

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

FIFTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 3495

Introduced by Rep. Wilfredo Mark M. Enverga

EXPLANATORY NOTE

Protecting the interests of the consumers is paramount in the social and economic activities of the country. It is the policy of the State to protect the interests of the consumer, promote his general welfare and to establish standards of conduct for business and industry.

Section 9, Article XVI of the constitution provides that the state shall protect consumers from trade malpractices and from substandard or hazardous products. For these reasons, the government enacted consumer protection law (RA 7394) as means to protect consumers against malpractices such as substandard goods and unsatisfactory services.

Among the many industries and services, consumers in the motor vehicle sector needs to be protected against hidden defects, defective and substandard vehicles. While we do have RA 7394 which makes the Department of Trade and Industry (DTI) as primary government regulatory agency in charge for the motor vehicles trade and industry, there is a need to enact a law which will give full protection to the rights of consumers in the sale for motor vehicles against sales and trade practices which are deceptive, unfair, or otherwise inimical to consumers and the public interest.

In other countries as in the United States, the law is called Lemon Law that provide a remedy for purchasers of cars in order to compensate for cars that repeatedly fail to meet standards of quality and performance. These cars are called lemons which is the slang sense of "worthless thing". Over time, 'lemon' came to refer to anything that was defective or broken or which breaks constantly, particularly a car. Hence, a motor vehicle is considered a lemon if it is unfit, unreliable, or unsafe for ordinary use.

There is no lemon law yet enacted in the Philippines. Although several attempts had made in the previous congresses, due to time constraints, all bills filed in relation to lemon motor vehicles were not enacted. Hence, the attached bill is necessary and very timely.

The bill in the hindsight provides protection to buyers to new motor vehicles. If a new vehicle turns out to be defective and has not been properly repaired after a reasonable number of attempts, the law requires a refund or replacement vehicle.

Only a small percentage of new vehicles will be declared lemons. However, all new vehicle buyers will benefit from this law. The manufacturer and the dealer now have a stronger economic incentive to deliver the vehicle free from defects, and if problems develop, to correct them quickly and accurately.

It is the intent of the proposed bill that a good faith motor vehicle warranty complaint by a consumer be resolved by the manufacturer within a specified period of time. It is further the intent of the bill to provide the statutory procedures whereby a consumer may receive a replacement motor vehicle, or a full refund, for a motor vehicle which cannot be brought into conformity with the warranty provided for. However, nothing in the bill shall in any way limit or expand the rights or remedies which are otherwise available to a consumer under any other existing law.

At the core of this proposed legislation is the manufacturer's breach of warranty. A manufacturer's warranty (express or implied) is what makes the manufacturer legally responsible for repairs to the consumer's vehicle or good. The law imposes these obligations on the manufacturer, the seller or both as a matter of public policy. Hence the public policy behind the proposed legislation is to place upon the manufacturers of motor vehicles the duty to meet their obligations and responsibilities under the terms of the express warranties extended to the consumers- buyers of motor vehicles.

In view of the foregoing, approval of the Bill is earnestly sought.


WILFRIDO MARK ENVERGA

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13
14 AN ACT PROVIDING FOR MOTOR VEHICLE WARRANTY ENFORCEMENT
15 AND FOR OTHER PURPOSES
16

17 *Be it enacted by the Senate and House of Representatives of the Philippines in Congress*
18 *assembled:*
19

20 SECTION. 1. *Title* - This Act shall be known as the "Philippine Lemon Law of 2010"
21

22 SEC. 2. *Declaration of Policy* - It is hereby declared the policy of the State to
23 protect the interests of the consumers in the sale of motor vehicles against deceptive and unfair sales
24 and trade practices, promote their welfare and establish statutory procedures on enforcement of
25 warranties extended to motor vehicle buyers.
26

27 - The State shall promote the right of the consumers for full disclosure of information
28 on the condition of the motor vehicles for sale in order to promote transparency, fairness and the
29 return of the full value of money. It shall likewise ensure that consumers are made aware of their
30 rights under this law and are not refused the information, documents, or service necessary to
31 exercise their rights.
32

33 SEC. 3. *When a motor vehicle is deemed a lemon.*- A motor vehicle shall be
34 presumed to be a lemon, when the following conditions concur:

- 35 a) the motor vehicle was purchased within the Philippines;
36 b) the buyer must have reported the failure to repair the non-conformity
37 to the seller or manufacturer within the first 6 months from the date of original
38 delivery to the consumer or fifteen thousand (3,000) kilometers of operation
39 after such delivery, whichever comes first.
40

1 The following causes of non-conformity shall be excluded:

- 2 (1) Noncompliance by the consumer of his obligations under the warranty;
3 (2) Modifications not authorized by the manufacturer or distributor;
4 (3) Abuse or neglect of the brand new motor vehicle; and
5 (4) Damage to the vehicle due to an accident or force majeure.

6
7 c) the defect of the automobile must substantially impair the use, value, or safety
8 of the motor vehicle; and

9
10 d) the motor vehicle has been out of service for the same defect for a cumulative
11 total of thirty (30) days or more or the defect was not corrected within the
12 reasonable number of attempts.

13
14 Motorcycles, conversion vans or farm equipment are not included under this Act.

15
16 **SEC. 4. Repair Attempts.** – At any time within the Lemon Law rights period and
17 after at least four (4) separate repair attempts by the same dealer- manufacturer for the same
18 complaint, the consumer, if still unsatisfied with the results of the said repairs, may invoke his
19 rights under this Act.

20
21 **SEC. 5. Notice of Availment of the Lemon Law Rights.** – Before availing of any
22 remedy under this Act and subject to compliance with the provisions of Section 4 hereof, the
23 consumer shall, in writing, notify the manufacturer, distributor, authorized dealer or retailer of
24 the unresolved complaint and the consumer's intention to invoke his rights under this Act
25 within the Lemon Law rights period.

26
27 **SEC. 6. Buyer's remedy when motor vehicle is a lemon.** --A buyer of a new motor
28 vehicle shall have the right to either the remedy of a prompt repurchase or replacement from a
29 seller or manufacturer should his automobile is shown to be a lemon in accordance with the
30 next preceding section. Nothing in this law shall in any way limit or expand the rights or
31 remedies which are otherwise available to a consumer-buyer of motor vehicle under any other
32 existing laws or jurisprudence.

33
34 **SEC. 7. Replacement.** -The buyer who chooses replacement as a remedy is entitled to
35 a motor vehicle identical to the vehicle being replaced. The seller or manufacturer shall be
36 responsible for paying all taxes and licensing fees.

37
38 **SEC. 8. Repurchase.**--A buyer may at his option be entitled to a refund of all monies
39 invested in the lemon including the down payment, monthly finance payments and payoff of
40 the finance contract. In both cases of replacement or repurchase, the buyer is also entitled to
41 recover expenses such as towing costs and repair costs.

1
2 **SEC. 9. Attorney's Fees.** -In addition to the foregoing sections, a buyer is also
3 entitled to an award of attorney's fees and other costs of litigation.
4

5 **SEC. 10. Civil liability of seller who refuses to comply.** -A seller of a lemon motor
6 vehicle who willfully fails to comply with his obligations to repurchase or replace lemon
7 products after final judgment shall be subject to a civil penalty of up to two times the
8 buyer's actual damages.
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10 **SEC.11. Implementing Rules and Regulations.** – The DTI shall promulgate the
11 necessary implementing rules and regulations within ninety (90) days from the affectivity of
12 this Act.
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14 **SEC. 12. Assistance by Other Agencies.** – The DOTC and other agencies, political
15 subdivisions and local government units, including government-owned and -controlled
16 corporations, shall render such assistance as required by the DTI in order to effectively
17 implement the provisions of this Act.
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19 **SEC. 13. Separability Clause.** – If, for any reason, any part or provision of this Act
20 is declared invalid, such declaration shall not affect the other provisions of this Act.
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22 **SEC. 14. Repealing Clause.** – All laws, decrees, executive orders, issuances, rules or
23 regulations or parts thereof which are inconsistent with the provisions of this Act are hereby
24 deemed repealed, amended or modified accordingly.
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26 **SEC. 15. Effectivity** - This Act shall take effect immediately upon its publication in
27 two (2) newspaper of general circulation.
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30 APPROVED,