

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 792 Session of 2019

INTRODUCED BY BROOKS, GORDNER, MASTRIANO, STEFANO, J. WARD, K. WARD, COSTA, COLLETT, MUTH AND BREWSTER, JULY 8, 2019

SENATOR TOMLINSON, CONSUMER PROTECTION AND PROFESSIONAL LICENSURE, AS AMENDED, OCTOBER 6, 2020

AN ACT

1 Amending the act of March 28, 1984 (P.L.150, No.28), entitled
2 "An act relating to the rights of purchasers and lessees of
3 defective new motor vehicles," further providing for
4 definitions, FOR REPAIR OBLIGATIONS, for manufacturer's duty <--
5 for refund or replacement and for presumption of a reasonable
6 number of attempts.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. The definition of "new motor vehicle" in section
10 2 of the act of March 28, 1984 (P.L.150, No.28), known as the
11 Automobile Lemon Law, is amended and the section is amended by
12 adding a definition DEFINITIONS to read: <--

13 Section 2. Definitions.

14 The following words and phrases when used in this act shall
15 have the meanings given to them in this section unless the
16 context clearly indicates otherwise:

17 \* \* \*

18 "DUAL SPORT MOTORCYCLE." A MOTORCYCLE THAT IS DESIGNED TO BE <--
19 RIDDEN ON AND OFF ROAD THAT MAY OR MAY NOT BE REGISTERED WITH

1 THE DEPARTMENT.

2 \* \* \*

3 "Motorcycle." As defined in 75 Pa.C.S. § 102 (relating to  
4 definitions).

5 "New motor vehicle." Any new and unused self-propelled,  
6 motorized conveyance driven upon public roads, streets or  
7 highways which is designed to transport not more than 15  
8 persons, which was purchased or leased and is registered in the  
9 Commonwealth or purchased or leased elsewhere and registered for  
10 the first time in the Commonwealth and is used, leased or bought  
11 for use primarily for personal, family or household purposes,  
12 including a vehicle used by a manufacturer or dealer as a  
13 demonstrator or dealer car prior to its sale. The term includes  
14 motorcycles and does not include [motorcycles,] motor homes  
15 [or], off-road vehicles OR DUAL SPORT MOTORCYCLES DRIVEN OFF- <--  
16 ROAD.

17 \* \* \*

18 ~~Section 2. Section 5 of the act is amended to read:~~ <--

19 SECTION 2. SECTIONS 4(A) AND 5 OF THE ACT ARE AMENDED TO <--

20 READ:

21 SECTION 4. REPAIR OBLIGATIONS.

22 (A) REPAIRS REQUIRED.--THE MANUFACTURER OF A NEW MOTOR  
23 VEHICLE SOLD OR LEASED AND REGISTERED IN THE COMMONWEALTH SHALL  
24 REPAIR OR CORRECT, AT NO COST TO THE PURCHASER, A NONCONFORMITY  
25 WHICH SUBSTANTIALLY IMPAIRS THE USE, VALUE OR SAFETY OF SAID  
26 MOTOR VEHICLE WHICH:

27 (1) IN THE CASE OF A MOTORCYCLE, MAY OCCUR WITHIN A  
28 PERIOD OF ONE YEAR FOLLOWING THE ACTUAL DELIVERY OF THE  
29 MOTORCYCLE TO THE PURCHASER OR DURING THE TERM OF THE  
30 WARRANTY, WHICHEVER MAY OCCUR FIRST; OR

1           (2) IN THE CASE OF ANY OTHER NEW MOTOR VEHICLE, MAY  
2 OCCUR WITHIN A PERIOD OF ONE YEAR FOLLOWING THE ACTUAL  
3 DELIVERY OF THE VEHICLE TO THE PURCHASER, WITHIN THE FIRST  
4 12,000 MILES OF USE OR DURING THE TERM OF THE WARRANTY,  
5 WHICHEVER MAY FIRST OCCUR.

