

SSB 5050 - H COMM AMD
By Committee on Commerce & Labor

ADOPTED 04/09/2007

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 19.118.041 and 1998 c 298 s 4 are each amended to
4 read as follows:

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

12 (a) The replacement motor vehicle shall be identical or reasonably
13 equivalent to the motor vehicle to be replaced as the motor vehicle to
14 be replaced existed at the time of original purchase or lease,
15 including any service contract, undercoating, rustproofing, and factory
16 or dealer installed options. Where the manufacturer supplies a
17 replacement motor vehicle, the manufacturer shall be responsible for
18 sales tax, license, registration fees, and refund of any incidental
19 costs. Compensation for a reasonable offset for use shall be paid by
20 the consumer to the manufacturer in the event that the consumer accepts
21 a replacement motor vehicle.

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

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

5 (c) The reasonable offset for use shall be computed by multiplying
6 the number of miles that the vehicle traveled directly attributable to
7 use by the consumer during the time between the original purchase,
8 lease, or in-service date and the date beginning the first attempt to
9 diagnose or repair a nonconformity which ultimately results in the
10 repurchase or replacement of the vehicle multiplied times the purchase
11 price, and dividing the product by one hundred twenty thousand, except
12 in the case of a motor home, in which event it shall be divided by
13 ninety thousand. However, the reasonable offset for use calculation
14 total for a motor home is subject to modification by the board by
15 decreasing or increasing the offset total up to a maximum of one-third
16 of the offset total. The board may modify the offset total in those
17 circumstances where the board determines that the wear and tear on
18 those portions of the motor home designated, used, or maintained
19 primarily as a mobile dwelling, office, or commercial space are
20 significantly greater or significantly less than that which could be
21 reasonably expected based on the mileage attributable to the consumer's
22 use of the motor home. Except in the case of a motor home, where a
23 manufacturer repurchases or replaces a vehicle solely due to
24 accumulated days out of service by reason of diagnosis or repair of one
25 or more nonconformities, "the number of miles that the vehicle traveled
26 directly attributable to use by the consumer" shall be limited to the
27 period between the original purchase, lease, or in-service date and the
28 date of the fifteenth cumulative calendar day out of service. Where
29 the consumer is a second or subsequent purchaser, lessee, or transferee
30 of the motor vehicle and the consumer selects repurchase of the motor
31 vehicle, "the number of miles that the vehicle traveled" directly
32 attributable to use by the consumer shall be ((calculated from))
33 limited to the period between the date of purchase ((or)), lease by, or
34 transfer to the consumer and the date of the consumer's initial attempt
35 to obtain diagnosis or repair of a nonconformity which ultimately
36 results in the repurchase or replacement of the vehicle or which adds
37 to thirty or more cumulative calendar days out of service. Where the
38 consumer is a second or subsequent purchaser, lessee, or transferee of

1 the motor vehicle and the consumer selects replacement of the motor
2 vehicle, "the number of miles that the vehicle traveled" directly
3 attributable to use by the consumer shall be calculated from the date
4 of the original purchase, lease, or in-service date and the first
5 attempt to diagnose or repair a nonconformity which ultimately results
6 in the replacement of the vehicle. Except in the case of a motor home,
7 where the consumer is a second or subsequent purchaser, lessee, or
8 transferee of the motor vehicle and the manufacturer replaces the
9 vehicle solely due to accumulated days out of service by reason of
10 diagnosis or repair of one or more nonconformities, "the number of
11 miles that the vehicle traveled" directly attributable to use by the
12 consumer shall be calculated from the date of the original purchase,
13 lease, or in service date and the date of the fifteenth cumulative
14 calendar day out of service.

