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SENATE  
S.B. No. **3540**

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Introduced by Senator Miriam Defensor Santiago

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#### EXPLANATORY NOTE

The Constitution, Article 16, Section 9 states that:

The State shall protect consumers from trade malpractices and from substandard or hazardous products.

A "lemon" is a term used to describe a defective car that is found to have numerous or severe defects not readily apparent before its purchase. Such a defect substantially impairs its use, value, or safety. If the car has been repaired four or more times for the same defect within the warranty period and the defect has not been fixed, the car qualifies as a lemon. The United States has several federal and state laws called "lemon laws," to protect consumers. Lemon laws provide a remedy for purchasers of cars that repeatedly fail to meet standards of quality and performance.

In the Philippines, the purchase of a new car usually carries a manufacturer's warranty. On the other hand, vendors of used cars do not usually issue any express warranty. A "used car", also known as a pre-owned vehicle and second hand car, is a vehicle that has previously had one or more owners. Used cars are usually sold through car dealers, leasing companies, auctions and private party sales.

Since brand new cars are still considered prohibitive for the middle class, many resort to purchasing used cars. Unfortunately, without mechanical expertise, buyers cannot easily distinguish which used cars have defects. Vendors are not required to disclose the history of the cars they sell. Thus, many used cars though seemingly in good running condition, could have been improperly maintained or poorly repaired, been unprofessionally rebuilt after a collision or tampered with in some manner to conceal high mileage, mechanical defects, corrosion or other

damage. For example, many vendors of cars that have undergone a flood do not disclose such information to their buyers.

This bill seeks to protect consumers who buy used vehicles from a dealer or private party. It requires dealers to provide consumers with a written warranty against defects that impair the vehicle's use or safety, and requires private parties to disclose any known use or safety defects.

Dealer warranties cannot be waived under any circumstances. The dealer must give a signed, dated, correct copy of the limited used vehicle warranty at the time you purchase the vehicle. The warranty requires the dealer to repair any defect that impairs the vehicle's use or safety. The coverage depends on the mileage of the vehicle at the time of purchase as outlined below:

Mileage	Warranty Period
Less than 64,500 km.	90 days or 6,035 km., whichever comes first
64,500 to 128,746 km.	60 days or 4,023 km., whichever comes first
128,747 to 201,167 km	30 days or 2,012 km., whichever comes first
201,168 km. or over	No express warranty

If the true mileage of the vehicle is unknown at the time of the sale, the warranty period is calculated according to the age of the vehicle as outlined below:

Age of Vehicle	Warranty Period
3 years old or less	90 days or 6,035 km., whichever comes first
More than 3 and less than 6 years old	60 days or 4,023 km., whichever comes first
More than 6 years old	30 days or 2,012 km., whichever comes first

Though our country allows private enterprises and individuals to enter into contracts freely, the state should come in when necessary to protect the interests of the consumer, promote his general welfare and establish standards of conduct for business and industry.

*acw*   
MIRIAM DEFENSOR SANTIAGO

FOURTEENTH CONGRESS OF THE REPUBLIC)  
OF THE PHILIPPINES  
Third Regular Session

SENATE  
OFFICE OF THE SECRETARY

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1 AN ACT  
2 REQUIRING USED CAR DEALERS TO PROVIDE CONSUMERS WITH A WRITTEN  
3 WARRANTY AGAINST DEFECTS AND REQUIRING PRIVATE SELLERS TO DISCLOSE  
4 ANY KNOWN USE OR SAFETY DEFECTS.

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

5 SECTION 1. *Short Title.* – This Act shall be known as the “Used Car Lemon Act of  
6 2009.”

7 SECTION. 2. *Declaration of Policy.* – It is hereby declared the policy of the State to  
8 promote full protection to the rights of consumers in the sale of motor vehicles against sales and  
9 trade practices which are deceptive, unfair or otherwise inimical to the consumers and the public  
10 interest.

