

HOUSE OF REPRESENTATIVES

House Bill No. **352**

Introduced by Representative Susan A. Yap

EXPLANATORY NOTE

Consumer welfare is a primary concern in commerce, as protection of the consuming public raises quality standards of products and services, naturally boosting the economy.

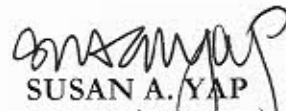
There are few properties that are as important, both symbolically and in practical application, as a motor vehicle. For an average family, the purchase of such requires large savings made possible by blood, sweat and tears exhausted in one's occupation.

Needless to say, there must be a certain level of guarantee in the vehicle's investment. The warranties available for vehicles do not allow the return of a defective vehicle with recurring problems, but only continued repairs, that is, until the warranty period expires. Buyers are at risk of being left with a hunk of junk, or a "lemon," while car manufacturers and dealers find business elsewhere, perhaps from another unwitting victim.

Many Filipinos have been victimized by false warranties and they cannot resort to legal remedies because of the absence of a law addressing their concerns. This bill seeks to promote full protection to the rights of consumers in the sale of motor vehicles against sales and trade practices which are deceptive, unfair, or otherwise inimical to consumers and the public interest. It recognizes that a motor vehicle is a major consumer investment, defines the rights of the buyer and imposes penalties for violations thereof.

The bill proposes a one (1) year period in which buyers of brand-new vehicles can avail of the provisions of this "Lemon Law," which allows up to four repairs on the same defect before a replacement or refund of the vehicle can be claimed. If a consumer happens to buy a defective car or any other product, he or she is entitled to get his or her money back, or to at least get a prompt replacement, thereby ensuring that car buyers get full value for their money.

This bill has been thoroughly deliberated during the 13th and 14th Congress, and it is my fervent hope that we manage to finally enact this proposal into law.


SUSAN A. YAP

Representative, 2nd District of Tarlac

1 FIFTEENTH CONGRESS)
2 OF THE REPUBLIC OF THE PHILIPPINES)
3 *First Regular Session*)
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6 HOUSE OF REPRESENTATIVES

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8 House Bill No. **352**
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10 Introduced by Representative A. Yap
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13 AN ACT
14
15 STRENGTHENING CONSUMER PROTECTION IN THE PURCHASE OF
16 BRAND NEW MOTOR VEHICLES AND FOR OTHER PURPOSES

17 *Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:*
18

19 SECTION 1. *Short Title.* - This Act shall be known as the "Lemon Law of 2010".

20 SEC. 2. *Declaration of Policy.* - It is hereby declared the policy of the State to promote
21 full protection to the rights of consumers in the sale of motor vehicles against sales and trade
22 practices which are deceptive, unfair or otherwise inimical to the consumers and the public
23 interest. The State recognizes that a motor vehicle is a major consumer purchase or
24 investment. The consumer rights should thus be clearly defined including the means for
25 redress for violations thereof.

26 SEC. 3. *Definition of Terms.* - For purposes of this Act, the following terms shall
27 mean:

28 (a) "Brand new motor vehicle" refers to a vehicle constructed entirely from new parts
29 that has never been sold or registered with the Department of Transportation and
30 Communications (DOTC) or an appropriate agency or authority and operated on the highway
31 of the Philippines, or in a foreign state or country.

32 (b) "Collateral charges" refers to the fees paid to the Land Transportation Office (LTO)
33 for the registration of a brand new motor vehicle and other incidental expenses, including the

1 cost of insurance pertaining to the said vehicle.

2 (c) "Comparable motor vehicle" refers to a motor vehicle that is identical or reasonably
3 equivalent to the motor vehicle to be replaced, in terms of specifications and values subject to
4 availability, as the motor vehicle existed at the time of purchase: Provided, That there shall be
5 an offset from this value for reasonable allowance for its use.

6 (d) "Consumer" refers to any person, natural or juridical, who is a purchaser, either by
7 cash or credit, of a brand new motor vehicle.

