
SUBSTITUTE SENATE BILL 5235

State of Washington

61st Legislature

2009 Regular Session

By Senate Labor, Commerce & Consumer Protection (originally sponsored by Senators Kohl-Welles, Honeyford, Holmquist, and Keiser; by request of Attorney General)

READ FIRST TIME 02/10/09.

1 AN ACT Relating to modifying motor vehicle warranty provisions;
2 amending RCW 19.118.021, 19.118.031, 19.118.041, 19.118.061,
3 19.118.080, 19.118.090, 19.118.095, 19.118.120, and 19.118.160; and
4 creating a new section.

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

6 **Sec. 1.** RCW 19.118.021 and 2007 c 425 s 1 are each amended to read
7 as follows:

8 Unless the context clearly requires otherwise, the definitions in
9 this section apply throughout this chapter.

10 (1) "Board" means new motor vehicle arbitration board.

11 (2) "Collateral charges" means any sales or lease related charges
12 including but not limited to sales tax, use tax, arbitration service
13 fees, unused license fees, unused registration fees, unused title fees,
14 finance charges, prepayment penalties, credit disability and credit
15 life insurance costs not otherwise refundable, any other insurance
16 costs prorated for time out of service, transportation charges, dealer
17 preparation charges, or any other charges for service contracts,
18 undercoating, rustproofing, or factory or dealer installed options.

1 (3) "Condition" means a general problem that results from a defect
2 or malfunction of one or more parts, or their improper installation by
3 the manufacturer, its agents, or the new motor vehicle dealer.

4 (4) "Consumer" means any person who has entered into an agreement
5 or contract for the transfer, lease, or purchase of a new motor
6 vehicle, other than for purposes of resale or sublease, during the
7 duration of the (~~warranty~~) eligibility period defined under this
8 section.

9 (5) "Court" means the superior court in the county where the
10 consumer resides, except if the consumer does not reside in this state,
11 then the superior court in the county where an arbitration hearing or
12 determination was conducted or made pursuant to this chapter.

13 (6) "Eligibility period" means the period ending two years after
14 the date of the original delivery to the consumer of a new motor
15 vehicle, or the first twenty-four thousand miles of operation,
16 whichever occurs first.

17 (7) "Incidental costs" means any reasonable expenses incurred by
18 the consumer in connection with the repair of the new motor vehicle,
19 including any towing charges and the costs of obtaining alternative
20 transportation.

21 (~~(7)~~) (8) "Manufacturer" means any person engaged in the business
22 of constructing or assembling new motor vehicles or engaged in the
23 business of importing new motor vehicles into the United States for the
24 purpose of selling or distributing new motor vehicles to new motor
25 vehicle dealers. "Manufacturer" includes to the extent the
26 modification affects the use, value, or safety of a new motor vehicle,
27 a postmanufacturing modifier of a new motor vehicle that modifies or
28 has a modification done to a new motor vehicle before the initial
29 retail sale or lease of a new motor vehicle, except as provided in this
30 chapter. "Manufacturer" does not include any person engaged in the
31 business of set-up of motorcycles as an agent of a new motor vehicle
32 dealer if the person does not otherwise construct or assemble
33 motorcycles.

34 (~~(8)~~) (9) "Motorcycle" means any motorcycle as defined in RCW
35 46.04.330 which has an engine displacement of at least seven hundred
36 fifty cubic centimeters.

37 (~~(9)~~) (10) "Motor home" means a vehicular unit designed to
38 provide temporary living quarters for recreational, camping, or travel

1 use, built on or permanently attached to a self-propelled motor vehicle
2 chassis or on a chassis cab or van that is an integral part of the
3 completed vehicle.

4 ~~((+10+))~~ (11) "Motor home manufacturer" means the first stage
5 manufacturer, the component manufacturer, and the final stage
6 manufacturer.

7 (a) "First stage manufacturer" means a person who manufactures
8 incomplete new motor vehicles such as chassis, chassis cabs, or vans,
9 that are directly warranted by the first stage manufacturer to the
10 consumer, and are completed by a final stage manufacturer into a motor
11 home.

12 (b) "Component manufacturer" means a person who manufactures
13 components used in the manufacture or assembly of a chassis, chassis
14 cab, or van that is completed into a motor home and whose components
15 are directly warranted by the component manufacturer to the consumer.

16 (c) "Final stage manufacturer" means a person who assembles,
17 installs, or permanently affixes a body, cab, or equipment to an
18 incomplete new motor vehicle such as a chassis, chassis cab, or van
19 provided by a first stage manufacturer, to complete the vehicle into a
20 motor home.

