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**SUBSTITUTE SENATE BILL 5610**

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**State of Washington 68th Legislature 2023 Regular Session**

**By** Senate Law & Justice (originally sponsored by Senators Keiser, Frame, Hunt, Kuderer, Pedersen, Stanford, Trudeau, and C. Wilson; by request of Attorney General)

AN ACT Relating to enacting the used motor vehicles express warranties act; adding a new chapter to Title 46 RCW; and providing an effective date.

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

NEW SECTION. **Sec.**  The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Manufacturer's warranty" includes an express warranty issued by the manufacturer of a motor vehicle.

(2) "Purchase price" includes the total paid for the purchase of the vehicle as listed in the sale agreement, plus any commissions related to financing or finance charges retained by the selling dealer, unused and refundable registration fees, payments made for credit life, accident, health, and damage insurance, refundable portions of service contracts, and the value of a trade-in not applied to the purchase price of the vehicle and not included as an over allowance of value on the trade-in.

(3) "Reasonable allowance for use" is 15 cents for each mile the used motor vehicle has been operated between its sale and the dealer's repurchase.

(4) "Repurchase price" includes the purchase price, as defined in subsection (2) of this section, less any cash award that was made by the used motor vehicle dealer in an attempt to resolve the dispute and was accepted by the consumer, any refunds or rebates to which the consumer is entitled, the reasonable value of damage to the vehicle after purchase not covered by this section, plus the reasonable costs of towing from point of breakdown up to 30 miles to obtain required repairs or return the vehicle.

(5) "Used motor vehicle" or "used vehicle," for the purposes of this chapter only, includes any vehicle driven more than the limited use necessary in moving or road testing a new vehicle prior to delivery to a consumer, including a demonstrator or executive use vehicle, except that it does not include motor homes, vehicles built primarily for off-road use, or any vehicle used primarily for business purposes.

(6) "Used motor vehicle dealer" includes any person, firm, association, corporation, or trust, not excluded by RCW 46.70.011(18), buying, selling, listing, exchanging, offering, brokering, leasing with an option to purchase, auctioning, soliciting, or advertising the sale of a used vehicle, or arranging or offering or attempting to solicit or negotiate on behalf of others, a sale, purchase, or exchange of an interest in a used motor vehicle, irrespective of whether the used motor vehicles are owned by that person.

NEW SECTION. **Sec.**  The express warranties required in this section are of the following durations:

(1) For a used motor vehicle which, at the time of sale, has been operated less than 40,000 miles, 90 days or 3,750 miles, whichever occurs first.

(2) For a used motor vehicle which, at the time of sale, has been operated 40,000 miles or more, but less than 80,000 miles, 60 days or 2,500 miles, whichever occurs first.

(3) For a used motor vehicle which, at the time of sale, has been operated 80,000 miles or more, but less than 125,000 miles, 30 days or 1,250 miles, whichever occurs first.

(4) If the used motor vehicle's true mileage is not known, the warranty period is determined by the age of the used motor vehicle in the following manner: A used motor vehicle three years old or less shall have a warranty as provided in subsection (1) of this section; a used motor vehicle more than three, but less than six years old, shall have a warranty as provided in subsection (2) of this section; and a used motor vehicle six years old but less than 20 years old shall have a warranty as provided in subsection (3) of this section. A used motor vehicle's age is determined by subtracting the date of first sale, or the model year if unknown, from the date the warranty holder purchased said used vehicle. In calculating time under this subsection, a day on which the warranty is breached is excluded and all subsequent days in which the used motor vehicle fails to conform with the express warranty are also excluded. In calculating distance under this subsection, the miles driven to obtain or in connection with the repair or testing of the used motor vehicle that fails to conform with the express warranty are excluded.

NEW SECTION. **Sec.**  For the purposes of this chapter, the express warranty is met if a used motor vehicle is substantially free of any defects that significantly limit the use of the used motor vehicle for the ordinary purpose of transportation on any public highway for the durations set forth in section 2 of this act. The parts covered by the express warranty are:

(1) Engine. All lubricated parts, water pump, fuel pump, manifolds, engine block, cylinder head, rotary engine housings, and flywheel;

(2) Transmission. The transmission case, internal parts, and the torque converter;

(3) Drive axle. Front and rear drive axle housings and internal parts, axle shafts, propeller shafts, and universal joints;

(4) Brakes. Master cylinder, vacuum assist booster, wheel cylinders, hydraulic lines and fittings, and disc brake calipers;

(5) Radiator;

(6) Steering. The steering gear housing and all internal parts, power steering pump, valve body, piston, and rack;

(7) Alternator, generator, starter, and ignition system, excluding the battery;

(8) Rechargeable battery used to power electric or hybrid vehicles;

(9) Additional parts deemed integral to the safe and reliable operation of the vehicle adopted by rule by the attorney general.

NEW SECTION. **Sec.**  If the used motor vehicle remains subject to a manufacturer's warranty at time of sale, and the warranty has been duly assigned or transferred to the buyer, the duration of the express warranty set forth in section 2 of this act is reduced by the remaining duration of the manufacturer's warranty.

