

TODAY



LRB-2247/VA PZ
ARG:jld:jm

in
4/26

RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

4 Regen

1 AN ACT *to renumber and amend* 218.0171 (2) (c); *to amend* 218.0171 (2) (b)
2 2. a., 218.0171 (2) (cm) 1. and 2. and 218.0171 (7); and *to create* 218.0171 (1)
3 (am), 218.0171 (1) (g), 218.0171 (2) (c) 3. and 4, 218.0171 (6m), 218.0171 (8) and
4 227.01 (13) (yd) of the statutes; **relating to:** the law governing repair,
5 replacement, and refund under a motor vehicle warranty. ✓

Analysis by the Legislative Reference Bureau

Currently the law governing repair, replacement, and refund under a motor vehicle warranty, commonly referred to as the "lemon law," provides remedies for a person who purchases, receives, or leases (consumer) a motor vehicle that is under an express warranty and that has a nonconformity. A "nonconformity" is defined as a condition or defect that substantially impairs the use, value, or safety of the motor vehicle and that is covered by an express warranty, but does not include a condition or defect that is the result of abuse, neglect, or unauthorized modification or alteration of the motor vehicle by the consumer.

Under current law, if a consumer reports a nonconformity to the manufacturer or manufacturer's agent such as the importer or distributor (manufacturer), the lessor of the motor vehicle (lessor) if the consumer is leasing the vehicle, or any of the manufacturer's authorized motor vehicle dealers (authorized dealers) and if the consumer makes the motor vehicle available for repair before the warranty expires or within one year after first delivery of the motor vehicle to a consumer, whichever is sooner, the consumer is entitled to have the nonconformity repaired. If, after a

reasonable attempt to repair, the nonconformity is not repaired, the manufacturer must provide the consumer with a comparable new motor vehicle or a refund, at the consumer's option. "Reasonable attempt to repair" is defined as any of the following occurring within the warranty period or within one year after first delivery of the motor vehicle to a consumer, whichever is sooner: 1) the same nonconformity is subject to repair by the manufacturer, lessor, or authorized dealer at least four times and the nonconformity continues; or 2) the motor vehicle is out of service for an aggregate of at least 30 days because of nonconformities. To receive a comparable new motor vehicle or a refund, the consumer must offer to transfer title of the vehicle with the nonconformity to the manufacturer and, within 30 days after this offer, the manufacturer must provide the consumer with the comparable new motor vehicle or refund. When the manufacturer provides the new motor vehicle or refund, the consumer must return the vehicle with the nonconformity to the manufacturer along with necessary vehicle title documents. If another person is in possession of the vehicle's certificate of title, that person must provide the certificate to the manufacturer or to the consumer. In addition to the new replacement vehicle or refund, the consumer may bring a civil action to recover damages caused by a lemon law violation. If the consumer prevails, the court must award the consumer twice the amount of any pecuniary loss, along with costs and reasonable attorney fees.

This bill creates a definition of "out of service," which affects whether a "reasonable attempt to repair" has been made under item 2), above. Under the bill, "out of service" means that a motor vehicle is unable to be used by the consumer for the vehicle's intended purpose as a result of any of the following: 1) the vehicle is in the possession of the manufacturer, lessor, or authorized dealer for the purpose of performing or attempting repairs to correct a nonconformity; or 2) the vehicle is in the consumer's possession and all of the following apply: a) the vehicle has a nonconformity that substantially affects the use or safety of the vehicle and that has been subject to a previous repair attempt to correct the same nonconformity; and b) the consumer has reported, in writing, the nonconformity to the manufacturer, lessor, or authorized dealer and the manufacturer, lessor, or dealer has refused to accept the vehicle for the purpose of performing or attempting subsequent repairs.

Under the bill, if a consumer elects to receive a comparable new motor vehicle or a refund and offers to transfer title of the vehicle with the nonconformity to the manufacturer, the deadline for the manufacturer to provide the consumer with the comparable new motor vehicle or refund, discussed further below, is measured from the later of the election or the offer. ~~The bill also extends the time in which a manufacturer must provide a comparable new motor vehicle to a consumer who elects to receive a comparable new motor vehicle, from 30 days to 45 days after the later of the election or offer. If no comparable new motor vehicle is available for delivery within this 45-day period, the manufacturer must provide a refund in lieu of providing the comparable new motor vehicle. The manufacturer must exercise due diligence in locating and providing a comparable new motor vehicle during this 45-day period. These changes also apply if the comparable new motor vehicle is a commercial motor vehicle, except that the applicable period is 120 days rather than 45 days.~~

✓
more
A (from p. 3)
here

except
as discussed
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9

A
(move to p. 2) ↓

A (move to p. 2 with insert)
ANAL in it

(DOT) (w/ A) The bill also requires a consumer requesting a refund to provide to the manufacturer, in a form and manner prescribed by the Department of Transportation, all information timely requested and required by the manufacturer and any written consent to allow the manufacturer to provide the refund. The consumer must provide this information during or prior to the 30-day period that commences with the later of the consumer's election of the refund or the consumer's offer to transfer title to the manufacturer of the vehicle with the nonconformity. If the consumer fails to provide any of this information by the end of this 30-day period, the consumer may not bring a civil action to recover damages caused by a lemon law violation. insert ANAL here ✓

The bill also imposes additional limitations on civil actions brought to recover damages caused by lemon law violations. Under the bill, any action must be commenced within 24 months after first delivery of the motor vehicle to a consumer. The bill also makes an award for pecuniary loss, costs, and attorney fees to a prevailing consumer in such an action discretionary with the court or jury rather than mandatory. The bill further eliminates the provision requiring the award of twice the amount of a prevailing consumer's pecuniary loss and instead allows an award of up to the amount of the prevailing consumer's pecuniary loss.

This bill specifies that, if a consumer enters into a negotiated written settlement with the manufacturer regarding a vehicle nonconformity, the manufacturer is no longer subject to any requirement under the lemon law with respect to that vehicle.

Also under this bill, if a consumer returns a vehicle with a nonconformity to the manufacturer and another person is in possession of the vehicle's certificate of title, that person must provide the certificate of title to the manufacturer, not the consumer, upon satisfaction of any security interest in the vehicle.

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

- 1 SECTION 1. 218.0171 (1) (am) of the statutes is created to read:
- 2 218.0171 (1) (am) "Commercial motor vehicle" means a motor vehicle designed
- 3 to transport passengers or property and having one or more of the following
- 4 characteristics:
- 5 1. The vehicle is a single vehicle with a gross vehicle weight rating of 26,001
- 6 or more pounds or the vehicle's registered weight or actual gross weight is more than
- 7 26,000 pounds.

