WEST VIRGINIA CODE: §46a-6A-4

§46A-6A-4. Civil action by consumer.

(a) If the nonconformity results in substantial impairment to the use or market value of the new motor vehicle and the manufacturer has not replaced the new motor vehicle pursuant to the provisions of section three of this article, or if the nonconformity exists after a reasonable number of attempts to conform the new motor vehicle to the applicable express warranties, the consumer shall have a cuase of action against the manufacturer, in the circuit court of any county having venue.

(b) In any action under this section, the consumer may be awarded all or any portion of the following:

(1) Revocation of acceptance and refund of the purchase price, including, but not limited to, sales tax, license and registration fees, and other reasonable expenses incurred for the purchase of the new motor vehicle, or if there be no such revocation of acceptance, damages for diminished value of the motor vehicle;

(2) Damages for the cost of repairs reasonably required to conform the motor vehicle to the express warranty;

(3) Damages for the loss of use, annoyance or inconvenience resulting from the nonconformity, including, but not limited to, reasonable expenses incurred for replacement transportation during any period when the vehicle is not out of service by reason of the nonconformity or by reason of repair; and

(4) Reasonable attorney fees.

(c) It is an affirmative defense to any claim under this section (i) that an alleged nonconformity does not substantially impair the use or market value or (ii) that a nonconformity is the result of abuse, neglect or unauthorized modifications or alterations of a motor vehicle by anyone other than the manufacturer, its agent or its authorized dealer.

(d) An action brought under this section by the consumer must be commenced within one year of the expiration of the express warranty term.

(e) The cause of action provided for in this section shall be available only against the manufacturer.

WV Legislature