21 ~~((+11+))~~ (12) "New motor vehicle" means any new self-propelled
22 vehicle, including a new motorcycle, primarily designed for the
23 transportation of persons or property over the public highways that was
24 originally purchased or leased at retail from a new motor vehicle
25 dealer or leasing company in this state, but does not include vehicles
26 purchased or leased by a business as part of a fleet of ten or more
27 vehicles at one time or under a single purchase or lease agreement.
28 This chapter shall apply to a motor vehicle purchased or leased with a
29 manufacturer written warranty by a member of the armed forces
30 regardless of in which state the vehicle was purchased or leased, if
31 the vehicle otherwise meets the definition of a new motor vehicle and
32 the consumer is a member of the armed forces stationed or residing in
33 this state at the time the consumer submits a request for arbitration
34 to the attorney general. If the motor vehicle is a motor home, this
35 chapter shall apply to the self-propelled vehicle and chassis, but does
36 not include those portions of the vehicle designated, used, or
37 maintained primarily as a mobile dwelling, office, or commercial space.
38 The term "new motor vehicle" does not include trucks with nineteen

1 thousand pounds or more gross vehicle weight rating. The term "new
2 motor vehicle" includes a demonstrator or lease-purchase vehicle as
3 long as a manufacturer's warranty was issued as a condition of sale.

4 ~~((+12+))~~ (13) "New motor vehicle dealer" means a person who holds
5 a dealer agreement with a manufacturer for the sale of new motor
6 vehicles, who is engaged in the business of purchasing, selling,
7 servicing, exchanging, or dealing in new motor vehicles, and who is
8 licensed or required to be licensed as a vehicle dealer by the state of
9 Washington.

10 ~~((+13+))~~ (14) "Nonconformity" means a defect, serious safety
11 defect, or condition that substantially impairs the use, value, or
12 safety of a new motor vehicle, but does not include a defect or
13 condition that is the result of abuse, neglect, or unauthorized
14 modification or alteration of the new motor vehicle.

15 ~~((+14+))~~ (15) "Purchase price" means the cash price of the new
16 motor vehicle appearing in the sales agreement or contract.

17 (a) "Purchase price" in the instance of a lease means the actual
18 written capitalized cost disclosed to the consumer contained in the
19 lease agreement. If there is no disclosed capitalized cost in the
20 lease agreement the "purchase price" is the manufacturer's suggested
21 retail price including manufacturer installed accessories or items of
22 optional equipment displayed on the manufacturer label, required by
23 U.S.C. Sec. 1232.

24 (b) "Purchase price" in the instance of both a vehicle purchase or
25 lease agreement includes any allowance for a trade-in vehicle but does
26 not include any manufacturer-to-consumer rebate appearing in the
27 agreement or contract that the consumer received or that was applied to
28 reduce the purchase or lease cost.

29 Where the consumer is a subsequent transferee and the consumer
30 selects repurchase of the motor vehicle, "purchase price" means the
31 consumer's subsequent purchase price. Where the consumer is a
32 subsequent transferee and the consumer selects replacement of the motor
33 vehicle, "purchase price" means the original purchase price.

34 ~~((+15+))~~ (16) "Reasonable offset for use" means the definition
35 provided in RCW 19.118.041(1)(c) ~~((for a new motor vehicle other than
36 a new motorcycle. The reasonable offset for use for a new motorcycle
37 shall be computed by the number of miles that the vehicle traveled~~

1 ~~before the manufacturer's acceptance of the vehicle upon repurchase or~~
2 ~~replacement multiplied by the purchase price, and divided by twenty-~~
3 ~~five thousand)).~~

4 ((+16+)) (17) "Reasonable number of attempts" means the definition
5 provided in RCW 19.118.041.

6 ((+17+)) (18) "Replacement motor vehicle" means a new motor vehicle
7 that is identical or reasonably equivalent to the motor vehicle to be
8 replaced, as the motor vehicle to be replaced existed at the time of
9 original purchase or lease, including any service contract,
10 undercoating, rustproofing, and factory or dealer installed options.

11 ((+18+)) (19) "Serious safety defect" means a life-threatening
12 malfunction or nonconformity that impedes the consumer's ability to
13 control or operate the new motor vehicle for ordinary use or reasonable
14 intended purposes or creates a risk of fire or explosion.

15 ((+19+)) (20) "Subsequent transferee" means a consumer who acquires
16 a motor vehicle, within the ((warranty)) eligibility period, as defined
17 in this section, with an applicable manufacturer's written warranty and
18 where the vehicle otherwise met the definition of a new motor vehicle
19 at the time of original retail sale or lease.

20 ((+20+)) (21) "Substantially impair" means to render the new motor
21 vehicle unreliable, or unsafe for ordinary use, or to diminish the
22 resale value of the new motor vehicle below the average resale value
23 for comparable motor vehicles.

