

By: Smithee

H.B. No. 2070

Substitute the following for H.B. No. 2070:

By: Morrison

C.S.H.B. No. 2070

A BILL TO BE ENTITLED

AN ACT

relating to the enforcement of certain warranties for a new motor vehicle.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Sections 2301.605(a) and (c), Occupations Code, are amended to read as follows:

(a) 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 the manufacturer, converter, or distributor or an authorized agent or franchised dealer of a manufacturer, converter, or distributor and the attempts were made before the earlier of:

(A) the date the express warranty expires [~~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 [~~and~~]

(B) 24 [~~the other two repair attempts were made in the 12~~] months or 24,000 [~~12,000~~] miles, whichever occurs first, [~~immediately~~] following the date of original delivery of the motor vehicle to the owner [~~the second repair attempt~~];

(2) the same nonconformity creates a serious safety hazard and continues to exist after causing the vehicle to have been

1 subject to repair two or more times by the manufacturer, converter,
2 or distributor or an authorized agent or franchised dealer of a
3 manufacturer, converter, or distributor and the attempts were made
4 before the earlier of:

5 (A) the date the express warranty expires [~~at~~
6 ~~least one attempt to repair the nonconformity was made in the 12~~
7 ~~months or 12,000 miles, whichever occurs first, following the date~~
8 ~~of original delivery to the owner]; or [and]~~

9 (B) 24 [~~at least one other attempt to repair the~~
10 ~~nonconformity was made in the 12~~] months or 24,000 [~~12,000~~] miles,
11 whichever occurs first, [~~immediately~~] following the date of
12 original delivery of the motor vehicle to the owner [~~the first~~
13 ~~repair attempt~~]; or

14 (3) a nonconformity still exists that substantially
15 impairs the vehicle's use or market value, and [~~and~~]

16 [~~(A)~~] the vehicle is out of service for repair
17 for a cumulative total of 30 or more days, and the attempts were
18 made before the earlier of:

19 (A) the date the express warranty expires; or

20 (B) [~~in the~~] 24 months or 24,000 miles, whichever
21 occurs first, following the date of original delivery of the motor
22 vehicle to the owner [~~, and~~

23 [~~(B) at least two repair attempts were made in~~
24 ~~the 12 months or 12,000 miles following the date of original~~
25 ~~delivery to an owner].~~

26 (c) The 30 days described by Subsection (a)(3) [~~(a)(3)(A)~~]
27 do not include any period during which the manufacturer or

1 distributor lends the owner a comparable motor vehicle while the
2 owner's vehicle is being repaired by a franchised dealer.

3 SECTION 2. Section 2301.606(c), Occupations Code, as
4 amended by Chapters 1135 (H.B. 2741) and 1379 (H.B. 1692), Acts of
5 the 83rd Legislature, Regular Session, 2013, is reenacted and
6 amended to read as follows:

7 (c) An order issued under this subchapter may not require
8 ~~[The board or a person delegated power from the board under Section~~
9 ~~2301.154 may not issue an order requiring]~~ a manufacturer,
10 converter, or distributor to make a refund or to replace a motor
11 vehicle unless:

12 (1) the owner, ~~[or]~~ a person on behalf of the owner, or
13 the department has provided ~~[mailed]~~ written notice of the alleged
14 defect or nonconformity to the manufacturer, converter, or
15 distributor; and

16 (2) the manufacturer, converter, or distributor has
17 been given an opportunity to cure the alleged defect or
18 nonconformity.

19 SECTION 3. Section 2301.607(c), Occupations Code, as
20 amended by Chapters 1135 (H.B. 2741) and 1379 (H.B. 1692), Acts of
21 the 83rd Legislature, Regular Session, 2013, is reenacted and
22 amended to read as follows:

23 (c) If a final order is not issued ~~[proposal for decision~~
24 ~~and recommendation for a final order are not issued]~~ before the
25 151st day after the date a complaint is filed under this subchapter,
26 the department shall provide written notice by certified mail to
27 the complainant and to the manufacturer, converter, or distributor

1 of the expiration of the 150-day period and of the complainant's
2 right to file a civil action. The department [~~board or a person~~
3 ~~delegated power from the board under Section 2301.154~~] shall extend
4 the 150-day period if a delay is requested or caused by the person
5 who filed the complaint.