15 (d) In the case of a motor vehicle that is a motor home, where a
16 manufacturer repurchases or replaces a motor home from the first
17 purchaser, lessee, or transferee or from the second or subsequent
18 purchaser, lessee, or transferee solely due to accumulated days out of
19 service by reason of diagnosis or repair of one or more
20 nonconformities, "the number of miles that a motor home traveled
21 directly attributable to use by the consumer" shall be limited to the
22 period between the original purchase, lease, or in-service date and the
23 date of the thirtieth cumulative calendar day out-of-service.

24 (2) Reasonable number of attempts, except in the case of a new
25 motor vehicle that is a motor home acquired after June 30, 1998, shall
26 be deemed to have been undertaken by the manufacturer, its agent, or
27 the new motor vehicle dealer to conform the new motor vehicle to the
28 warranty within the warranty period, if: (a) The same serious safety
29 defect has been subject to diagnosis or repair two or more times, at
30 least one of which is during the period of coverage of the applicable
31 manufacturer's written warranty, and the serious safety defect
32 continues to exist; (b) the same nonconformity has been subject to
33 diagnosis or repair four or more times, at least one of which is during
34 the period of coverage of the applicable manufacturer's written
35 warranty, and the nonconformity continues to exist; or (c) the vehicle
36 is out of service by reason of diagnosis or repair of one or more
37 nonconformities for a cumulative total of thirty calendar days, at
38 least fifteen of them during the period of the applicable

1 manufacturer's written warranty. For purposes of this subsection, the
2 manufacturer's written warranty shall be at least one year after the
3 date of the original delivery to the consumer of the vehicle or the
4 first twelve thousand miles of operation, whichever occurs first. A
5 new motor vehicle is deemed to have been "subject to diagnose or
6 repair" when a consumer presents the new motor vehicle for warranty
7 service at a service and repair facility authorized, designated, or
8 maintained by a manufacturer to provide warranty services or a facility
9 to which the manufacturer or an authorized facility has directed the
10 consumer to obtain warranty service. A new motor vehicle has not been
11 "subject to diagnose or repair" if the consumer refuses to allow the
12 facility to attempt or complete a recommended warranty repair, or
13 demands return of the vehicle to the consumer before an attempt to
14 diagnose or repair can be completed.

15 (3)(a) In the case of a new motor vehicle that is a motor home
16 acquired after June 30, 1998, a reasonable number of attempts shall be
17 deemed to have been undertaken by the motor home manufacturers, their
18 respective agents, or their respective new motor vehicle dealers to
19 conform the new motor vehicle to the warranty within the warranty
20 period, if: (i) The same serious safety defect has been subject to
21 diagnosis or repair one or more times during the period of coverage of
22 the applicable motor home manufacturer's written warranty, plus a final
23 attempt to repair the vehicle as provided for in (b) of this
24 subsection, and the serious safety defect continues to exist; (ii) the
25 same nonconformity has been subject to repair three or more times, at
26 least one of which is during the period of coverage of the applicable
27 motor home manufacturer's written warranty, plus a final attempt to
28 repair the vehicle as provided for in (b) of this subsection, and the
29 nonconformity continues to exist; or (iii) the vehicle is out of
30 service by reason of diagnosis or repair of one or more nonconformities
31 for a cumulative total of sixty calendar days aggregating all motor
32 home manufacturer days out of service, and the motor home manufacturers
33 have had at least one opportunity to coordinate and complete an
34 inspection and any repairs of the vehicle's nonconformities after
35 receipt of notification from the consumer as provided for in (c) of
36 this subsection. For purposes of this subsection, each motor home
37 manufacturer's written warranty must be at least one year after the

1 date of the original delivery to the consumer of the vehicle or the
2 first twelve thousand miles of operation, whichever occurs first.

