

COUNCIL OF THE DISTRICT OF COLUMBIA

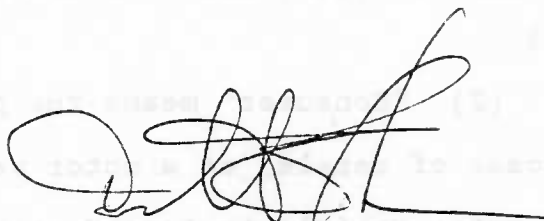
NOTICE

D.C. LAW 5-162

"Automobile Consumer Protection Act of 1984".

Pursuant to Section 412 of the District of Columbia Self-Government and Governmental Reorganization Act, P. L. 93-198, "the Act", the Council of the District of Columbia adopted Bill No. 5-288 on first and second readings, November 20, 1984 and December 4, 1984, respectively. Following the signature of the Mayor on December 7, 1984, this legislation was assigned Act No. 5-227, published in the January 11, 1985 edition of the D.C. Register, (Vol. 32 page 160) and transmitted to Congress January 8, 1985 for a 30-day review, in accordance with Section 602 (c)(1) of the Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional Review Period has expired, and therefore, cites this enactment as D.C. Law 5-162, effective March 14, 1985.



DAVID A. CLARKE
Chairman of the Council

Dates Counted During the 30-day Congressional Review Period:

January	22,23,24,25,28,29,30,31
February	1,4,5,6,7,19,20,21,22,25,26,27,28
March	1,4,5,6,7,8,11,12,13

D.C. ACT 5 - 227

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DEC 07 1984

To protect consumers who purchase new vehicles which prove to be defective within the first 2 years or within the first 18,000 miles; to require manufacturers of defective vehicles either to replace them or to refund the purchase price if the vehicle cannot be repaired; to establish a Board of Consumer Claims Arbitration; to require the disclosure of defects and damage to the purchasers of used automobiles; and for other purposes.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Automobile Consumer Protection Act of 1984".

Sec. 2. Definitions.

For the purposes of this act, the term:

(1) "Board" means the Board of Consumer Claims Arbitration for the District of Columbia established by section 4.

(2) "Consumer" means the purchaser, other than for purposes of resale, of a motor vehicle; any person to whom the motor vehicle is leased or otherwise transferred during the duration of a warranty applicable to the motor vehicle; and any other person entitled to enforce the obligations of the warranty. For the purposes of section 4 of this act, the term "consumer" means any natural person who does or would purchase, lease, or receive consumer goods or services.

New,
D.C. Code,
sec. 40-1301
Note,
D.C. Code,
secs. 28-3601
-3801, & -390
(1985 supp.)

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(3) "Council" means the Council of the District of Columbia.

(4) "Court" means the Superior Court of the District of Columbia.

(5) "District" means the District of Columbia.

(6) "Known" means, for the purposes of section 6 of this act, that a dealer or the dealer's agent or employee has obtained facts or information about the condition of a motor vehicle which would lead a reasonable person in similar circumstances to believe that the motor vehicle contained one or more material mechanical defects. The term "known" encompasses knowledge obtained through an inspection, from a previous owner, from the salesperson at an auction, or through other means.

(7) "Material mechanical defect" means any defect, failure, or malfunction of the mechanical system of a motor vehicle, including, but not limited to, the engine, transmission and drive shaft, differential, cooling system, electrical system, fuel system, or accessories, which significantly impairs the operation, safety, performance, or value of the motor vehicle.

(8) "Mayor" means the Mayor of the District of Columbia.

(9) "Motor vehicle" means a motor vehicle which is manufactured for sale, offered for sale, sold, or registered in the District and which is designed for the primary purpose of transporting a driver and one or more passengers on streets, roads, or highways. The term "motor

vehicle" shall not include buses sold for public transportation, motorcycles, motor homes, or motorized recreational vehicles.

(10) "New motor vehicle" means a motor vehicle which is in the period of the first 18,000 miles of operation or the first 2 years after the date of delivery to the original purchaser, whichever is earlier.

(11) "Safety-related defect" means an impairment which reduces the operator's ability to control the motor vehicle in normal operation or which creates a risk of fire, explosion, or other life-threatening malfunction.

(12) "Significantly impair" means to render the motor vehicle unreliable or unsafe for normal operation or to reduce its resale value below the average resale value for comparable motor vehicles.

(13) "Used motor vehicle" means a motor vehicle which is offered for sale in the District and which is not within the period of the first 18,000 miles of operation or the first two years after the date of delivery to the original purchaser, whichever is earlier; but it does not mean a motor vehicle sold only for scrap or parts.

(14) "Warranty" means the written or implied warranty of the manufacturer of a motor vehicle.

Sec. 3. Consumer's Remedy for Defective Vehicles.