6           \* \* \*

7 Section 5. Manufacturer's duty for refund or replacement.

8           If the manufacturer fails to repair or correct a  
9 nonconformity after a reasonable number of attempts, the  
10 manufacturer shall, at the option of the purchaser, replace the  
11 motor vehicle with a comparable motor vehicle of equal value or  
12 accept return of the vehicle from the purchaser and refund to  
13 the purchaser the full purchase price or lease price, including  
14 all collateral charges, less a reasonable allowance for the  
15 purchaser's use of the vehicle not exceeding 10¢ per mile driven  
16 or 10% of the purchase price or lease price of the vehicle,  
17 whichever is less. Refunds shall be made to the purchaser and  
18 lienholder, if any, as their interests may appear. A reasonable  
19 allowance for use shall be that amount directly attributable to  
20 use by the purchaser prior to his first report of the  
21 nonconformity to the manufacturer. In the event the consumer  
22 elects a refund, payment shall be made within 30 days of such  
23 election. A consumer shall not be entitled to a refund or  
24 replacement if the nonconformity does not substantially impair  
25 the use, value or safety of the vehicle or the nonconformity is  
26 the result of abuse, neglect or modification or alteration of  
27 the motor vehicle by the purchaser. For purposes of this  
28 section, the phrase "modification or alteration by the  
29 purchaser" shall include, in relation to a motorcycle, a  
30 modification or alteration made after the date of actual

1 delivery of the motorcycle to the purchaser.

2 ~~Section 3. Section 6(b) of the act is amended by adding a~~ <--  
3 ~~paragraph and the section is amended by adding a subsection to~~  
4 ~~read:~~

5 SECTION 3. SECTION 6(A) AND (B) OF THE ACT ARE AMENDED BY <--  
6 ADDING PARAGRAPHS AND THE SECTION IS AMENDED BY ADDING A  
7 SUBSECTION TO READ:

8  
9 Section 6. Presumption of a reasonable number of attempts.

10 \* \* \* <--

11 (A) GENERAL RULE.--IT SHALL BE PRESUMED THAT A REASONABLE <--  
12 NUMBER OF ATTEMPTS HAVE BEEN UNDERTAKEN TO REPAIR OR CORRECT A  
13 NONCONFORMITY IF:

14 \* \* \*

15 (3) FOR A MOTORCYCLE, MANUFACTURER-SOURCED PARTS HAVE  
16 BEEN USED IN THE ATTEMPTS TO REPAIR THE NONCONFORMITY.

17 (b) Time period extension.--

18 \* \* \*

19 (4) The minimum number of calendar days provided under  
20 subsection (a)(2) shall not apply to the period during which  
21 a motorcycle is being stored at a manufacturer's authorized  
22 service and repair facility, either as a courtesy to the  
23 purchaser or for compensation, even if repairs to correct a  
24 nonconformity are made during the storage period. This  
25 paragraph shall apply if the purchaser waives the minimum  
26 calendar day period in writing or enters into a contract for  
27 storage of the motorcycle. A waiver under this paragraph  
28 shall contain the signature of the purchaser and a  
29 representative of the manufacturer's authorized service and  
30 repair facility.

1 (c) Applicability.--Subsections (a) and (b) shall only apply  
2 to a motorcycle if all attempts to correct a nonconformity are  
3 made by the same manufacturer's authorized service and repair  
4 facility or if the purchaser provides a complete set of repair  
5 records, related to the nonconformity, to a manufacturer's  
6 authorized service and repair facility that has not previously  
7 attempted to repair the nonconformity. THE MANUFACTURER'S <--  
8 AUTHORIZED SERVICE AND REPAIR FACILITY THAT PERFORMED THE  
9 REPAIRS SHALL PROVIDE AN AFFIDAVIT THAT THE NONCONFORMITY HAS  
10 BEEN SUBJECT TO REPAIR THREE TIMES.

11 Section 4. This act shall take effect in 60 days.