8 (e) "Dealer" or "Seller" refers to any person other than a manufacturer who sells motor
9 vehicles to the public.

10 (f) "Determination of reasonable allowance for use", for purposes of this Act,
11 "reasonable allowance for use" shall mean twenty percent (20%) *per annum* deduction from
12 the purchase price, or the product of the distance traveled in kilometers and the purchase
13 price divided by one hundred thousand (P100,000.00), whichever is higher.

14 (g) "Distributor" refers to any person or entity other than a manufacturer who sells
15 brand new motor vehicles to their duly authorized dealers or retailers.

16 (h) "Implementing agency" refers to the Department of Trade and Industry (DTI).

17 (i) "Lemon Law rights period" refers to the period ending twelve (12) months after the
18 date of the original delivery of a brand new motor vehicle to a consumer or the first twenty
19 thousand (20,000) kilometers of operation after such delivery, whichever comes first. This
20 shall be the period during which the consumer can report any non-conformity, as defined in
21 paragraph (k) herein, to the standards and specifications of the manufacturer, distributor,
22 authorized dealer or retailer, and pursue any right provided for under this Act.

23 (j) "Manufacturer" refers to a person, partnership, association, corporation or entity
24 engaged in the business of manufacturing or assembling motor vehicles, or of distributing

motor vehicles to motor vehicle dealers.

(k) "Motor vehicle" refers to any self-propelled four (4)-wheeled road vehicle designed to carry passengers including, but not limited to, sedans, coupes, station wagons, convertibles, pickups, vans, sport utility vehicles (SUVs) and Asian utility vehicles (AUVs) but excepting motorcycles, delivery trucks, dump trucks, buses, road rollers, trolley cars, street sweepers, sprinklers, lawn mowers and heavy equipment, such as, but not limited to, bulldozers, payloaders, graders, forklifts, amphibian trucks, cranes and vehicles which run only on rails or tracks, and tractors, trailers and traction engines of all kinds used exclusively for agricultural purposes. Trailers having any number of wheels, when propelled or intended by attachment to a motor vehicle, shall be classified as separate motor vehicle with no power rating.

(l) "Non-conformity" refers to any defect or condition that substantially impairs the use, value or safety of a brand new motor vehicle which prevents it from conforming to the manufacturer's or distributor's standards or specifications, which cannot be repaired, but excluding conditions resulting from noncompliance by the consumer of his obligations under the warranty, modifications not authorized by the manufacturer or distributor, abuse or neglect, and damage due to accident or *force majeure*.

(m) "Purchase price" refers to the invoice price or the amount of money which the dealer or retailer actually received for the brand new motor vehicle, in consideration of the sale of such brand new motor vehicle.

(n) "Warranty" refers to the written assurance, so labeled, of the manufacturer of a brand new motor vehicle, including any term or condition precedent to the enforcement of obligations under the warranty.

(o) "Warranty rights period" refers to the period provided for under the contract of sale when the manufacturer would guarantee the materials used, workmanship and roadworthiness of a brand new motor vehicle for ordinary use or reasonable intended purposes.

1 SEC. 4. **Coverage.** - This Act shall cover brand new motor vehicles with non-
2 conformity reported by the consumer within twelve (12) months from the date of original
3 delivery to the consumer or twenty thousand (20,000) kilometers of operation after such
4 delivery, whichever comes first. The following causes of non-conformity shall be excluded:

5 (a) Noncompliance by the consumer of his obligations under the warranty;

6 (b) Modifications not authorized by the manufacturer or distributor;

7 (c) Abuse or neglect of the brand new motor vehicle; and

8 (d) Damage to the vehicle due to an accident or *force majeure*.

9 SEC. 5. **Repair Attempts.** - At any time within the Lemon Law rights period and after
10 at least four (4) separate repair attempts by the same dealer- manufacturer for the same
11 complaint, the consumer, if still unsatisfied with the results of the said repairs, may invoke his
12 rights under this Act.

