

## **BILL ANALYSIS**

Senate Research Center  
85R18532 TSR-D

H.B. 2070  
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Business & Commerce  
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Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Under the Texas Lemon Law, owners can rely on warranties to get their defective new cars repaired or replaced without going through litigation. As a result of an interim study conducted by the House Judiciary & Civil Jurisprudence Committee, the Texas Department of Motor Vehicles, which administers the Lemon Law, made several recommendations to streamline the statute. H.B. 2070 compiles these recommendations.

First, H.B. 2070 simplifies a presumption in current law that defines a reasonable number of repair attempts. Currently this presumption requires a certain number of repair attempts to be made within the first 12 months or 12,000 miles, and then additional repair attempts must be made in the subsequent 12 months or 12,000 miles. This staggered requirement unnecessarily complicates the process, and so H.B. 2070 simply consolidates the requirements so that they must all be done within the first 24 months or 24,000 miles in order to establish the presumption.

Second, H.B. 2070 allows for certain notifications to be made electronically, which is already common practice.

And finally, H.B. 2070 includes nonsubstantive, conforming amendments to harmonize bills passed in the 83rd Regular Session.

H.B. 2070 amends current law relating to the enforcement of certain warranties for a new motor vehicle.

### **RULEMAKING AUTHORITY**

Rulemaking authority previously granted to the board of the Texas Department of Motor Vehicles is modified in SECTION 6 (Section 2301.713, Occupations Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Sections 2301.605(a) and (c), Occupations Code, as follows:

(a) Provides that a rebuttable presumption that a reasonable number of attempts have been undertaken to conform a motor vehicle to an applicable express warranty is established if:

(1) the same nonconformity continues to exist after being subject to repair four or more times by certain persons and the attempts were made before the earlier of:

(A) the date the express warranty expires, rather than two of the repair attempts were made in the 12 months or 12,000 miles, whichever occurs first, following the date of original delivery to the owner; or, rather than and

(B) 24 months or 24,000 miles, whichever occurs first, following the date of original delivery of the motor vehicle to the owner, rather than the other two repair attempts were made in the 12 months or 12,000 miles,

whichever occurs first, immediately following the date of the second repair attempt;

(2) the same nonconformity creates a serious safety hazard and continues to exist after causing the vehicle to have been subject to repair two or more times by certain persons and the attempts were made before the earlier of:

(A) the date the express warranty expires, rather than at least one attempt to repair the nonconformity was made in the 12 months or 12,000 miles, whichever occurs first, following the date of original delivery to the owner; or, rather than and

(B) 24 months or 24,000 miles, whichever occurs first, following the date of original delivery of the motor vehicle to the owner, rather than at least one other attempt to repair the nonconformity was made in the 12 months or 12,000 miles, whichever occurs first, immediately following the date of the first repair attempt; or

(3) deletes existing designation as Subsection (a). A nonconformity still exists that substantially impairs the vehicle's use or market value, the vehicle is out of service for repair for a cumulative total of 30 or more days, and the attempts were made before the earlier of:

(A) the date the express warranty expires; or

(B) 24 months or 24,000 miles, whichever occurs first, following the date of original delivery of the motor vehicle to the owner. Deletes existing text providing at least two repair attempts were made in the 12 months or 12,000 miles following the date of original delivery to an owner.

(c) Makes a conforming change.

SECTION 2. Reenacts Section 2301.606(c), Occupations Code, as amended by Chapters 1135 (H.B. 2741) and 1379 (H.B. 1692), Acts of the 83rd Legislature, Regular Session, 2013, and amends it, as follows:

(c) Prohibits an order issued under this subchapter (Warranties: Rights of Vehicle Owners) from requiring, rather than prohibits the board of the Texas Department of Motor Vehicles (board; TxDMV) or a person delegated power from the board under Section 2301.154 (Delegation of Powers) from issuing an order requiring, a manufacturer, converter, or distributor, to make a refund or to replace a motor vehicle unless:

(1) the owner, a person on behalf of the owner, or the TxDMV has provided written notice, rather than the owner or a person on behalf of the owner has mailed written notice, of the alleged defect or nonconformity to the manufacturer, converter, or distributor; and

(2) makes no changes to this subdivision.

SECTION 3. Reenacts Section 2301.607(c), Occupations Code, as amended by Chapters 1135 (H.B. 2741) and 1379 (H.B. 1692), Acts of the 83rd Legislature, Regular Session, 2013, and amends it, as follows:

(c) Requires TxDMV, if a final order is not issued, rather than a proposal for decision and recommendation for a final order are not issued, before a certain date, to provide written notice by certified mail to certain persons of the expiration of the 150-day period and of the complainant's right to file a civil action. Requires TxDMV, rather than the board or a person delegated power from the board under Section 2301.154, to extend the 150-day period if a delay is requested or caused by the person who filed the complaint.

SECTION 4. Reenacts Section 2301.608, Occupations Code, as amended by Chapters 1135 (H.B. 2741) and 1379 (H.B. 1692), Acts of the 83rd Legislature, Regular Session, 2013, and amends it, as follows:

Sec. 2301.608. ASSESSMENT OF COSTS FOR REPLACEMENT OR REFUND. (a) Requires that an order issued under this subchapter, rather than requires that the board or a person delegated power from the board under Section 2301.154, in an order issued under this subchapter, name the person responsible for paying the cost of any refund or replacement. Makes conforming changes.

(b) Authorizes the final order, if the final order requires certain persons to make a refund or replace a motor vehicle under this subchapter, to require, rather than authorizes the board or person, if the board or a person delegated power from the board under Section 2301.154 orders certain persons to make a refund or replace a motor vehicle under this subchapter, to order, the franchised dealer to reimburse certain persons only for an item or option added to the vehicle by the dealer to the extent that the item or option contributed to the defect that served as the basis for the order.

(c) Makes a conforming change.

SECTION 5. Amends Section 2301.610(d), Occupations Code, to change a reference to an order issued under this chapter (Sale or Lease of Motor Vehicles) to an order issued under this subchapter.

SECTION 6. Reenacts Section 2301.713, Occupations Code, as amended by Chapters 1135 (H.B. 2741) and 1379 (H.B. 1692), Acts of the 83rd Legislature, Regular Session, 2013, and amends it, as follows:

Sec. 2301.713. REHEARING. (a) Deletes a reference to Subsection (b).

(b) Authorizes the board, by rule, to establish procedures to allow a party to a contested case to file a motion for rehearing, rather than authorizes the board, by rule, to establish a procedure to allow parties to contested cases in which the final order is issued by a person to whom final order authority is delegated under Section 2301.154 to file motions for rehearing with the board.

(c) Makes no changes to this subsection.

SECTION 7. Makes application of the changes in law made by this Act to Chapter 2301, Occupations Code, prospective.

SECTION 8. Effective date: September 1, 2017.