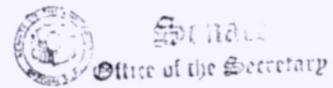


EIGHTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)

SENATE
S. No. 659



19 JUL 22 P2:07

Introduced by SENATOR RAMON BONG REVILLA, JR.

RECEIVED [Signature]

AN ACT

REQUIRING USED CAR DEALERS TO PROVIDE CONSUMERS WITH A WRITTEN WARRANTY AGAINST DEFECTS AND REQUIRING PRIVATE SELLERS TO DISCLOSE ANY KNOWN USE OR SAFETY DEFECTS

EXPLANATORY NOTE

Article 16, Section 9 of the 1987 Philippine Constitution states that: "The State shall protect consumers from the trade malpractices and from substandard or hazardous products".

In the recently passed Philippine Lemon Law¹, the State declared as policy the promotion and full protection of the rights of consumers in the sale of motor vehicles against business and trade practices which are deceptive, unfair or otherwise inimical to consumers and the public interest.

The State recognized that a motor vehicle is a major consumer purchase investment. Hence, the rights of consumers should be clearly defined, including the means of redress for violations thereof.

In the Philippines, the purchase of a new car usually carries a manufacturer's warranty. On the other hand, vendors of used cars do not usually issue any express warranty. While the new Philippine Lemon Law protects buyers of brand new cars, it's far more common for used-car buyers to get stuck with used-car with defects. A "used car", also known as a pre-owned vehicle and second-hand car, is a vehicle that previously had one or more owners. Used cars are usually sold through car dealers, leasing companies, auctions and private party sales.

Since brand new cars are still considered prohibitive for the middle class, many resort to purchasing used cars. Unfortunately, without mechanical expertise, buyers cannot easily distinguish which used cars have defects. Vendors are not required to disclose the history of the cars they sell. Thus, many used cars through seemingly in good running condition, could have been improperly maintained or poorly repaired,

¹ Republic Act No. 10642, Section 2.

been unprofessionally rebuilt after a collision or tampered with in some manner to conceal high mileage, mechanical defects, corrosion or other damage. Some of these used lemons are even sold fraudulently, preying on the most vulnerable low-income car purchasers of the population.

This bill seeks to protect consumers who bought used vehicles from a dealer or private party. It requires dealers to provide consumers with a written warranty against defects that impair the vehicle's use or safety, and requires private parties to disclose any known use or safety defects.

Dealer warranties cannot be waived under any circumstances. The dealer must give a signed, dated, correct copy of the limited used vehicle warranty at the time of purchase of the vehicle. The warranty requires the dealer to repair any defect that impairs the vehicle's use or safety. The coverage depends on the mileage of the vehicle at the time of purchase as outlined below:

Mileage	Warranty Period
Less than 64,500 km.	90 days or 6,035 km., whichever comes first
64,500 to 128,746 km.	60 days or 4,023 km., whichever comes first
128,747 to 201,167 km.	30 days or 2,012 km., whichever comes first
201,168 km. or over	No express warranty

If the true mileage of the vehicle is unknown at the time of the sale, the warranty period is calculated according to the age of the vehicles as outlined below:

Age of Vehicle	Warranty Period
3 years old or less	90 days or 6,035 km., whichever comes first
More than 3 and less than 6 years old	60 days or 4,023 km., whichever comes first
More than 6 years old	30 days or 2,012 km., whichever comes first

Though our country allows private enterprises and individuals to enter into contracts freely, the state should come in when necessary to protect the interests of the consumer, promote his general welfare and establish standards of conduct for business and industry.²

Foregoing considered, immediate passage of this Bill is sought.

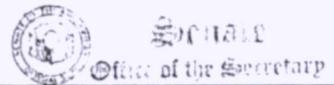


RAMON BONG REVILLA, JR.

² This bill was originally filed during the Fifteenth Congress, First Regular Session, and subsequently refiled by Miriam Defensor-Santiago during the Sixteenth Congress, Third Regular Session

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Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

1 Section 1. *Short Title.* – This Act shall be known as the "Used Car Lemon Act
2 of 2019".

3 Sec. 2. *Declaration of Policy.* – It is hereby declared the policy of the State to
4 promote full protection to the rights of consumers in the sale of motor vehicles against
5 sales and trade practices which are deceptive, unfair or otherwise inimical to the
6 consumers and the public interest.

7 The State recognizes that a motor vehicle, including a second-hand one, is a
8 major consumer purchase or investment. The consumer rights should thus be clearly
9 defined including the means for redress for violations thereof.

