

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1930/P1dn
ARG:jld

March 18, 2015

Please review the attached draft carefully to ensure that it is consistent with your intent.

As requested, this draft eliminates the requirement that a report of nonconformity be provided on a DOT form.

In preparing this draft, I reviewed the materials provided to me that offer an interpretation of the existing statute. I do not agree with this interpretation, which concludes that the DOT form must be provided with every repair. The statute requires use of the DOT form to report a "nonconformity" (defined as a "condition or defect"), not to report each repair. The purpose of the report of nonconformity is to put the manufacturer on notice that the lemon law is at issue and to provide a trigger for the manufacturer's lemon law duties. This trigger is required only once for each "nonconformity" asserted. Once notice is given, the manufacturer has a duty to repair or, if unable to do so, to provide a refund or a replacement vehicle. The DATCP form referenced in the accompanying materials (presumably an order or invoice meeting the requirements under ATCP 132.03 or 132.08, Wis. Adm. Code) will put the manufacturer on notice that warranty repair work is being done. From this, the manufacturer could assume that one day an assertion of lemon law rights might follow. However, the fact of warranty work does not necessarily put the manufacturer on notice that a nonconformity is being asserted and that the manufacturer's duty of repair under the lemon law has been triggered.

Please let me know if you would like any changes made to the attached draft or if you have any questions. If the attached draft meets with your approval, let me know and I will convert it to an introducible "/1" draft.

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