
**Consumer Protection & Business
Committee**

HB 1184

Brief Description: Enacting the used motor vehicles express warranties act.

Sponsors: Representatives Hackney, Duerr and Pollet; by request of Attorney General.

Brief Summary of Bill

- Enacts the Used Motor Vehicles Express Warranties Act, requiring used motor vehicle dealers to provide an express warranty for used motor vehicles in specific circumstances.
- Provides for enforcement through the Consumer Protection Act.

Hearing Date: 1/18/23

Staff: Michelle Rusk (786-7153).

Background:

Implied Warranties and Motor Vehicles.

Washington's Uniform Commercial Code (UCC) provides a consistent and integrated framework of rules to deal with commercial transactions. The UCC generally applies to transactions of goods, and provides that, unless otherwise modified, there is an implied warranty in all contracts for the sale of goods that the goods are merchantable. Warranties are generally an express or implied promise concerning the qualities or characteristics of goods or services. The UCC's implied warranty applies to the sale of used cars.

Goods are merchantable when they pass without objection in the trade, under the contract description, and are fit for the ordinary purpose for which they are used. With respect to used

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cars, this includes that a vehicle must be in reasonably safe condition and substantially free of defects which render it inoperable. The nature of an implied warranty turns more on the used car's operative qualities, as opposed to aesthetics.

To waive an implied warranty, the parties must specifically negotiate the waiver and it must state, with particularity, the qualities and characteristics that are not warranted. When an implied warranty for a used motor vehicle is breached, remedies may include canceling the sale and recovering the purchase price, as well as related damages.

Motor Vehicle Warranty Act.

The Motor Vehicle Warranty Act, also referred to as the "Lemon Law," establishes the rights and responsibilities of consumers, dealers, and manufacturers, and applies only to the sale or lease of new motor vehicles purchased or leased at retail from a new car dealer or leasing company.

Summary of Bill:

Express Warranty Required.

Any sales agreement for a used motor vehicle sold by a used motor vehicle dealer is voidable by a purchaser unless it contains, or is accompanied by, a conspicuous statement stating the following: "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 statement must also include the periods of time during which the express warranty applies.

Used motor vehicle dealers may provide the warranty electronically if a purchaser acknowledges receipt by electronic signature. When the warranty is provided electronically, the sales agreement must include the following conspicuous statement: "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, as set forth in a statement the seller will provide to the purchaser electronically."

Any agreement for the purchase of a used car where the used car dealer waives, limits, or disclaims any rights in the Used Motor Vehicles Express Warranties Act is void as contrary to public policy.

Application.

The express warranty applies to a used motor vehicle in the following manner:

Number of Miles on Odometer	Duration of Express Warranty
Less than 40,000 miles	90 days or 3,750 miles, whichever occurs first
40,000 miles or more, but less than 80,000 miles	60 days or 2,500 miles, whichever occurs first
80,000 miles or more, but less	30 days or 1,250 miles,

than 125,000 miles	whichever occurs first
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A calculation is provided for determining the application of the express warranty when a used car's true mileage is not known.

The express warranty is met if a used car is substantially free of any defects that significantly limit the use of the used car for the ordinary purpose of transportation on any public highway for the prescribed durations.

Remedies.

If the express warranty is breached, a purchaser must give the used car dealer reasonable notice and opportunity to repair the vehicle. A purchaser's payment obligation for repairs is one-half the cost of the repairs but a purchaser's cumulative payment obligation may not exceed \$200.

The following provisions also apply to repairs:

- If a used car dealer fails to repair the same defect after three attempts, the dealer must accept return of the car and refund the full repurchase price, minus a reasonable allowance for use.
- Regardless of the number of defects, if a car is out of service for 45 days during the warranty period, the dealer must accept return of the car and refund the purchase price, minus a reasonable allowance for use.

Exceptions.

The express warranty requirement does not:

- apply to used cars more than 20 years old at the time of sale;
- apply to any used car sold by a used car dealer if the car is not roadworthy, and that fact is disclosed in writing at the time of sale; or
- extend to damage that occurs after the sale of a used car and is the result of abuse; misuse; neglect; failure to perform regular maintenance, or to maintain adequate oil, coolant, other fluids, or lubricant; off-road use; racing; or towing.

Enforcement.

A violation of the Used Motor Vehicles Express Warranties Act violates the Consumer Protection Act.

Additional Requirements.

The following provisions also apply:

- Used car dealers must disclose, in writing, to purchasers at the time of sale the existence of any open, unremedied recalls.
- If a used car is still subject to a manufacturer's warranty upon sale, the duration of the used car dealer's express warranty is reduced by the remaining time on the manufacturer's warranty.

Appropriation: None.

Fiscal Note: Available.

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