2013 Assembly Bill 200 (LRB -2179)

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

2013

05-13.	A.	Introduced by Representatives **Kramer, LeMahieu, Williams, Craig, Kuglitsch, Thiesfeldt, Schraa, Czaja, Murphy, Tittl, Jacque, Stone, Kleefisch, Steineke, Suder, Neylon, Murtha, Nygren, Severson, Ballweg, A. Ott, Jagler, Nerison, Petryk, August, Mursau, Kaufert, Sanfelippo, Loudenbeck, Kestell, Ripp, Tauchen, Weatherston, Spiros, Swearingen, Bies, Born, Honadel, T. Larson, Knodl, Stroebel, Strachota, Weininger, Bernier, Kooyenga** and **Pridemore**; cosponsored by Senators **Petrowski, Farrow** and **Vukmir**.	164
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09-17.	S.	Rules suspended	
09-17.	S.	Read a third time and **concurred in**, Ayes 32, Noes 1	
09-17.	S.	Ordered immediately messaged	
09-18.	A.	Received from Senate concurred in	

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2013
ENROLLED BILL

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ADOPTED DOCUMENTS:

☐ Orig ☐ Engr A SubAmdt 1 13 S 0068/2

Amendments to above (if none, write "NONE"): AA1 — a 0599/1

Corrections – show date (if none, write "NONE"): NONE

Topic Rel

9-19-13
Date

Enrolling Drafter

State of Wisconsin
2013 – 2014 LEGISLATURE

LRBs0068/2
ARG:jld:jm

ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO ASSEMBLY BILL 200

June 4, 2013 – Offered by Representative KRAMER.

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

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

SECTION 1. 218.0171 (1) (bt) of the statutes is created to read:

218.0171 **(1)** (bt) "Heavy–duty vehicle" means any motor vehicle having a gross vehicle weight rating or actual gross weight of more than 10,000 pounds.

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

218.0171 **(1)** (g) "Out of service," with respect to a motor vehicle, means that the 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, motor vehicle lessor, or any of the manufacturer's authorized motor vehicle dealers for the purpose of performing or attempting repairs to correct a nonconformity.

2. The vehicle is in the possession of the consumer and the vehicle has a nonconformity that substantially affects the use or safety of the vehicle.

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

218.0171 **(2)** (a) If a new motor vehicle does not conform to an applicable express warranty and the consumer reports the nonconformity to the manufacturer, the motor vehicle lessor, or any of the manufacturer's authorized motor vehicle dealers on the form specified in sub. (8) (a) 1. and makes the motor vehicle available for repair before the expiration of the warranty or one year after first delivery of the motor vehicle to a consumer, whichever is sooner, the nonconformity shall be repaired.

SECTION 4. 218.0171 (2) (b) 1. of the statutes is amended to read:

218.0171 **(2)** (b) 1. If after a reasonable attempt to repair the nonconformity is not repaired and if the consumer provides the manufacturer with the form specified in sub. (8) (a) 2. or 3., the manufacturer shall carry out the requirement under subd. 2. or 3., whichever is appropriate.

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

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

1 **SECTION 6.** 218.0171 (2) (c) of the statutes is amended to read:

2 218.0171 **(2)** (c) To receive a ~~comparable new motor vehicle or a~~ refund due
3 under par. (b) 1. or 2., a consumer described under sub. (1) (b) 1., 2. or 3. shall offer
4 to the manufacturer of the motor vehicle having the nonconformity to transfer title
5 of that motor vehicle to that manufacturer. No later than 30 days after that offer, the
6 manufacturer shall provide the consumer with the ~~comparable new motor vehicle or~~
7 refund. When the manufacturer provides the ~~new motor vehicle or~~ refund, the
8 consumer shall return the motor vehicle having the nonconformity to the
9 manufacturer and provide the manufacturer with the certificate of title and all
10 endorsements necessary to transfer title to the manufacturer. If another person is
11 in possession of the certificate of title, as shown by the records of the department of
12 transportation, that person shall, upon request of the consumer, provide the
13 certificate <u>of title</u> to the manufacturer ~~or to the consumer~~ <u>upon satisfaction of any</u>
14 <u>security interest in the motor vehicle</u>.