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

14 SECTION 3. *Definitions.* – For purposes of this Act, the term:

15 A. “Secretary” refers to the Secretary of the Department of Trade and Industry;

16 B. “DTI” refers to the Department of Trade and Industry;

17 C. “Consumer” refers to a buyer, other than for purposes of resale, of a motor vehicle,  
18 any person to whom such motor vehicle is transferred during the period of any express or  
19 statutory warranty under this Act applicable to such motor vehicle, and any other person entitled  
20 by the terms of such warranty to enforce its obligations;

21 D. “Dealer” refers to any person engaged in the business of selling, offering for sale, or  
22 negotiating the retail sale of used motor vehicles or selling motor vehicles as broker or agent for

1 another, including the officers, agents and employees of such person and any combination or  
2 association of dealers, but not including a bank or other financial institution, or the  
3 commonwealth, its agencies, bureaus, boards, commissions, authorities, nor any of its political  
4 subdivisions. A person shall be deemed to be engaged in the business of selling used motor  
5 vehicles if such person has sold more than three used motor vehicles in the preceding twelve  
6 months;

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

16 F. "Private seller" refers to any person who is not a dealer and who offers to sell or sells a  
17 used motor vehicle to a consumer;

18 G. "Purchase price" refers to the total of all payments made for the purchase of a vehicle,  
19 including but not limited to any finance charges, registration fees, payments made for credit life,  
20 accident, health, and damage insurance, and collision and related comprehensive insurance  
21 coverage and service contracts and the value of a trade-in;

22 H. "Repurchase price", the purchase price, as defined above, less any cash award that was  
23 made by the dealer in an attempt to resolve the dispute and was accepted by the consumer, and  
24 less any refunds or rebates to which the consumer is entitled, plus any incidental damages not  
25 previously reimbursed, including but not limited to the reasonable costs of towing from point of  
26 breakdown to obtain required repairs or to return the vehicle under this section, and the  
27 reasonable costs of obtaining alternative transportation during the applicable warranty period  
28 after the second day following each such breakdown not to exceed five hundred pesos (P500.00)

1 vehicle rental charges for each day in which the cost of such alternative transportation is  
2 reimbursable;

3 I. "Used motor vehicle" or "used vehicle", any motor vehicle as defined above,  
4 previously owned by anyone other than the consumer, which has been driven more than the  
5 limited use necessary in moving or road testing a new vehicle prior to delivery to a consumer.

6 SECTION 4. *Sales accompanied by written warranty.* —

7 A. No used motor vehicle shall be sold by a dealer to a consumer unless accompanied by  
8 an express written warranty covering the full cost of both parts and labor necessary to repair any  
9 defect that impairs the said used motor vehicle's safety or use;

10 B. Dealer warranties cannot be waived under any circumstances;

11 C. Defects that affect only appearance shall not be deemed to impair safety or use for the  
12 purposes of this section. For the purposes of this section, defect shall include defect, malfunction  
13 or any combination or defects or malfunctions;

14 D. Defects or malfunctions which involve parts or components that are covered or are  
15 warranted under an express warranty issued by the dealer of the used motor vehicle shall be  
16 excluded from this section if the following conditions have been met: the manufacturer's  
17 warranty has been duly assigned or transferred to the buyer; is enforceable according to its terms;  
18 is not inconsistent with this section; and, the seller has assured that the repair authorized by such  
19 manufacturer's express warranty was made;

20 E. The terms of the seller's warranty shall be tolled for any period of time the used motor  
21 vehicle is out of service by reason of repair under the manufacturer's warranty.