1 2. The vehicle is a combination vehicle with a gross combination weight rating,
2 registered weight or actual gross weight of 26,001 or more pounds inclusive of a
3 towed unit with a gross vehicle weight rating, registered weight or actual gross
4 weight of more than 10,000 pounds.

5 3. The vehicle is designed to transport the driver and 15 or more passengers.
6 If the vehicle is equipped with bench type seats intended to seat more than one
7 person, the passenger-carrying capacity shall be determined under s. 340.01 (31) or,
8 if the vehicle is a school bus, by dividing the total seating space measured in inches
9 by 13.

10 **SECTION 2.** 218.0171 (1) (g) of the statutes is created to read:

11 218.0171 (1) (g) "Out of service," with respect to a motor vehicle, means that
12 the vehicle is unable to be used by the consumer for the vehicle's intended purpose
13 as a result of any of the following:

14 1. The vehicle is in the possession of the manufacturer, motor vehicle lessor, or
15 any of the manufacturer's authorized motor vehicle dealers for the purpose of
16 performing or attempting repairs to correct a nonconformity.

17 2. The vehicle is in the possession of the consumer and all of the following apply:

18 a. The vehicle has a nonconformity that substantially affects the use or safety
19 of the vehicle and that has been subject to a previous repair attempt to correct the
20 same nonconformity.

21 b. The consumer has reported, in writing, the nonconformity to the
22 manufacturer, motor vehicle lessor, or manufacturer's authorized motor vehicle
23 dealer and the manufacturer, lessor, or dealer has refused to accept the vehicle for
24 the purpose of performing or attempting subsequent repairs.

25 **SECTION 3.** 218.0171 (2) (b) 2. a. of the statutes is amended to read:

1 218.0171 (2) (b) 2. a. Accept return of the motor vehicle and, subject to par. (c)
 2 3. and 4., replace the motor vehicle with a comparable new motor vehicle and refund
 3 any collateral costs.

4 **SECTION 4.** 218.0171 (2) (c) of the statutes is renumbered 218.0171 (2) (c) 1. and
 5 amended to read:

6 218.0171 (2) (c) 1. To receive a comparable new motor vehicle or a refund due
 7 under par. (b) 1. or 2., a consumer described under sub. (1) (b) 1., 2. or 3. shall offer
 8 to the manufacturer of the motor vehicle having the nonconformity to transfer title
 9 of that motor vehicle to that manufacturer. No

10 ✓ 2. ^{Subject to subd. 5.} If the consumer elects a refund, no later than 30 days after that the offer
 11 under subd. 1. or the election of the refund, whichever is later, the manufacturer
 12 shall provide the consumer with the comparable new motor vehicle or refund.
 13 During or prior to this 30-day period, the consumer shall provide to the
 14 manufacturer, in a form and manner prescribed by the department of transportation,
 15 all information timely requested and required by the manufacturer and any written
 16 consent to allow the manufacturer to provide the refund. If the consumer fails to
 17 provide any of this information by the end of this 30-day period, the consumer may
 18 not bring an action under sub. (7).

19 ¶ 6. ^{5.} When the manufacturer provides the new motor vehicle or refund, the
 20 consumer shall return the motor vehicle having the nonconformity to the
 21 manufacturer and provide the manufacturer with the certificate of title and all
 22 endorsements necessary to transfer title to the manufacturer. If another person is
 23 in possession of the certificate of title, as shown by the records of the department of
 24 transportation, that person shall, upon request of the consumer, provide the

1 certificate of title to the manufacturer ~~or to the consumer~~ upon satisfaction of any
2 security interest in the motor vehicle.

3 SECTION 5. 218.0171 (2) (c) 3, ^{and 5.} and 4. of the statutes are created to read:

4 218.0171 (2) (c) 3. Except as provided in this subdivision, if the consumer elects
5 a comparable new motor vehicle, no later than 45 days after the offer under subd. 1.
6 or the election of the new motor vehicle, whichever is later, the manufacturer shall
7 provide the consumer with the comparable new motor vehicle. The manufacturer
8 shall exercise due diligence in locating and providing a comparable new motor
9 vehicle within this 45-day period. If no comparable new motor vehicles exists or if
10 a comparable new motor vehicle is otherwise unavailable for delivery within this
11 45-day period, the manufacturer shall provide a refund in lieu of providing a
12 comparable new motor vehicle and shall provide this refund no later than 45 days
13 after the offer under subd. 1. or the election of the new motor vehicle, whichever is
14 later. This subdivision does not apply with respect to commercial motor vehicles.

15 4. Except as provided in this subdivision, if the consumer elects a comparable
16 new commercial motor vehicle, no later than 120 days after the offer under subd. 1.
17 or the election of the new commercial motor vehicle, whichever is later, the
18 manufacturer shall provide the consumer with the comparable new commercial
19 motor vehicle. The manufacturer shall exercise due diligence in locating and
20 providing a comparable new commercial motor vehicle within this 120-day period.
21 If no comparable new commercial motor vehicles exists or if a comparable new
22 commercial motor vehicle is otherwise unavailable for delivery within this 120-day
23 period, the manufacturer shall provide a refund in lieu of providing a comparable
24 new commercial motor vehicle and shall provide this refund no later than 120 days

1 after the offer under subd. 1. or the election of the new commercial motor vehicle,
2 whichever is later.

Insert
7-2

3 SECTION 6. 218.0171 (2) (cm) 1. and 2. of the statutes are amended to read:

4 218.0171 (2) (cm) 1. To receive a refund due under par. (b) 3., a consumer
5 described under sub. (1) (b) 4. shall offer to the manufacturer of the motor vehicle
6 having the nonconformity to return that motor vehicle to that manufacturer. ~~No~~

7 later than 30 days after that offer, the manufacturer shall provide the refund to the
8 consumer. During or prior to this 30-day period, the consumer shall provide to the
9 manufacturer, in a form and manner prescribed by the department of transportation,
10 all information timely requested and required by the manufacturer and any written
11 consent to allow the manufacturer to provide the refund. If the consumer fails to
12 provide any of this information by the end of this 30-day period, the consumer may
13 not bring an action under sub. (7). When the manufacturer provides the refund, the
14 consumer shall return the motor vehicle having the nonconformity to the
15 manufacturer.