15 **SECTION 7.** 218.0171 (2) (cg) of the statutes is created to read:

16 218.0171 **(2)** (cg) 1. If a consumer described under sub. (1) (b) 1., 2., or 3. elects
17 a comparable new motor vehicle on the form specified in sub. (8) (a) 2., no later than
18 30 days after receiving this form the manufacturer shall agree in writing to provide
19 a comparable new motor vehicle or a refund of the full purchase price plus any sales
20 tax, finance charge, amount paid by the consumer at the point of sale, and collateral
21 costs. Upon the consumer's receipt of this writing, the manufacturer shall have until
22 the 45th day after receiving from the consumer the form specified in sub. (8) (a) 2.
23 to either provide the comparable new motor vehicle or the refund. During this period,
24 the manufacturer shall exercise due diligence in locating and providing a comparable
25 new motor vehicle. If the manufacturer agrees to provide a comparable new motor

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vehicle, the manufacturer retains the right to provide the refund if no comparable new motor vehicle exists or cannot be delivered within this 45–day period. This subdivision does not apply with respect to heavy–duty vehicles.

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2. If a consumer described under sub. (1) (b) 1., 2., or 3. elects a comparable new motor vehicle on the form specified in sub. (8) (a) 2., no later than 30 days after receiving this form the manufacturer shall agree in writing to provide a comparable new motor vehicle or a refund of the full purchase price plus any sales tax, finance charge, amount paid by the consumer at the point of sale, and collateral costs. Upon the consumer's receipt of this writing, the manufacturer shall have until the 120th day after receiving from the consumer the form specified in sub. (8) (a) 2. to either provide the comparable new motor vehicle or the refund. During this period, the manufacturer shall exercise due diligence in locating and providing a comparable new motor vehicle. If the manufacturer agrees to provide a comparable new motor vehicle, the manufacturer retains the right to provide the refund if no comparable new motor vehicle exists or cannot be delivered within this 120–day period. This subdivision applies only with respect to heavy–duty vehicles.

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3. When a manufacturer provides a new motor vehicle under subd. 1. or 2., the consumer shall return the motor vehicle having the nonconformity to the manufacturer and provide the manufacturer with the certificate of title and all endorsements necessary to transfer title to the manufacturer. If another person is in possession of the certificate of title, as shown by the records of the department of transportation, that person shall, upon request of the consumer, provide the certificate of title to the manufacturer upon satisfaction of any security interest in the motor vehicle.

SECTION 8. 218.0171 (2) (cq) of the statutes is amended to read:

218.0171 **(2)** (cq) Upon payment of a refund to a consumer under par. (b) 2. b. or (cg) 1. or 2., the manufacturer shall provide to the consumer a written statement that specifies the trade–in amount previously applied under s. 77.51 (12m) (b) 5. or 6. or (15b) (b) 5. or 6. toward the sales price of the motor vehicle having the nonconformity and the date on which the manufacturer provided the refund.

SECTION 9. 218.0171 (2) (d) of the statutes is amended to read:

218.0171 **(2)** (d) No motor vehicle returned by a consumer or motor vehicle lessor in this state under par. (b) or sub. (6m), or by a consumer or motor vehicle lessor in another state under a similar law of that state, may be sold or leased again in this state unless full disclosure of the reasons for return is made to any prospective buyer or lessee. A manufacturer may not use a power of attorney to act as an agent of a consumer for purposes of transferring title to a motor vehicle returned to the manufacturer under this section.

SECTION 10. 218.0171 (5) of the statutes is amended to read:

218.0171 **(5)** ~~This~~ Except as provided in sub. (7) (b), this section does not limit rights or remedies available to a consumer under any other law.