22 SECTION 5. *Duration of warranty.* — The express warranties required by this section  
23 shall be of the following durations:

24 A. For a used motor vehicle which, at the time of sale, has been operated **less than**  
25 **64,500 kilometers**, the warranty shall be for ninety days or 6,035 kilometers, whichever occurs  
26 first;

27 B. For a used motor vehicle which, at the time of sale, has been operated **sixty-four**  
28 **thousand five hundred kilometers (64,500 km) or more, but less than one hundred twenty-**  
29 **eight thousand and seven hundred forty-seven kilometers (128,747 km.),** the warranty shall

1 be for sixty days or, four thousand and twenty-three kilometers (4,023 km.), whichever first  
2 occur;

3 C. For a used motor vehicle which, at the time of sale, has been operated **one hundred**  
4 **twenty-eight thousand and seven hundred forty-seven kilometers (128,747 km.), or more,**  
5 **but less than two hundred one thousand and one hundred sixty-eight kilometers (201,168**  
6 **km.),** thirty days or two thousand and twelve kilometers (2,012 km.), whichever first occur;

7 D. If the used motor vehicle's true mileage is not known, such warranty period shall be  
8 determined by the age of said used motor vehicle in the following manner: a used motor vehicle  
9 three years old or less shall have a warranty as provided in paragraph (A); a used motor vehicle  
10 more than three, but less than six years old, shall have a warranty as provided in paragraph (B);  
11 and a used motor vehicle six years old or more shall have a warranty as provided in paragraph  
12 (C). A used motor vehicle's age shall be determined by subtracting its model year from the year  
13 in which the warranty holder purchased said used vehicle;

14 E. The warranty periods established by this section shall be tolled during any period in  
15 which the used motor vehicle is out of service as a result of any repair attempt pursuant to any  
16 warranty created by this section. The applicable warranty period shall be extended thirty days  
17 from the date of completion of any repair required by this section as to the defect repaired if the  
18 warranty would otherwise have expired during such period.

19 SECTION 6. *Repair of defect.* --

20 A. A dealer may repair, within the meaning of this section, either by performing the  
21 repair himself or by arranging and making payment for prompt repair by another;

22 B. A consumer shall return a vehicle for repair under this section by presenting it to the  
23 dealer no later than five business days after the expiration of the applicable warranty period and  
24 informing him of the defect. Said return period shall be tolled during any time period in which  
25 the consumer has notified the dealer of the defect but cannot reasonably present the vehicle to the  
26 dealer; including, but not limited to, the reason that a used motor vehicle is inoperable and the  
27 dealer refuses to pay the charge to tow said vehicle. The dealer shall immediately accept return  
28 of a vehicle when it is so presented. Said used motor vehicle shall be deemed out of service  
29 commencing the day it is so presented, notwithstanding any dealer's failure to accept its return

1 on said day. During the applicable warranty period and the aforesaid return period, the dealer  
2 shall pay the reasonable costs of towing from point of breakdown up to forty-eight kilometers  
3 (48 km.) to obtain required repairs or to return the vehicle to the dealer;

4 C. Upon return of the used motor vehicle to the consumer after repair, the dealer shall  
5 provide the consumer with a warranty repair receipt describing (1) the defect complained of, (2)  
6 the work performed in an attempt to correct such defect and the identity of the repairer if it is not  
7 the dealer, and (3) the parts replaced in performing such work. For the dealer to toll the ten  
8 business day period as provided in paragraph (D) of this section said dealer shall attach to each  
9 such warranty repair receipt copies of such order forms, invoices, receipts or other evidence of a  
10 parts order and its receipt to evidence his compliance with this paragraph;

11 D. If the dealer fails to repair the same defect within three attempts, or if the used motor  
12 vehicle is out of service for more than a cumulative total of ten business days after the consumer  
13 has returned it to the dealer for repair of the same, then the dealer shall accept return of the  
14 vehicle from the consumer and refund the full repurchase price, less a reasonable allowance for  
15 use. A reasonable allowance for use shall ten pesos (P10.00) per kilometer the motor vehicle has  
16 been operated between its sale and the dealer's repurchase;

17 E. A consumer shall have the option of retaining the use of any vehicle returned under the  
18 provisions of this section until such time as said consumer has been tendered a full refund. The  
19 use of any vehicle retained by a consumer after its return to a manufacturer under the provisions  
20 of this section, shall, in instances in which a refund is tendered, be reflected in the above-  
21 mentioned reasonable allowance for use;