24 ((+21+)) (22) "Warranty" means any implied warranty, any written
25 warranty of the manufacturer, or any affirmation of fact or promise
26 made by the manufacturer in connection with the sale of a new motor
27 vehicle that becomes part of the basis of the bargain. The term
28 "warranty" pertains to the obligations of the manufacturer in relation
29 to materials, workmanship, a modification by a new motor vehicle dealer
30 installing the new motor vehicle manufacturer's authorized parts or
31 their equivalent for the specific new motor vehicle pursuant to the
32 manufacturer approved specifications, and fitness of a new motor
33 vehicle for ordinary use or reasonably intended purposes throughout the
34 duration of the ((warranty)) eligibility period as defined under this
35 section.

36 ((+22+)) "~~Warranty period~~" means ~~the period ending two years after~~
37 ~~the date of the original delivery to the consumer of a new motor~~

1 ~~vehicle, or the first twenty four thousand miles of operation,~~
2 ~~whichever occurs first.))~~

3 **Sec. 2.** RCW 19.118.031 and 1998 c 298 s 3 are each amended to read
4 as follows:

5 (1) The manufacturer shall publish an owner's manual and provide it
6 to the new motor vehicle dealer or leasing company. The owner's manual
7 shall include a list of the addresses and phone numbers for the
8 manufacturer's customer assistance division, or zone or regional
9 offices. A manufacturer shall provide to the new motor vehicle dealer
10 or leasing company all applicable manufacturer's written warranties.
11 The dealer or leasing company shall transfer to the consumer, at the
12 time of original retail sale or lease, the owner's manual and
13 applicable written warranties as provided by a manufacturer.

14 (2) At the time of purchase, the new motor vehicle dealer shall
15 provide the consumer with a written statement that explains the
16 consumer's rights under this chapter. The written statement shall be
17 prepared and supplied by the attorney general and shall contain a toll-
18 free number that the consumer can contact for information regarding the
19 procedures and remedies under this chapter. In the event a consumer
20 requests modification of the new motor vehicle in a manner which may
21 partially or completely void the manufacturer's implied or express
22 warranty, and which becomes part of the basis of the bargain of the
23 initial retail sale or lease of the vehicle, a new motor vehicle dealer
24 shall provide a clear and conspicuous written disclosure, independently
25 signed and dated by the consumer, stating "Your requested modification
26 may void all or part of a manufacturer warranty and a resulting defect
27 or condition may not be subject to remedies afforded by the motor
28 vehicle warranties act, chapter 19.118 RCW." A dealer who obtains a
29 signed written disclosure under circumstances where the warranty may be
30 void is not subject to this chapter as a manufacturer to the extent the
31 modification affects the use, value, or safety of a new motor vehicle.
32 Failure to provide the disclosure specified in this subsection does not
33 constitute a violation of chapter 19.86 RCW.

34 (3) For the purposes of this chapter, if a new motor vehicle does
35 not conform to the warranty and the consumer reports the nonconformity
36 during the term of the ((warranty)) eligibility period or the period of
37 coverage of the applicable manufacturer's written warranty, whichever

1 is less, to the manufacturer, its agent, or the new motor vehicle
2 dealer who sold the new motor vehicle, the manufacturer, its agent, or
3 the new motor vehicle dealer shall make repairs as are necessary to
4 conform the vehicle to the warranty, regardless of whether such repairs
5 are made after the expiration of the ((warranty)) eligibility period.
6 Any corrections or attempted repairs undertaken by a new motor vehicle
7 dealer under this chapter shall be treated as warranty work and billed
8 by the dealer to the manufacturer in the same manner as other work
9 under the manufacturer's written warranty is billed. For purposes of
10 this subsection, the manufacturer's written warranty shall be at least
11 one year after the date of the original delivery to the consumer of the
12 vehicle or the first twelve thousand miles of operation, whichever
13 occurs first.

14 (4) Upon request from the consumer, the manufacturer or new motor
15 vehicle dealer shall provide a copy of any report or computer reading
16 compiled by the manufacturer's field or zone representative regarding
17 inspection, diagnosis, or test-drive of the consumer's new motor
18 vehicle, or shall provide a copy of any technical service bulletin
19 issued by the manufacturer regarding the year and model of the
20 consumer's new motor vehicle as it pertains to any material, feature,
21 component, or the performance thereof.

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

31 (6) No manufacturer, its agent, or the new motor vehicle dealer may
32 refuse to diagnose or repair any nonconformity covered by the warranty
33 for the purpose of avoiding liability under this chapter.

