S T A T E O F N E W Y O R K

2287

2009-2010 Regular Sessions

I N A S S E M B L Y

January 15, 2009

Introduced by M. of A. REILICH -- read once and referred to the Committee on Consumer Affairs and Protection

AN ACT to amend the general business law, in relation to automobile manufacturers' warranty adjustment programs

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The general business law is amended by adding a new section 198-c to read as follows:

S 198-C. AUTOMOBILE MANUFACTURERS' WARRANTY ADJUSTMENT PROGRAMS. (A) FOR THE PURPOSES OF THIS SECTION:

(1) "CONSUMER" MEANS THE PURCHASER, OTHER THAN FOR PURPOSES OF RESALE, OF A MOTOR VEHICLE, A LESSEE OF A MOTOR VEHICLE, ANY PERSON TO WHOM SUCH MOTOR VEHICLE IS TRANSFERRED DURING THE DURATION OF AN EXPRESS WARRANTY APPLICABLE TO SUCH MOTOR VEHICLE AND ANY PERSON ENTITLED BY THE TERMS OF SUCH WARRANTY TO ENFORCE THE OBLIGATIONS OF THE WARRANTY.

(2) "DEALER" MEANS ANY PERSON SELLING OR AGREEING TO SELL, LEASING OR AGREEING TO LEASE IN THIS STATE ONE OR MORE MOTOR VEHICLES UNDER A RETAIL AGREEMENT WITH A MANUFACTURER, MANUFACTURER BRANCH, DISTRIBUTOR OR DISTRIBUTOR BRANCH, OR AGENT OF ANY OF THEM.

(3) "LESSEE" MEANS ANY CONSUMER WHO LEASES A MOTOR VEHICLE PURSUANT TO A WRITTEN LEASE WHICH PROVIDES THAT THE LESSEE IS RESPONSIBLE FOR REPAIRS TO SUCH MOTOR VEHICLES.

(4) "ADJUSTMENT PROGRAM" MEANS ANY PROGRAM OR POLICY THAT EXPANDS OR EXTENDS THE CONSUMER'S WARRANTY BEYOND ITS STATED LIMIT OR UNDER WHICH A MANUFACTURER OFFERS TO PAY FOR ALL OR ANY PART OF THE COST OF REPAIRING, OR TO REIMBURSE CONSUMERS FOR ALL OR ANY PART OF THE COST OF REPAIRING, ANY CONDITION THAT MAY SUBSTANTIALLY AFFECT VEHICLE DURABILITY, RELIABILITY OR PERFORMANCE, OTHER THAN SERVICE PROVIDED UNDER A SAFETY OR EMISSION-RELATED RECALL CAMPAIGN. THIS TERM DOES NOT INCLUDE ADJUSTMENTS MADE BY A MANUFACTURER ON A CASE BY CASE BASIS.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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(5) "MANUFACTURER" MEANS (I) ANY PERSON WHO MANUFACTURES OR ASSEMBLES NEW MOTOR VEHICLES FOR SALE OR DISTRIBUTION OR (II) ANY PERSON WHO IS ENGAGED IN THE BUSINESS OF IMPORTING NEW MOTOR VEHICLES FOR SALE OR DISTRIBUTION TO DEALERS OR THROUGH DISTRIBUTORS, OR FACTORY BRANCHES.

(6) "MOTOR VEHICLE" MEANS A MOTOR VEHICLE EXCLUDING OFF-ROAD VEHICLES, WHICH WAS SUBJECT TO A MANUFACTURER'S EXPRESS WARRANTY AT THE TIME OF ORIGINAL DELIVERY AND EITHER (I) WAS PURCHASED, LEASED OR TRANSFERRED IN THIS STATE WITHIN EITHER THE FIRST EIGHTEEN THOUSAND MILES OF OPERATION OR TWO YEARS FROM THE DATE OF ORIGINAL DELIVERY, WHICHEVER IS EARLIER, OR (II) IS REGISTERED IN THIS STATE.

(7) "SERVICE BULLETIN" MEANS ANY DOCUMENT ISSUED BY A MANUFACTURER PERTAINING TO ANY ADJUSTMENT PROGRAM.