10 Sec. 3. *Definitions.* – For the purposes of this Act, the terms:

11 A. "Consumer" refers to a buyer, other than for purposes of resale, of a motor
12 vehicle, any person to whom such motor vehicle is transferred during the period
13 of any express or statutory warranty under this Act applicable to such motor
14 vehicle, and any other person entitled by the terms of such warranty to enforce
15 its obligations;

16 B. "Dealer" refers to any person engaged in the business of selling, offering for
17 sale or negotiating the retail sale of used motor vehicles or selling motor
18 vehicles as broker or agent or negotiating the retail sale of used motor vehicles
19 or selling motor vehicles as broker or agent for another, including the officers,
20 agents and employees of such person and any combination or association of

dealers, but not including a bank or other financial institution, or the commonwealth, its agencies, bureaus, boards, commissions, authorities, nor any of its political subdivisions. A person shall be deemed to be engaged in the business of selling used motor vehicles if such person has sold more than three used motor vehicles in the preceding twelve months;

- C. "DTI" refers to the Department of Trade and Industry;
- D. "Motor vehicle" refers to any self-propelled four (4)-wheeled road vehicle designed to carry passengers including, but not limited to, sedans, coupes, station wagons, convertibles, pickups, vans, sport utility vehicles (SUVs) and Asian utility vehicles (AUVs) but excepting motorcycles, delivery trucks, dump trucks, buses, road rollers, trolley cars, street sweepers, sprinklers, lawn movers and heavy equipment, such as, but not limited to, bulldozers, pay loaders, graders, forklifts, amphibian trucks, cranes and vehicles which run only on rails or tracks, and tractors, trailers and traction engines of all kinds used exclusively for agricultural purposes. Trailers having any number of wheels, when propelled or intended by attachment to a motor vehicle, shall be classified as separate motor vehicle with no power rating.
- E. "Private seller" refers to any seller who is not a dealer and who offers to sell or sells a used motor vehicle to a consumer;
- F. "Purchase price" refers to the invoice price or the amount of money which the dealer or retailer actually received for the used motor vehicle, in consideration of the sale of such brand new motor vehicle;
- G. "Repurchase price", the purchase price, as defined above, less any cash award that was made by the dealer in an attempt to resolve the dispute and was accepted by the consumer, and less any refunds or rebates to which the consumer is entitled, plus any incidental damages not previously reimbursed, including but not limited to the reasonable costs of towing from point of breakdown to obtain required repairs or to return the vehicle under this section, and the reasonable costs of obtaining alternative transportation during the applicable warranty period after the second day following each such breakdown

1 not to exceed five hundred pesos (Php500.00) vehicle rental charges for each
2 day in which the cost of such alternative transportation is reimbursable;

3 H. "Secretary" refers to the Secretary of the Department of Trade and Industry;

4 I. "Used motor vehicle or "used vehicle", any motor vehicle as defined above,
5 previously owned by anyone other than the consumer, which has been driven
6 more than the limited use necessary in moving or road testing a new vehicle
7 prior to delivery to a consumer.

8 Sec. 4. *Sales accompanied by written warrant.* –

9 A. No used motor vehicle shall be sold by a dealer to a consumer unless
10 accompanied by an express written warranty covering the full cost of both parts
11 and labor necessary to a repair a defect existing at the point of sale that impairs
12 the said used motor vehicle's safety or use;

13 B. Dealer warranties cannot be waived under any circumstances;

14 C. Defects that affect only appearance shall not be deemed to impair safety or use
15 for the purpose of this section. For the purposes of this section, defect shall
16 include defect malfunction or any combination or defects or malfunctions;

17 D. Defects or malfunctions which involve parts or components that are covered or
18 are warranted under an express warranty issued by the dealer of the used
19 motor vehicle shall be excluded from this Section if the following conditions
20 have been met:

21 i. the manufacturer's warranty has been duly assigned or transferred
22 to the buyer;

23 ii. the manufacturer's warranty is enforceable according to its terms;

24 iii. the manufacturer's warranty is not inconsistent with this section; and

25 iv. the seller has assured that the repair authorized by such
26 manufacturer's express warranty was made;

27 E. The terms of the seller's warranty shall be tolled for any period of time the used
28 motor vehicle is out of service by the reason of repair under the manufacturer's
29 warranty.

