

MEMORANDUM

TO: Assembly Committee
FROM: Attorney Anthony R. Varda
DATE: January 5, 2016
RE: Consumer Protection
Lemon Law Fixes
Assembly Bill 355



Wisconsin's Lemon Law was originally enacted in 1983 in response to the inadequate remedies consumers had when their newly-purchased automobile turned out to be a lemon. In 2013, the first substantial alterations to the Lemon Law were enacted. Those changes included the requirement that a WisDOT-drafted form be filled in and submitted with respect to each warranty claim, in order to count that claim as an out of service day. The inclusion of this provision was an error that this bill is intended to correct.

The Wisconsin Ag Department has, for a number of years, required a form be prepared by the dealer upon presentation for vehicle service, including warranty services. The dealer, in turn, when it is a warranty claim, notifies the manufacturer of the warranty issue, as part of the billing process to reimburse the dealer for having done the work.

As such, the DOT form is redundant and wholly unnecessary. It is doubtful that the dealers ever even bothers to pass the form on to the manufacturer, since the manufacturers dictate the manner in which warranty claims are processed. It does, however, short change the unwary consumer. Legitimate days out of service cannot be counted until the form is used. In one instance that I was consulted on, in my capacity as an attorney, I know that the vehicle was out of service for 20 days before the consumer realized that they had to start using the form. The vehicle was ultimately repaired, but should have qualified as a lemon given the substantial days out of service before the consumer discovered the form.

I doubt that most consumers ever figure out that the form is required, fill out the form, and actually submit it. This means that the 30-day out of service standard cannot be met for those consumers, notwithstanding the fact the vehicle is in the shop.

In order to correct this, the bill before you simply eliminates that form.

In Wisconsin, the 30 days out of service standard had been working since 1983. We do not need the additional and redundant paperwork for the manufacturers and the consumers to determine the actual days out of service. Remember, the dealer automatically notifies the manufacturer when a warranty claim is made. Further "notice" is unnecessary.

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This is a minor revision, which will assist consumers in pursuing their Lemon Law relief. It will remove an unnecessary obstacle inadvertently included in the last statutory revision.

I have worked with Senator Petrowski on this revision, as I have worked with him on past revisions. Before that, I worked with Senator Holschbach on the original Lemon Law and revisions to it. I have been an active Lemon Law attorney since 1983. It is amusing to note that since 1983 cars have become much more complicated, yet the quality of vehicles has improved so much that Lemon Law claims have dropped off significantly. Nonetheless, with the increased complexity of today's vehicles, when a defective vehicle is manufactured by today's standards, it can be just as frustrating and troublesome to the consumer, if not more so, than the Detroit iron from the late 70's and early 80's that led to the Lemon Law.

I hope you will favorably address this consumer-friendly correction of the Lemon Law.

ARV:vlo



JERRY PETROWSKI

WISCONSIN STATE SENATOR

SB 274: Reporting of a Nonconformity
Senate Committee on Transportation and Veterans Affairs
October, 28 2015

Good morning, and thank you for the opportunity to speak today on Senate Bill 274. This bill is a simple fix to Wisconsin's Lemon Law which was overhauled last session, passing with wide bipartisan support. One unintended consequence of the legislation from last session was a requirement that each time a consumer has their car serviced or repaired under warranty they are required to bring in a new form specified by DOT to put manufacturers on notice of the repair.

In discussions with DOT, car dealers, car manufacturers and attorneys who practice in this area, we determined that this form is unnecessary. Every time a consumer has their vehicle serviced under warranty the manufacturers have record of this repair and because of this, are already on notice of a potential Lemon Law claim. Also, it is very possible that the potential of a Lemon Law issue might not even cross the consumer's mind at this initial point in time. This bill is very simple and lessens the burden on and confusion to the consumer by eliminating that form requirement from the Lemon Law process.

The amendment to this bill makes the change in this legislation apply retroactively to March 1, 2014, the effective date of 2013 Wisconsin Act 101, which created the DOT form requirement for the owner's report of nonconformity. This way, anyone who was confused by the form requirement and failed to submit it will still be able to utilize the lemon law.

Thank you again for the opportunity to speak on this bill. I would be happy to answer any questions you may have.

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