34 (7) For purposes of this chapter, consumers shall have the rights
35 and remedies, including a cause of action, against manufacturers as
36 provided in this chapter.

37 (8) The ((warranty)) eligibility period and thirty-day out-of-
38 service period, and sixty-day out-of-service period in the case of a

1 motor home, shall be extended by any time that repair services are not
2 available to the consumer as a direct result of a strike, war,
3 invasion, fire, flood, or other natural disaster.

4 **Sec. 3.** RCW 19.118.041 and 2007 c 426 s 1 are each amended to read
5 as follows:

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

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

23 (b) When repurchasing the new motor vehicle, the manufacturer shall
24 refund to the consumer the purchase price, all collateral charges, and
25 incidental costs, less a reasonable offset for use. When repurchasing
26 the new motor vehicle, in the instance of a lease, the manufacturer
27 shall refund to the consumer all payments made by the consumer under
28 the lease including but not limited to all lease payments, trade-in
29 value or inception payment, security deposit, all collateral charges
30 and incidental costs less a reasonable offset for use. The
31 manufacturer shall make such payment to the lessor and/or lienholder of
32 record as necessary to obtain clear title to the motor vehicle and upon
33 the lessor's and/or lienholder's receipt of that payment and payment by
34 the consumer of any late payment charges, the consumer shall be
35 relieved of any future obligation to the lessor and/or lienholder.

36 (c) The reasonable offset for use shall be computed by multiplying
37 the number of miles that the vehicle traveled directly attributable to

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

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

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

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

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

1 safety defect or nonconformity occurs during the period of coverage of
2 the applicable manufacturer's written warranty and within the
3 eligibility period. Requests or notices for a final repair attempt are
4 not required. For purposes of this subsection, each motor home
5 manufacturer's written warranty must be at least one year after the
6 date of the original delivery to the consumer of the vehicle or the
7 first twelve thousand miles of operation, whichever occurs first.

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

31 (c) In the case of a new motor vehicle that is a motor home, if the
32 vehicle is out of service by reason of diagnosis or repair of one or
33 more nonconformities by the motor home manufacturers, their respective
34 agents, or their respective new motor vehicle dealers for a cumulative
35 total of thirty or more days aggregating all motor home manufacturer
36 days out of service, the consumer shall so notify each motor home
37 manufacturer in writing at their respective corporate, zone, or
38 regional office addresses to allow the motor home manufacturers, their

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

22 (4) No new motor vehicle dealer may be held liable by the
23 manufacturer for any collateral charges, incidental costs, purchase
24 price refunds, or vehicle replacements. Manufacturers shall not have
25 a cause of action against dealers under this chapter. (~~Consumers~~
26 ~~shall not have a cause of action against dealers under this chapter,~~
27 ~~but a violation of any responsibilities imposed upon dealers under this~~
28 ~~chapter is a per se violation of chapter 19.86 RCW.)) A violation of
29 any responsibilities expressly imposed upon dealers under this chapter
30 is a per se violation of chapter 19.86 RCW. Except in the limited
31 circumstances of a dealer becoming a manufacturer due to a
32 postmanufacturing modification of a new motor vehicle as defined in RCW
33 19.118.021(8), consumers shall not have a cause of action against
34 dealers under this chapter. Consumers may pursue rights and remedies
35 against dealers under any other law, including chapters 46.70 and 46.71
36 RCW. Manufacturers and consumers may not make dealers parties to
37 arbitration board proceedings under this chapter.~~

1 **Sec. 4.** RCW 19.118.061 and 1998 c 298 s 5 are each amended to read
2 as follows:

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

8 (2) Before any sale or transfer of a vehicle that has been replaced
9 or repurchased by the manufacturer (~~((that was determined or adjudicated
10 as having a nonconformity or to have been out of service for thirty or
11 more calendar days, or sixty or more calendar days in the case of a
12 motor home,))~~) after a determination, adjudication, or settlement of a
13 claim under this chapter, the manufacturer shall:

14 (a) Notify the attorney general (~~((and the department of licensing,
15 by certified mail or by personal service,))~~) upon receipt of the motor
16 vehicle and submit a title application to the department of licensing
17 in this state for title to the motor vehicle in the name of the
18 manufacturer within sixty days;

19 (b) Attach a resale disclosure notice to the vehicle in a manner
20 and form to be specified by the attorney general. Only the retail
21 purchaser may remove the resale disclosure notice after execution of
22 the disclosure form required under subsection (3) of this section; and

23 (c) Notify the attorney general and the department of licensing if
24 the nonconformity in the motor vehicle is corrected.

