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HOUSE BILL 32

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

Luciano "Lucky" Varela

FOR THE REVENUE STABILIZATION AND TAX POLICY COMMITTEE

AN ACT

RELATING TO TRADE PRACTICES; CLARIFYING WHEN SELLERS OF MOTOR
VEHICLES ARE NOT LIABLE FOR FAILURE TO DISCLOSE VEHICLE
DAMAGES.

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

Section 1. Section 57-12-6 NMSA 1978 (being Laws 1971,
Chapter 274, Section 1, as amended) is amended to read:

"57-12-6. MISREPRESENTATION OF MOTOR VEHICLES--
PENALTY. --

A. The willful misrepresentation of the age or
condition of a motor vehicle by any person, including
 regrooving tires or performing chassis repair, without
informing the purchaser of the vehicle that the regrooving or
chassis repair has been performed, is an unlawful practice
within the meaning of the Unfair Practices Act, unless the

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1 alleged misrepresentation is based wholly on repair of damage,
2 the disclosure of which was not required pursuant to
3 Subsection C of this section. The failure to provide an
4 affidavit pursuant to Subsection B of this section when there
5 has been repair for which disclosure is required shall
6 constitute prima facie evidence of willful misrepresentation.

7 B. Except as provided in Subsections C and D of
8 this section, a seller of a motor vehicle shall furnish at the
9 time of sale of a motor vehicle an affidavit that:

- 10 (1) describes the vehicle; and
- 11 (2) states to the best of the seller's
12 knowledge whether there has been an alteration or chassis
13 repair due to wreck damage.

14 C. No affidavit shall be required pursuant to this
15 section if the flat rate manual cost of the alteration or
16 chassis repair is less than six percent of the sales price of
17 the vehicle.

18 D. In the case of a private-party sale of a
19 vehicle, an affidavit shall be furnished only upon the request
20 of the purchasing party.

21 E. Notwithstanding the provisions of Subsection D
22 of Section 57-12-10 NMSA 1978, the award of three times actual
23 damages as provided for in that section shall be in lieu of
24 any award of punitive damages based only on those facts
25 constituting the unfair or deceptive trade practice or

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1 unconscionable trade practice.

2 F. The seller of a motor vehicle shall not be
3 liable for failure to disclose damage to a vehicle if:

4 (1) the seller has obtained from the person
5 from whom the vehicle was purchased a statement that the
6 vehicle had not been damaged at the time of that sale; and

7 (2) one or more of the following applies to
8 the damage:

9 (a) the damage was to a frame that was
10 replaced with a new frame;

11 (b) the damage was to the frame and a
12 visual inspection would not reveal the damage; or

13 (c) the damage was to exterior metal,
14 glass, rubber or plastic parts and all damaged parts have been
15 replaced with new items or the parts have been repaired in a
16 manner that would not be revealed by visual inspection.

17 ~~[F.]~~ G. Any person who violates this section is
18 guilty of a misdemeanor. "

1 FORTY-FOURTH LEGISLATURE
2 FIRST SESSION, 1999
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4
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6 January 25, 1999
7

8 Mr. Speaker:
9

10 Your JUDICIARY COMMITTEE, to whom has been referred
11

12 HOUSE BILL 32
13

14 has had it under consideration and reports same with
15 recommendation that it DO PASS.
16

17 Respectfully submitted,
18

19
20 _____
21 R. David Pederson, Chairman
22
23
24
25

FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

Page 5

Adopted _____ Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 11 For 0 Against

Yes: 11

Excused: Sanchez

Absent: None

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FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

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FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

March 4, 1999

Mr. President:

Your CORPORATIONS & TRANSPORTATION COMMITTEE, to
whom has been referred

HOUSE BILL 32

has had it under consideration and reports same with
recommendation that it DO PASS, and thence referred to the
JUDICIARY COMMITTEE.

Respectfully submitted,

Roman M. Maes, Chairman

FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

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Adopted _____ Not

Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 5 For 1 Against

Yes: 5

No: McKibben

Excused: Aragon, Macias, Rawson, Robinson

Absent: None

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1 FORTY- FOURTH LEGI SLATURE

2 FIRST SESSION, 1999

HB 32/a

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4 March 15, 1999

5
6 Mr. President:

7
8 Your JUDI CIARY COMMI TTEE, to whom has been referred

9 HOUSE BILL 32

10
11 has had it under consideration and reports same WITHOUT
12 RECOMMENDATION, amended as follows:

13
14 1. On page 3, line 2, strike "The" and insert in lieu thereof
15 "Except as provided in Subsection G of this section, the".

16 2. On page 3, line 6, strike "and".

17
18 3. On page 3, between lines 6 and 7, insert the following
19 paragraph:

20
21 "(2) the seller does not have actual knowledge of the
22 damage; and".

23
24 4. Renumber the succeeding paragraph accordingly.

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FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

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5. On page 3, lines 11 and 12, strike "a visual inspection would" and insert in lieu thereof "an actual inspection did".

6. On page 3, line 16, strike "would not be revealed by visual" and insert in lieu thereof "was not revealed by actual".

7. On page 3, between lines 16 and 17, insert the following subsection:

"G. A purchaser of a vehicle on which there was damage required to be disclosed pursuant to Subsection B of this section but for which the seller is not liable pursuant to Subsection F of this section may demand that the seller of the vehicle rescind the transaction if the vehicle purchased can be delivered back to the seller in substantially the same condition as it was in when delivered to the purchaser. Upon a rescission and redelivery pursuant to this subsection, the purchaser shall be entitled only to the return of any money paid for the vehicle, excluding interest, and the return of any vehicle trade-in or, if the vehicle trade-in cannot be returned for any reason, the value actually given for the trade-in, excluding any overallowance given for financing purposes."

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FORTY-FOURTH LEGISLATURE
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8. Reletter the succeeding subsection accordingly.

Respectfully submitted,

Michael S. Sanchez, Chairman

Adopted _____
(Chief Clerk)

Not Adopted _____
(Chief Clerk)

Date _____

The roll call vote was 4 For 3 Against

Yes: 4

No: Lopez, McSorley, Tsosie

Excused: Aragon

Absent: None

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FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

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