

HOUSE BILL No. 2462

By Committee on Appropriations

2-8

AN ACT concerning motor vehicles; relating to certain warranties; amending K.S.A. 2000 Supp. 50-645 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2000 Supp. 50-645 is hereby amended to read as follows: 50-645. (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~~ 16,000 pounds or less, and ~~does not~~ may 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; *and*

(3) "reasonable allowance" shall be an amount equal to the motor vehicle's actual purchase price plus collateral charges divided by 120,000, multiplied by the miles driven, calculated as prescribed by subsection (c).

(b) If a motor vehicle does not conform to all applicable warranties, and the consumer reports the nonconformity to the manufacturer, ~~its~~ *second stage manufacturer, first stage converter or second stage converter, their agent or its their* 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~~ *second stage manufacturer, first stage converter or second stage converter, their agent or its their* 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, *second stage manufacturer, first stage converter or second stage converter* or ~~its~~ *their* agents or authorized dealers, are unable to conform the motor vehicle to any applicable warranty after a reasonable number of attempts, the manufacturer, *second stage manufacturer, first stage converter or second stage converter, at the consumer's option* shall replace the motor vehicle with a comparable motor vehicle under warranty or accept return of the vehicle from the consumer

1 and refund to the consumer the full purchase or lease price including all
2 collateral charges, less a reasonable allowance for the consumer's use of
3 the vehicle ~~as calculated from the most recent edition of *Your Driving*~~
4 ~~*Costs*, published by the American automobile association. Refunds shall~~
5 ~~be made to the consumer, and lienholder if any, as their interests may~~
6 ~~appear. A reasonable allowance for use *The miles driven* shall be that~~
7 ~~amount those miles directly attributable to use by the consumer and any~~
8 ~~previous consumer prior to the first report of the nonconformity to the~~
9 ~~manufacturer, *second stage manufacturer, first stage converter or second*~~
10 ~~*stage converter, their agent or dealer and during any subsequent period*~~
11 ~~when the vehicle is not out of service by reason of repair. It shall be an~~
12 affirmative defense to any claim under this act that:

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

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

17 (d) If the manufacturer, *second stage manufacturer, first stage con-*
18 *verter or second stage converter* receives actual notice of the noncon-
19 formity, it shall be presumed that a reasonable number of attempts have
20 been undertaken to conform a motor vehicle to the applicable warranties,
21 if:

22 (1) The same nonconformity which substantially impairs the use ~~and~~
23 ~~or~~ value of the motor vehicle to the consumer has been subject to repair
24 four or more times by the manufacturer, *second stage manufacturer, first*
25 *stage converter or second stage converter* or ~~its~~ *their* agents or authorized
26 dealers within the term of any warranty or during the period of one year
27 following the date of original delivery of the motor vehicle to a consumer,
28 whichever is the earlier date, but such nonconformity continues to exist;

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

32 (3) there have been 10 or more attempts to repair any nonconform-
33 ities which substantially impair the use ~~and~~ ~~or~~ value of the motor vehicle
34 to the consumer and such attempts to repair have been attempts by the
35 manufacturer, *second stage manufacturer, first stage converter or second*
36 *stage converter* or ~~its~~ *their* agents or authorized dealers.

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

41 (e) If a manufacturer, *second stage manufacturer, first stage con-*
42 *verter or second stage converter* has established an informal dispute set-
43 tlement procedure which complies in all respects with the provisions of

1 title 16, code of federal regulations, part 703, as from time to time
2 amended, the provisions of subsection (c) concerning refunds or replace-
3 ment shall not apply to any consumer who has not first resorted to such
4 procedure.

5 ~~(f) The attorney general shall have jurisdiction to enforce this section.~~
6 *Any violation of this section by a manufacturer, second stage manufac-*
7 *turer, first stage converter or second stage converter is an unconscionable*
8 *act or practice under the Kansas consumer protection act and the court*
9 *or jury shall award a consumer three times the amount of actual damages,*
10 *in addition to any penalty awarded for violation of this section, and any*
11 *other remedy available under the Kansas consumer protection act.*

12 *(g) This section shall be part of and supplemental to the Kansas con-*
13 *sumer protection act.*

14 Sec. 2. K.S.A. 2000 Supp. 50-645 is hereby repealed.

15 Sec. 3. This act shall take effect and be in force from and after its
16 publication in the statute book.

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