AMENDED IN ASSEMBLY APRIL 25, 1995

AMENDED IN ASSEMBLY APRIL 6, 1995

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

# ASSEMBLY BILL No. 1383

**Introduced by Assembly Member Speier**

February 24, 1995

An act to repeal Chapter 9 (commencing with Section 472) of Division 1 of the Business and Professions Code, ~~and to amend Section 1793.22 of the Civil Code,~~ relating to arbitration.

LEGISLATIVE COUNSEL'S DIGEST

AB 1383, as amended, Speier. Arbitration: motor vehicles.

~~(1)~~ Existing law provides for the regulation and certification of 3rd-party dispute resolution processes by the Department of Consumer Affairs.

This bill would repeal these provisions.

~~(2) Existing law provides that, if a manufacturer or its representative in this state is unable to service or repair a new motor vehicle to conform to the applicable express warranties after a reasonable number of attempts, the manufacturer is required to either promptly replace the new motor vehicle or promptly make restitution to the buyer, as specified. The existing Tanner Consumer Protection Act establishes a presumption that a reasonable number of attempts have been made to conform a new motor vehicle to the applicable express warranties if certain conditions are met within one~~

~~year from delivery to the buyer or 12,000 miles, whichever occurs first. However, it also provides that this presumption may not be asserted until after the buyer has initially resorted to a qualified 3rd-party dispute resolution process where such a process is available, as specified.~~

~~This bill would revise the conditions for operation of the presumption, as specified, and would delete the provisions requiring use of a 3rd-party dispute resolution process.~~

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Chapter 9 (commencing with Section 472) of Division 1 of the Business and Professions Code is repealed.

~~SEC. 2. Section 1793.22 of the Civil Code is amended to read:~~

~~1793.22. (a) This section shall be known and may be cited as the Tanner Consumer Protection Act.~~

~~(b) It shall be presumed that a reasonable number of attempts have been made to conform a new motor vehicle to the applicable express warranties if, within two years from delivery to the buyer or 24,000 miles on the odometer of the vehicle, whichever occurs first, either (1) the same nonconformity has been subject to repair four or more times by the manufacturer or its agents, the first of these repair attempts has occurred within one year from delivery to the buyer, and the buyer has at least once directly notified the manufacturer of the need for the repair of the nonconformity or (2) the vehicle is out of service by reason of repair of nonconformities by the manufacturer or its agents for a cumulative total of more than 30 calendar days since delivery of the vehicle to the buyer and the first full day out of service has occurred within one year from delivery to the buyer. The 30-day limit shall be extended only if repairs cannot be performed due to conditions beyond the control of the manufacturer or its agents. The buyer shall be required to directly notify the manufacturer pursuant to~~

~~paragraph (1) only if the manufacturer has clearly and conspicuously disclosed to the buyer, with the warranty or the owner's manual, the provisions of this section and that of subdivision (d) of Section 1793.2, including the requirement that the buyer must notify the manufacturer directly pursuant to paragraph (1). This presumption shall be a rebuttable presumption affecting the burden of proof, and it may be asserted by the buyer in any civil action, including an action in small claims court, or other formal or informal proceeding.~~

~~(c) For the purposes of subdivision (d) of Section 1793.2 and this section, the following terms have the following meanings:~~

~~(1) ''Nonconformity'' means a nonconformity which substantially impairs the use, value, or safety of the new motor vehicle to the buyer or lessee.~~

~~(2) ''New motor vehicle'' means a new motor vehicle which is used or bought for use primarily for personal, family, or household purposes. ''New motor vehicle'' includes the chassis, chassis cab, and that portion of a motor home devoted to its propulsion, but does not include any portion designed, used, or maintained primarily for human habitation, a dealer-owned vehicle and a ''demonstrator'' or other motor vehicle sold with a manufacturer's new car warranty but does not include a motorcycle or a motor vehicle which is not registered under the Vehicle Code because it is to be operated or used exclusively off the highways. A ''demonstrator'' is a vehicle assigned by a dealer for the purpose of demonstrating qualities and characteristics common to vehicles of the same or similar model and type.~~

~~(3) ''Motor home'' means a vehicular unit built on, or permanently attached to, a self-propelled motor vehicle chassis, chassis cab, or van, which becomes an integral part of the completed vehicle, designed for human habitation for recreational or emergency occupancy.~~

~~(d) (1) Except as provided in paragraph (2), no person shall sell, either at wholesale or retail, lease, or transfer a motor vehicle transferred by a buyer or lessee to a manufacturer pursuant to paragraph (2) of~~

~~subdivision (d) of Section 1793.2 or a similar statute of any other state, unless the nature of the nonconformity experienced by the original buyer or lessee is clearly and conspicuously disclosed to the prospective buyer, lessee, or transferee, the nonconformity is corrected, and the manufacturer warrants to the new buyer, lessee, or transferee in writing for a period of one year that the motor vehicle is free of that nonconformity.~~

~~(2) Except for the requirement that the nature of the nonconformity be disclosed to the transferee, paragraph (1) does not apply to the transfer of a motor vehicle to an educational institution if the purpose of the transfer is to make the motor vehicle available for use in automotive repair courses.~~

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