

2001 DRAFTING REQUEST

Bill

Received: 01/25/2002

Received By: jkreye

Wanted: Soon

Identical to LRB:

For: Bonnie Ladwig (608) 266-9171

By/Representing: sarah

This file may be shown to any legislator: NO

Drafter: jkreye

May Contact:

Addl. Drafters: phurley

Subject: Tax - sales

Extra Copies:

Submit via email: NO

Pre Topic:

No specific pre topic given

Topic:

Sales tax on motor vehicles purchased after a consumer receives a refund under a new motor vehicle warranty

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	jkreye 01/25/2002	jdyer 01/25/2002		_____			S&L
/1			pgreensl 01/25/2002	_____	lrb_docadmin 01/25/2002	lrb_docadmin 01/29/2002	

FE Sent For:

Intro

<END>

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1/1	jkreye	1/25 jld	1/25 PB	1/25 PG/KJF			

FE Sent For:

<END>

7-25-02

6-9/7/

bank — budget

AB 453 — should redraft

— problem w/ AA 2

because can't reconcile
with Senate

redraft AB 453 with changes made by AA 1 to AB
453

4786/11

2001 ASSEMBLY BILL 453

By ^{Trer} 1-29-02
D-N

June 26, 2001 - Introduced by Representatives LADWIG, SCHNEIDER, STONE, ALBERS, BIES, FREESE, GRONEMUS, GUNDERSON, HUNDERTMARK, JOHNSRUD, KRAWCZYK, MUSSER, NASS, OTT, OWENS, PETTIS, POWERS, SKINDRUD, STASKUNAS, SYKORA, TURNER and PETROWSKI, cosponsored by Senator PLACHE. Referred to Committee on Ways and Means.

Reger

1 AN ACT to create 77.51 (4) (b) 3m., 77.51 (15) (b) 4m. and 218.0171 (2) (c) of the
2 statutes; relating to: sales tax on motor vehicles purchased after a consumer
3 receives a refund under a new motor vehicle warranty. ✓

Analysis by the Legislative Reference Bureau

Currently, the law governing repair, replacement, and refund under a new motor vehicle warranty, commonly called the "lemon law," provides remedies for a person who purchases or leases a motor vehicle, or who otherwise may enforce a motor vehicle warranty (a consumer). Under the lemon law, if a motor vehicle cannot be repaired, the manufacturer must either replace the vehicle or give the consumer, and any holder of a perfected security interest in the consumer's vehicle, a full refund. A full refund includes, in addition to the purchase price and other charges, any sales taxes paid by the consumer at the point of sale. The sales tax is calculated at 5% of the difference between the purchase price of the vehicle and any vehicle the consumer traded in when he or she purchased the vehicle.

Under current law, if a consumer receives a refund under the lemon law and subsequently purchases a motor vehicle to replace the vehicle for which he or she received a refund, the person pays a sales tax based on the full purchase price of the replacement vehicle.

This bill requires a manufacturer, upon payment of a refund under the lemon law, to provide a written statement to the consumer that includes the ~~purchase price~~ of the vehicle and the date on which the manufacturer issued the ~~lemon law~~ refund. Under the bill, a consumer who makes a subsequent purchase of a motor vehicle and

for which the consumer received a refund

trade-in value ✓

ASSEMBLY BILL 453

60

→ presents the written statement to a motor vehicle dealer within ~~180~~ ⁶⁰ days of the date on which the manufacturer issued the refund pays sales tax only on that part of the purchase price, that is the difference between the ~~full purchase price~~ of the original vehicle and the replacement vehicle. *trade-in value*

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 SECTION 1. 77.51 (4) (b) 3m. [✓] of the statutes is created to read:

2 77.51 (4) (b) 3m. If a person who purchases a motor vehicle presents a
3 statement issued under s. 218.0171 (2) (cq) to the seller at the time of purchase, and
4 the person presents the statement within ~~180~~ ⁶⁰ days from the date of receiving a
5 refund under s. 218.0171 (2) (b) 2. b., the ~~purchase price specified in the statement~~
6 ~~issued under s. 218.0171 (2) (cq).~~ **INSERT 2-6** ✓

7 SECTION 2. 77.51 (15) (b) 4m. [✓] of the statutes is created to read:

8 77.51 (15) (b) 4m. If a person who purchases a motor vehicle presents a
9 statement issued under s. 218.0171 (2) (cq) to the seller at the time of purchase, and
10 the person presents the statement within ~~180~~ ⁶⁰ days from the date of receiving a
11 refund under s. 218.0171 (2) (b) 2. b., the ~~purchase price specified in the statement~~
12 ~~issued under s. 218.0171 (2) (cq).~~ **INSERT 2-12** ✓

13 SECTION 3. 218.0171 (2) (cq) [✓] of the statutes is created to read:

14 218.0171 (2) (cq) Upon payment of a refund to a consumer under par. (b) 2. b.,
15 the manufacturer shall provide to the consumer a written statement that specifies
16 the ~~purchase~~ price of the motor vehicle having the nonconformity and the date
17 on which the manufacturer provided the refund.

18 SECTION 4. **Initial applicability.**

INSERT 2-16 ✓

**ASSEMBLY AMENDMENT 1,
TO 2001 ASSEMBLY BILL 453**

September 5, 2001 - Offered by COMMITTEE ON WAYS AND MEANS.

