Payment
18 to the entities for the arbitration services shall be made from the
19 used motor vehicle arbitration account.

20 (2) The attorney general shall adopt rules for the uniform conduct
21 of the arbitrations by the boards whether conducted by a private entity
22 or by the attorney general pursuant to section 12 of this act, which
23 rules shall include but not be limited to the following procedures:

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

28 (b) A dealer or other persons shall produce records and documents
29 requested by a party which are reasonably related to the dispute. If

1 a dealer or other persons refuse to comply with such a request, a party
2 may request the attorney general to issue a subpoena on behalf of the
3 board.

4 The subpoena shall be issued only for the production of records and
5 documents which the board has determined are reasonably related to the
6 dispute, including but not limited to documents described in section 2
7 (4) and (5) of this act.

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

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

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

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

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

4 (3) A consumer shall exhaust the used motor vehicle arbitration
5 board process as provided in this chapter before filing any superior
6 court action.

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

10 (5) The attorney general shall compile aggregate annual statistics
11 for all disputes submitted to, and decided by, the used motor vehicle
12 arbitration board, as well as annual statistics for each dealer that
13 include, but shall not be limited to, the number and percent of: (a)
14 Replacement motor vehicle requests; (b) purchase price refund requests;
15 (c) replacement motor vehicles obtained in prehearing settlements; (d)
16 purchase price refunds obtained in prehearing settlements; (e)
17 replacement motor vehicles awarded in arbitration; (f) purchase price
18 refunds awarded in arbitration; (g) board decisions neither complied
19 with during the forty calendar day period nor petitioned for appeal
20 within the thirty calendar day period; (h) board decisions appealed
21 categorized by consumer or dealer; (i) the nature of the court
22 decisions and who the prevailing party was; (j) appeals that were held
23 by the court to be brought without good cause; and (k) appeals that
24 were held by the court to be brought solely for the purpose of
25 harassment. The statistical compilations shall be public information.

26 (6) The attorney general shall submit biennial reports of the
27 information in this section to the senate and house of representatives,
28 with the first report due January 1, 1994.

29 (7) The attorney general shall adopt rules to implement this
30 chapter. Such rules shall include uniform standards by which the

1 boards shall make determinations under this chapter, including but not
2 limited to rules that provide:

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

7 (b) A board shall find that a reasonable number of attempts to
8 repair a nonconformity have been undertaken if: (i) The same
9 malfunction or defect has been subject to diagnosis or repair three or
10 more times during the warranty period, and the malfunction or defect
11 continues to exist; or (ii) the vehicle is out of service by reason of
12 diagnosis or repair of one or more nonconformities for a cumulative
13 total of fifteen calendar days during the warranty period.

14 (c) A board shall find that a dealer has failed to comply with
15 section 4 of this act if it finds that the dealer has failed to correct
16 a nonconformity after a reasonable number of attempts and the dealer
17 has failed, within thirty days of the consumer's written request, to
18 repurchase the vehicle or replace the vehicle with a vehicle identical
19 or reasonably equivalent to the vehicle being replaced.

20 (8) The attorney general shall draft and provide forms to be used
21 by dealers and provide consumers with information regarding the
22 procedures and remedies under this chapter.

23 NEW SECTION. **Sec. 8.** (1) A consumer may request arbitration
24 under this chapter. To initiate the arbitration process, the consumer
25 shall submit the request to the attorney general. Within ten days
26 after receipt of an arbitration request, the attorney general shall
27 make a reasonable determination of the cause of the request for
28 arbitration and provide necessary information to the consumer regarding
29 the consumer's rights and remedies under this chapter. The attorney

1 general shall assign the dispute to a board, except that if it clearly
2 appears from the materials submitted by the consumer that the dispute
3 is not eligible for arbitration, the attorney general shall provide the
4 consumer and dealer with the reasons for refusing to assign the dispute
5 and advise the consumer of any procedures necessary to file the
6 arbitration.

7 (2) Dealers shall submit to arbitration if such arbitration is
8 requested by the consumer within two months from the date of the
9 expiration of the warranty period if the consumer's dispute is deemed
10 eligible for arbitration by the board.

11 (3) The used motor vehicle arbitration board may reject for
12 arbitration any dispute that it determines to be frivolous, fraudulent,
13 filed in bad faith, res judicata, or beyond its authority. Any dispute
14 deemed by the board to be ineligible for arbitration due to
15 insufficient evidence may be reconsidered by the board upon the
16 submission of other information or documents regarding the dispute that
17 would allegedly qualify for relief under this chapter. Following a
18 second review, the board may reject the dispute for arbitration if
19 evidence is still clearly insufficient to qualify the dispute for
20 relief under this chapter. A rejection by the board is subject to
21 review by the attorney general or may be appealed under section 9 of
22 this act.

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

26 (4) The arbitration board shall award the remedies under section 4
27 of this act if it finds a nonconformity and that a reasonable number of
28 attempts have been undertaken to correct the nonconformity. The board
29 shall award reasonable costs and attorneys' fees incurred by the

1 consumer in connection with board proceedings where the dealer is
2 represented by counsel.