25 (3) Upon the first subsequent resale, either at wholesale or
26 retail, or transfer of title of a motor vehicle and which was
27 previously returned after a final determination, adjudication, or
28 settlement under this chapter or under a similar statute of any other
29 state, the manufacturer, its agent, or the new motor vehicle dealer who
30 has actual knowledge of said final determination, adjudication or
31 settlement, shall execute and deliver to the buyer before sale an
32 instrument in writing setting forth information identifying the
33 nonconformity in a manner to be specified by the attorney general, and
34 the department of licensing shall place on the certificate of title
35 information indicating the vehicle was returned under this chapter.

36 (4) Upon receipt of the manufacturer's notification under
37 subsection (2) of this section that the nonconformity has been
38 corrected and (~~upon~~) the manufacturer's (~~request and payment of any~~

1 fees)) application for title in the name of the manufacturer under this
2 section, the department of licensing shall issue a new title with
3 ((~~information~~)) a title brand indicating the vehicle was returned under
4 this chapter and information that the nonconformity has been corrected.
5 Upon the first subsequent resale, either at wholesale or retail, or
6 transfer of title of a motor vehicle, as provided under ((~~subsection~~
7 ~~(2)(c) of~~)) this section, the manufacturer shall warrant upon the
8 resale that the nonconformity has been corrected, and the manufacturer,
9 its agent, or the new motor vehicle dealer who has actual knowledge of
10 the corrected nonconformity, shall execute and deliver to the buyer
11 before sale an instrument in writing setting forth information
12 identifying the nonconformity and indicating that it has been corrected
13 in a manner to be specified by the attorney general.

14 (5) After repurchase or replacement and following a manufacturer's
15 receipt of a vehicle under this section and prior to a vehicle's first
16 subsequent retail transfer by resale or lease, any intervening
17 transferor of a vehicle subject to the requirements of this section who
18 has received the disclosure, correction and warranty documents, as
19 specified by the attorney general and required under this chapter,
20 shall deliver the documents with the vehicle to the next transferor,
21 purchaser or lessee to ensure proper and timely notice and disclosure.
22 Any intervening transferor who fails to comply with this subsection
23 shall, at the option of the subsequent transferor or first subsequent
24 retail purchaser or lessee: (a) Indemnify any subsequent transferor or
25 first subsequent retail purchaser for all damages caused by such
26 violation; or (b) repurchase the vehicle at the full purchase price
27 including all fees, taxes and costs incurred for goods and services
28 which were included in the subsequent transaction.

29 **Sec. 5.** RCW 19.118.080 and 1998 c 245 s 7 are each amended to read
30 as follows:

31 (1) Except as provided in RCW 19.118.160, the attorney general
32 shall contract with one or more ((~~private~~)) entities to conduct
33 arbitration proceedings in order to settle disputes between consumers
34 and manufacturers as provided in this chapter, and each ((~~private~~))
35 entity shall constitute a new motor vehicle arbitration board for
36 purposes of this chapter. The entities shall not be affiliated with
37 any manufacturer or new motor vehicle dealer and shall have available

1 the services of persons with automotive technical expertise to assist
2 in resolving disputes under this chapter. No (~~(private)~~) entity or its
3 officers or employees conducting board proceedings and no arbitrator
4 presiding at such proceedings shall be directly involved in the
5 manufacture, distribution, sale, or warranty service of any motor
6 vehicle. Payment to the entities for the arbitration services shall be
7 made from the new motor vehicle arbitration account.

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

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

16 (b) A dealer, manufacturer, or other persons shall produce records
17 and documents requested by a party which are reasonably related to the
18 dispute. If a dealer, manufacturer, or other person refuses to comply
19 with such a request, a party may present a request (~~(to the board)~~) for
20 the attorney general to issue a subpoena (~~(on behalf of the board)~~).

21 The subpoena shall be issued only for the production of records and
22 documents which the (~~(board)~~) attorney general has determined are
23 reasonably related to the dispute, including but not limited to
24 documents described in RCW 19.118.031 (4) or (5).

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

35 If a nonparty fails to comply with a subpoena and upon an
36 arbitrator finding that without such compliance there is insufficient
37 evidence to render a decision in the dispute, the attorney general

1 ((shall)) may enforce such subpoena in superior court and the
2 arbitrator shall continue the arbitration hearing until such time as
3 the nonparty complies with the subpoena or the subpoena is quashed.