16 2. To receive a refund due under par. (b) 3., a motor vehicle lessor shall offer to
17 the manufacturer of the motor vehicle having the nonconformity to transfer title of
18 that motor vehicle to that manufacturer. ~~No~~ later than 30 days after that offer, the
19 manufacturer shall provide the refund to the motor vehicle lessor. During or prior
20 to this 30-day period, the consumer shall provide to the manufacturer, in a form and
21 manner prescribed by the department of transportation, all information timely
22 requested and required by the manufacturer and any written consent to allow the
23 manufacturer to provide the refund. When the manufacturer provides the refund,
24 the motor vehicle lessor shall provide to the manufacturer the certificate of title and
25 all endorsements necessary to transfer title to the manufacturer. If another person

Subject
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subd. 7
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1 is in possession of the certificate of title, as shown by the records of the department
2 of transportation, that person shall, upon request of the motor vehicle lessor, provide
3 the certificate to the manufacturer or to the motor vehicle lessor.

4 **SECTION 7.** 218.0171 (6m) of the statutes is created to read:

5 218.0171 **(6m)** Notwithstanding subs. (2) (b) and (6), if the consumer enters
6 into a negotiated written settlement with the manufacturer regarding any motor
7 vehicle nonconformity, the manufacturer shall no longer be subject to any
8 requirement of this section with respect to that motor vehicle.

9 **SECTION 8.** 218.0171 (7) of the statutes is amended to read:

10 218.0171 **(7)** In Subject to subs. (2) (c) 2. and (cm) 1. and (3), in addition to
11 pursuing any other remedy, a consumer may bring an action to recover for any
12 damages caused by a violation of this section if the action is commenced within 24
13 months after first delivery of the motor vehicle to a consumer. The court shall or jury
14 may award a consumer who prevails in such an action ~~twice~~ up to the amount of any
15 pecuniary loss, together with costs, disbursements and reasonable attorney fees, and
16 any equitable relief the court determines appropriate.

17 **SECTION 9.** 218.0171 (8) of the statutes is created to read:

18 218.0171 **(8)** The department of transportation shall prescribe a form and
19 manner for consumers to provide information and consent to manufacturers for
20 purposes of sub. (2) (c) 2. and (cm) 1. and 2.

21 **SECTION 10.** 227.01 (13) (yd) of the statutes is created to read:

22 227.01 **(13)** (yd) Relates to any form or manner of providing information and
23 consent prescribed by the department of transportation under s. 218.0171 (8).

24 **SECTION 11. Initial applicability.**

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INSERT ANAL:

(no fl) Also, if a consumer elects to receive a refund, the deadline for the manufacturer to provide the consumer with the refund can be no earlier than 10 days after the manufacturer receives from the consumer the required information and consent in the form and manner prescribed by DOT. ^{ten}

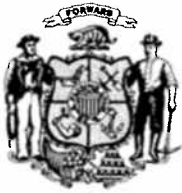
INSERT 7-2:

5. A manufacturer is not required to provide a consumer with a refund under subd. 2. less than 10 days after the manufacturer receives from the consumer the information and consent required under subd. 2., in the form and manner specified in sub. (8).

INSERT 8-3:

SECTION 1. 218.0171 (2) (cm) 4. of the statutes is created to read:

218.0171 (2) (cm) 4. A manufacturer is not required to provide a consumer with a refund under subd. 1. or a motor vehicle lessor a refund under subd. 2. less than 10 days after the manufacturer receives from the consumer the information and consent required under subd. 1. or 2., in the form and manner specified in sub. (8).



State of Wisconsin
2013 - 2014 LEGISLATURE

in
4/26



LRB-2247/02 P3

ARG:jld:ph

needed
4/29 A.M.

RMR

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prelim line

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

4/26 He at Tim: exclude RVs (really "motor home")
from CMV def.

Today - Mon
AM

B-note

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Regen

1 AN ACT to renumber and amend 218.0171 (2) (c); to amend 218.0171 (2) (b)
2 2. a., 218.0171 (2) (cm) 1. and 2. and 218.0171 (7); and to create 218.0171 (1)
3 (am), 218.0171 (1) (g), 218.0171 (2) (c) 3., 4. and 5., 218.0171 (2) (cm) 4., 218.0171
4 (6m), 218.0171 (8) and 227.01 (13) (yd) of the statutes; relating to: the law
5 governing repair, replacement, and refund under a motor vehicle warranty.

Analysis by the Legislative Reference Bureau

Currently the law governing repair, replacement, and refund under a motor vehicle warranty, commonly referred to as the "lemon law," provides remedies for a person who purchases, receives, or leases (consumer) a motor vehicle that is under an express warranty and that has a nonconformity. A "nonconformity" is defined as a condition or defect that substantially impairs the use, value, or safety of the motor vehicle and that is covered by an express warranty, but does not include a condition or defect that is the result of abuse, neglect, or unauthorized modification or alteration of the motor vehicle by the consumer.

Under current law, if a consumer reports a nonconformity to the manufacturer or manufacturer's agent such as the importer or distributor (manufacturer), the lessor of the motor vehicle (lessor) if the consumer is leasing the vehicle, or any of the manufacturer's authorized motor vehicle dealers (authorized dealers) and if the consumer makes the motor vehicle available for repair before the warranty expires or within one year after first delivery of the motor vehicle to a consumer, whichever is sooner, the consumer is entitled to have the nonconformity repaired. If, after a

reasonable attempt to repair, the nonconformity is not repaired, the manufacturer must provide the consumer with a comparable new motor vehicle or a refund, at the consumer's option. "Reasonable attempt to repair" is defined as any of the following occurring within the warranty period or within one year after first delivery of the motor vehicle to a consumer, whichever is sooner: 1) the same nonconformity is subject to repair by the manufacturer, lessor, or authorized dealer at least four times and the nonconformity continues; or 2) the motor vehicle is out of service for an aggregate of at least 30 days because of nonconformities. To receive a comparable new motor vehicle or a refund, the consumer must offer to transfer title of the vehicle with the nonconformity to the manufacturer and, within 30 days after this offer, the manufacturer must provide the consumer with the comparable new motor vehicle or refund. When the manufacturer provides the new motor vehicle or refund, the consumer must return the vehicle with the nonconformity to the manufacturer along with necessary vehicle title documents. If another person is in possession of the vehicle's certificate of title, that person must provide the certificate to the manufacturer or to the consumer. In addition to the new replacement vehicle or refund, the consumer may bring a civil action to recover damages caused by a lemon law violation. If the consumer prevails, the court must award the consumer twice the amount of any pecuniary loss, along with costs and reasonable attorney fees.

This bill creates a definition of "out of service," which affects whether a "reasonable attempt to repair" has been made under item 2), above. Under the bill, "out of service" means that a motor vehicle is unable to be used by the consumer for the vehicle's intended purpose as a result of any of the following: 1) the vehicle is in the possession of the manufacturer, lessor, or authorized dealer for the purpose of performing or attempting repairs to correct a nonconformity; or 2) the vehicle is in the consumer's possession and all of the following apply: a) the vehicle has a nonconformity that substantially affects the use or safety of the vehicle and that has been subject to a previous repair attempt to correct the same nonconformity; and b) the consumer has reported, in writing, the nonconformity to the manufacturer, lessor, or authorized dealer and the manufacturer, lessor, or dealer has refused to accept the vehicle for the purpose of performing or attempting subsequent repairs.

