

13th CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
FIRST REGULAR SESSION)

OFFICE OF THE CLERK
701 SEP 27 11 27
RECEIVED BY

SENATE
S.B.No. 1812

Introduced by SENATOR AQUILIO Q. PIMENTEL, JR.

EXPLANATORY NOTE

After a residential house and lot, the purchase of a motor vehicle is the biggest financial investment of the Filipino consumer.

Assuming that he saves his entire yearly salary to purchase a motor vehicle, a minimum wage earner will have to wait for at least ten years before he can even afford to buy a second hand bantam vehicle.

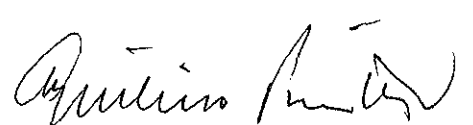
Yet, the Filipino consumer usually gets much less than his foreign counterpart in terms of quality and value for his peso. It is a sad reality that motor vehicles sold in the Philippines are much more expensive than similar models sold abroad. Local vehicle manufacturers try to squeeze every drop of profit and advantage in selling the Filipino old model vehicles when the newer versions are already available in other countries. And, while car dealers abroad compete with each other by offering big discounts and extensive vehicle warranties, this is more of the exception than the rule in the country.

Moreover, many consumers find out too late that the motor vehicles they bought do not live up to the quality they were made to believe in. These are the so-called "lemon" cars." Not only do these poor quality vehicles short-change consumers, they also endanger the lives and limbs of passengers.

Congress must therefore correct this anomalous situation by passing legislation that would protect the Filipino consumer by making sure that car manufacturers issue and comply with their warranties.

This bill is, therefore, filed to provide for minimum warranties that car manufacturers must comply with. The bill requires manufacturers to disclose warranties prior to the purchase of a motor vehicle. It also provides remedies for purchasers of motor vehicles who victimize consumers with false or fraudulent warranties.

The passage of this bill is earnestly requested.


AQUILINO Q. PIMENTEL, JR.

13th CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
FIRST REGULAR SESSION)

DEPARTMENT OF SECRETARIES

SEP 27 1912

RECEIVED BY

SENATE

S.B.No. 1812

Introduced by Senator Aquilino Q. Pimentel, Jr.

AN ACT
TO ENFORCE WARRANTIES ON THE SALE, OF MOTOR VEHICLES, AND
IMPOSING PENALTIES FOR VIOLATION THEREOF

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

Section 1. Declaration of Policy. It is declared the policy of the state to promote full protection to the rights of consumers in the sale of motor vehicles against trade practices which are inimical to the public interest. The State recognizes that a motor vehicle is a major consumer purchase. As such, the consumer must be accorded adequate protection to ensure that he does not place himself at the bad end of a bargain.

Section 2. Definitions of terms. (a) "Consumer" shall mean the purchaser, other than for purposes of resale, of a motor vehicle used in substantial part for personal, family, or household purposes, and any person to whom the motor vehicle is transferred for the same purposes during the duration of any warranty applicable to such motor vehicle, and any other person entitled by the terms of such warranty to enforce the obligations of the warranty.

(b) "Manufacturer" shall mean a person, partnership, association, corporation or entity engaged in the business of manufacturing or assembling motor vehicles, or of distributing motor vehicles to motor vehicle dealers.

(c) "Manufacturer's express warranty" shall mean the written warranty, so labeled, of the manufacturer of a new automobile, including any terms or conditions precedent to the enforcement of obligations under that warranty.

(d). Motor vehicle" shall mean only passenger cars, pick-up or panel -, trucks, motorcycles, and demonstrators or lease purchase vehicles with which warranty was issued.

(e) Motor vehicle dealer', shall mean any person other than a manufacturer which sells motor vehicles to the public.

(f) "Lemon Law Rights Period" shall mean the period ending eighteen months after the date of original delivery to the consumer of a new motor vehicle. This shall be the period during which the consumer can report any nonconformity to the manufacturer and pursue any rights provided in this Act.

(g)." Lien" shall mean a security interest in a motor vehicle.

(h) "Lienholder" shall mean a person, partnership, association, corporation or entity with a security interest in a motor vehicle pursuant to a lien.

(i) "Collateral charges" shall mean sales-related charges including but not limited to sales tax, license fees, finance charges and interest, transportation charges, dealer preparation charges or any other charges for service contracts, undercoating, rust proofing or installed options, not recoverable from a third party.