(B) A MANUFACTURER SHALL ESTABLISH A PROCEDURE IN THIS STATE WHEREBY A CONSUMER (1) SHALL BE INFORMED OF ANY ADJUSTMENT PROGRAM APPLICABLE TO HIS MOTOR VEHICLE AND (2) SHALL BE ENTITLED TO RECEIVE A COPY OF ANY SERVICE BULLETIN OR INDEX THEREOF UPON REQUEST.

(C) WITHIN NINETY DAYS OF THE ADOPTION OF AN ADJUSTMENT PROGRAM A MANUFACTURER SHALL NOTIFY, BY FIRST-CLASS MAIL, ALL CONSUMERS ELIGIBLE UNDER SUCH PROGRAM OF THE CONDITION IN THE MOTOR VEHICLE WHICH IS COVERED BY AN ADJUSTMENT PROGRAM AND THE PRINCIPAL TERMS AND CONDITIONS OF THE ADJUSTMENT PROGRAM.

(D) EACH MANUFACTURER EITHER DIRECTLY OR THROUGH ITS AUTHORIZED AGENT SHALL CAUSE TO BE GIVEN TO THE ORIGINAL PURCHASER OF A NEW MOTOR VEHICLE, AT THE TIME OF PURCHASE, A NOTICE OUTLINING THE PROVISIONS OF THIS SECTION AND THE RIGHTS AND REMEDIES PROVIDED HEREUNDER. THE WRITTEN NOTICE SHALL BE DEEMED SUFFICIENT IF DONE IN SUBSTANTIALLY THE FOLLOWING FORM:

"SOMETIMES (INSERT MANUFACTURER'S NAME) OFFERS A SPECIAL ADJUSTMENT PROGRAM TO PAY ALL OR PART OF THE COST OF CERTAIN REPAIRS BEYOND THE TERMS OF THE WARRANTY. CHECK WITH YOUR DEALER TO DETERMINE WHETHER ANY ADJUSTMENT PROGRAM IS APPLICABLE TO YOUR MOTOR VEHICLE."

(E) A DEALER SHALL DISCLOSE TO A CONSUMER SEEKING REPAIRS FOR A PARTICULAR CONDITION AT ITS REPAIR SHOP, THE PRINCIPAL TERMS AND CONDITIONS OF THE MANUFACTURER'S ADJUSTMENT PROGRAM COVERING SUCH CONDITION IF THE DEALER HAS RECEIVED A SERVICE BULLETIN CONCERNING SUCH ADJUSTMENT PROGRAM OR OTHERWISE HAS KNOWLEDGE OF IT.

(F) A MANUFACTURER WHO ESTABLISHES AN ADJUSTMENT PROGRAM SHALL IMPLEMENT PROCEDURES TO ASSURE REIMBURSEMENT OF EACH CONSUMER ELIGIBLE UNDER AN ADJUSTMENT PROGRAM WHO INCURS EXPENSES FOR REPAIR OF A CONDITION SUBJECT TO THE PROGRAM PRIOR TO ACQUIRING KNOWLEDGE OF THE PROGRAM. SUCH REIMBURSEMENT SHALL BE CONSISTENT WITH THE TERMS AND CONDITIONS OF THE PARTICULAR PROGRAM.

(G) ANY CLAIM FOR REIMBURSEMENT UNDER SUBDIVISION (F) OF THIS SECTION SHALL BE MADE IN WRITING TO THE MANUFACTURER WITHIN TWO YEARS OF THE DATE OF THE CONSUMER'S PAYMENT FOR REPAIR OF THE CONDITION. THE MANUFACTURER SHALL NOTIFY THE CONSUMER WITHIN TWENTY-ONE BUSINESS DAYS OF RECEIVING A CLAIM FOR REIMBURSEMENT WHETHER THE CLAIM WILL BE ALLOWED OR DENIED. IF THE CLAIM IS DENIED, THE SPECIFIC REASONS FOR THE DENIAL SHALL BE STATED IN WRITING.

(H) A VIOLATION OF ANY OF THE PROVISIONS OF THIS SECTION SHALL BE DEEMED DECEPTIVE ACT OR PRACTICE UNDER ARTICLE TWENTY-TWO-A OF THIS CHAPTER.

S 2. This act shall take effect immediately.