

FIRST REGULAR SESSION

HOUSE BILL NO. 800

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES REID, COLEMAN AND GEORGE (Co-sponsors).

Read 1st time February 15, 2001, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

1284L.011

AN ACT

To repeal sections 407.571, 407.573 and 407.577, RSMo 2000, relating to motor vehicle merchandising practices, and to enact in lieu thereof three new sections relating to the same subject.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 407.571, 407.573 and 407.577, RSMo 2000, are repealed and three
2 new sections enacted in lieu thereof, to be known as sections 407.571, 407.573 and 407.577, to
3 read as follows:

407.571. It shall be presumed that a reasonable number of attempts have been undertaken
2 to conform a new motor vehicle to the applicable express warranties if within the terms,
3 conditions, or limitations of the express warranty, or during the period of [one year] **eighteen**
4 **months** following the date of original delivery of the new motor vehicle to a consumer,
5 whichever expires earlier, either:

6 (1) The same nonconformity has been subject to repair four or more times by the
7 manufacturer, or its agents, and such nonconformity continues to exist; or

8 (2) The new vehicle is out of service by reason of repair of the nonconformity by the
9 manufacturer, through its authorized dealer or its agents, for a cumulative total of thirty or more
10 working days, exclusive of down time for routine maintenance as prescribed by the
11 manufacturer, since delivery of the new vehicle to the consumer. The thirty-day period may be
12 extended by a period of time during which repair services are not available to the consumer
13 because of conditions beyond the control of the manufacturer or its agents.

407.573. 1. The terms, conditions, or limitations of the express warranty, or the period

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

2 of [one year] **eighteen months** following the date of original delivery of the new motor vehicle
3 to a consumer, whichever expires earlier, may be extended if the new motor vehicle warranty
4 problem has been reported but has not been repaired by the manufacturer, or its agent, by the
5 expiration of the applicable time period.

6 2. The manufacturer shall provide information for consumer complaint remedies with
7 each new motor vehicle. It shall be the responsibility of the consumer, or his representative,
8 prior to availing himself of the provisions of sections 407.560 to 407.579, to give written
9 notification to the manufacturer of the need for the repair of the nonconformity, in order to allow
10 the manufacturer an opportunity to cure the alleged defect. The manufacturer shall immediately
11 notify the consumer of a reasonably accessible repair facility of a franchised new vehicle dealer
12 to conform the new vehicle to the express warranty. After delivery of the new vehicle to an
13 authorized repair facility by the consumer, the manufacturer shall have ten calendar days to
14 conform the new motor vehicle to the express warranty. Upon notification from the consumer
15 that the new vehicle has not been conformed to the express warranty, the manufacturer shall
16 inform the consumer if an informal dispute settlement procedure has been established by the
17 manufacturer in accordance with section 407.575. However, if prior notice by the manufacturer
18 of an informal dispute settlement procedure has been given, no further notice is required.

19 3. **Any manufacturer which invokes an informal dispute settlement procedure must**
20 **settle a dispute pursuant to subsection 2 of this section within sixty days of receipt of**
21 **notification from the consumer.**

22 4. Any action brought under sections 407.560 to 407.579 shall be commenced within six
23 months following expiration of the terms, conditions, or limitations of the express warranty, or
24 within eighteen months following the date of original delivery of the new motor vehicle to a
25 consumer, whichever is earlier, or, in the event that a consumer resorts to an informal dispute
26 settlement procedure as provided in sections 407.560 to 407.579, within ninety days following
27 the final action of any panel established pursuant to such procedure.

407.577. 1. If a consumer undertakes a court action after complying with the provisions
2 of sections 407.560 to 407.579 and finally prevails in that action, he **or she** shall be allowed by
3 the court to recover as part of the judgment a sum equal to the aggregate amount of costs and
4 expenses, including attorney's fees based on actual time expended, determined by the court to
5 have been reasonably incurred by the plaintiff for or in connection with the commencement and
6 prosecution of such action.

7 2. If any claim by a consumer under sections 407.560 to 407.579 is found by a court to
8 have been filed in bad faith, or solely for the purpose of harassment, or in the absence of a
9 substantial justifiable issue of either law or fact raised by the consumer, or for which the final
10 recovery is not [at least ten percent] greater than any settlement offer made by the manufacturer

11 prior to the commencement of the court action, then the consumer shall be liable for all costs and
12 reasonable attorney's fees incurred by the manufacturer, or its agent, as a direct result of the bad
13 faith claim.