(j). 'Comparable motor vehicle" shall mean a motor vehicle that is identical or reasonably equivalent to the motor vehicle to be replaced, 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.

(k) "Nonconformity" shall mean a failure to conform to a warranty, a defect or a condition, including those that do not affect the driveability of the vehicle, which significantly impairs the use, market value, or safety of a motor vehicle.

(l) "Notify" or "notification" shall mean that the manufacturer shall be deemed to have been notified if a written complaint of the defect or defects has been mailed to it or it has responded to the consumer in writing regarding a complaint, or a factory representative has either inspected the vehicle or met with the consumer or an authorized dealer regarding the nonconformity.

(m) "Serious safety defect" shall mean a life-threatening malfunction or nonconformity that impedes the consumer's ability to control or operate the new motor vehicle for ordinary use or reasonable intended purposes or creates a risk of fire or explosion.

(n) "Significant impairment" shall mean to render the new motor vehicle unfit, unreliable or unsafe for ordinary use or reasonable intended purposes.

(o) "Warranty" shall mean any implied warranty or any written warrant of the manufacturer, or any affirmations of fact or promise made by the manufacturer in connection with the sale of a motor vehicle that become part of the basis of the bargain. The term "warranty" pertains to the obligations of the manufacturer in relation to materials, workmanship, and fitness of a motor vehicle for ordinary use or reasonable intended purposes throughout the duration of the lemon law rights period as defined in this section.

Section 3. *Conformity to warranties.* If a new motor vehicle does not conform to all warranties, and the consumer reports the nonconformity to the manufacturer, its agents, or its authorized dealer during the manufacturer's warranty period, the manufacturer, its agent or its authorized dealer shall make such repairs as are necessary to make the vehicle conform to such warranties, notwithstanding the fact that such repairs are made after the expiration of the such manufacturer's warranty period.

Section 4. *Nonconformity of motor vehicles.* If the manufacturer, its agents or authorized dealers do not put the motor vehicle to order in conformity with any applicable warranty by repairing or correcting any defect or condition, including those that do not affect the driving efficiency of the vehicle, which significantly impairs the use, market value, or safety of the motor vehicle to the consumer after a reasonable number of attempts during the lemon law rights period, the manufacturer shall:

- 1.) Replace the motor vehicle with a comparable motor vehicle or
- 2.) Accept return of the motor vehicle and refund to the consumer and any lien holder as their interest may appear the full purchase price, including all collateral charges, incidental charges, incidental damages, less a reasonable allowance for the consumer's use of the vehicle up to the date of the first notice of nonconformity that is given to the manufacturer, its agents or authorized dealer. The consumer shall

have the unconditional right to choose a refund rather than a replacement vehicle and to drive the motor vehicle until he receives either a replacement or refund. The subtraction of a reasonable allowance for use shall apply to either a replacement or refund of the motor vehicle. Mileage, expenses, and reasonable loss of use necessitated by attempts to conform such motor vehicle to the express warranty may be recovered by the consumer.

Section 5. *Presumption of nonconformity.* It shall be presumed that a reasonable number of attempts have been undertaken to put a motor vehicle in conformity with any warranty and that the motor vehicle is significantly impaired if, during the period of eighteen months following the date of delivery of the motor vehicle to the consumer either:

- 1.) The same nonconformity has been subject to repair three or more times by the manufacturer, its agents or its authorized dealers and the same nonconformity continues to exist;
- 2.) The nonconformity is a serious safety defect and has been subject to repair one or more times by the manufacturer, its agent or its authorized dealer and the same nonconformity continues to exist; or
- 3.) The motor vehicle is out of service due to repair for a cumulative total of thirty calendar days, unless such repairs could not be performed because of conditions beyond the control of the manufacturer, its agents or authorized dealers, including war, invasion, strike, fire, flood or other natural disasters.

Section 6. *Lemon Law Rights Period Extension.* The lemon law rights period shall be extended if the manufacturer has been notified but the nonconformity has not been effectively repaired by the manufacturer, or its agent, by the expiration of the lemon law rights period.

Section 7. *Manufacturer's disclosure.* The manufacturer shall clearly and conspicuously disclose to the consumer, in the warranty or owner's manual, that written notification of the nonconformity to the manufacturer is required before the consumer may be eligible for refund or replacement of the vehicle. The manufacturer shall include with the warranty or owner's manual the name and address to which the consumer shall send such written notification.