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

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

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

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

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

19 (5) The attorney general shall compile aggregate annual statistics
20 for all disputes submitted to, and decided by, the new motor vehicle
21 arbitration board, as well as annual statistics for each manufacturer
22 that include, but shall not be limited to, the number and percent of:

23 (a) Replacement motor vehicle requests; (b) purchase price refund
24 requests; (c) replacement motor vehicles obtained in prehearing
25 settlements; (d) purchase price refunds obtained in prehearing
26 settlements; (e) replacement motor vehicles awarded in arbitration; (f)
27 purchase price refunds awarded in arbitration; (g) board decisions
28 neither complied with during the forty calendar day period nor
29 petitioned for appeal within the thirty calendar day period; (h) board
30 decisions appealed categorized by consumer or manufacturer; (i) the
31 nature of the court decisions and who the prevailing party was; (j)
32 appeals that were held by the court to be brought without good cause;
33 and (k) appeals that were held by the court to be brought solely for
34 the purpose of harassment. The statistical compilations shall be
35 public information.

36 (6) The attorney general shall adopt rules to implement this
37 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 which provide:

3 (a) A board shall find that a nonconformity exists if it determines
4 that the consumer's new 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 serious~~
9 ~~safety defect has been subject to diagnosis or repair two or more~~
10 ~~times, at least one of which is during the period of coverage of the~~
11 ~~applicable manufacturer's written warranty, and the serious safety~~
12 ~~defect continues to exist; (ii) the same nonconformity has been subject~~
13 ~~to diagnosis or repair four or more times, at least one of which is~~
14 ~~during the period of coverage of the applicable manufacturer's written~~
15 ~~warranty, and the nonconformity continues to exist; or (iii) the~~
16 ~~vehicle is out of service by reason of diagnosis or repair of one or~~
17 ~~more nonconformities for a cumulative total of thirty calendar days, at~~
18 ~~least fifteen of them during the period of the applicable~~
19 ~~manufacturer's written warranty. For purposes of this subsection, the~~
20 ~~manufacturer's written warranty shall be at least one year after the~~
21 ~~date of the original delivery to the consumer of the vehicle or the~~
22 ~~first twelve thousand miles of operation, whichever occurs first)) the
23 history of attempts to diagnose or repair defects or conditions in the
24 new motor vehicle meets or exceeds those identified in RCW 19.118.041.~~

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

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

34 **Sec. 6.** RCW 19.118.090 and 1998 c 298 s 6 are each amended to read
35 as follows:

36 (1) A consumer may request arbitration under this chapter by
37 submitting the request to the attorney general. Within ten days after

1 receipt of an arbitration request, the attorney general shall make a
2 reasonable determination of the cause of the request for arbitration
3 and provide necessary information to the consumer regarding the
4 consumer's rights and remedies under this chapter. The attorney
5 general shall ~~((assign the dispute to a board, except that if it
6 clearly appears from the materials submitted by the consumer that the
7 dispute is not eligible for arbitration, the attorney general may
8 refuse to assign the dispute and shall explain any required procedures
9 to the consumer))~~ accept a request for arbitration, except where it
10 clearly appears from the materials submitted by the consumer that the
11 dispute is not eligible because it is lacking a statement of a claim,
12 incomplete, untimely, frivolous, fraudulent, filed in bad faith, res
13 judicata, or beyond the authority established in this chapter. A
14 dispute found to be ineligible for arbitration because it lacks a
15 statement of a claim or is incomplete may be reconsidered by the
16 attorney general upon the submission of other information or documents
17 regarding the dispute.

18 (2) After a dispute is accepted, the attorney general shall assign
19 the dispute to the board. From the date the consumer's request for
20 arbitration is assigned by the attorney general, the board shall have
21 forty-five calendar days to have an arbitrator hear the dispute and
22 sixty days for the board to submit a decision to the attorney general.
23 If the board determines that additional information is necessary to
24 make a fair and reasoned decision, the arbitrator may continue the
25 arbitration proceeding on a subsequent date within ten calendar days of
26 the initial hearing. The board may require a party to submit
27 additional information or request that the attorney general issue a
28 subpoena to a nonparty for documents and records for a continued
29 hearing.

30 ~~((+2))~~ (3) Manufacturers shall submit to arbitration if such
31 arbitration is requested by the consumer within thirty months from the
32 date of the original delivery of the new motor vehicle to a consumer at
33 retail and if the consumer's dispute is ~~((deemed eligible))~~ accepted
34 for arbitration by the ~~((board))~~ attorney general. In the case of a
35 motor home, the thirty-month period will be extended by the amount of
36 time it takes the motor home manufacturers to complete the final repair
37 attempt at the designated repair facility as provided for in RCW
38 19.118.041(3)(b).

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

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

15 (4) The manufacturer shall complete a written manufacturer response
16 to the consumer's request for arbitration. The manufacturer shall
17 provide a response to the consumer and the ~~((board))~~ attorney general
18 within ten calendar days from the date of the manufacturer's receipt of
19 ~~((the board's))~~ notice of ~~((acceptance))~~ the attorney general's
20 assignment of a dispute for arbitration. The manufacturer response
21 shall include all issues and affirmative defenses related to the
22 nonconformities identified in the consumer's request for arbitration
23 that the manufacturer intends to raise at the arbitration hearing.