Under the bill, if a consumer elects to receive a comparable new motor vehicle or a refund and offers to transfer title of the vehicle with the nonconformity to the manufacturer, the deadline for the manufacturer to provide the consumer with the comparable new motor vehicle or refund, discussed further below, is measured from the later of the election or the offer, except as discussed below. The bill also requires a consumer requesting a refund to provide to the manufacturer, in a form and manner prescribed by the Department of Transportation (DOT), all information timely requested and required by the manufacturer and any written consent to allow the manufacturer to provide the refund. The consumer must provide this information during or prior to the 30-day period that commences with the later of the consumer's election of the refund or the consumer's offer to transfer title to the manufacturer of the vehicle with the nonconformity. If the consumer fails to provide any of this information by the end of this 30-day period, the consumer may not bring a civil action to recover damages caused by a lemon law violation. Also, if a consumer

elects to receive a refund, the deadline for the manufacturer to provide the consumer with the refund can be no earlier than ten days after the manufacturer receives from the consumer the required information and consent in the form and manner prescribed by DOT.

The bill also extends the time in which a manufacturer must provide a comparable new motor vehicle to a consumer who elects to receive a comparable new motor vehicle, from 30 days to 45 days after the later of the election or offer. If no comparable new motor vehicle is available for delivery within this 45-day period, the manufacturer must provide a refund in lieu of providing the comparable new motor vehicle. The manufacturer must exercise due diligence in locating and providing a comparable new motor vehicle during this 45-day period. These changes also apply if the comparable new motor vehicle is a commercial motor vehicle, except that the applicable period is 120 days rather than 45 days.

The bill also imposes additional limitations on civil actions brought to recover damages caused by lemon law violations. Under the bill, any action must be commenced within 24 months after first delivery of the motor vehicle to a consumer. The bill also makes an award for pecuniary loss, costs, and attorney fees to a prevailing consumer in such an action discretionary with the court or jury rather than mandatory. The bill further eliminates the provision requiring the award of twice the amount of a prevailing consumer's pecuniary loss and instead allows an award of up to the amount of the prevailing consumer's pecuniary loss.

This bill specifies that, if a consumer enters into a negotiated written settlement with the manufacturer regarding a vehicle nonconformity, the manufacturer is no longer subject to any requirement under the lemon law with respect to that vehicle.

Also under this bill, if a consumer returns a vehicle with a nonconformity to the manufacturer and another person is in possession of the vehicle's certificate of title, that person must provide the certificate of title to the manufacturer, not the consumer, upon satisfaction of any security interest in the vehicle.

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

- 1 SECTION 1. 218.0171 (1) (am) of the statutes is created to read:
- 2 218.0171 (1) (am) ^X ~~“Commercial motor vehicle”~~ ^(- Subject to subd. 2.) means a motor vehicle designed
- 3 to transport passengers or property and having one or more of the following
- 4 characteristics:

- (1) ^a~~A~~. The vehicle is a single vehicle with a gross vehicle weight rating of 26,001 or more pounds or the vehicle's registered weight or actual gross weight is more than 26,000 pounds.
- (4) ^b~~A~~. The vehicle is a combination vehicle with a gross combination weight rating, registered weight or actual gross weight of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating, registered weight or actual gross weight of more than 10,000 pounds.
- (8) ^c~~A~~. The vehicle is designed to transport the driver and 15 or more passengers. If the vehicle is equipped with bench type seats intended to seat more than one person, the passenger-carrying capacity shall be determined under s. 340.01 (31) or, if the vehicle is a school bus, by dividing the total seating space measured in inches by 13.

13 **SECTION 2.** 218.0171 (1) (g) of the statutes is created to read:

14 218.0171 (1) (g) "Out of service," with respect to a motor vehicle, means that
15 the vehicle is unable to be used by the consumer for the vehicle's intended purpose
16 as a result of any of the following:

17 1. The vehicle is in the possession of the manufacturer, motor vehicle lessor, or
18 any of the manufacturer's authorized motor vehicle dealers for the purpose of
19 performing or attempting repairs to correct a nonconformity.

20 2. The vehicle is in the possession of the consumer and all of the following apply:

21 a. The vehicle has a nonconformity that substantially affects the use or safety
22 of the vehicle and that has been subject to a previous repair attempt to correct the
23 same nonconformity.

24 b. The consumer has reported, in writing, the nonconformity to the
25 manufacturer, motor vehicle lessor, or manufacturer's authorized motor vehicle

1 dealer and the manufacturer, lessor, or dealer has refused to accept the vehicle for
2 the purpose of performing or attempting subsequent repairs.

3 **SECTION 3.** 218.0171 (2) (b) 2. a. of the statutes is amended to read:

4 218.0171 (2) (b) 2. a. Accept return of the motor vehicle and, subject to par. (c)
5 3. and 4., replace the motor vehicle with a comparable new motor vehicle and refund
6 any collateral costs.

7 **SECTION 4.** 218.0171 (2) (c) of the statutes is renumbered 218.0171 (2) (c) 1. and
8 amended to read:

9 218.0171 (2) (c) 1. To receive a comparable new motor vehicle or a refund due
10 under par. (b) 1. or 2., a consumer described under sub. (1) (b) 1., 2. or 3. shall offer
11 to the manufacturer of the motor vehicle having the nonconformity to transfer title
12 of that motor vehicle to that manufacturer. ~~No~~

13 2. Subject to subd. 5., if the consumer elects a refund, no later than 30 days after
14 that the offer under subd. 1. or the election of the refund, whichever is later, the
15 manufacturer shall provide the consumer with the comparable new motor vehicle or
16 refund. During or prior to this 30-day period, the consumer shall provide to the
17 manufacturer, in a form and manner prescribed by the department of transportation,
18 all information timely requested and required by the manufacturer and any written
19 consent to allow the manufacturer to provide the refund. If the consumer fails to
20 provide any of this information by the end of this 30-day period, the consumer may
21 not bring an action under sub. (7).

22 6. When the manufacturer provides the new motor vehicle or refund, the
23 consumer shall return the motor vehicle having the nonconformity to the
24 manufacturer and provide the manufacturer with the certificate of title and all
25 endorsements necessary to transfer title to the manufacturer. If another person is

1 in possession of the certificate of title, as shown by the records of the department of
2 transportation, that person shall, upon request of the consumer, provide the
3 certificate of title to the manufacturer ~~or to the consumer~~ upon satisfaction of any
4 security interest in the motor vehicle.