SECTION 11. 218.0171 (6m) of the statutes is created to read:

218.0171 **(6m)** Notwithstanding subs. (2) (b) and (6), if the consumer enters into a negotiated written settlement with the manufacturer regarding any motor vehicle nonconformity, the manufacturer shall no longer be subject to any requirement of this section, except for sub. (2) (d), with respect to that motor vehicle. This subsection applies only with respect to heavy–duty vehicles.

SECTION 12. 218.0171 (7) of the statutes is renumbered 218.0171 (7) (a) and amended to read:

218.0171 **(7)** (a) In addition to pursuing any other remedy, a consumer may bring an action to recover for any damages caused by a violation of this section <u>if the action is commenced within 36 months after first delivery of the motor vehicle to a consumer</u>. The court shall award a consumer who prevails in such an action ~~twice~~ the amount of any pecuniary loss, together with costs, disbursements and reasonable attorney fees, and <u>may award</u> any equitable relief the court determines appropriate.

SECTION 13. 218.0171 (7) (b) of the statutes is created to read:

218.0171 **(7)** (b) Notwithstanding any other provision of this section or ch. 802, 804, or 806, in an action for a violation under this section, if a court finds that any party to the action has failed to reasonably cooperate with another party's efforts to comply with obligations under this section, which hinders the other party's ability to comply with or seek recovery under this section, the court may extend any deadlines specified in this section, reduce any damages, attorney fees, or costs that may be awarded under par. (a), strike pleadings, or enter default judgment against the offending party.

SECTION 14. 218.0171 (8) of the statutes is created to read:

218.0171 **(8)** (a) The department of transportation shall prescribe one or more forms for consumers to use for all of the following:

1. To report a nonconformity to the manufacturer, the motor vehicle lessor, or any of the manufacturer's authorized motor vehicle dealers for the purpose of having the nonconformity repaired.

2. To elect that a manufacturer replace a motor vehicle with a comparable new motor vehicle as provided under sub. (2) (b) 2. a.

3. To elect that a manufacturer make a refund as provided under sub. (2) (b) 2. or 3.

(b) The department shall make any form specified in par. (a) available on the department's Internet site. Any form specified in par. (a) shall require the consumer to provide all of the following information:

1. The consumer's contact information.

2. Identification of the motor vehicle dealer from which the motor vehicle was purchased, the date of delivery of the motor vehicle from the dealer, and the purchase price of the motor vehicle.

3. Identification of any holder of a perfected security interest in the consumer's motor vehicle.

4. The mileage of the motor vehicle at the time the first nonconformity is asserted to have occurred.

5. If the form is to be used for the purpose of making an election described in par. (a) 2. or 3., a place on the form to make the election.

6. An itemization of any other damages claimed by the consumer.

(c) If any form specified in par. (a) is required under this section to be used by a consumer and the consumer has not provided all information required under par. (b) to the satisfaction of the manufacturer, the manufacturer may, within 30 days of receiving the form, request that the consumer provide additional information required under par. (b). If the manufacturer makes such a timely request for additional information, any time period under sub. (2) (c), (cg) 1. or 2., or (cm) 1. does not begin to elapse until the consumer provides this additional information.

SECTION 15. 227.01 (13) (yd) of the statutes is created to read:

227.01 **(13)** (yd) Relates to any form prescribed by the department of transportation under s. 218.0171 (8).

SECTION 16. Initial applicability.

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

3 **SECTION 17. Effective date.**

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

6 **(END)**

State of Wisconsin
2013 – 2014 LEGISLATURE

LRBa0599/1
ARG:sac:jf

ASSEMBLY AMENDMENT 1,

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO ASSEMBLY BILL 200

June 11, 2013 – Offered by Representative KRAMER.

AA1-1

At the locations indicated, amend the substitute amendment as follows:

1. Page 2, line 8: after "vehicle" insert "and that has been subject to an attempt to repair under sub. (2) (a) on at least 2 occasions".

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2. Page 4, line 1: on lines 1 and 14, delete "no" and substitute "a".

3. Page 4, line 2: on lines 2 and 15, delete "exists" and substitute "does not exist".

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4. Page 5, line 11: delete the material beginning with "A manufacturer" and ending with "section." on line 13.

(END)