

1-1 By: Smithee (Senate Sponsor - Watson) H.B. No. 2070
1-2 (In the Senate - Received from the House May 5, 2017;
1-3 May 5, 2017, read first time and referred to Committee on Business
1-4 & Commerce; May 21, 2017, reported favorably by the following vote:
1-5 Yeas 8, Nays 0; May 21, 2017, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12			X	
1-13	X			
1-14	X			
1-15	X			
1-16	X			

1-17 A BILL TO BE ENTITLED
1-18 AN ACT

1-19 relating to the enforcement of certain warranties for a new motor
1-20 vehicle.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Sections 2301.605(a) and (c), Occupations Code,
1-23 are amended to read as follows:

1-24 (a) A rebuttable presumption that a reasonable number of
1-25 attempts have been undertaken to conform a motor vehicle to an
1-26 applicable express warranty is established if:

1-27 (1) the same nonconformity continues to exist after
1-28 being subject to repair four or more times by the manufacturer,
1-29 converter, or distributor or an authorized agent or franchised
1-30 dealer of a manufacturer, converter, or distributor and the
1-31 attempts were made before the earlier of:

1-32 (A) the date the express warranty expires [two of
1-33 the repair attempts were made in the 12 months or 12,000 miles,
1-34 whichever occurs first, following the date of original delivery to
1-35 the owner]; or [and]

1-36 (B) 24 [the other two repair attempts were made
1-37 in the 12] months or 24,000 [12,000] miles, whichever occurs first,
1-38 [immediately] following the date of original delivery of the motor
1-39 vehicle to the owner [the second repair attempt];

1-40 (2) the same nonconformity creates a serious safety
1-41 hazard and continues to exist after causing the vehicle to have been
1-42 subject to repair two or more times by the manufacturer, converter,
1-43 or distributor or an authorized agent or franchised dealer of a
1-44 manufacturer, converter, or distributor and the attempts were made
1-45 before the earlier of:

1-46 (A) the date the express warranty expires [at
1-47 least one attempt to repair the nonconformity was made in the 12
1-48 months or 12,000 miles, whichever occurs first, following the date
1-49 of original delivery to the owner]; or [and]

1-50 (B) 24 [at least one other attempt to repair the
1-51 nonconformity was made in the 12] months or 24,000 [12,000] miles,
1-52 whichever occurs first, [immediately] following the date of
1-53 original delivery of the motor vehicle to the owner [the first
1-54 repair attempt]; or

1-55 (3) a nonconformity still exists that substantially
1-56 impairs the vehicle's use or market value, [and:

1-57 [A)] the vehicle is out of service for repair
1-58 for a cumulative total of 30 or more days, and the attempts were
1-59 made before the earlier of:

1-60 (A) the date the express warranty expires; or

1-61 (B) [in the] 24 months or 24,000 miles, whichever

2-1 occurs first, following the date of original delivery of the motor
 2-2 vehicle to the owner ~~[, and~~
 2-3 ~~[(B) at least two repair attempts were made in~~
 2-4 ~~the 12 months or 12,000 miles following the date of original~~
 2-5 ~~delivery to an owner].~~

2-6 (c) The 30 days described by Subsection (a)(3) ~~[(a)(3)(A)]~~
 2-7 do not include any period during which the manufacturer or
 2-8 distributor lends the owner a comparable motor vehicle while the
 2-9 owner's vehicle is being repaired by a franchised dealer.

2-10 SECTION 2. Section 2301.606(c), Occupations Code, as
 2-11 amended by Chapters 1135 (H.B. 2741) and 1379 (H.B. 1692), Acts of
 2-12 the 83rd Legislature, Regular Session, 2013, is reenacted and
 2-13 amended to read as follows:

2-14 (c) An order issued under this subchapter may not require
 2-15 ~~[The board or a person delegated power from the board under Section~~
 2-16 ~~2301.154 may not issue an order requiring]~~ a manufacturer,
 2-17 converter, or distributor to make a refund or to replace a motor
 2-18 vehicle unless:

2-19 (1) the owner, ~~[or]~~ a person on behalf of the owner, or
 2-20 the department has provided ~~[mailed]~~ written notice of the alleged
 2-21 defect or nonconformity to the manufacturer, converter, or
 2-22 distributor; and

2-23 (2) the manufacturer, converter, or distributor has
 2-24 been given an opportunity to cure the alleged defect or
 2-25 nonconformity.

