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HOUSE BILL 317

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

Patricia A. Lundstrom

AN ACT

RELATING TO USED MOTOR VEHICLES; AMENDING THE MOTOR VEHICLE
QUALITY ASSURANCE ACT; PROVIDING FOR AN EXPRESS WARRANTY FOR
USED MOTOR VEHICLES; PROVIDING REMEDIES AND PENALTIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 57-16A-1 NMSA 1978 (being Laws 1985,
Chapter 220, Section 1) is amended to read:

"57-16A-1. SHORT TITLE.--~~[This act]~~ Chapter 57, Article
16A NMSA 1978 may be cited as the "Motor Vehicle Quality
Assurance Act"."

SECTION 2. A new section of the Motor Vehicle Quality
Assurance Act is enacted to read:

"[NEW MATERIAL] EXPRESS WARRANTY--DURATION--REMEDIES.--

A. No used motor vehicle dealer shall sell or lease
a used motor vehicle to a consumer without giving the buyer or

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1 lessee an express written warranty explained in the buyer's or
2 lessee's preferred language, that shall have a minimum duration
3 of at least thirty days from the date of delivery of a used
4 motor vehicle or when the odometer has registered one thousand
5 miles from the odometer reading shown on the sales or lease
6 contract, whichever is earlier. In calculating time pursuant
7 to this subsection, a day on which the express written warranty
8 is breached and all subsequent days in which the used motor
9 vehicle fails to conform with the express written warranty are
10 excluded. In calculating distance pursuant to this subsection,
11 the miles driven to obtain or in connection with the repair,
12 servicing or testing of the used motor vehicle that fails to
13 conform with the express written warranty are excluded.

14 B. The written warranty required in Subsection A of
15 this section shall provide that if the buyer or lessee notifies
16 the used motor vehicle dealer that the used motor vehicle does
17 not conform to the written warranty, then by no later than 5:00
18 p.m. on the next business day after the day on which the buyer
19 or lessee provides such notification to the dealer, the dealer
20 shall notify the buyer or lessee that the dealer will:

- 21 (1) repair the used motor vehicle to conform
22 with the written warranty;
- 23 (2) reimburse the buyer or lessee for the cost
24 of repairs; or
- 25 (3) cancel the sale or lease contract and

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1 provide the buyer or lessee with a full refund, less a
2 reasonable amount for any damage sustained by the used motor
3 vehicle after the sale or lease, excepting damage caused by any
4 nonconformity with the written warranty.

5 C. The written warranty required in Subsection A of
6 this section shall provide that if the used motor vehicle
7 dealer chooses to repair the used motor vehicle pursuant to
8 Paragraph (1) of Subsection B of this section, the dealer shall
9 pay one hundred percent of the cost of labor and parts for any
10 repairs pursuant to that warranty and shall not charge the
11 buyer or lessee for the cost of:

- 12 (1) vehicle towing;
- 13 (2) repairs;
- 14 (3) inspecting the used motor vehicle;
- 15 (4) tearing down the engine, transmission or
16 other part of the used motor vehicle; or
- 17 (5) a deductible.

18 D. If the used motor vehicle dealer makes two
19 unsuccessful attempts to repair the used motor vehicle pursuant
20 to Paragraph (1) of Subsection B of this section, the dealer
21 shall then cancel the sale or lease pursuant to Subsection E of
22 this section.

23 E. Rather than repairing the used motor vehicle
24 pursuant to Paragraph (1) of Subsection B of this section or
25 reimbursing the buyer or lessee for the cost of repairs

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1 pursuant to Paragraph (2) of Subsection B of this section, the
2 used motor vehicle dealer or its agent may cancel the sale or
3 lease and refund to the buyer or lessee all money paid pursuant
4 to the sales contract or lease, less a reasonable amount for
5 any damage sustained by the used motor vehicle after the sale
6 or lease, excepting damage caused by any nonconformity with the
7 written warranty required in Subsection A of this section. If
8 the dealer cancels the sale or lease:

9 (1) the dealer shall give written notice to
10 the buyer or lessee, by personal delivery or first-class mail,
11 of the dealer's decision to cancel the sale or lease;

12 (2) the buyer or lessee shall return the used
13 motor vehicle in substantially the same condition in which it
14 was delivered by the dealer, except for reasonable wear and
15 tear and any nonconformity with the written warranty;