13 SEC. 6. **Notice of Availment of the Lemon Law Rights.** - Before availing of any
14 remedy under this Act and subject to compliance with the provisions of Section 5 hereof, the
15 consumer shall, in writing, notify the manufacturer, distributor, authorized dealer or retailer of
16 the unresolved complaint and the consumer's intention to invoke his rights under this Act
17 within the Lemon Law rights period.

18 The warranty booklet issued by the manufacturer, distributor, authorized dealer or
19 retailer shall clearly state the responsibility of the consumer under this section. It shall likewise
20 provide the manner and form of such notice to constitute a valid and legal notice to the
21 manufacturer, distributor, authorized dealer or retailer.

22 SEC. 7. **Availment of the Lemon Law Rights.** - Subsequent to the filing of the notice
23 of availment referred to in the preceding section, the consumer shall bring the vehicle to the
24 dealer from which the vehicle was purchased for a final attempt to address the consumer's

1 complaints to his satisfaction.

2 It shall be the duty of the manufacturer, distributor, authorized dealer or retailer, upon
3 receipt of the motor vehicle and the notice of non-conformity required under Section 6
4 hereof, to attend to the complaints of the consumer including, as may be necessary, making
5 the repairs and undertaking such actions to make the vehicle conform to the standards or
6 specifications of the manufacturer or distributor for such vehicle.

7 In case the consumer remains unsatisfied with the dealer-manufacturer's efforts to repair
8 the vehicle, pursuant to the consumer's availment of his Lemon Law rights, the consumer may
9 file a complaint before the DTI as provided for under this Act: *Provided*, however, That if the
10 vehicle is not returned for repair based on the same complaint within thirty (30) calendar days
11 from the date of notice of release of the motor vehicle to the consumer following this repair
12 attempt within the Lemon Law rights period, the repair is deemed successful: *Provided*, finally,
13 That, in the event the consumer still remains unsatisfied after the thirty (30) days period but
14 still within the Lemon Law rights period, the consumer may be allowed to avail of the same
15 remedies under Sections 5 and 6 hereof.

16 To compensate for the non-usage of the vehicle while under repair and during the
17 period of availment of the Lemon Law rights, the consumer shall be provided a reasonable
18 daily transportation allowance, an amount which covers the transportation of the consumer
19 from his or her residence to his or her regular workplace and *vice versa*, equivalent to air-
20 conditioned taxi fare or in such amount to be agreed upon by the parties, or a service vehicle
21 at the option of the manufacturer, distributor, authorized dealer or retailer. Any disagreement
22 on this matter shall be resolved by the implementing agency provided for under this Act.

23 Nothing herein shall be construed to limit or impair the rights and remedies of a
24 consumer under any other law.

25 SEC. 8. ***Remedies for Dispute Resolution.*** - The DTI shall exercise exclusive and

original jurisdiction over disputes arising from the provisions of this Act. All disputes arising from the provisions of this Act shall be settled by the DTI in accordance with the following dispute resolution mechanisms:

(a) Mediation

(1) The principles of negotiation, conciliation and mediation towards amicable settlement between the manufacturer or distributor and the consumer shall be strictly observed;

(2) In the course of its dispute resolution efforts, the DTI shall endeavor to independently establish the validity of the consumer's outstanding complaint. The DTI shall likewise retain the services of other government agencies or independent private entities in the ascertainment of the validity of the consumer's complaint. Any cost incurred in establishing the validity of the consumer's complaint shall be borne jointly by the consumer and the dealer-manufacturer;

(3) The complaint shall be deemed valid if it is independently established that the vehicle does not conform to the standards or specifications set by the manufacturer;

(4) Upon failure of the negotiation or mediation between the manufacturer or distributor and the consumer, the parties shall execute a certificate attesting to such failure; and

(5) At any time during the dispute resolution period, the manufacturer or distributor and the consumer shall be encouraged to settle amicably.