24 (5) ~~((The arbitration board shall award the remedies under RCW~~
25 ~~19.118.041 if it finds a nonconformity and that a reasonable number of~~
26 ~~attempts have been undertaken to correct the nonconformity. The board~~
27 ~~shall award reasonable costs and attorneys' fees incurred by the~~
28 ~~consumer where the manufacturer has been directly represented by~~
29 ~~counsel: (a) In dealings with the consumer in response to a request to~~
30 ~~repurchase or replace under RCW 19.118.041; (b) in settlement~~
31 ~~negotiations; (c) in preparation of the manufacturer's statement; or~~
32 ~~(d) at an arbitration board hearing or other board proceeding.~~

33 ~~In the case of an arbitration involving a motor home, the board may~~
34 ~~allocate liability among the motor home manufacturers.~~

35 (6) It is an affirmative defense to any claim under this chapter
36 that: (a) The alleged nonconformity does not substantially impair the
37 use, value, or safety of the new motor vehicle; or (b) the alleged

1 ~~nonconformity is the result of abuse, neglect, or unauthorized~~
2 ~~modifications or alterations of the new motor vehicle.~~

3 ~~(7) The board shall have forty five calendar days from the date the~~
4 ~~board receives the consumer's request for arbitration to hear the~~
5 ~~dispute. If the board determines that additional information is~~
6 ~~necessary, the board may continue the arbitration proceeding on a~~
7 ~~subsequent date within ten calendar days of the initial hearing. The~~
8 ~~board shall decide the dispute within sixty calendar days from the date~~
9 ~~the board receives the consumer's request for arbitration.)~~ It is an
10 affirmative defense to any claim under this chapter that: (a) The
11 alleged nonconformity does not substantially impair the use, value, or
12 safety of the new motor vehicle; or (b) the alleged nonconformity is
13 the result of abuse, neglect, or unauthorized modifications or
14 alterations of the new motor vehicle.

15 (6) The arbitration decision ((of the board shall be delivered by
16 certified mail or personal service to the consumer and the
17 manufacturer, and shall)) must contain a written finding of whether the
18 new motor vehicle ((meets)) should be repurchased or replaced pursuant
19 to the standards set forth under this chapter.

20 ~~((+8))~~ (a) The board shall award the remedies under this chapter
21 if a finding is made pursuant to RCW 19.118.041 that one or more
22 nonconformities have been subject to a reasonable number of attempts.

23 (b) If the board awards remedies under this chapter after a finding
24 is made pursuant to RCW 19.118.041 that one or more nonconformities
25 have been subject to a reasonable number of attempts, the board shall
26 award reasonable costs and attorneys' fees incurred by the consumer
27 where the manufacturer has been directly represented by counsel: (i)
28 In dealings with the consumer in response to a request to repurchase or
29 replace under RCW 19.118.041; (ii) in settlement negotiations; (iii) in
30 preparation of the manufacturer's statement; or (iv) at an arbitration
31 hearing or other arbitration proceeding. In the case of an arbitration
32 involving a motor home, the board may allocate liability among the
33 motor home manufacturers.

34 (c) The decision of the board shall be submitted to the attorney
35 general who shall deliver it by certified mail, electronic mail
36 confirmed by an electronic notice of delivery status or similar
37 confirmation, or personal service to the consumer and the manufacturer.

1 (7) The consumer may accept or reject the arbitration board
2 decision (~~((or appeal to superior court, pursuant to RCW 19.118.100))~~).
3 Upon acceptance by the consumer, the arbitration board decision shall
4 become final. The consumer shall send written notification of
5 acceptance or rejection to the (~~((arbitration board))~~) attorney general
6 within sixty days of receiving the decision and the (~~((arbitration~~
7 ~~board))~~) attorney general shall immediately deliver a copy of the
8 consumer's acceptance to the manufacturer by certified mail, return
9 receipt requested, electronic mail confirmed by an electronic notice of
10 delivery status or similar confirmation, or by personal service.
11 Failure of the consumer to respond to the (~~((arbitration board))~~)
12 attorney general within sixty calendar days of receiving the decision
13 shall be considered a rejection of the decision by the consumer.

14 (8) Where a consumer rejects an arbitration decision, the consumer
15 may appeal to superior court pursuant to RCW 19.118.100. The consumer
16 shall have one hundred twenty calendar days from the date of rejection
17 to file a petition of appeal in superior court. At the time the
18 petition of appeal is filed, the consumer shall deliver, by certified
19 mail or personal service, a conformed copy of such petition to the
20 attorney general.

