

56: 12-19 et al

LEGISLATIVE HISTORY CHECKLIST

NJSA: 56: 12-19 et al

("Lemon law"-motor cycles)

LAWS OF: 1984

CHAPTER: 135

Bill No: S1103

Sponsor(s): Cardinale and others

Date Introduced: January 30, 1984

Committee: Assembly: Commerce and Industry

Senate: Labor, Industry and Professions

Amended during passage:

No

Substituted for A1848 (not attached since identical to S1103)

Date of Passage:

Assembly: June 28, 1984

Senate: February 27, 1984

Date of Approval: September 4, 1984

Following statements are attached if available:

Sponsor statement:

Yes

Committee statement:

Assembly

Yes

Senate

Yes

Fiscal Note:

No

Veto Message:

No

Message on Signing:

No

Following were printed:

Reports:

No

Hearings:

No

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CHAPTER 135 LAWS OF N. J. 1984
APPROVED 9-4-84

SENATE, No. 1103

STATE OF NEW JERSEY

INTRODUCED JANUARY 30, 1984

By Senators CARDINALE, O'CONNOR, SAXTON and JACKMAN

Referred to Committee on Labor, Industry and Professions

AN ACT to amend the title of "An act concerning certain automobile warranties," approved June 20, 1983 (P. L. 1983, c. 215), so that the same shall read "An act concerning certain automobile and motorcycle warranties," and to amend the body of said act.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. The title of P. L. 1983, c. 215 is amended to read as follows:
2 An act concerning certain automobile *and motorcycle* warranties.

1 2. Section 1 of P. L. 1983, c. 215 (C. 56:12-19) is amended to read
2 as follows:

3 1. As used in this act:

4 a. "Consumer" means the purchaser, other than for purposes of
5 resale, of an automobile *or motorcycle*; a person to whom an auto-
6 mobile *or motorcycle* is transferred during the duration of an
7 express warranty applicable to the automobile *or motorcycle*; or
8 any other person entitled by the terms of the warranty to enforce
9 the obligations of the warranty.

10 b. "Dealer" means a person actively engaged in the business of
11 buying, selling or exchanging automobile *or motorcycles* at retail
12 and who has an established place of business.

13 c. "Manufacturer" means a person engaged in the business of
14 manufacturing, assembling or distributing automobiles *or motor-*
15 *cycles*, who will, under normal business conditions during the year,
16 manufacture, assemble or distribute to dealers at least 10 new
17 automobiles *or motorcycles*.

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill
is not enacted and is intended to be omitted in the law.
Matter printed in italics *thus* is new matter.

18 d. "Manufacturer's express warranty" or "warranty" means
 19 the written warranty of the manufacturer of a new automobile *or*
 20 *motorcycle* of its condition and fitness for use, including any terms
 21 or conditions precedent to the enforcement of obligations under
 22 that warranty.

23 c. "Automobile" means any passenger automobile as defined in
 24 R. S. 39:1-1 which is registered by the Division of Motor Vehicles
 25 in the Department of Law and Public Safety, except the living
 26 facilities of motor homes.

27 f. "Nonconformity" means a defect or condition which substan-
 28 tially impairs the use, value, or safety of an automobile *or motor-*
 29 *cycle*.

30 g. "Lien" means a security interest in an [automobile.] *auto-*
 31 *mobile or motorcycle*.

32 h. "Lienholder" means a person with a security interest in an
 33 automobile *or motorcycle* pursuant to a lien.

34 i. "*Motorcycle*" means any *motorcycle* as defined in R. S. 39:1-1
 35 which is registered by the Division of Motor Vehicles in the Depart-
 36 ment of Law and Public Safety.

1 3. Section 2 of P. L. 1983, c. 215 (C. 56:12-20) is amended to read
 2 as follows:

3 2. If a new automobile *or motorcycle* does not conform to the
 4 manufacturer's express warranty, and the consumer reports the
 5 nonconformity to the manufacturer or its agent or dealer during
 6 the term of the warranty or during the period of one year following
 7 the date of original delivery of an automobile *or motorcycle* to the
 8 consumer, whichever is earlier, the manufacturer shall make, or
 9 arrange with its dealer or agent to make, within a reasonable period
 10 of time, all repairs necessary to conform the new automobile *or*
 11 *motorcycle* to the warranty, notwithstanding that the repairs or
 12 corrections are made after the expiration of the term of the war-
 13 ranty or the one-year period.

