

HB 2557

FILED

2009 MAY -4 PM 3: 18

OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 2009



ENROLLED

COMMITTEE SUBSTITUTE

FOR

House Bill No. 2557

(By Delegates Webster, Guthrie, Tabb, M. Poling,
Hamilton and Staggers)



Passed April 11, 2009

In Effect Ninety Days from Passage

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(BY DELEGATES WEBSTER, GUTHRIE, TABB, M. POLING,
HAMILTON AND STAGGERS)

[Passed April 11, 2009; in effect ninety days from passage.]

AN ACT to amend and reenact §46A-6A-2, §46A-6A-3 and §46A-6A-3a of the Code of West Virginia, 1931, as amended, all relating to repairing or replacing a new motor vehicle under a new motor vehicle warranty; providing a definition of “motor vehicle”; making the provisions related to the enforcement of new motor vehicle warranties applicable to vehicles registered and titled in this state, regardless of where the vehicle was purchased; setting forth the liability of an authorized dealer as to new motor vehicle warranties; and disclosing to a consumer in writing as to any repairs made by an authorized dealer to a new motor vehicle.

Be it enacted by the Legislature of West Virginia:

That §46A-6A-2, §46A-6A-3 and §46A-6A-3a of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 6A. CONSUMER PROTECTION-NEW MOTOR
VEHICLE WARRANTIES.

§46A-6A-2. Definitions.

1 When used in this article, the following words, terms and
2 phrases shall have the meaning ascribed to them, except
3 where the context indicates a different meaning:

4 (1) "Consumer" means the purchaser, other than for
5 purposes of resale, of a new motor vehicle used primarily
6 for personal, family or household purposes, a person to
7 whom the new motor vehicle is transferred for the same
8 purposes during the duration of an express warranty
9 applicable to the motor vehicle and any other person
10 entitled by the terms of the warranty to enforce the
11 obligations of the warranty;

12 (2) "Manufacturer" means a person engaged in the
13 business of manufacturing, assembling or distributing motor
14 vehicles, who will, under normal business conditions during
15 the year, manufacture, assemble or distribute to dealers at
16 least ten new motor vehicles;

17 (3) "Manufacturer's express warranty" and "warranty"
18 mean the written warranty of the manufacturer of a new
19 motor vehicle of its condition and fitness for use, including
20 any terms or conditions precedent to the enforcement of
21 obligations under that warranty; and

22 (4) "Motor vehicle" means any passenger automobile
23 purchased in this state or registered and titled in this state,
24 including any pickup truck or van registered as a Class A
25 motor vehicle under the provisions of article ten, chapter
26 seventeen-a of this code, and any self-propelled motor
27 vehicle chassis of a motor home registered as a Class A or

28 Class B motor vehicle under the provisions of article ten,
29 chapter seventeen-a of this code.

§46A-6A-3. Manufacturer's duty to repair or replace new motor vehicles.

1 (a) If a new motor vehicle does not conform to all
2 applicable express warranties and the consumer reports the
3 nonconformity to the manufacturer, its agent or its authorized
4 dealer during the term of the express warranties or within a
5 period of one year following the date of original delivery of
6 the new motor vehicle to a consumer, whichever is the longer
7 period, the manufacturer, its agent or its authorized dealer
8 shall make the repairs necessary to conform the vehicle to the
9 express warranties, notwithstanding the fact that the repairs
10 are made after the expiration of the warranty term.

11 (b) If the manufacturer, its agents or its authorized dealer
12 are unable to conform the new motor vehicle to any
13 applicable express warranty by repairing or correcting any
14 defect or condition which substantially impairs the use or
15 market value of the motor vehicle to the consumer after a
16 reasonable number of attempts, the manufacturer shall
17 replace the new motor vehicle with a comparable new motor
18 vehicle which does conform to the warranties.

19 (c) No authorized dealer shall be held liable by the
20 manufacturer for any refunds or vehicle replacements in the
21 absence of evidence indicating that the dealership repairs
22 have been carried out in a manner substantially inconsistent
23 with the manufacturer's instruction. This section does not
24 create any cause of action by a consumer against an
25 authorized dealer.

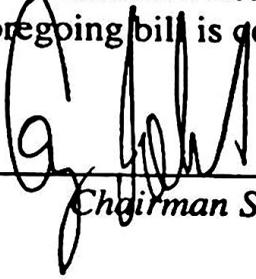
§46A-6A-3a. Dealer's duty to disclose repairs to consumer.

1 All authorized dealers of new motor vehicles shall
2 provide to any consumer a written disclosure of any repairs
3 to a new motor vehicle that have a retail value of five percent
4 of the manufacturer's suggested retail price and were
5 performed after shipment from the manufacturer to the
6 dealer, including damage to the new motor vehicle while in
7 transit.

8 This disclosure requirement does not apply to identical
9 replacement of stolen or damaged accessories or their
10 components, tires or antennae.

11 For purposes of this section, a motor vehicle is not a new
12 motor vehicle when it has been previously titled or the motor
13 vehicle has been damaged in such a manner that, were the
14 damage not repaired, the value and usability of the motor
15 vehicle would be substantially impaired.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.



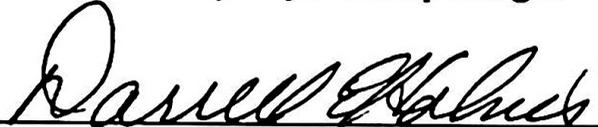
Chairman Senate Committee



Chairman House Committee

Originating in the House.

In effect ninety days from passage.



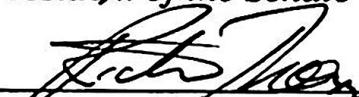
Clerk of the Senate



Clerk of the House of Delegates

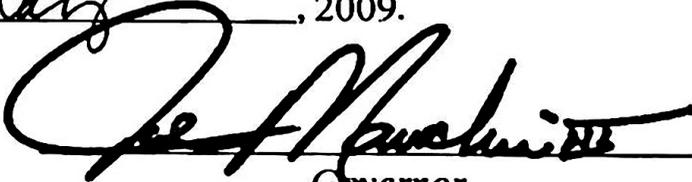


President of the Senate



Speaker of the House of Delegates

The within is appended this the 4th
day of May, 2009.



Governor

PRESENTED TO THE
GOVERNOR

APR 30 2009

Time 3:20