5 **SECTION 5.** 218.0171 (2) (c) 3., 4. and 5. of the statutes are created to read:

6 218.0171 (2) (c) 3. Except as provided in this subdivision, if the consumer elects
7 a comparable new motor vehicle, no later than 45 days after the offer under subd. 1.
8 or the election of the new motor vehicle, whichever is later, the manufacturer shall
9 provide the consumer with the comparable new motor vehicle. The manufacturer
10 shall exercise due diligence in locating and providing a comparable new motor
11 vehicle within this 45-day period. If no comparable new motor vehicles exists or if
12 a comparable new motor vehicle is otherwise unavailable for delivery within this
13 45-day period, the manufacturer shall provide a refund in lieu of providing a
14 comparable new motor vehicle and shall provide this refund no later than 45 days
15 after the offer under subd. 1. or the election of the new motor vehicle, whichever is
16 later. This subdivision does not apply with respect to commercial motor vehicles.

17 4. Except as provided in this subdivision, if the consumer elects a comparable
18 new commercial motor vehicle, no later than 120 days after the offer under subd. 1.
19 or the election of the new commercial motor vehicle, whichever is later, the
20 manufacturer shall provide the consumer with the comparable new commercial
21 motor vehicle. The manufacturer shall exercise due diligence in locating and
22 providing a comparable new commercial motor vehicle within this 120-day period.
23 If no comparable new commercial motor vehicles exists or if a comparable new
24 commercial motor vehicle is otherwise unavailable for delivery within this 120-day
25 period, the manufacturer shall provide a refund in lieu of providing a comparable

1 new commercial motor vehicle and shall provide this refund no later than 120 days
2 after the offer under subd. 1. or the election of the new commercial motor vehicle,
3 whichever is later.

4 5. A manufacturer is not required to provide a consumer with a refund under
5 subd. 2. less than 10 days after the manufacturer receives from the consumer the
6 information and consent required under subd. 2., in the form and manner specified
7 in sub. (8).

8 **SECTION 6.** 218.0171 (2) (cm) 1. and 2. of the statutes are amended to read:

9 218.0171 (2) (cm) 1. To receive a refund due under par. (b) 3., a consumer
10 described under sub. (1) (b) 4. shall offer to the manufacturer of the motor vehicle
11 having the nonconformity to return that motor vehicle to that manufacturer. ~~No~~
12 Subject to subd. 4., no later than 30 days after that offer, the manufacturer shall
13 provide the refund to the consumer. During or prior to this 30-day period, the
14 consumer shall provide to the manufacturer, in a form and manner prescribed by the
15 department of transportation, all information timely requested and required by the
16 manufacturer and any written consent to allow the manufacturer to provide the
17 refund. If the consumer fails to provide any of this information by the end of this
18 30-day period, the consumer may not bring an action under sub. (7). When the
19 manufacturer provides the refund, the consumer shall return the motor vehicle
20 having the nonconformity to the manufacturer.

21 2. To receive a refund due under par. (b) 3., a motor vehicle lessor shall offer to
22 the manufacturer of the motor vehicle having the nonconformity to transfer title of
23 that motor vehicle to that manufacturer. ~~No~~ Subject to subd. 4., no later than 30 days
24 after that offer, the manufacturer shall provide the refund to the motor vehicle lessor.
25 During or prior to this 30-day period, the consumer shall provide to the

1 manufacturer, in a form and manner prescribed by the department of transportation,
2 all information timely requested and required by the manufacturer and any written
3 consent to allow the manufacturer to provide the refund. When the manufacturer
4 provides the refund, the motor vehicle lessor shall provide to the manufacturer the
5 certificate of title and all endorsements necessary to transfer title to the
6 manufacturer. If another person is in possession of the certificate of title, as shown
7 by the records of the department of transportation, that person shall, upon request
8 of the motor vehicle lessor, provide the certificate to the manufacturer or to the motor
9 vehicle lessor.

10 **SECTION 7.** 218.0171 (2) (cm) 4. of the statutes is created to read:

11 218.0171 (2) (cm) 4. A manufacturer is not required to provide a consumer with
12 a refund under subd. 1. or a motor vehicle lessor a refund under subd. 2. less than
13 10 days after the manufacturer receives from the consumer the information and
14 consent required under subd. 1. or 2., in the form and manner specified in sub. (8).

15 **SECTION 8.** 218.0171 (6m) of the statutes is created to read:

16 218.0171 (6m) Notwithstanding subs. (2) (b) and (6), if the consumer enters
17 into a negotiated written settlement with the manufacturer regarding any motor
18 vehicle nonconformity, the manufacturer shall no longer be subject to any
19 requirement of this section with respect to that motor vehicle.

20 **SECTION 9.** 218.0171 (7) of the statutes is amended to read:

21 218.0171 (7) ~~In~~ Subject to subs. (2) (c) 2. and (cm) 1. and (3), in addition to
22 pursuing any other remedy, a consumer may bring an action to recover for any
23 damages caused by a violation of this section if the action is commenced within 24
24 months after first delivery of the motor vehicle to a consumer. The court shall or jury
25 may award a consumer who prevails in such an action twice up to the amount of any

1 pecuniary loss, together with costs, disbursements and reasonable attorney fees, and
2 any equitable relief the court determines appropriate.

3 **SECTION 10.** 218.0171 (8) of the statutes is created to read:

4 218.0171 (8) The department of transportation shall prescribe a form and
5 manner for consumers to provide information and consent to manufacturers for
6 purposes of sub. (2) (c) 2. and (cm) 1. and 2.

7 **SECTION 11.** 227.01 (13) (yd) of the statutes is created to read:

8 227.01 (13) (yd) Relates to any form or manner of providing information and
9 consent prescribed by the department of transportation under s. 218.0171 (8).

10 **SECTION 12. Initial applicability.**

11 (1) This act first applies with respect to motor vehicles for which the express
12 warranty commences on the effective date of this subsection.

13 **SECTION 13. Effective date.**

14 (1) This act takes effect on the first day of the 3rd month beginning after
15 publication.

16

(END)

D - Note

2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2247/P3ins
ARG:.....

1

2

INSERT 4-12:

3

2. "Commercial motor vehicle" does not include a motor home, as defined in s.

4

340.01 (33m).