1 4. Section 3 of P. L. 1983, c. 215 (C. 56:12-21) is amended to read
 2 as follows:

3 3. If the manufacturer is unable to conform the new automobile
 4 *or motorcycle* to the warranty by repairing or correcting a defect
 5 or condition which substantially impairs the use, value or safety
 6 of the new automobile *or motorcycle* to the consumer after a reason-
 7 able number of attempts, the manufacturer shall accept return of
 8 the automobile *or motorcycle* from the consumer and either:

9 a. Replace the automobile *or motorcycle* with a comparable new
 10 automobile *or motorcycle* and the consumer shall pay the manu-
 11 facturer a reasonable allowance for his use of the automobile *or*

12 *motorcycle* being returned and shall not pay, on the new replace-
13 ment automobile *or motorcycle*, the taxes, preparation fees or any
14 other charges or fees usually paid by a consumer; or

15 b. Refund to the consumer the full purchase price of the original
16 automobile *or motorcycle*, including all taxes, preparation fees and
17 any other charges or fees paid by the consumer, less a reasonable
18 allowance for the consumer's use of the original automobile *or*
19 *motorcycle*. Refunds shall be made to the consumer and lienholder
20 if any, as their interests appear on the records of ownership kept
21 by the Director of the Division of Motor Vehicles.

1 5. Section 4 of P. L. 1983, c. 215 (C. 56:12-22) is amended to read
2 as follows:

3 4. It shall be presumed that a reasonable number of attempts
4 have been undertaken to conform a new automobile *or motorcycle*
5 to the manufacturer's express warranty if, within the warranty
6 term or during the period of one year following the date of original
7 delivery of the motor vehicle to a consumer, whichever is the earlier
8 **date:**

9 a. The same nonconformity has been subject to repair or correc-
10 tion four or more times by the manufacturer, its agents or its
11 dealers and the nonconformity continues to exist; or

12 b. The automobile *or motorcycle* is out of service by reason of
13 waiting for the dealer to begin or complete repair or correction of
14 a nonconformity by the manufacturer, its agents or its dealers for
15 a cumulative total of more than 30 business days since the original
16 delivery of the motor vehicle to the consumer. This 30-day limit
17 shall commence with the first day on which the consumer makes the
18 automobile, *or motorcycle* available to the manufacturer, its agent or
19 dealer for service of the nonconformity. The 30-day limit shall be
20 extended only if repairs cannot be performed due to conditions
21 beyond the control of the manufacturer, its agents or its dealers
22 including war, invasion, strike, fire, flood or other natural disaster.

23 c. The presumption provided in this section shall not apply
24 against a manufacturer unless the manufacturer has received prior
25 direct written notification from or on behalf of the consumer and
26 has had an opportunity to repair or correct the nonconformity;
27 provided, however, that if the manufacturer does not directly
28 attempt or arrange with its dealer or agent to repair or correct
29 the nonconformity, the manufacturer may not defend a claim by a
30 consumer under this act on the ground that the agent or dealer
31 failed to properly repair or correct the nonconformity or that the
32 repairs or corrections made by the agent or dealer caused or
33 contributed to the nonconformity.

1 6. Section 5 of P. L. 1983, c. 215 (C. 56:12-23) is amended to read
2 as follows:

3 5. A reasonable allowance for use shall be the total amount
4 directly attributable to the use of the new automobile *or motorcycle*
5 by the consumer and any previous consumer, prior to the first
6 report of the nonconformity to the manufacturer by the consumer
7 or any previous consumer of the new automobile *or motorcycle* and
8 during any subsequent period when the vehicle is not out of service
9 by reason of repair or correction of the nonconformity so reported.

1 7. Section 6 of P. L. 1983, c. 215 (C. 56:12-24) is amended to read
2 as follows:

3 6. It shall be an affirmative defense to a claim under this act that
4 the alleged nonconformity does not substantially impair the use,
5 value, or safety of the new automobile *or motorcycle* or that the
6 nonconformity is the result of abuse or neglect or of unauthorized
7 modifications or alterations of the new automobile *or motorcycle*
8 by anyone other than the manufacturer, its agent or dealer.

1 8. This act shall take effect immediately, but shall apply only to
2 new motorcycles purchased after its effective date.