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

30 **Sec. 7.** RCW 19.118.095 and 1995 c 254 s 8 are each amended to read
31 as follows:

32 (1) Compliance with an arbitration board decision under this
33 chapter must be accomplished at a time, place, and in a manner to be
34 determined by the mutual agreement of the consumer and manufacturer.

35 (a) The consumer shall make the motor vehicle available to the
36 manufacturer free of damage other than that related to any
37 nonconformity, defect, or condition to which a warranty applied, or

1 that can reasonably be expected in the use of the vehicle for ordinary
2 or reasonably intended purposes and in consideration of the (~~mileage~~
3 ~~attributable to the consumer's use~~) miles traveled by the vehicle.
4 Any insurance claims or settlement proceeds for repair of damage to the
5 vehicle due to fire, theft, vandalism, or collision must be assigned to
6 the manufacturer or, at the consumer's option, the repair must be
7 completed before return of the vehicle to the manufacturer.

8 The consumer may not remove any equipment or option that was
9 included in the original purchase or lease of the vehicle or that is
10 otherwise included in the repurchase or replacement award. In removing
11 any equipment not included in the original purchase or lease, the
12 consumer shall exercise reasonable care to avoid further damage to the
13 vehicle but is not required to return the vehicle to original
14 condition.

15 (b) At the time of compliance with an arbitration board decision
16 that awards repurchase, the manufacturer shall make full payment to the
17 consumers and either the lessor or lienholder, or both, or provide
18 verification to the consumer of prior payment to either the lessor or
19 lienholder, or both.

20 At the time of compliance with an arbitration board decision that
21 awards replacement, the manufacturer shall provide the replacement
22 vehicle together with any refund of incidental costs.

23 (c) At any time before compliance a party may request the (~~board~~)
24 attorney general to resolve disputes regarding compliance with the
25 arbitration board decision including but not limited to time and place
26 for compliance, condition of the vehicle to be returned, clarification
27 or recalculation of refund amounts under the award, or a determination
28 if an offered vehicle is reasonably equivalent to the vehicle being
29 replaced. The attorney general may resolve the dispute or refer
30 compliance-related disputes to the board pursuant to RCW 19.118.160 for
31 a compliance dispute hearing and decision. In resolving compliance
32 disputes the attorney general or board may not review, alter, or
33 otherwise change the findings of a decision or extend the time for
34 compliance beyond the time necessary (~~for the board~~) to resolve the
35 dispute.

36 (d) Failure of the consumer to make the vehicle available within
37 sixty calendar days in response to a manufacturer's unconditional

1 tender of compliance is considered a rejection of the arbitration
2 decision by the consumer, except as provided in (c) of this subsection
3 or subsection (2) of this section.

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

20 **Sec. 8.** RCW 19.118.120 and 1987 c 344 s 10 are each amended to
21 read as follows:

22 The legislature finds that the practices covered by this chapter
23 are matters vitally affecting the public interest for the purpose of
24 applying the consumer protection act, chapter 19.86 RCW. A violation
25 of this chapter ((shall constitute)) is not reasonable in relation to
26 the development and preservation of business and is an unfair or
27 deceptive ((trade practice affecting the public interest under)) act in
28 trade or commerce and an unfair method of competition for the purpose
29 of applying the consumer protection act, chapter 19.86 RCW. ((All
30 public and private remedies provided under that chapter shall be
31 available to enforce this chapter.))

32 **Sec. 9.** RCW 19.118.160 and 1989 c 347 s 9 are each amended to read
33 as follows:

34 If the attorney general is unable ((at any time)) to contract with
35 ((private)) one or more entities to conduct arbitrations ((under the
36 procedures and standards in this chapter)), the attorney general shall

1 establish (~~one or more new motor vehicle~~) an arbitration (~~boards.~~
2 ~~Each such board shall consist of three members appointed by the~~
3 ~~attorney general, only one of whom may be directly involved in the~~
4 ~~manufacture, distribution, sale, or service of any motor vehicle.~~
5 ~~Board members shall be reimbursed for travel expenses in accordance~~
6 ~~with RCW 43.03.050 and 43.03.060 and shall be compensated pursuant to~~
7 ~~RCW 43.03.240~~) program and conduct arbitrations under the procedures
8 and standards established in this chapter.

9 NEW SECTION. Sec. 10. This act is remedial in nature and applies
10 retroactively to the effective date of this act.

11 NEW SECTION. Sec. 11. If any provision of this act or its
12 application to any person or circumstance is held invalid, the
13 remainder of the act or the application of the provision to other
14 persons or circumstances is not affected.

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