STATE OF NEW YORK

8627

IN SENATE

May 10, 2018

Introduced by Sen. COMRIE -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer 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-d to read as follows:

§ 198-d. 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.

(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.

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

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(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) "Off-road vehicle" means any self-propelled vehicle which is manufactured for sale for operation primarily on off-highway trails or off-highway competitions and only incidentally operated on public highways provided that such vehicle does not exceed seventy inches in width or one thousand pounds dry weight.

(8) "Service bulletin" means any document issued by a manufacturer pertaining to any adjustment program.

(b) (1) A manufacturer shall, within ninety days of the adoption of an adjustment program, 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.

(2) Within thirty days of the adoption of any new adjustment program, a manufacturer shall notify its dealers, in writing, of all the terms and conditions thereof.

(3) Copies of all notices mailed in accordance with this subdivision shall be sent to the department of state and the department of motor vehicles and made available for public inquiries.

(c) 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 under this section. 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."

(d) (1) 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.

(2) A dealer shall provide notice to prospective purchasers and lessees that provides information on how to get copies of service bulletins. Nothing in this notice shall be construed as an admission by the dealer or manufacturer of the existence or nonexistence of a vehicle defect. The notice shall be deemed sufficient if posted in the showroom or other area conspicuous to motor vehicle purchasers and written in the following form:

FEDERAL LAW REQUIRES MANUFACTURERS TO FURNISH THE NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION (N.H.T.S.A.) WITH BULLETINS DESCRIBING ANY DEFECTS IN THEIR VEHICLES.

YOU MAY OBTAIN COPIES OF THESE BULLETINS, FOR A FEE, FROM EITHER OF THE FOLLOWING:

THE MANUFACTURER (ASK YOUR DEALER FOR THE TOLL-FREE NUMBER); OR

N.H.T.S.A.--TECHNICAL REFERENCE DIVISION (insert the current mailing address and telephone number established by the national highway traffic safety administration for receiving requests for service bulletins).

IN ADDITION, CERTAIN CONSUMER PUBLICATIONS PUBLISH THESE BULLETINS

AND SOME COMPANIES WILL SEND THEM TO YOU, FOR A FEE.

Such sign shall be printed with lettering that is legible and shall be at least three-quarters of an inch boldface type.

(e) 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.

Any claim for reimbursement under this subdivision 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.

(f) A violation of any of the provisions of this section shall be deemed a deceptive act or practice under article twenty-two-A of this chapter.

(g) Nothing in this section shall be construed to exclude, modify, or otherwise limit any other remedy provided by law to a consumer or lessee.

§ 2. This act shall take effect on the one hundred twentieth day after it shall have become a law.