

**SENATE BILL REPORT**

**SB 5122**

**AS REPORTED BY COMMITTEE ON LAW & JUSTICE, FEBRUARY 17, 1993**

**Brief Description:** Changing provisions relating to motor vehicle dealers.

**SPONSORS:** Senators A. Smith and Rinehart

**SENATE COMMITTEE ON LAW & JUSTICE**

**Majority Report:** That Substitute Senate Bill No. 5122 be substituted therefor, and the substitute bill do pass.

Signed by Senators A. Smith, Chairman; Quigley, Vice Chairman; McCaslin, Nelson, Niemi, and Spanel.

**Staff:** Dick Armstrong (786-7460)

**Hearing Dates:** February 5, 1993; February 17, 1993

**BACKGROUND:**

Various statutes protect consumers from a variety of unfair and deceptive practices in motor vehicle sales and repair transactions. In 1991, the Attorney General issued a report that found that there is a need to provide for enhanced consumer protection in motor vehicle transactions. Specifically, the report found that consumers are often not aware of implied warranties in motor vehicle sales. It is a violation of the motor vehicle dealer licensing statute and the Consumer Protection Act for a dealer to fail to comply with any written warranties regarding goods, services or repairs. The dealer licensing statute does not address implied warranties of merchantability or fitness for particular use, although courts have held that buyers of motor vehicles have implied warranties of merchantability and fitness for a particular use.

It is a violation of the dealer licensing statute and the Consumer Protection Act for a dealer to "disseminate" any statement regarding the sale or financing of a vehicle which is false, deceptive, or misleading. A recent Court of Appeals case held that "disseminate" does not apply to statements made by a dealer to an individual buyer unless the statements were advertised or otherwise communicated to the public.

The statute of limitations for a civil cause of action by a private person under the dealer licensing statute is one year from the time of the alleged act.

**SUMMARY:**

The motor vehicle dealer licensing statute is amended to provide greater protection to consumers.

It is a violation of the dealer licensing statute and the Consumer Protection Act for a dealer not to comply with implied warranties of merchantability and implied warranties of fitness for a particular purpose. It is also a violation of the dealer licensing statute and a Consumer Protection Act violation for a dealer to make a false or deceptive statement that is communicated or transmitted in any manner to a buyer regarding the sale or financing of a motor vehicle.

The statute of limitations for a private right of action under the dealer licensing statute is extended to two years. In addition, a buyer may collect under a motor vehicle dealer's bond for violations of any express or implied warranties under the dealer licensing statute.

**EFFECT OF PROPOSED SUBSTITUTE:**

An improper reference to the U.C.C. Statute on implied warranties is corrected.

**Appropriation:** none

**Revenue:** none

**Fiscal Note:** requested

**TESTIMONY FOR:**

Car dealers oftentimes sell cars "as is" and purchasers are not aware that they have additional rights under implied warranties of merchantability and fitness for a particular use. When problems arise, some dealers tell purchasers that they have no legal rights or recourse.

**TESTIMONY AGAINST:**

The bill goes beyond what the Consumer Protection Act (CPA) was intended to address. Private conversations between a dealer and a customer should not trigger the CPA.

**TESTIFIED:** Doug Walsh, Assistant Attorney General (pro); Rick Ockerman, attorney (pro); Peter Maier, attorney (pro); Heather Hamilton, Department of Licensing (pro); Janet Lim, New Car Dealers (con)