

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

SIXTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 1885



Introduced by Rep. Wilfrido 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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Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SEC. 2. Declaration of Policy. – It is hereby declared the policy of the State 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 the consumers and the public interest.

The State recognizes that a motor vehicle is a major consumer purchase or investment. The consumer rights should thus be clearly defined including the means for redress for violations thereof.

(a) *Brand New Motor Vehicle* refers to a vehicle constructed entirely from new parts that has never been sold or registered with the Department of Transportation and Communications

(DOTC) or an appropriate agency or authority and operated on the highway of the Philippines, or in a foreign state or country.

(b) *Collateral Charges* refer to the fees paid to the Land Transportation Office (LTO) for the registration of a brand new motor vehicle and other incidental expenses, including the cost of insurance pertaining to the said vehicle.

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

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

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

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

(g) *Implementing Agency* refers to the Department of Trade and Industry (DTI).

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

- 1 (i) *Manufacturer* refers to a person, partnership, association, corporation or entity engaged
2 in the business of manufacturing or assembling motor vehicles, or distributing motor
3 vehicles to motor vehicle dealers.
- 4
- 5 (j) *Motor Vehicle* refers to any self-propelled four-wheeled road vehicle designed to carry
6 passengers including, but not limited to, sedans, coupes, station wagons, convertibles,
7 pick- ups, vans, sports utility vehicles (SUVs) and Asian Utility Vehicles (AUVs) but
8 excepting motorcycles, delivery trucks, dump trucks, buses, road rollers, trolley cars,
9 street sweepers, sprinkles, lawn mowers and heavy equipment such as, but not limited to,
10 bulldozers, payloaders, graders, forklifts, amphibian trucks, cranes, and vehicles which
11 run only on rails or tracks, and tractors, trailers and traction engines of all kinds used
12 exclusively for agricultural purposes. Trailers having any number of wheels, when
13 propelled or intended by attachment to a motor vehicle, shall be classified as separate
14 motor vehicle with no power rating.
- 15
- 16 (k) *Nonconformity* refers to any defect or condition that substantially impairs the use, value
17 or safety of a brand new motor vehicle which prevents it from conforming to the
18 manufacturer's or distributor's standards or specifications which cannot be repaired, but
19 excluding conditions resulting from noncompliance by the consumer of his or her
20 obligations under the warranty, modifications not authorized by the manufacturer or
21 distributor, abuse or neglect, and damage due to accident or *force majeure*.
- 22
- 23 (l) *Purchase Price* refers to the invoice price or the amount of money which the dealer or
24 retailer actually received for the brand new motor vehicle in consideration of the sale of
25 such brand new motor vehicle.
- 26
- 27 (m) *Warranty* refers to the written assurance, so labeled, of the manufacturer of a brand new
28 motor vehicle including any term or condition precedent to the enforcement of
29 obligations under the warranty.
- 30
- 31 (n) *Warranty Rights Period* refers to the period provided for under the contract of sale when
32 the manufacturer would guarantee the materials used, the workmanship and the
33 roadworthiness of a brand new motor vehicle for ordinary use or reasonable intended

1 purposes.

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

- 7
8 (a) Noncompliance by the consumer of his or her obligations under the warranty;
9 (b) Modifications not authorized by the manufacturer or distributor;
10 (c) Abuse or neglect of the brand new motor vehicle; and
11 (d) Damage to the vehicle due to accident or *force majeure*.

12
13 **SEC. 5. Repair Attempts.** – At any time within the Lemon Law rights period, and after at
14 Least four (4) separate repair attempts by the same dealer manufacturer for the same complaint,
15 the consumer, if still unsatisfied with the results of the said repairs, may invoke his or her rights
16 under this Act.

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

23
24 The warranty booklet issued by the manufacturer, distributor, authorized Dealer or retailer
25 shall clearly state the manner and form of such notice to constitute a valid and
26 legal notice to the manufacturer, distributor, authorized dealer or retailer.

27
28 **SEC. 7. Availment of Lemon Law Rights.** – Subsequent to filing the notice of availment
29 referred to in the preceding section, the consumer shall bring the vehicle to the dealer from
30 where the vehicle was purchased for a final attempt to address the complaint of the consumer to
31 his or her satisfaction.

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

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 or her Lemon Law rights, the
9 consumer may file a complaint before the DTI as provided for under this Act: *Provided,*
10 *however,* That if the vehicle is not returned for repair, based on the same complaint, within
11 thirty (30) calendar days from the date of notice of release of the motor vehicle to the
12 consumer following this repair attempt within the Lemon Law rights period, the repair is
13 deemed successful: *Provided, finally,* That, in the event the consumer still remains unsatisfied
14 after the thirty (30)-day period but still within the Lemon Law rights period, the consumer
15 may be allowed to avail of the same remedies under Sections 5 and 6 hereof. To compensate
16 for the non-usage of the vehicle while under repair and during the period of availment of the
17 Lemon Law rights, the consumer shall be provided a reasonable daily transportation
18 allowance equivalent to first class taxi fare as evidenced by actual receipts, or a service
19 vehicle at the option of the manufacturer, distributor, authorized dealer or
20 retailer. Any disagreement on this matter shall be resolved by the DTI. Nothing herein shall
21 be construed to limit or impair the rights and remedies of a consumer under any other law.
22