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2247/P3dn

ARG:.....

date

↑
jld

ATTN: Tim Fiocchi ✓

As discussed, in the statutes, a "recreational vehicle" is a towed vehicle (i.e., a trailer), see s. 340.01 (48r), while a "motor home," as defined in s. 340.01 (33m), is what most people think of as an RV. The change in this draft excludes a motor home from the definition of commercial motor vehicle. *

Aaron R. Gary
Legislative Attorney
Phone: (608) 261-6926
E-mail: aaron.gary@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2247/P3dn
ARG:jld:rs

April 29, 2013

ATTN: Tim Fiocchi

As discussed, in the statutes, a “recreational vehicle” is a towed vehicle (i.e., a trailer), see s. 340.01 (48r), while a “motor home,” as defined in s. 340.01 (33m), is what most people think of as an RV. The change in this draft excludes a motor home from the definition of “commercial motor vehicle.”

Aaron R. Gary
Legislative Attorney
Phone: (608) 261-6926
E-mail: aaron.gary@legis.wisconsin.gov

Gary, Aaron

From: Oling, Lane
Sent: Monday, April 29, 2013 1:56 PM
To: Gary, Aaron; Fiocchi, Tim
Cc: David, Curt
Subject: RE: Draft review: LRB -2247/P3 Topic: Motor vehicle warranty law (lemon law) changes relating to damages, refund information, commercial motor vehicles, civil actions, and reasonable attempts to repair

Aaron,

Yes, please prepare a /1 on LRB-2247.

Thank you,

Lane Oling
Office of Senator Jerry Petrowski
29th Senate District
(608) 266-2502

From: Gary, Aaron
Sent: Monday, April 29, 2013 1:54 PM
To: Fiocchi, Tim; Oling, Lane
Cc: David, Curt
Subject: RE: Draft review: LRB -2247/P3 Topic: Motor vehicle warranty law (lemon law) changes relating to damages, refund information, commercial motor vehicles, civil actions, and reasonable attempts to repair

Tim and Lane,

Are you ready for a /1 on LRB-2247? This is your bill.

Aaron

Aaron R. Gary
Attorney, Legislative Reference Bureau
608.261.6926 (voice)
608.264.6948 (fax)
aaron.gary@legis.state.wi.us

From: David, Curt
Sent: Monday, April 29, 2013 1:51 PM
To: Gary, Aaron
Cc: Oling, Lane; Fiocchi, Tim
Subject: RE: Draft review: LRB -2247/P3 Topic: Motor vehicle warranty law (lemon law) changes relating to damages, refund information, commercial motor vehicles, civil actions, and reasonable attempts to repair

Gary,

Could you prepare LRB-2247/P3 for introduction as soon as possible?

We would like to have a senate companion as well. I will let Sen. Petrowski's office confirm that with you.

Curt

From: Fiocchi, Tim
Sent: Monday, April 29, 2013 9:39 AM
To: David, Curt
Cc: Lane.Oling@legis.wisconsin.gov
Subject: FW: Draft review: LRB -2247/P3 Topic: Motor vehicle warranty law (lemon law) changes relating to damages, refund information, commercial motor vehicles, civil actions, and reasonable attempts to repair

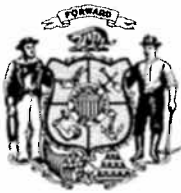
Good morning,

Please take a look at the attached and let us know if there are issues.

Thanks,

Tim

Tim Fiocchi
Chief of Staff, Senator Jerry Petrowski
29th Senate District
(608) 266-2502



TODAY



in
4/29

slmr

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

2013 BILL

No changes - edited today

4 Regen

1 AN ACT *to renumber and amend* 218.0171 (2) (c); *to amend* 218.0171 (2) (b)
2 2. a., 218.0171 (2) (cm) 1. and 2. and 218.0171 (7); and *to create* 218.0171 (1)
3 (am), 218.0171 (1) (g), 218.0171 (2) (c) 3., 4. and 5., 218.0171 (2) (cm) 4., 218.0171
4 (6m), 218.0171 (8) and 227.01 (13) (yd) of the statutes; **relating to:** the law
5 governing repair, replacement, and refund under a motor vehicle warranty.

Analysis by the Legislative Reference Bureau

Currently the law governing repair, replacement, and refund under a motor vehicle warranty, commonly referred to as the "lemon law," provides remedies for a person who purchases, receives, or leases (consumer) a motor vehicle that is under an express warranty and that has a nonconformity. A "nonconformity" is defined as a condition or defect that substantially impairs the use, value, or safety of the motor vehicle and that is covered by an express warranty, but does not include a condition or defect that is the result of abuse, neglect, or unauthorized modification or alteration of the motor vehicle by the consumer.

Under current law, if a consumer reports a nonconformity to the manufacturer or manufacturer's agent such as the importer or distributor (manufacturer), the lessor of the motor vehicle (lessor) if the consumer is leasing the vehicle, or any of the manufacturer's authorized motor vehicle dealers (authorized dealers) and if the consumer makes the motor vehicle available for repair before the warranty expires or within one year after first delivery of the motor vehicle to a consumer, whichever is sooner, the consumer is entitled to have the nonconformity repaired. If, after a

reasonable attempt to repair, the nonconformity is not repaired, the manufacturer must provide the consumer with a comparable new motor vehicle or a refund, at the consumer's option. "Reasonable attempt to repair" is defined as any of the following occurring within the warranty period or within one year after first delivery of the motor vehicle to a consumer, whichever is sooner: 1) the same nonconformity is subject to repair by the manufacturer, lessor, or authorized dealer at least four times and the nonconformity continues; or 2) the motor vehicle is out of service for an aggregate of at least 30 days because of nonconformities. To receive a comparable new motor vehicle or a refund, the consumer must offer to transfer title of the vehicle with the nonconformity to the manufacturer and, within 30 days after this offer, the manufacturer must provide the consumer with the comparable new motor vehicle or refund. When the manufacturer provides the new motor vehicle or refund, the consumer must return the vehicle with the nonconformity to the manufacturer along with necessary vehicle title documents. If another person is in possession of the vehicle's certificate of title, that person must provide the certificate to the manufacturer or to the consumer. In addition to the new replacement vehicle or refund, the consumer may bring a civil action to recover damages caused by a lemon law violation. If the consumer prevails, the court must award the consumer twice the amount of any pecuniary loss, along with costs and reasonable attorney fees.

This bill creates a definition of "out of service," which affects whether a "reasonable attempt to repair" has been made under item 2), above. Under the bill, "out of service" means that a motor vehicle is unable to be used by the consumer for the vehicle's intended purpose as a result of any of the following: 1) the vehicle is in the possession of the manufacturer, lessor, or authorized dealer for the purpose of performing or attempting repairs to correct a nonconformity; or 2) the vehicle is in the consumer's possession and all of the following apply: a) the vehicle has a nonconformity that substantially affects the use or safety of the vehicle and that has been subject to a previous repair attempt to correct the same nonconformity; and b) the consumer has reported, in writing, the nonconformity to the manufacturer, lessor, or authorized dealer and the manufacturer, lessor, or dealer has refused to accept the vehicle for the purpose of performing or attempting subsequent repairs.