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 2, line 4: on lines 4 and 10, delete "180" and substitute "60".

3 **2.** Page 2, line 5: delete the material beginning with "purchase" and ending
4 with "(cq)" on line 6 and substitute "trade-in amount specified in the statement
5 issued under s. 218.0171 (2) (cq), but not to exceed the gross receipts from the sale
6 of the motor vehicle. This subdivision applies only to the first motor vehicle
7 purchased by a person after receiving a refund under s. 218.0171 (2) (b) 2. b".

8 **3.** Page 2, line 11: delete the material beginning with "purchase" and ending
9 with "(cq)" on line 12 and substitute "trade-in amount specified in the statement
10 issued under s. 218.0171 (2) (cq), but not to exceed the sales price of the motor vehicle.
11 This subdivision applies only to the first motor vehicle purchased by a person after
12 receiving a refund under s. 218.0171 (2) (b) 2. b".

INSERT
2-6

INSERT 2-12

1
2
3
4

~~4. Page 2, line 16: delete "full purchase" and substitute~~ trade-in amount
previously applied under s. 77.51 (4) (b) 3. or 3m. or (15) (b) 4. or 4m. toward the
sales".

(END)

INSERT 2-16

4786/1dw

JK & PJH: jld

D-N

Representative Ludwig:

This draft reflects the content of 2001 assembly

Bill 453 as amended by assembly amendment 1

but excluding assembly amendment 2.

JK

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4786/1dn
JK.jld.pg

January 25, 2002

Representative Ladwig:

This draft reflects the content of 2001 Assembly Bill 453 as amended by Assembly Amendment 1, but excluding Assembly Amendment 2.

Joseph T. Kreye
Legislative Attorney
Phone: (608) 266-2263
E-mail: joseph.kreye@legis.state.wi.us



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET
5TH FLOOR
MADISON, WI 53701-2037

STEPHEN R. MILLER
CHIEF

LEGAL SECTION: (608) 266-3561
LEGAL FAX: (608) 264-6948

January 25, 2002

MEMORANDUM

To: Representative Ladwig

From: Joseph T. Kreye, Legislative Attorney

Re: LRB-4786/1 Sales tax on motor vehicles purchased after a consumer receives a refund under a new motor vehicle warranty

The attached draft was prepared at your request. Please review it carefully to ensure that it is accurate and satisfies your intent. If it does and you would like it jacketed for introduction, please indicate below for which house you would like the draft jacketed and return this memorandum to our office. If you have any questions about jacketing, please call our program assistants at 266-3561. Please allow one day for jacketing.

JACKET FOR ASSEMBLY JACKET FOR SENATE

If you have any questions concerning the attached draft, or would like to have it redrafted, please contact me at (608) 266-2263 or at the address indicated at the top of this memorandum.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will request that it be prepared after the draft is introduced. You may obtain a fiscal estimate on the attached draft before it is introduced by calling our program assistants at 266-3561. Please note that if you have previously requested that a fiscal estimate be prepared on an earlier version of this draft, you will need to call our program assistants in order to obtain a fiscal estimate on this version before it is introduced.

Please call our program assistants at 266-3561 if you have any questions regarding this memorandum.



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET
P. O. BOX 2037
MADISON, WI 53701-2037

LEGAL SECTION: (608) 266-3561
REFERENCE SECTION: (608) 266-0341
FAX: (608) 266-5648

STEPHEN R. MILLER
CHIEF

February 12, 2002

MEMORANDUM

To: Representative Ladwig

From: Joseph T. Kreye, Legislative Attorney, (608) 266-2263

Subject: Technical Memorandum to **2001 AB-769** (LRB-4786/1)

We received the attached technical memorandum relating to your bill. This copy is for your information and your file. If you wish to discuss this memorandum or the necessity of revising your bill or preparing an amendment, please contact me.

MEMORANDUM

February 8, 2002

TO: Joseph Kreye
Legislative Reference Bureau

FROM: Brian Pahnke
Department of Revenue

SUBJECT: Technical Memorandum on AB 769 regarding Sales Tax on a Motor Vehicle Purchased after a Consumer Receives a Refund under the Lemon Law

The bill does not work well in the situation where the replacement vehicle is purchased from someone other than a Wisconsin motor vehicle dealer. The requirement that the buyer present the statement to the seller only has meaning in the situation where the seller reports the tax. If the replacement vehicle is purchased from an out-of-state dealer who is not required to pay Wisconsin sales tax or is purchased from a non-dealer, it would be preferable for the statement to be presented to the Wisconsin Department of Transportation when the buyer registers or titles the vehicle, instead of presenting the statement to the seller.

On page 2, line 11, it is suggested that after "purchase," language such as the following be added: "or, if the seller is not a licensed Wisconsin motor vehicle dealer, to the department of transportation when registering or titling the vehicle,".

The LRB Analysis states that the manufacturer of a "lemon" that makes a refund is to provide a written statement to the consumer that includes the "...trade-in-value of the vehicle for which the consumer received a refund...". This phrase incorrectly refers to the trade-in value of the "lemon," instead of the trade-in value of the vehicle traded-in when the "lemon" was purchased.

If you have questions regarding this technical memorandum, please contact Blair P. Kruger at 266-1310 or bkruger@dor.state.wi.us.