3 (b) In the case of a new motor vehicle that is a motor home, after
4 one attempt has been made to repair a serious safety defect, or after
5 three attempts have been made to repair the same nonconformity, the
6 consumer shall give written notification of the need to repair the
7 nonconformity to each of the motor home manufacturers at their
8 respective corporate, zone, or regional office addresses to allow the
9 motor home manufacturers to coordinate and complete a final attempt to
10 cure the nonconformity. The motor home manufacturers each have fifteen
11 days, commencing upon receipt of the notification, to respond and
12 inform the consumer of the location of the facility where the vehicle
13 will be repaired. If the vehicle is unsafe to drive due to a serious
14 safety defect, or to the extent the repair facility is more than one
15 hundred miles from the motor home location, the motor home
16 manufacturers are responsible for the cost of transporting the vehicle
17 to and from the repair facility. The motor home manufacturers have a
18 cumulative total of thirty days, commencing upon delivery of the
19 vehicle to the designated repair facility by the consumer, to conform
20 the vehicle to the applicable motor home manufacturer's written
21 warranty. This time period may be extended if the consumer agrees in
22 writing. If a motor home manufacturer fails to respond to the consumer
23 or perform the repairs within the time period prescribed, that motor
24 home manufacturer is not entitled to a final attempt to cure the
25 nonconformity.

26 (c) In the case of a new motor vehicle that is a motor home, if the
27 vehicle is out of service by reason of diagnosis or repair of one or
28 more nonconformities by the motor home manufacturers, their respective
29 agents, or their respective new motor vehicle dealers for a cumulative
30 total of thirty or more days aggregating all motor home manufacturer
31 days out of service, the consumer shall so notify each motor home
32 manufacturer in writing at their respective corporate, zone, or
33 regional office addresses to allow the motor home manufacturers, their
34 respective agents, or their respective new motor vehicle dealers an
35 opportunity to coordinate and complete an inspection and any repairs of
36 the vehicle's nonconformities. The motor home manufacturers have
37 fifteen days, commencing upon receipt of the notification, to respond
38 and inform the consumer of the location of the facility where the

1 vehicle will be repaired. If the vehicle is unsafe to drive due to a
2 serious safety defect, or to the extent the repair facility is more
3 than one hundred miles from the motor home location, the motor home
4 manufacturers are responsible for the cost of transporting the vehicle
5 to and from the repair facility. Once the buyer delivers the vehicle
6 to the designated repair facility, the inspection and repairs must be
7 completed by the motor home manufacturers either (i) within ten days or
8 (ii) before the vehicle is out of service by reason of diagnosis or
9 repair of one or more nonconformities for sixty days, whichever time
10 period is longer. This time period may be extended if the consumer
11 agrees in writing. If a motor home manufacturer fails to respond to
12 the consumer or perform the repairs within the time period prescribed,
13 that motor home manufacturer is not entitled to at least one
14 opportunity to inspect and repair the vehicle's nonconformities after
15 receipt of notification from the buyer as provided for in this
16 subsection (3)(c).

17 (4) No new motor vehicle dealer may be held liable by the
18 manufacturer for any collateral charges, incidental costs, purchase
19 price refunds, or vehicle replacements. Manufacturers shall not have
20 a cause of action against dealers under this chapter. Consumers shall
21 not have a cause of action against dealers under this chapter, but a
22 violation of any responsibilities imposed upon dealers under this
23 chapter is a per se violation of chapter 19.86 RCW. Consumers may
24 pursue rights and remedies against dealers under any other law,
25 including chapters 46.70 and 46.71 RCW. Manufacturers and consumers
26 may not make dealers parties to arbitration board proceedings under
27 this chapter."

EFFECT: Clarifies that the calculation when a manufacturer repurchases or replaces a vehicle solely due to accumulated days out of service is different for a motor home.

Provides that, for a motor home, when a manufacturer repurchases or replaces a motor home from either the first or a subsequent owner solely due to accumulated days out of service, "the number of miles that a motor home traveled directly attributable to use by the consumer" shall be limited to the period between the original purchase, lease, or in-service date and the date of the 30th cumulative calendar

day out-of-service (instead of the 15th cumulative calendar day out-of-service).

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