Under the bill, if a consumer elects to receive a comparable new motor vehicle or a refund and offers to transfer title of the vehicle with the nonconformity to the manufacturer, the deadline for the manufacturer to provide the consumer with the comparable new motor vehicle or refund, discussed further below, is measured from the later of the election or the offer, except as discussed below. The bill also requires a consumer requesting a refund to provide to the manufacturer, in a form and manner prescribed by the Department of Transportation (DOT), all information timely requested and required by the manufacturer and any written consent to allow the manufacturer to provide the refund. The consumer must provide this information during or prior to the 30-day period that commences with the later of the consumer's election of the refund or the consumer's offer to transfer title to the manufacturer of the vehicle with the nonconformity. If the consumer fails to provide any of this information by the end of this 30-day period, the consumer may not bring a civil action to recover damages caused by a lemon law violation. Also, if a consumer

elects to receive a refund, the deadline for the manufacturer to provide the consumer with the refund can be no earlier than ten days after the manufacturer receives from the consumer the required information and consent in the form and manner prescribed by DOT.

The bill also extends the time in which a manufacturer must provide a comparable new motor vehicle to a consumer who elects to receive a comparable new motor vehicle, from 30 days to 45 days after the later of the election or offer. If no comparable new motor vehicle is available for delivery within this 45-day period, the manufacturer must provide a refund in lieu of providing the comparable new motor vehicle. The manufacturer must exercise due diligence in locating and providing a comparable new motor vehicle during this 45-day period. These changes also apply if the comparable new motor vehicle is a commercial motor vehicle, except that the applicable period is 120 days rather than 45 days.

The bill also imposes additional limitations on civil actions brought to recover damages caused by lemon law violations. Under the bill, any action must be commenced within 24 months after first delivery of the motor vehicle to a consumer. The bill also makes an award for pecuniary loss, costs, and attorney fees to a prevailing consumer in such an action discretionary with the court or jury rather than mandatory. The bill further eliminates the provision requiring the award of twice the amount of a prevailing consumer's pecuniary loss and instead allows an award of up to the amount of the prevailing consumer's pecuniary loss.

This bill specifies that, if a consumer enters into a negotiated written settlement with the manufacturer regarding a vehicle nonconformity, the manufacturer is no longer subject to any requirement under the lemon law with respect to that vehicle.

Also under this bill, if a consumer returns a vehicle with a nonconformity to the manufacturer and another person is in possession of the vehicle's certificate of title, that person must provide the certificate of title to the manufacturer, not the consumer, upon satisfaction of any security interest in the vehicle.

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

- 1 **SECTION 1.** 218.0171 (1) (am) of the statutes is created to read:
- 2 218.0171 (1) (am) 1. Subject to subd. 2., "commercial motor vehicle" means a
- 3 motor vehicle designed to transport passengers or property and having one or more
- 4 of the following characteristics:

1 a. The vehicle is a single vehicle with a gross vehicle weight rating of 26,001
2 or more pounds or the vehicle's registered weight or actual gross weight is more than
3 26,000 pounds.

4 b. The vehicle is a combination vehicle with a gross combination weight rating,
5 registered weight or actual gross weight of 26,001 or more pounds inclusive of a
6 towed unit with a gross vehicle weight rating, registered weight or actual gross
7 weight of more than 10,000 pounds.

8 c. The vehicle is designed to transport the driver and 15 or more passengers.
9 If the vehicle is equipped with bench type seats intended to seat more than one
10 person, the passenger-carrying capacity shall be determined under s. 340.01 (31) or,
11 if the vehicle is a school bus, by dividing the total seating space measured in inches
12 by 13.

13 2. "Commercial motor vehicle" does not include a motor home, as defined in s.
14 340.01 (33m).

15 **SECTION 2.** 218.0171 (1) (g) of the statutes is created to read:

16 218.0171 (1) (g) "Out of service," with respect to a motor vehicle, means that
17 the vehicle is unable to be used by the consumer for the vehicle's intended purpose
18 as a result of any of the following:

19 1. The vehicle is in the possession of the manufacturer, motor vehicle lessor, or
20 any of the manufacturer's authorized motor vehicle dealers for the purpose of
21 performing or attempting repairs to correct a nonconformity.

22 2. The vehicle is in the possession of the consumer and all of the following apply:

23 a. The vehicle has a nonconformity that substantially affects the use or safety
24 of the vehicle and that has been subject to a previous repair attempt to correct the
25 same nonconformity.

1 b. The consumer has reported, in writing, the nonconformity to the
2 manufacturer, motor vehicle lessor, or manufacturer's authorized motor vehicle
3 dealer and the manufacturer, lessor, or dealer has refused to accept the vehicle for
4 the purpose of performing or attempting subsequent repairs.

5 **SECTION 3.** 218.0171 (2) (b) 2. a. of the statutes is amended to read:

6 218.0171 (2) (b) 2. a. Accept return of the motor vehicle and, subject to par. (c)
7 3. and 4., replace the motor vehicle with a comparable new motor vehicle and refund
8 any collateral costs.

9 **SECTION 4.** 218.0171 (2) (c) of the statutes is renumbered 218.0171 (2) (c) 1. and
10 amended to read:

11 218.0171 (2) (c) 1. To receive a comparable new motor vehicle or a refund due
12 under par. (b) 1. or 2., a consumer described under sub. (1) (b) 1., 2. or 3. shall offer
13 to the manufacturer of the motor vehicle having the nonconformity to transfer title
14 of that motor vehicle to that manufacturer. No

15 2. Subject to subd. 5., if the consumer elects a refund, no later than 30 days after
16 that the offer under subd. 1. or the election of the refund, whichever is later, the
17 manufacturer shall provide the consumer with the comparable new motor vehicle or
18 refund. During or prior to this 30-day period, the consumer shall provide to the
19 manufacturer, in a form and manner prescribed by the department of transportation,
20 all information timely requested and required by the manufacturer and any written
21 consent to allow the manufacturer to provide the refund. If the consumer fails to
22 provide any of this information by the end of this 30-day period, the consumer may
23 not bring an action under sub. (7).

24 6. When the manufacturer provides the new motor vehicle or refund, the
25 consumer shall return the motor vehicle having the nonconformity to the

1 manufacturer and provide the manufacturer with the certificate of title and all
2 endorsements necessary to transfer title to the manufacturer. If another person is
3 in possession of the certificate of title, as shown by the records of the department of
4 transportation, that person shall, upon request of the consumer, provide the
5 certificate of title to the manufacturer ~~or to the consumer~~ upon satisfaction of any
6 security interest in the motor vehicle.