22 F. A used motor vehicle shall not be considered out of service for purposes of the ten  
23 business-day period described hereinabove for any day in which a part necessary to repair a  
24 defect complained of is not in the dealer's possession; provided, however, that the dealer has  
25 ordered the part by reasonable means on the same day on which he knew or should have known  
26 that the part was necessary, except that in no event shall a part's unavailability operate to toll the  
27 ten business-day period for more than twenty-one days. The applicable warranty period shall be  
28 extended by the number of days a part is unavailable;

29 SECTION 7. *Option of vendor to repurchase vehicle.* -

1 At any time within the applicable warranty period and after a consumer has complained  
2 of a defect, notwithstanding any objection from the consumer, the dealer shall have the option of  
3 repurchasing a used vehicle and refunding the full repurchase price, less a reasonable allowance  
4 for use. A reasonable allowance for use shall be fifteen cents for each mile the used motor  
5 vehicle had been operated between its sale and the dealer's repurchase.

6 If the dealer is required to or elects to repurchase a vehicle under the terms of this section,  
7 the consumer and dealer shall cooperate with each other to execute all necessary documents in  
8 order to clear the title of any encumbrances on the repurchased vehicle.

9 SECTION 8. *Private sellers.* — A private seller shall clearly disclose to any prospective  
10 buyer, before the sale is completed, all defects the seller knows of which impair the used motor  
11 vehicle's safety or substantially impair its use. Failure to so disclose known defects shall entitle  
12 the buyer, within thirty days after the sale, to rescind the sale and be entitled to return of all  
13 monies paid to the seller less a reasonable amount for use as defined in clause (iv) of paragraph  
14 (A) subsection (3). A reasonable allowance for use shall be ten pesos per kilometer the motor  
15 vehicle had been operated between its sale and the seller's repurchase.

16 In any subsequent action by a buyer under this section, it shall be an affirmative defense  
17 in any such action that an alleged defect does not impair the vehicle's safety, or substantially  
18 impair its use, or that it is the result of the buyer's negligence, abuse, damage caused by accident,  
19 vandalism or attempt to modify the vehicle.

20 SECTION 9. *Implementing Agency and its duties.* — The DTI Secretary shall, within  
21 sixty (60) days from the effectivity of this Act, promulgate rules and regulations, including those  
22 of disciplinary nature, to carry out and enforce the provisions of this Act. Further, the DTI shall  
23 be the lead agency in carrying out the provisions of this Act.

24 SECTION 10. *Assistance by other agencies.* — The DOTC and other agencies, political  
25 subdivisions and local government units, including government-owned and controlled  
26 corporations, shall render such assistance as required by the DTI in order to effectively  
27 implement the provisions of this Act.



1 SECTION. 11. *Penalties.* – The dealer adjudged to have violated the provisions in this  
2 act shall be liable to pay a minimum amount of One hundred thousand pesos (Php100,000.00) as  
3 damages to the aggrieved party without prejudice to any civil or criminal liability they and/or the  
4 responsible officer may incur under existing laws.

5 Any private seller adjudged to have violated the provisions in section 7 shall be liable to  
6 pay a minimum amount of Fifty thousand pesos (Php50,000.00) as damages to the aggrieved  
7 party without prejudice to any civil or criminal liability they and/or the responsible officer may  
8 incur under existing laws.

9 SECTION 12. *Appropriation.* — To carry out the provisions of this Act, such amount as  
10 may be necessary is hereby authorized to be appropriated from the National Treasury.  
11 Thereafter, the amount necessary for the continuous operation of this program shall be included  
12 in the annual appropriation of the DTI.

13 SECTION 13. *Separability Clause.* – If any provision or part hereof, is held invalid or  
14 unconstitutional, the remainder of the law or the provision not otherwise affected shall remain  
15 valid and subsisting.

16 SECTION 14. *Repealing Clause.* – Any law, presidential decree or issuance, executive  
17 order, letter of instruction, administrative order, rule or regulation contrary to or is inconsistent  
18 with the provision of this Act is hereby repealed, modified, or amended accordingly.

19 SECTION 15. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after its  
20 publication in at least two (2) newspapers of general circulation.

Approved,

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