(a) If a new motor vehicle does not conform to all warranties during the first 18,000 miles of operation or during the period of two years following the date of delivery of the motor vehicle to the original purchaser,

New,
D.C. Code,
sec. 40-1302
(1985 supp.)

whichever is the earlier date, the consumer shall during that period report the nonconformity, defect, or condition to the manufacturer, its agent, or its authorized dealer. If the notification is received by the manufacturer's agent or authorized dealer, the agent or dealer shall within seven days forward written notice thereof to the manufacturer by certified mail, return receipt requested. The manufacturer, its agent, or its authorized dealer shall correct the nonconformity, defect, or condition at no charge to the consumer, notwithstanding the fact that the repairs may be made after the expiration of the first 18,000-mile period of operation or the two-year period.

(b) If, after a reasonable number of attempts, the manufacturer, its agent, or authorized dealer is unable to repair or correct any nonconformity, defect, or condition which results in significant impairment of the motor vehicle, the manufacturer, at the option of the consumer, shall replace the motor vehicle with a comparable motor vehicle, or accept return of the motor vehicle from the consumer and refund to the consumer the full purchase price, including all sales tax, license fees, registration fees, and any similar governmental charges. In calculating a refund, the manufacturer may deduct from the consumer's full purchase price a reasonable allowance not to exceed 10 cents per mile for the consumer's use of the motor vehicle in excess of the first 12,000 miles of operation, and a reasonable allowance for any damage not attributable to normal wear or to the nonconformity, defect, or condition

which significantly impaired the motor vehicle. Refunds shall be made to the consumer, and the lienholder, if any, as their interests may appear on the records of ownership kept by the Department of Public Works.

(c) Each of the following circumstances shall be an affirmative defense to any claim under this section:

(1) The nonconformity, defect, or condition does not significantly impair the vehicle.

(2) The nonconformity, defect, or condition is the result of abuse, neglect, or unauthorized modifications or alterations of the motor vehicle.

(d) It shall be presumed that a reasonable number of attempts have been made to conform a motor vehicle to the warranties, if:

(1) the same nonconformity, defect, or condition, if it is not safety-related, has been subject to repair four or more times by the manufacturer, its agent, or authorized dealer after notification by the consumer within the first 18,000 miles of operation or during the period of two years following the date of original delivery of the motor vehicle to a consumer, whichever is the earlier date, but the nonconformity, defect, or condition continues to exist;

(2) the same nonconformity, defect, or condition, if it is safety-related, has been subject to repair one or more times by the manufacturer, its agents, or authorized dealers after notification by the consumer within the first 18,000 miles of operation or during the period of two years following the date of original delivery of the motor vehicle

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to a consumer, whichever is the earlier date, but the nonconformity, defect, or condition continues to exist; or

(3) the motor vehicle is out of service by reason of repair of any nonconformities, defects, or conditions which significantly impair the vehicle, on a cumulative total of 30 days or more during either period, whichever is the earlier date.

(e) The 30-day out-of-service period shall be extended by any time during which repair services are not available to the consumer because of a war, invasion, strike, fire, flood, or other natural disaster.

(f) The consumer, in order to seek the refund or replacement provided by this section, shall first submit a claim to the Board of Consumer Claims Arbitration established pursuant to section 4. If the Board rejects the case for arbitration, or if the claim is arbitrated and the consumer rejects the arbitration decision, the consumer may then bring an action in court to seek the remedies provided by this section.

(g)(1) If a motor vehicle is returned to a manufacturer, its agent, or authorized dealer pursuant to this section, the manufacturer, its agent, or authorized dealer shall notify the Department of Public Works that the motor vehicle was returned.

(2) The Department of Public Works shall note the fact that the motor vehicle was returned pursuant to this act on any certificate of title issued for the motor vehicle.

(3) A motor vehicle dealer shall state the fact that the motor vehicle was returned pursuant to this act in any sales contract for the motor vehicle prior to the signing of the contract by a prospective purchaser.

Sec. 4. Arbitration.

(a) There is established in the Department of Consumer and Regulatory Affairs a Board of Consumer Claims Arbitration for the District of Columbia. The Board shall consist of seven members who shall be appointed by the Mayor with the advice and consent of the Council.

(b) The members shall be at least 18 years of age and residents of the District.

(c) Two members shall be attorneys admitted to the practice of law in the District, one of whom shall be designated by the Mayor as chairperson of the Board. Two members shall have training and experience in arbitration and mediation. One member shall be the Director of the Department of Consumer and Regulatory Affairs or his or her designee. One member shall have experience or training in representing the interests of consumers. One member shall have experience or training in the manufacture or wholesale or retail sales of consumer goods.

(d) The Mayor shall appoint the initial Board members within 60 days of the effective date of this act. Of the members first appointed, the chairperson and one other member shall be appointed for terms of three years; one member shall be appointed for a term of two years, and one member shall be appointed for a term of one year.

New,
D.C. Code,
sec. 40-1303
Note,
D.C. Code,
sec. 1-612.8
(1985 supp.)