All disputes that have been submitted for mediation shall be settled not later than forty-five (45) working days from the date of filing of the complaint with the DTI.

(b) Arbitration

1 (1) In the event there is a failure to settle the complaint during the mediation
2 proceedings, the parties may voluntarily enter into arbitration proceedings, likewise to be
3 supervised by the DTI. The DTI shall rely on the independent findings as to conformity to
4 standards and specifications established herein;

5 (2) In case a non-conformity of the vehicle is found by the DTI, it shall rule in favor of
6 the consumer and direct the dealer-manufactures to grant either of the following remedies to
7 the consumer:

8 (i) Replace the motor vehicle with a similar or comparable motor vehicle in terms of
9 specifications and values, subject to availability; or

10 (ii) Accept the return of the motor vehicle and pay the consumer the purchase price plus
11 collateral charges.

12 In case the consumer decides to purchase another vehicle with a higher value and
13 specifications from the same dealer-manufactures, the consumer shall pay the difference in
14 cost.

15 In both cases of replacement and repurchase, the reasonable allowance for use, as
16 defined in this Act, shall be deducted in determining the value of the non-conforming vehicle;
17 and

18 (3) In case a non-conformity of the vehicle is not found by the DTI, it shall rule in favor
19 of the dealer-manufacturer and direct the consumer to reimburse the dealer-manufacturer the
20 costs incurred by the latter in validating the consumer's complaints.

21 SEC. 9. *Determination of Reasonable Allowance for Use.* – For purposes of this Act,
22 “reasonable allowance for use” shall mean twenty percent (20%) *per annum* deduction from
23 the purchase price, or the product of the distance traveled in kilometers and the purchase
24 price divided by one hundred thousand (100,00), whichever is higher.

1 SEC. 10. *Disclosure on Resale.* - Should the returned vehicle be made available for
2 resale, the manufacturer or distributor shall, prior to sale, lease or transfer, disclose to the
3 dealer in writing that:

4 (a) the motor vehicle was returned to the manufacturer, distributor, factory or branch;

5 (b) the nature of the non-conformity which caused the return; and

6 (c) the condition of the motor vehicle at the time of the transfer to the dealer.

7 It shall be the responsibility of the dealer to make the same disclosure in writing, in turn,
8 to the next purchaser prior to sale. The responsibility of the dealer under this section shall
9 cease upon the sale of the affected motor vehicle to the first purchaser.

10 SEC. 11. *Penalty.* -The manufacturer, distributor or dealer adjudged to have violated
11 the provisions requiring disclosure as mentioned in the preceding section shall be liable to pay
12 a minimum amount of One hundred thousand pesos (Php 100,000.00) as damages to the
13 aggrieved party without prejudice to any civil or criminal liability they and/or the responsible
14 officer may incur under existing laws.

15 SEC. 12. *Assistance by Other Agencies.* - The DOTC and other agencies, political
16 subdivisions and local government units, including government-owned and -controlled
17 corporations, shall render such assistance as required by the DTI in order to effectively
18 implement the provisions of this Act.

19 SEC. 13. *Implementing Rules and Regulations.* - The DTI shall promulgate the
20 necessary implementing rules and regulations within ninety (90) days from the effectivity of
21 this Act.

22 SEC. 14. *Separability Clause.* - If, for any reason, any part or provision of this Act is
23 declared invalid, such declaration shall not affect the other provisions of this Act.

1 SEC. 15. *Repealing Clause.* - All laws, decrees, executive orders, issuances, rules or
2 regulations or parts thereof which are inconsistent with the provisions of this Act are hereby
3 deemed repealed, amended or modified accordingly.

4 SEC. 16. *Effectivity* - This Act shall take effect fifteen (15) days after its publication in
5 the *Official Gazette*, or in two (2) national newspapers of general circulation.

6 Approved,