NEW SECTION. **Sec.**  If the express warranty described in this chapter is breached, the purchaser shall give reasonable notice to the used motor vehicle dealer. Before the purchaser exercises any other remedies, the dealer shall have a reasonable opportunity to repair the vehicle or refund the full repurchase price, less a reasonable allowance for use. The purchaser's payment(s) for repair(s) described in this section is one-half of the cost of repairs. At no time, however, shall the purchaser's cumulative payments for repair(s) exceed $200, subject to subsection (3) of this section.

(1) If the used motor vehicle dealer or its agent fails to repair the same defect after three attempts, the dealer shall accept return of the vehicle from the purchaser and refund the full repurchase price, less a reasonable allowance for use.

(2) Regardless of the number of defects, if the used motor vehicle is out of service for a total of 45 days during the warranty period, the dealer shall accept return of the vehicle from the consumer and refund the full purchase price, less a reasonable allowance for use. The 45-day period does not include the time from when the defect manifested and when the purchaser notified the used car dealer of same.

(3) On September 30, 2023, and on each September 30th thereafter, the attorney general shall calculate an adjusted maximum cumulative payment for repair, reasonable allowance for use, and minimum applicable purchase price by increasing the current year's rates by the rate of inflation. The adjusted maximum rate shall be calculated to the nearest cent using the consumer price index for urban wage earners and clerical workers, CPI-W, or a successor index, for the 12 months before each September 1st as calculated by the United States department of labor. Each adjustment calculated under this subsection takes effect on the following January 1st.

NEW SECTION. **Sec.**  (1) An agreement for the sale of a used motor vehicle by a used motor vehicle dealer is voidable at the option of the purchaser if the warranty is breached and the dealer is notified within 10 business days of the date the purchaser knew of such breach, and the dealer has not provided the following conspicuous statement printed in bold faced 12-point or larger type set off from the body of the agreement or in a separate document at the time of sale:

If the vehicle you are purchasing is less than 20 years old, the seller hereby provides an express warranty covering certain costs of both parts and labor necessary to repair any defect that significantly limits the use of this vehicle for the ordinary purpose of transportation on any public highway. The warranty shall apply:

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| **Used vehicle mileage** | **Required warranty term** |
| < 40,000 miles | 90 days or 3,750 miles |
| 40,000 – 79,999 miles | 60 days or 2,500 miles |
| 80,000 – 124,999 miles | 30 days or 1,250 miles |
| 125,000 miles or more | No statutory warranty |

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| **If the vehicle's true mileage is not known:** | |
| **Year purchased – Model Year** | **Required warranty term** |
| 3 years | 90 days or 3,750 miles |
| 3-6 years | 60 days or 2,500 miles |
| 6-15 years | 30 days or 1,250 miles |
| 15 years or older | No statutory warranty |

(2) The used motor vehicle dealer has the burden to prove by a preponderance of the evidence that the dealer complied with this section, if applicable.

NEW SECTION. **Sec.**  A used motor vehicle dealer shall disclose in writing to purchasers at the time of sale the existence of any open, unremedied recalls. The dealer is deemed to have complied with the disclosure requirement in this section by providing the purchaser a paper or electronic copy of a report obtained from the publicly accessible website safecar.gov, or a successor government website, based on the vehicle identification number search, the receipt of which the purchaser acknowledges with a physical or electronic signature.

NEW SECTION. **Sec.**  Except as provided in section 9 of this act, any agreement entered into by a consumer for the purchase of a used motor vehicle that the used motor vehicle dealer waives, limits, or disclaims rights set forth in this chapter is void as contrary to public policy. The rights extend to a transferee of the used motor vehicle.

NEW SECTION. **Sec.**  This chapter does not apply to any used motor vehicle that is more than 20 years old at the time of sale, as determined by subtracting the used motor vehicle's model year from the year in which it was sold by the used motor vehicle dealer, any used motor vehicle sold for a minimum applicable purchase price of $1,000 or less or a maximum applicable purchase price of $100,000 or more, subject to section 5(3) of this act, or any vehicle sold at wholesale or at auction. The used motor vehicle dealer has the burden of proof by a preponderance of the evidence that the dealer complied with this section, if applicable.

NEW SECTION. **Sec.**  This chapter does not apply to any used motor vehicle sold by a used motor vehicle dealer to a consumer if the car is not roadworthy and that fact is disclosed in writing at the time of sale. The used motor vehicle dealer has the burden of proof by a preponderance of the evidence that the dealer complied with this section, if applicable.

NEW SECTION. **Sec.**  The express warranty described in this chapter does not extend to damage that occurs after the sale of the used motor vehicle and that is the result of any abuse, misuse, neglect, failure to perform regular maintenance, or to maintain adequate oil, coolant, or other required fluid or lubricant or off-road use, racing, or towing. The used motor vehicle dealer has the burden to prove by a preponderance of the evidence if relying on this section.

NEW SECTION. **Sec.**  This act may be known and cited as the used motor vehicles express warranties act.

NEW SECTION. **Sec.**  Sections 1 through 12 and 14 of this act constitute a new chapter in Title 46 RCW.

NEW SECTION. **Sec.**  This act takes effect January 1, 2024.

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