6 SECTION 4. Section 2301.608, Occupations Code, as amended
7 by Chapters 1135 (H.B. 2741) and 1379 (H.B. 1692), Acts of the 83rd
8 Legislature, Regular Session, 2013, is reenacted and amended to
9 read as follows:

10 Sec. 2301.608. ASSESSMENT OF COSTS FOR REPLACEMENT OR
11 REFUND. (a) An order issued under this subchapter must [~~In an~~
12 ~~order issued under this subchapter, the board or a person delegated~~
13 ~~power from the board under Section 2301.154 shall~~] name the person
14 responsible for paying the cost of any refund or replacement. A
15 manufacturer, converter, or distributor may not cause a franchised
16 dealer to directly or indirectly pay any money not specifically
17 required [~~ordered~~] by the order [~~board or a person delegated power~~
18 ~~from the board under Section 2301.154~~].

19 (b) If the final order requires [~~board or a person delegated~~
20 ~~power from the board under Section 2301.154 orders~~] a manufacturer,
21 converter, or distributor to make a refund or replace a motor
22 vehicle under this subchapter, the final order [~~board or person~~]
23 may require [~~order~~] the franchised dealer to reimburse the owner,
24 lienholder, manufacturer, converter, or distributor only for an
25 item or option added to the vehicle by the dealer to the extent that
26 the item or option contributed to the defect that served as the
27 basis for the order.

1 (c) In a case involving a leased vehicle, the final order
2 [~~board or a person delegated power from the board under Section~~
3 ~~2301.154~~] may terminate the lease and apportion allowances or
4 refunds, including the reasonable allowance for use, between the
5 lessee and lessor of the vehicle.

6 SECTION 5. Section [2301.610](#)(d), Occupations Code, is
7 amended to read as follows:

8 (d) The department shall maintain a toll-free telephone
9 number to provide information to a person who requests information
10 about a condition or defect that was the basis for repurchase or
11 replacement by an order issued under this subchapter [~~chapter~~].
12 The department shall maintain an effective method of providing
13 information to a person who makes a request.

14 SECTION 6. Section [2301.713](#), Occupations Code, as amended
15 by Chapters 1135 (H.B. 2741) and 1379 (H.B. 1692), Acts of the 83rd
16 Legislature, Regular Session, 2013, is reenacted and amended to
17 read as follows:

18 Sec. 2301.713. REHEARING. (a) Except as otherwise
19 provided by this section [~~Subsection (b)~~], a party who seeks a
20 rehearing of an order shall seek the rehearing in accordance with
21 Chapter [2001](#), Government Code.

22 (b) The board by rule may establish procedures [~~a procedure~~]
23 to allow a party [~~parties~~] to a contested case [~~cases in which the~~
24 ~~final order is issued by a person to whom final order authority is~~
25 ~~delegated under Section [2301.154](#)~~] to file a motion [~~motions~~] for
26 rehearing [~~with the board~~].

27 (c) A motion for rehearing in a contested case under Section

1 2301.204 or Subchapter M must be filed with and decided by the chief
2 hearings examiner.

3 SECTION 7. The changes in law made by this Act to Chapter
4 2301, Occupations Code, apply only to a new motor vehicle that is
5 sold or leased on or after the effective date of this Act. A new
6 motor vehicle that is sold or leased before the effective date of
7 this Act is governed by the law in effect on the date the motor
8 vehicle was sold or leased, and the former law is continued in
9 effect for that purpose.

10 SECTION 8. This Act takes effect September 1, 2017.