23 **SEC. 8. Remedies for Dispute Resolution.** – The DTI shall exercise exclusive and
24 original jurisdiction over disputes arising from the provisions of this Act. All disputes arising
25 from the provisions of this Act shall be settled by the DTI in accordance with the following
26 dispute resolution mechanisms:
27

28 (a) Mediation:

- 29 (1) The principle of negotiation, conciliation and mediation towards amicable settlement
30 between the manufacturer or distributor and consumer shall be strictly observed;
31 (2) In the course of its dispute resolution efforts, the DTI shall endeavor to independently
32 establish the validity of the consumer's outstanding complaint. The DTI shall
33 likewise

1 retain the services of other government agencies or independent private entities in the
2 ascertainment of the validity of the consumer's complaint. Any cost incurred in
3 establishing the validity of the consumer's complaint shall be borne jointly by the
4 consumer and the dealermanufacturer;

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

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

9 (5) At any time during the dispute resolution period, the manufacturer or distributor shall
10 not be precluded from offering easier remedial terms to the consumer to reach
11 amicable settlement at any stage of the dispute mechanism.

12
13 All disputes that have been submitted for amicable settlement shall be settled not later
14 Than forty-five (45) working days from the date of filing of the complaint with the DTI.

15
16 (b) Arbitration:

17
18 (1) In the event there is a failure to settle the complaint during the mediation proceedings,
19 the parties may voluntarily enter into arbitration proceedings, likewise to be supervised
20 by the DTI. The DTI shall rely on the independent findings as to conformity to
21 standards and specifications established herein.

22 (2) In case a nonconformity of the vehicle is found by the DTI, it shall rule in favor of the
23 consumer and direct the dealer or manufacturer to grant either of the following
24 remedies to the consumer:

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

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

29
30 In case the consumer decides to purchase another vehicle with a higher value and
31 specifications from the same dealer or manufacturer, the consumer shall pay the
32 difference in cost.

1 In both cases of replacement and repurchase, the reasonable allowance for use, as
2 Provided for in this Act, shall be deducted in determining the value of the nonconforming
3 vehicle.

- 4
5 (3) In case a nonconformity of the vehicle is not found by the DTI, it shall rule in favor of
6 the dealer or manufacturer, and direct the consumer to reimburse the dealer or
7 manufacturer the costs incurred by the latter in validating the consumer's complaints.
8

9 **SEC. 9. Determination of Reasonable Allowance for Use.** – For purposes of this
10 Act, “reasonable allowance for use” shall mean twenty percent (20%) *per annum* deduction from
11 the purchase price, or the product of the distance traveled in kilometers and the purchase price
12 divided by one hundred thousand (100,000) kilometers, whichever is higher.
13

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16 **SEC. 10. Disclosure on Resale.** – Should the returned vehicle be made available
17 for resale, the manufacturer or distributor shall, prior to sale, or transfer, disclose to the dealer
18 in writing that:
19

- 20 (a) The motor vehicle was returned to the manufacturer, distributor, factory or branch;
21 (b) The nature of the nonconformity which caused the return; and
22 (c) The condition of the motor vehicle at the time of the transfer to the dealer.
23

24 It shall be the responsibility of the dealer to make the same disclosure in writing, in turn, to the
25 next purchaser prior to the sale. The responsibility of the dealer under this section shall cease
26 upon the sale of the affected motor vehicle to the first purchaser.
27

28 **SEC. 11. Penalty.** – The manufacturer, distributor or dealer adjudged to have
29 violated the provisions requiring disclosure as mentioned in the preceding section shall be
30 liable to pay a minimum amount of One hundred thousand pesos (P100,000.00) as damages to
31 the aggrieved party without prejudice to any civil or criminal liability they and/or the
32 responsible officer may incur under existing laws.
33

1 **SEC. 12. Assistance by Other Agencies.** – The DOTC and other agencies,
2 political subdivisions, local government units, including government owned and –controlled
3 corporations shall render such assistance as required by the DTI in order to effectively
4 implement the povisions of this Act.

5
6 **SEC. 13. Implementing Rules and Regulations.** – The DTI shall promulgate
7 the necessary implementing rules and regulations within ninety (90) days from the effectivity
8 of this Act.

9
10 **SEC. 14. Separability Clause.** – If, for any reason, any part or provision of this
11 Act is declared invalid, such declaration shall not affect the other provisions of this Act.

12
13 **SEC. 15. Repealing Clause.** – All laws, decrees, executive orders, issuances,
14 rules and regulations or parts thereof which are inconsistent with the provisions of this Act
15 are hereby deemed repealed, amended or modified accordingly.

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

19
20
21 Approved,