16 (3) upon the return of the used motor vehicle
17 to the dealer, the dealer shall provide the buyer or lessee
18 with a receipt stating:

19 (a) the date that the used motor vehicle
20 was returned to the dealer;

21 (b) the vehicle identification number of
22 the used motor vehicle;

23 (c) the make, year and model of the used
24 motor vehicle;

25 (d) the odometer reading at the time

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1 that the used motor vehicle was returned to the dealer;

2 (e) a statement that the dealer has
3 canceled the sale or lease; and

4 (f) the amount of the buyer's or
5 lessee's refund;

6 (4) the dealer shall not treat the return of
7 the used motor vehicle pursuant to the contract cancellation
8 set forth in Paragraph (3) of Subsection B of this section as a
9 repossession;

10 (5) the buyer or lessee shall execute the
11 documents necessary to transfer any interest in the used motor
12 vehicle to the dealer and to remove the buyer or lessee from
13 any registration or title documents; and

14 (6) the dealer shall refund to the buyer or
15 lessee, no later than 5:00 p.m. on the next business day after
16 the day on which the buyer or lessee returns the used motor
17 vehicle to the dealer, all amounts paid pursuant to the sale or
18 lease agreement, less a reasonable amount for property damage
19 sustained by the used motor vehicle after the sale or lease,
20 excepting damage caused by any nonconformity with the warranty.

21 F. The written warranty required in Subsection A of
22 this section shall cover at least the following components:

23 (1) engine, including all internally
24 lubricated parts;

25 (2) transmission and transaxle;

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- 1 (3) front- and rear-wheel drive components;
2 (4) engine cooling system;
3 (5) alternator, generator, starter and
4 ignition system, except for the battery;
5 (6) braking system;
6 (7) front and rear suspension systems;
7 (8) steering system and components;
8 (9) seatbelts;
9 (10) inflatable restraint systems installed on
10 the used motor vehicle as originally manufactured;
11 (11) catalytic converter;
12 (12) heater;
13 (13) seals and gaskets on components itemized
14 in this subsection; and
15 (14) electrical, electronic and computer
16 components, to the extent that those components substantially
17 affect the functionality of other components itemized in this
18 subsection.

19 G. A used motor vehicle dealer shall display on
20 each used motor vehicle offered for sale or lease a written
21 statement that itemizes each of the systems and components set
22 forth in Subsection F of this section and shall specify that
23 the dealer will either repair the used motor vehicle to conform
24 with the written warranty or cancel the sale or lease contract
25 and provide the buyer or lessee with a full refund, less a

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1 reasonable amount for any damage sustained by the used motor
2 vehicle after the sale or lease, excepting damage caused by any
3 nonconformity with the written warranty.

4 H. The used motor vehicle dealer shall make the
5 repair or provide a refund notwithstanding the fact that the
6 warranty period has expired if the buyer or lessee notified the
7 used motor vehicle dealer of the failure of a covered system or
8 part within fifteen days of the expiration of the warranty
9 period.

10 I. This section shall not apply to any defect or
11 nonconformity caused by the unreasonable use of the used motor
12 vehicle following the sale or lease.

13 J. In any proceeding in which the exclusion of
14 coverage permitted by Subsection I of this section or the
15 deduction allowed pursuant to Paragraph (6) of Subsection E of
16 this section is an issue, the dealer shall have the burden of
17 proof.

18 K. Any agreement between a used motor vehicle
19 dealer and a buyer or lessee that disclaims, limits or waives
20 the rights set forth in this section shall, at the option of
21 the buyer or lessee, be void as contrary to public policy.

22 L. If a used motor vehicle dealer fails to give a
23 buyer a written warranty pursuant to this section, the used
24 motor vehicle dealer shall be deemed to have provided the
25 warranty as a matter of law.

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M. A violation of the provisions of this section constitutes an unfair or deceptive trade practice pursuant to the Unfair Practices Act."

SECTION 3. SEVERABILITY.--If any part or application of the provisions of this act is held invalid, the remainder or its application to other situations or persons shall not be affected.

SECTION 4. APPLICABILITY.--The provisions of this act apply to sales of used motor vehicles entered into on or after July 1, 2013.

SECTION 5. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2013.