

HOUSE BILL REPORT

SSB 5050

As Passed House - Amended:

April 9, 2007

Title: An act relating to mileage tolling of nonconforming vehicles.

Brief Description: Modifying the mileage tolling calculation in the motor vehicle lemon law.

Sponsors: By Senate Committee on Consumer Protection & Housing (originally sponsored by Senators Weinstein, Franklin, Kauffman, Rockefeller, Oemig, Murray, Rasmussen, Keiser and Kohl-Welles).

Brief History:

Committee Activity:

Commerce & Labor: 3/15/07, 3/30/07 [DPA].

Floor Activity:

Passed House - Amended: 4/9/07, 66-32.

Brief Summary of Substitute Bill (As Amended by House)

- Changes the calculation of the reasonable offset that a consumer is required to pay when a vehicle is replaced or repurchased under the Motor Vehicle Warranties Act.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: Do pass as amended. Signed by 5 members: Representatives Conway, Chair; Wood, Vice Chair; Green, Moeller and Williams.

Minority Report: Do not pass. Signed by 2 members: Representatives Condotta, Ranking Minority Member and Chandler, Assistant Ranking Minority Member.

Staff: Sarah Beznoska (786-7109).

Background:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The Motor Vehicle Warranties Act, commonly called the Lemon Law, establishes rights and responsibilities for consumers and manufacturers of vehicles that are defective. Under the Lemon Law, the following vehicles are considered "lemon" vehicles:

- a vehicle with a serious safety defect that the manufacturer has unsuccessfully attempted to repair at least two times;
- a vehicle with some other substantial defect that the manufacturer has unsuccessfully attempted to diagnose or repair at least four times; or
- a vehicle that has been out of service for 30 cumulative calendar days with at least 15 of those days occurring during the warranty period.

If a vehicle is a "lemon," the manufacturer must either replace or repurchase the vehicle, whichever the consumer opts for. However, upon replacement or repurchase, the consumer must pay a "reasonable offset" to the manufacturer for the consumer's use of the vehicle. The formula for the amount of the "reasonable offset" is set forth in statute as vehicle mileage multiplied by the purchase price of the vehicle and then divided by 120,000. The vehicle mileage used for the formula depends on whether the consumer is the original owner of the vehicle or a subsequent owner. For subsequent owners, the vehicle mileage used for the formula also depends on whether the consumer chooses repurchase or replacement.

If the consumer is the original owner, the mileage used is the number of miles traveled by the vehicle while the consumer owned the vehicle that are attributable to the consumer.

If the consumer is a subsequent owner of the vehicle and opts for repurchase, the mileage used is the number of miles traveled by the vehicle since that subsequent owner purchased or leased the vehicle. However, if the affected consumer is the subsequent owner and opts for replacement of the vehicle, the mileage used is the number of miles traveled by the vehicle since the vehicle was originally purchased by the first owner.

Summary of Amended Bill:

The way mileage is calculated is changed for determining the reasonable offset amount when a vehicle is considered a "lemon."

When the consumer is the original owner or lessee and the vehicle is a lemon because the manufacturer has failed to repair its defect, the mileage used for the offset is limited to the number of miles the consumer drove the vehicle between the original date of purchase or lease, or the in-service date, and the date of the first attempt to diagnose or repair the defect. Except in the case of a motor home, if the vehicle is a lemon solely because of the number of days it has been out of service, then relevant mileage is the number of miles the consumer has driven the vehicle between the date of purchase or lease, or the in-service date, and the 15th cumulative day that the vehicle was out-of-service. For motor homes, the 30th cumulative calendar day out-of-service is used.

When the affected consumer is a subsequent owner or lessee of the vehicle and opts for repurchase by the manufacturer, the mileage used for the offset is limited to the number of miles driven by the consumer between the date of purchase, transfer or lease of the vehicle to the consumer and the date of the consumer's initial attempt to obtain a diagnosis or repair of a defect that either: (1) results in the vehicle being a lemon; or (2) adds to the vehicle being out of service for more than 30 cumulative days.

If the affected consumer is a subsequent owner or lessee of the vehicle and opts for replacement of the vehicle, the mileage used for the offset is the miles driven between the date of original purchase or lease, or the in-service date, and the date of the first attempt to diagnose or repair a defect that ultimately results in the vehicle being a lemon.

Except in the case of a motor home, if the affected consumer is a subsequent owner or lessee of the vehicle and the vehicle is replaced solely because of accumulated days out of service, the mileage used to calculate the offset is the miles driven between the date of the original purchase or lease, or the in-service date, and the 15th cumulative calendar day that the vehicle is out of service. For motor homes, the 30th cumulative calendar day out of service is used.

"Diagnose or repair" is defined as when a consumer presents the new motor vehicle for warranty service at a service and repair facility authorized, designated, or maintained by a manufacturer or a facility to which the manufacturer or an authorized facility has directed the consumer to obtain warranty services. A new motor vehicle has not been subject to "diagnose or repair" if the consumer refuses to allow the facility to attempt or complete a recommended warranty repair, or demands return of the vehicle to the consumer before an attempt to diagnose or repair can be completed.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony:

(In support) This bill is not complicated. The bill sets back the time period for calculating the reasonable offset to the date the vehicle should have been declared a lemon instead of the date it is actually declared a lemon. Under the bill, the consumer would be penalized for the miles driven between the date of purchase and when the consumer first had a problem with the vehicle.

(With amendment) Other parts of the Lemon Law specifically provide for different procedures for motor homes. Mileage is different for motor homes and wear and tear is different. Motor homes are vehicles that can have multi-state repairs that are difficult to coordinate. The language that limits the number of offset miles to the period between the original purchase and the date of the 15th cumulative day out-of-service should be changed for motor homes. If the

idea was to set the trigger for the mileage offset for automobiles at the 15th day out-of-service mark by cutting in half the total days out-of-service that apply before an automobile is a lemon, then it only makes sense that the same formula apply to motor homes. The current statute for motor homes sets the trigger for a lemon by days out-of-service at 60 days. Applying the same formula as proposed for automobiles, the figure of 30 days is appropriate for limiting the number of offset miles for motor homes.

(Opposed) Washington has one of the toughest lemon laws in the nation. This bill seeks to make the Lemon Law stronger. If this bill is enacted, there must be language about what constitutes the first attempt to repair or diagnose and the first attempt must be the first time the vehicle is presented for repair and not when a customer calls a customer service line. The current definition of diagnose or repair in the bill is confusing.

Persons Testifying: (In support) Senator Weinstein, prime sponsor.

(With amendment) Stu Halsan, Recreational Vehicle Industry Association.

(Opposed) Nancee Wildermuth, Alliance of Automobile Manufacturers; and Cliff Webster, General Motors.

Persons Signed In To Testify But Not Testifying: None.