Section 8. *Consumer's duty to notify.* Prior to availing himself of the provisions of this section, it shall be the responsibility of the consumer, or his representative, to notify the manufacturer of the need for the correction or repair of the nonconformity, unless the manufacturer has already been notified. If the manufacturer or factory representative has not been notified of the conditions set forth in Section 5, and any of the conditions set forth in Section 5 already exists, the manufacturer shall be given additional opportunity, not to exceed fifteen days, to correct or repair the nonconformity. If notification shall be mailed to an authorized dealer, the authorized dealer shall upon receipt, forward such notification to the manufacturer.

Section 9. *Remedies.* Any consumer who suffers loss by reason of a violation of any provision of this Act may bring an action to enforce such provision. Any consumer who is successful in such an action or any defendant in any frivolous action brought by a consumer shall recover reasonable attorney's fees and other costs incurred in bringing such actions.

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

Section 10. *Defenses.* The manufacturer or any other person against whom an action is brought may deny any liability by raising the following affirmative defenses:

- 1.) An alleged nonconformity does not significantly impair the use, market value, or safety of the *motor* vehicle; or
- 2.) A nonconformity is the result of abuse, neglect, or unauthorized modification or alteration of a motor vehicle by a consumer.

Section 11. *Dispute settlement.* As an alternative to litigation, the parties may agree on a dispute settlement procedure. If a manufacturer provides an informal dispute settlement procedure, it shall be the consumer's choice whether or not to use it prior to availing himself of his rights under this Act.

Should the consumer resort to dispute settlement and the decision is for a refund or a comparable motor vehicle, the manufacturer shall have forty days from its receipt of the consumer's acceptance of the decision or from the date of a court order to comply with the terms of the decision.

Section 12. *Triple award.* In any action brought by the consumer due to the manufacturer's failure to comply with the decision, within the scope of the procedure's authority, rendered as a result of a dispute resolution proceeding or a court order, the court may triple the value of the award stipulated in the decision, plus award other equitable relief the court deems appropriate, including additional attorney's fees.

Section 13. *Action to .be brought within a certain time.* Any action brought under this Act shall be commenced within the lemon law rights period following the date of original delivery of the motor vehicle to the consumer; however, any consumer whose good faith attempts to settle the dispute have not resulted in the satisfactory correction or repair of the nonconformity, replacement of the motor vehicle or refund to the consumer of the amount described .in subsection 2 of Section 4 of this Act, shall have twelve months from the date of the final action taken by the manufacturer in its dispute settlement procedure, or within the lemon law rights period, whichever is longer, to file an action in the proper court, provided the consumer has rejected the manufacturer's final action.

Section 14. *Transfer of vehicles to be disclosed.* If a motor vehicle that is returned to the manufacturer or distributor either under this Act or by judgment, decree, or award is then transferred to a dealer the manufacturer or distributor shall disclose this information to the dealer.

Section 15. *Disclosure on Re-sale.* If the returned vehicle is then made available for resale, the manufacturer shall, prior to sale, disclose in writing in a clear and conspicuous manner to the dealer that:

- 1.) The motor vehicle was returned to the manufacturer, distributor, factory or branch;
- 2.) the nature of the defect which resulted in the return; and
- 3.) the condition of the motor vehicle at the time of the transfer to the dealer.

It shall be the responsibility of the dealer that receives the disclosure to give notice of its contents to any prospective purchaser prior to sale, and to transfer the disclosure, or a copy thereof to the next purchaser. A dealer's responsibility under this section shall cease upon the sale of the affected motor vehicle to the first purchaser not for resale.

Section 16. *Penalty.* The manufacturer, distributor or dealer adjudged to have violated the provisions requiring disclosure as mentioned in the preceding section shall be liable to pay a minimum of P100,000 in damages to the aggrieved party, without prejudice to any civil or criminal liability they and/or their responsible officers may incur under existing laws.

Section 17. *Repealing Clause.* All laws, decrees, rules or regulations or parts thereof, which are inconsistent with the provisions of this Act, are hereby deemed repealed, amended or modified accordingly.

Section 18. *Separability Clause.* If, for any reason, any part or provision of this Act is declared invalid, such declaration shall not affect the other provisions of this Act.

Section 19. *Effectively.* This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in two national newspapers of general circulation.

Approved,