
A BILL FOR AN ACT

RELATING TO USED MOTOR VEHICLE SALES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

- 1 SECTION 1. Section 481J-2, Hawaii Revised Statutes, is
2 amended as follows:
- 3 1. By amending subsection (c) to read:
- 4 "(c) The written warranty shall require the dealer or its
5 agent to repair or, at the election of the dealer, reimburse the
6 consumer for the reasonable costs of repairing the failure of a
7 covered part[-]; provided that where the used motor vehicle
8 becomes mechanically unsound or inoperable within seventy-two
9 hours of the purchase, the written warranty shall require the
10 dealer to refund the purchase price of the vehicle; provided
11 further that chapter 481C, on door-to-door sales, shall not
12 apply to that refund. Covered parts shall at least include the
13 following items:
- 14 (1) Engine, including all lubricated parts, water pump,
15 fuel pump, manifolds, engine block, cylinder head,
16 rotary engine housings, flywheel, gaskets, and seals;
- 17 (2) Transmission, including the transmission case,
18 internal parts, torque converter, gaskets, and seals,



1 except four-wheel drive vehicles shall be excluded
2 from coverage as provided for in this paragraph;

3 (3) Drive axle, including front and rear drive axle
4 housings and internal parts, axle shafts, propeller
5 shafts, and universal joints, except four-wheel drive
6 vehicles shall be excluded from coverage as provided
7 in this paragraph;

8 (4) Brakes, including master cylinder, vacuum assist
9 booster, wheel cylinders, hydraulic lines and
10 fittings, and disc brake calipers;

11 (5) Radiator;

12 (6) Steering, including the steering gear housing and all
13 internal parts, power steering pump, valve body,
14 piston, and rack; and

15 (7) Alternator, generator, starter, and ignition system,
16 excluding the battery."

17 2. By amending subsection (f) to read:

18 "(f) A consumer shall return a vehicle for repair or a
19 refund under this section by presenting it to the dealer prior
20 to the expiration of the applicable warranty period and
21 providing written notice to the dealer of the defect. The
22 dealer shall immediately accept return of a vehicle when it is



1 so presented. The used motor vehicle shall be deemed out of
2 service commencing the day it is presented, notwithstanding any
3 dealer's failure to accept its return on that day.

4 During the applicable warranty period and the return
5 period, the dealer shall pay the reasonable costs of towing from
6 the point of breakdown up to fifteen miles to obtain the
7 required repairs or to return the vehicle to the dealer."

8 SECTION 2. Section 481J-3, Hawaii Revised Statutes, is
9 amended by amending subsection (d) to read as follows:

10 "(d) A used motor vehicle may be sold "as is" by a dealer
11 only if it falls within the exemptions set out in this
12 section[-]; provided that a used motor vehicle that is sold "as
13 is" shall be subject to section 481J-2(a). No "as is"
14 disclaimer by a dealer shall be enforceable unless all of the
15 following conditions are met:

16 (1) A disclaimer shall appear on the front page of the
17 contract of sale, which shall read as follows:

18 "AS IS"
19 THIS VEHICLE IS SOLD "AS IS". YOU WILL HAVE TO PAY
20 FOR ANY REPAIRS NEEDED AFTER SALE. HOWEVER, IF THE
21 VEHICLE BREAKS DOWN WITHIN 72 HOURS OF THE SALE, YOU
22 HAVE A RIGHT TO RETURN THE VEHICLE TO US FOR A FULL



1 REFUND. IF WE HAVE MADE ANY PROMISES TO YOU, THE LAW
2 SAYS WE MUST KEEP OUR PROMISES, EVEN IF WE SELL "AS
3 IS". TO PROTECT YOURSELF, ASK US TO PUT ALL PROMISES
4 IN WRITING.

5 (2) The text of the disclaimer shall be printed in twelve-
6 point boldface type, except the heading, which shall
7 be in sixteen-point extra boldface type. The entire
8 notice shall be boxed.

9 (3) The consumer shall sign the consumer's name and the
10 date within the box containing the disclaimer prior to
11 sale. A copy of the signed disclaimer shall be kept
12 by the dealer for a two-year period from the date of
13 the consumer's signature."

14 SECTION 3. Section 481J-6, Hawaii Revised Statutes, is
15 amended by amending the title and subsection (a) to read as
16 follows:

17 "§481J-6 Failure to honor warranty[-]; mechanical
18 unsoundness or inoperability within seventy-two hours of
19 purchase. (a) If the dealer or its agent fails to correct a
20 defect or malfunction as required by the warranty specified in
21 section 481J-2 after a reasonable period of time[-] or the used
22 motor vehicle becomes mechanically unsound or inoperable within



1 seventy-two hours of the purchase, the dealer shall accept
2 return of the used motor vehicle from the consumer and refund
3 the full purchase price, including general excise tax, less a
4 reasonable allowance for any damage not attributable to normal
5 wear or usage, and with an adjustment for any modifications
6 which either increase or decrease the market value of the
7 vehicle. A reasonable allowance for use shall be fifteen cents
8 for each mile the used motor vehicle has been operated between
9 its sale and its return."

10 SECTION 4. This Act does not affect rights and duties that
11 matured, penalties that were incurred, and proceedings that were
12 begun before its effective date.

13 SECTION 5. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 6. This Act shall take effect upon its approval.

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INTRODUCED BY: *Pida Cabanilla*

JAN 27 2010



Report Title:

Used Motor Vehicle Sales; Refunds

Description:

Requires a used motor vehicle dealer to refund the purchase of a used motor vehicle that sustains a mechanical breakdown within 72 hours of the purchase.

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