

50-645. Motor vehicle warranties; definitions; consumer rights and remedies; enforcement by attorney general. (a) As used in this act:

(1) "Consumer" means the original purchaser or lessee, other than for purposes of resale, of a motor vehicle; and

(2) "motor vehicle" means a new motor vehicle which is sold or leased in this state, and which is registered for a gross weight of 12,000 pounds or less, and does not include the customized parts of motor vehicles which have been added or modified by second stage manufacturers, first stage converters or second stage converters as defined in K.S.A. 8-2401, and amendments thereto.

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

(c) If the manufacturer, or its agents or authorized dealers, are unable to conform the motor vehicle to any applicable warranty after a reasonable number of attempts, the manufacturer shall replace the motor vehicle with a comparable motor vehicle under warranty or accept return of the vehicle from the consumer and refund to the consumer the full purchase or lease price including all collateral charges, less a reasonable allowance for the consumer's use of the vehicle as calculated from the most recent edition of *Your Driving Costs*, published by the American automobile association. Refunds shall be made to the consumer, and lienholder if any, as their interests may appear. A reasonable allowance for use shall be that amount directly attributable to use by the consumer and any previous consumer prior to the first report of the nonconformity to the manufacturer, agent or dealer and during any subsequent period when the vehicle is not out of service by reason of repair. It shall be an affirmative defense to any claim under this act that:

(1) An alleged nonconformity does not substantially impair such use and value; or

(2) a nonconformity is the result of abuse, neglect or unauthorized modifications or alterations of a motor vehicle by a consumer.

(d) If the manufacturer receives actual notice of the nonconformity, it shall be presumed that a reasonable number of attempts have been undertaken to conform a motor vehicle to the applicable warranties, if:

(1) The same nonconformity which substantially impairs the use and value of the motor vehicle to the consumer has been subject to repair four or more times by the manufacturer or its agents or authorized dealers within the term of any warranty or during the period of one year following the date of original delivery of the motor vehicle to a consumer, whichever is the earlier date, but such nonconformity continues to exist;

(2) the vehicle is out of service by reason of repair for a cumulative total of 30 or more calendar days during such term or period, whichever is the earlier date; or

(3) there have been 10 or more attempts to repair any nonconformities which substantially impair the use and value of the motor vehicle to the consumer and such attempts to repair have been attempts by the manufacturer or its agents or authorized dealers.

The term of any warranty, such one-year period and such thirty-day period shall be extended by any period of time during which repair services are not available to the consumer because of war, invasion, strike, fire, flood or other natural disaster.

(e) If a manufacturer has established an informal dispute settlement procedure which complies in all respects with the provisions of title 16, code of federal regulations, part 703, as from time to time amended, the provisions of subsection (c) concerning refunds or replacement shall not apply to any consumer who has not first resorted to such procedure.

(f) The attorney general shall have jurisdiction to enforce this section.

History: L. 1985, ch. 39, § 1; L. 1989, ch. 160, § 1; L. 1996, ch. 50, § 1; July 1.