7 **SECTION 5.** 218.0171 (2) (c) 3., 4. and 5. of the statutes are created to read:

8 218.0171 (2) (c) 3. Except as provided in this subdivision, if the consumer elects
9 a comparable new motor vehicle, no later than 45 days after the offer under subd. 1.
10 or the election of the new motor vehicle, whichever is later, the manufacturer shall
11 provide the consumer with the comparable new motor vehicle. The manufacturer
12 shall exercise due diligence in locating and providing a comparable new motor
13 vehicle within this 45-day period. If no comparable new motor vehicles exists or if
14 a comparable new motor vehicle is otherwise unavailable for delivery within this
15 45-day period, the manufacturer shall provide a refund in lieu of providing a
16 comparable new motor vehicle and shall provide this refund no later than 45 days
17 after the offer under subd. 1. or the election of the new motor vehicle, whichever is
18 later. This subdivision does not apply with respect to commercial motor vehicles.

19 4. Except as provided in this subdivision, if the consumer elects a comparable
20 new commercial motor vehicle, no later than 120 days after the offer under subd. 1.
21 or the election of the new commercial motor vehicle, whichever is later, the
22 manufacturer shall provide the consumer with the comparable new commercial
23 motor vehicle. The manufacturer shall exercise due diligence in locating and
24 providing a comparable new commercial motor vehicle within this 120-day period.
25 If no comparable new commercial motor vehicles exists or if a comparable new

1 commercial motor vehicle is otherwise unavailable for delivery within this 120-day
2 period, the manufacturer shall provide a refund in lieu of providing a comparable
3 new commercial motor vehicle and shall provide this refund no later than 120 days
4 after the offer under subd. 1. or the election of the new commercial motor vehicle,
5 whichever is later.

6 5. A manufacturer is not required to provide a consumer with a refund under
7 subd. 2. less than 10 days after the manufacturer receives from the consumer the
8 information and consent required under subd. 2., in the form and manner specified
9 in sub. (8).

10 **SECTION 6.** 218.0171 (2) (cm) 1. and 2. of the statutes are amended to read:

11 218.0171 (2) (cm) 1. To receive a refund due under par. (b) 3., a consumer
12 described under sub. (1) (b) 4. shall offer to the manufacturer of the motor vehicle
13 having the nonconformity to return that motor vehicle to that manufacturer. No
14 Subject to subd. 4., no later than 30 days after that offer, the manufacturer shall
15 provide the refund to the consumer. During or prior to this 30-day period, the
16 consumer shall provide to the manufacturer, in a form and manner prescribed by the
17 department of transportation, all information timely requested and required by the
18 manufacturer and any written consent to allow the manufacturer to provide the
19 refund. If the consumer fails to provide any of this information by the end of this
20 30-day period, the consumer may not bring an action under sub. (7). When the
21 manufacturer provides the refund, the consumer shall return the motor vehicle
22 having the nonconformity to the manufacturer.

23 2. To receive a refund due under par. (b) 3., a motor vehicle lessor shall offer to
24 the manufacturer of the motor vehicle having the nonconformity to transfer title of
25 that motor vehicle to that manufacturer. No Subject to subd. 4., no later than 30 days

1 after that offer, the manufacturer shall provide the refund to the motor vehicle lessor.
2 During or prior to this 30-day period, the consumer shall provide to the
3 manufacturer, in a form and manner prescribed by the department of transportation,
4 all information timely requested and required by the manufacturer and any written
5 consent to allow the manufacturer to provide the refund. When the manufacturer
6 provides the refund, the motor vehicle lessor shall provide to the manufacturer the
7 certificate of title and all endorsements necessary to transfer title to the
8 manufacturer. If another person is in possession of the certificate of title, as shown
9 by the records of the department of transportation, that person shall, upon request
10 of the motor vehicle lessor, provide the certificate to the manufacturer or to the motor
11 vehicle lessor.

12 **SECTION 7.** 218.0171 (2) (cm) 4. of the statutes is created to read:

13 218.0171 (2) (cm) 4. A manufacturer is not required to provide a consumer with
14 a refund under subd. 1. or a motor vehicle lessor a refund under subd. 2. less than
15 10 days after the manufacturer receives from the consumer the information and
16 consent required under subd. 1. or 2., in the form and manner specified in sub. (8).

17 **SECTION 8.** 218.0171 (6m) of the statutes is created to read:

18 218.0171 (6m) Notwithstanding subs. (2) (b) and (6), if the consumer enters
19 into a negotiated written settlement with the manufacturer regarding any motor
20 vehicle nonconformity, the manufacturer shall no longer be subject to any
21 requirement of this section with respect to that motor vehicle.

22 **SECTION 9.** 218.0171 (7) of the statutes is amended to read:

23 218.0171 (7) In Subject to subs. (2) (c) 2. and (cm) 1. and (3), in addition to
24 pursuing any other remedy, a consumer may bring an action to recover for any
25 damages caused by a violation of this section if the action is commenced within 24

1 months after first delivery of the motor vehicle to a consumer. The court ~~shall~~ or jury
2 may award a consumer who prevails in such an action ~~twice~~ up to the amount of any
3 pecuniary loss, together with costs, disbursements and reasonable attorney fees, and
4 any equitable relief the court determines appropriate.

5 **SECTION 10.** 218.0171 (8) of the statutes is created to read:

6 218.0171 (8) The department of transportation shall prescribe a form and
7 manner for consumers to provide information and consent to manufacturers for
8 purposes of sub. (2) (c) 2. and (cm) 1. and 2.

9 **SECTION 11.** 227.01 (13) (yd) of the statutes is created to read:

10 227.01 (13) (yd) Relates to any form or manner of providing information and
11 consent prescribed by the department of transportation under s. 218.0171 (8).

12 **SECTION 12. Initial applicability.**

13 (1) This act first applies with respect to motor vehicles for which the express
14 warranty commences on the effective date of this subsection.

15 **SECTION 13. Effective date.**

16 (1) This act takes effect on the first day of the 3rd month beginning after
17 publication.

18 (END)

Parisi, Lori

From: Oling, Lane
Sent: Monday, April 29, 2013 2:36 PM
To: LRB.Legal
Subject: Draft Review: LRB -2247/1 Topic: Motor vehicle warranty law (lemon law) changes relating to damages, refund information, commercial motor vehicles, civil actions, and reasonable attempts to repair

Please Jacket LRB -2247/1 for the SENATE.

Lane Oling
Office of Senator Jerry Petrowski
29th Senate District
(608) 266-2502