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

8 (6) The board shall have forty-five calendar days from the date the
9 board receives the request for arbitration to hear the dispute. If the
10 board determines that additional information is necessary, the board
11 may continue the arbitration proceeding on a subsequent date within ten
12 calendar days of the initial hearing. The board shall decide the
13 dispute within sixty calendar days from the date the board receives the
14 request for arbitration.

15 The decision of the board shall be delivered by certified mail or
16 personal service to the consumer and the dealer, and shall contain a
17 written finding of whether the vehicle meets the standards set forth
18 under this chapter.

19 (7) The consumer may accept the arbitration board decision or
20 appeal to superior court, pursuant to section 9 of this act. Upon
21 acceptance by the consumer, the arbitration board decision shall become
22 final. The consumer shall send written notification of acceptance or
23 rejection to the arbitration board within sixty days of receiving the
24 decision and the arbitration board shall immediately deliver a copy of
25 the consumer's acceptance to the dealer by certified mail, return
26 receipt requested, or by personal service. Failure of the consumer to
27 respond to the arbitration board within sixty calendar days of
28 receiving the decision shall be considered an acceptance of the
29 decision by the consumer.

1 NEW SECTION. **Sec. 9.** The consumer shall have one hundred
2 twenty calendar days from the date of rejection to file a petition of
3 appeal for de novo review in superior court. At the time the petition
4 of appeal is filed, the consumer shall deliver, by certified mail or
5 personal service, a conformed copy of such petition to the attorney
6 general.

7 (1) Upon receipt of the consumer's acceptance of the arbitration
8 board decision, the dealer shall have forty calendar days to comply
9 with the arbitration board decision or thirty calendar days to file a
10 petition of appeal for de novo review in superior court. At the time
11 the petition of appeal is filed, the dealer shall deliver, by certified
12 mail or personal service, a conformed copy of such petition to the
13 attorney general. If the attorney general receives no notice of
14 petition of appeal after forty calendar days, the attorney general
15 shall contact the consumer to verify compliance.

16 (2) If, at the end of the forty calendar day period, neither
17 compliance with nor a petition to appeal the board's decision has
18 occurred, the attorney general may impose a fine of one thousand
19 dollars per day until compliance occurs or until a maximum penalty of
20 twenty-five thousand dollars accrues unless the dealer can provide
21 clear and convincing evidence that any delay or failure was beyond its
22 control or was acceptable to the consumer as evidenced by a written
23 statement signed by the consumer. If the dealer fails to provide such
24 evidence or fails to pay the fine, the attorney general shall initiate
25 proceedings against the dealer for failure to pay any fine that accrues
26 until compliance with the board's decision occurs or the maximum
27 penalty of twenty-five thousand dollars results. Where the attorney
28 general prevails in an enforcement action regarding any fine imposed
29 under this subsection, the attorney general shall be entitled to

1 reasonable costs and attorneys' fees. Fines and recovered costs and
2 fees shall be returned to the used motor vehicle arbitration account.

3 NEW SECTION. **Sec. 10.** (1) If the dealer appeals the
4 arbitration board decision, the court may require the dealer to post
5 security for the consumer's financial loss due to the passage of time
6 for review.

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

19 NEW SECTION. **Sec. 11.** A five-dollar arbitration fee shall be
20 collected by the dealer from the consumer upon execution of a retail
21 sale or lease agreement. The fee shall be forwarded to the department
22 of licensing at the time of title application for deposit in the used
23 motor vehicle arbitration account hereby created in the state treasury.
24 Moneys in the account shall be used for the purposes of this chapter,
25 subject to appropriation.

26 At the end of each fiscal year, the attorney general shall prepare
27 a report listing the annual revenue generated and the expenses incurred

1 in implementing and operating the arbitration program under this
2 chapter.

3 NEW SECTION. **Sec. 12.** If the attorney general is unable at any
4 time to contract with private entities to conduct arbitrations under
5 the procedures and standards in this chapter, the attorney general
6 shall establish one or more used motor vehicle arbitration boards.
7 Each such board shall consist of three members appointed by the
8 attorney general, only one of whom may be directly involved in the sale
9 or service of used motor vehicles. Board members shall be reimbursed
10 for travel expenses in accordance with RCW 43.03.050 and 43.03.060 and
11 shall be compensated pursuant to RCW 43.03.240.

12 NEW SECTION. **Sec. 13.** Sections 1 through 12 of this act shall
13 constitute a new chapter in Title 19 RCW.

14 NEW SECTION. **Sec. 14.** If any provision of this act or its
15 application to any person or circumstance is held invalid, the
16 remainder of the act or the application of the provision to other
17 persons or circumstances is not affected.

18 NEW SECTION. **Sec. 15.** (1) Section 11 of this act is necessary
19 for the immediate preservation of the public peace, health, or safety,
20 or support of the state government and its existing public
21 institutions, and shall take effect June 1, 1992.

22 (2) Sections 1 through 10 and 12 of this act shall take effect
23 January 1, 1993, except that the attorney general may take such actions
24 as are necessary to ensure that the used motor vehicle arbitration
25 boards are established and operational on January 1, 1993.