STATEMENT

This bill expands the coverage of the "lemon law," which now covers news automobiles, to motorcycles. The bill requires a manufacturer of a new motorcycle to repair all defects covered by a written warranty if reported by the consumer during the warranty period or within one year of the motorcycle's delivery date to the consumer, whichever is earlier. If the manufacturer is unable to repair a defect which substantially impairs the motorcycle's use, value or safety after a reasonable number of attempts, the bill requires the manufacturer to replace the motorcycle or refund the consumer his money.

51103 (1984)

SENATE LABOR, INDUSTRY AND PROFESSIONS
COMMITTEE

STATEMENT TO

SENATE, No. 1103

STATE OF NEW JERSEY

DATED: FEBRUARY 6, 1984

This bill expands coverage of the "lemon law" to motorcycles.

The bill requires a manufacturer of a new motorcycle to repair all defects covered by a written warranty if reported by the consumer during the warranty period or within one year of the motorcycle's delivery date to the consumer, whichever is earlier. If the manufacturer is unable to repair a defect which substantially impairs the motorcycle's use, value or safety after a "reasonable number of attempts," the bill requires the manufacturer to either replace the motorcycle (with the manufacturer paying collateral charges such as taxes and preparation and destination fees, and the consumer paying an allowance for the use of the returned motorcycle) or to refund the full purchase price and collateral charges, less an allowance for the consumer's use of the returned motorcycle. A refund would be made to the consumer and to anyone holding a lien on the motorcycle.

If a manufacturer of motorcycles has established an informal dispute settlement mechanism that complies in all respects with relevant Federal Trade Commission regulations, the bill requires a consumer to attempt to settle the dispute through that mechanism before the bill's provisions requiring a replacement or refund would apply.

The bill specifies that a "reasonable number of attempts" have been taken when:

a. The same problem has been subject to repair four or more times during the warranty period or within one year of the motorcycle's delivery date, whichever is earlier; or

b. The motorcycle has been out of service for repairs for a cumulative total of 30 business days during the same period. The 30-day period is extended if the repairs cannot be performed because of war, invasion, strike, fire, flood or other natural disaster. This presumption would not apply against a manufacturer of motorcycles if it has not received prior direct written notification from or on behalf of the consumer and had an opportunity to repair or correct the nonconformity.

The bill specifies that the manufacturer of motorcycles has the following affirmative defenses in any suit to obtain a new replacement motorcycle or to recover the cost of a motorcycle:

a. The defect does not substantially impair the motorcycle's use, value or safety.

b. The defect was caused by the consumer's abuse or neglect or by an unauthorized modification or alteration of the motorcycle by anyone other than the manufacturer or its agent or dealer.

ASSEMBLY COMMERCE AND INDUSTRY COMMITTEE

STATEMENT TO

SENATE, No. 1103

STATE OF NEW JERSEY

DATED: JUNE 25, 1984

This bill, amending P. L. 1983, c. 215 (C. 56:12-19 et seq.), brings motorcycles within the purview of New Jersey's "lemon law." The bill provides that if a new motorcycle does not conform to the manufacturer's express warranty and the owner reports the nonconformity to the manufacturer or its agent or dealer within the term of the warranty or during the period of one year following the date of original delivery of the motorcycle, the manufacturer must make the necessary repairs or arrange with the dealer to make the necessary repairs.

If the manufacturer is unable after a reasonable number of attempts, to conform the motorcycle to the warranty by repairing a defect which substantially impairs the use, value, or safety of the motorcycle, it would be required to accept return of the motorcycle, and either replace it or refund the purchase price to the consumer. The bill requires that the consumer make an attempt to settle the dispute through an informal dispute settlement mechanism if the manufacturer has established such a mechanism and if the mechanism complies in all respects with relevant Federal Trade Commission regulations.

The bill provides that a "reasonable number of attempts" have been made by the manufacturer when the same nonconformity has been subject to repair or correction four or more times or when the motorcycle has been out of service for a cumulative total of more than 30 days since the original delivery of the motorcycle, although these presumptions would not apply against a manufacturer which has not received prior direct written notification from or on behalf of the consumer.

The manufacturer would be able to use as affirmative defenses in any suit the defense that the defect in question does not substantially impair the motorcycle's use, value, or safety, or the defense that the defect was caused by the consumer's abuse or neglect or by an unauthorized modification or alteration of the motorcycle by anyone other than the manufacturer or its agent or dealer.