2-26 SECTION 3. Section 2301.607(c), Occupations Code, as
 2-27 amended by Chapters 1135 (H.B. 2741) and 1379 (H.B. 1692), Acts of
 2-28 the 83rd Legislature, Regular Session, 2013, is reenacted and
 2-29 amended to read as follows:

2-30 (c) If a final order is not issued ~~[proposal for decision~~
 2-31 ~~and recommendation for a final order are not issued]~~ before the
 2-32 151st day after the date a complaint is filed under this subchapter,
 2-33 the department shall provide written notice by certified mail to
 2-34 the complainant and to the manufacturer, converter, or distributor
 2-35 of the expiration of the 150-day period and of the complainant's
 2-36 right to file a civil action. The department ~~[board or a person~~
 2-37 ~~delegated power from the board under Section 2301.154]~~ shall extend
 2-38 the 150-day period if a delay is requested or caused by the person
 2-39 who filed the complaint.

2-40 SECTION 4. Section 2301.608, Occupations Code, as amended
 2-41 by Chapters 1135 (H.B. 2741) and 1379 (H.B. 1692), Acts of the 83rd
 2-42 Legislature, Regular Session, 2013, is reenacted and amended to
 2-43 read as follows:

2-44 Sec. 2301.608. ASSESSMENT OF COSTS FOR REPLACEMENT OR
 2-45 REFUND. (a) An order issued under this subchapter must ~~[In an~~
 2-46 ~~order issued under this subchapter, the board or a person delegated~~
 2-47 ~~power from the board under Section 2301.154 shall]~~ name the person
 2-48 responsible for paying the cost of any refund or replacement. A
 2-49 manufacturer, converter, or distributor may not cause a franchised
 2-50 dealer to directly or indirectly pay any money not specifically
 2-51 required ~~[ordered]~~ by the order ~~[board or a person delegated power~~
 2-52 ~~from the board under Section 2301.154].~~

2-53 (b) If the final order requires ~~[board or a person delegated~~
 2-54 ~~power from the board under Section 2301.154 orders]~~ a manufacturer,
 2-55 converter, or distributor to make a refund or replace a motor
 2-56 vehicle under this subchapter, the final order ~~[board or person]~~
 2-57 may require ~~[order]~~ the franchised dealer to reimburse the owner,
 2-58 lienholder, manufacturer, converter, or distributor only for an
 2-59 item or option added to the vehicle by the dealer to the extent that
 2-60 the item or option contributed to the defect that served as the
 2-61 basis for the order.

2-62 (c) In a case involving a leased vehicle, the final order
 2-63 ~~[board or a person delegated power from the board under Section~~
 2-64 ~~2301.154]~~ may terminate the lease and apportion allowances or
 2-65 refunds, including the reasonable allowance for use, between the
 2-66 lessee and lessor of the vehicle.

2-67 SECTION 5. Section 2301.610(d), Occupations Code, is
 2-68 amended to read as follows:

2-69 (d) The department shall maintain a toll-free telephone

3-1 number to provide information to a person who requests information
3-2 about a condition or defect that was the basis for repurchase or
3-3 replacement by an order issued under this subchapter [~~chapter~~].
3-4 The department shall maintain an effective method of providing
3-5 information to a person who makes a request.

3-6 SECTION 6. Section 2301.713, Occupations Code, as amended
3-7 by Chapters 1135 (H.B. 2741) and 1379 (H.B. 1692), Acts of the 83rd
3-8 Legislature, Regular Session, 2013, is reenacted and amended to
3-9 read as follows:

3-10 Sec. 2301.713. REHEARING. (a) Except as otherwise
3-11 provided by this section [~~Subsection (b)~~], a party who seeks a
3-12 rehearing of an order shall seek the rehearing in accordance with
3-13 Chapter 2001, Government Code.

3-14 (b) The board by rule may establish procedures [~~a procedure~~]
3-15 to allow a party [~~parties~~] to a contested case [~~cases in which the~~
3-16 ~~final order is issued by a person to whom final order authority is~~
3-17 ~~delegated under Section 2301.154~~] to file a motion [~~motions~~] for
3-18 rehearing [~~with the board~~].

3-19 (c) A motion for rehearing in a contested case under Section
3-20 2301.204 or Subchapter M must be filed with and decided by the chief
3-21 hearings examiner.

3-22 SECTION 7. The changes in law made by this Act to Chapter
3-23 2301, Occupations Code, apply only to a new motor vehicle that is
3-24 sold or leased on or after the effective date of this Act. A new
3-25 motor vehicle that is sold or leased before the effective date of
3-26 this Act is governed by the law in effect on the date the motor
3-27 vehicle was sold or leased, and the former law is continued in
3-28 effect for that purpose.

3-29 SECTION 8. This Act takes effect September 1, 2017.

3-30

* * * * *