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
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.


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

1. "Consumer" means the purchaser, other than for purposes of resale, of a new motor vehicle used primarily for personal, family or household purposes, a person to whom the new motor vehicle is transferred for the same purposes during the duration of an express warranty applicable to the motor vehicle and any other person entitled by the terms of the warranty to enforce the obligations of the warranty;

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

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

4. "Motor vehicle" means any passenger automobile purchased in this state or registered and titled in this state, including any pickup truck or van registered as a Class A motor vehicle under the provisions of article ten, chapter seventeen-a of this code, and any self-propelled motor 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.  

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

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

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

§46A-6A-3a. Dealer's duty to disclose repairs to consumer.
All authorized dealers of new motor vehicles shall provide to any consumer a written disclosure of any repairs to a new motor vehicle that have a retail value of five percent of the manufacturer's suggested retail price and were performed after shipment from the manufacturer to the dealer, including damage to the new motor vehicle while in transit.

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

For purposes of this section, a motor vehicle is not a new motor vehicle when it has been previously titled or the motor vehicle has been damaged in such a manner that, were the damage not repaired, the value and usability of the motor 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 was approved this the 42

day of May, 2009.

Governor
PRESENTED TO THE GOVERNOR

APR 30 2009

Time