30 Sec. 5. *Duration of warranty.* – The express warranties required by this sections
31 shall be of the following durations:

- 1 A. For a used motor vehicle which, at the time of sale, has been operated less
2 than 64,500 kilometers, the warranty shall be for ninety days or 6,035
3 kilometers, whichever occurs first;
- 4 B. For a used motor vehicle which, at the time of sale, has been operated sixty-
5 four thousand five hundred kilometers (64,500) or more, but less than one
6 hundred twenty-eight thousand and seven hundred forty-seven kilometers
7 (128,747 km.), the warranty shall be for sixty (60) days or, four thousand and
8 twenty-three kilometers (4,023 km.), whichever comes first;
- 9 C. For a used motor vehicle which, at the time of sale, has been operated one
10 hundred twenty-eight thousand and seven hundred forty-seven (128,747 km.),
11 or more, but less than two hundred one thousand and one hundred sixty-eight
12 kilometers (201,168 km.), thirty (30) days or two thousand and twelve
13 kilometers (2,012 km.), whichever occurs first;
- 14 D. If the used motor vehicle's true mileage is not known, such warranty period
15 shall be determined by the age of said used motor vehicle in the following
16 manner: a used motor vehicle three (3) years old or less shall have a warranty
17 as provided in paragraph (A); a used motor vehicle more than three (3), but
18 less than six (6) years old, shall have a warranty provided in paragraph (B);
19 and a used motor vehicle si (6) years old or more shall have a warranty as
20 provided in paragraph (C). A used motor vehicle's age shall be determined by
21 subtracting its model year from the year in which the warranty holder
22 purchased said used vehicle;
- 23 E. The warranty periods established by this section shall be tolled during any
24 period in which the used motor vehicle is out of service as a result of any repair
25 attempt pursuant to any warranty created by this section. The applicable
26 warranty period shall be extended thirty (30) days from the date of completion
27 of any repair required by this section as to the defect repaired if the warranty
28 would otherwise have expired during such period.

29 *Sec. 6. Repair of defect. –*

- 1 A. A dealer may repair, within the meaning of this section, either by performing
2 the repair himself or by arranging and making payment for prompt repair by
3 another;
- 4 B. A consumer shall return a vehicle for repair under this section by presenting it
5 to the dealer no later than five business days after the expiration of the
6 applicable warranty period and informing him of the defect. Said return period
7 shall be tolled during any time period in which the consumer has notified the
8 dealer of the defect but cannot reasonably present the vehicle to the dealer;
9 including, but not limited to, the reason that a used motor vehicle is inoperable
10 and the dealer refuses to pay the charge to tow said vehicle. The dealer shall
11 immediately accept return of a vehicle when it is so presented. Said used motor
12 vehicle shall be deemed out of service commencing the day it is presented,
13 notwithstanding any dealer's failure to accept its return on said day. During the
14 applicable warranty period and the aforesaid return period, the dealer shall pay
15 the reasonable costs of towing from point of breakdown up to forty-eight
16 kilometers (48km.) to obtain required repairs or to return the vehicle to the
17 dealer;
- 18 C. Upon return of the used motor vehicle to the consumer after repair, the dealer
19 shall provide the consumer with a warranty repair receipt describing;
20 (1) the defect complained of;
21 (2) the work performed in an attempt to correct such defect and the identity if
22 the repairer if it is not the dealer; and
23 (3) the parts replaced in performing such work.
24 For the dealer to toll the ten (10) business day period as provided in paragraph
25 (D) of this section, said dealer shall attach to each such warranty repair receipt
26 copies of such older forms, invoices, receipts or other evidence of a parts order
27 and its receipt to evidence his compliance with this paragraph;
- 28 D. If the dealer fails to repair the same defect within three attempts, or if the used
29 motor vehicle is out of service for more than a cumulative total of ten business
30 days after the consumer has returned it to the dealer for repair of the same,
31 then the dealer shall accept return of the vehicle from the consumer and refund

the full repurchase price, less a reasonable allowance for use. A reasonable allowance for use shall be ten pesos (Php10.00) per kilometer if the motor vehicle has been operated between its sale and the dealer's repurchase;

E. A consumer shall have the option of retaining the use of any vehicle returned under the provisions of this section, shall, in instances in which a refund is tendered, be reflected in the above-mentioned reasonable allowance for use;

F. A used motor vehicle shall not be considered out of service for purposes of the ten business-day period described hereinabove for any day in which a part necessary to repair a defect complained of it is not in the dealer's possession; provided, however, that the dealer has ordered the part by reasonable means on the same day on which he knew or should have known that the part was necessary, except that in no event shall a part's unavailability operate to toll the ten business-day period for more than twenty-one days. The applicable warranty period shall be extended by the number of days a part is unavailable;

Sec. 7. Option of vendor to repurchase. -- At any time within the applicable warranty period and after a consumer has complained of a defect, notwithstanding any objection from the consumer, the dealer shall have the option of repurchasing a used vehicle and refunding the full repurchase price, less a reasonable allowance for use. A reasonable allowance for use shall be fifteen cents for each mile the used motor vehicle had been operated between its sale and the dealer's repurchase.

If the dealer is required to or elects to repurchase a vehicle under the terms of this section, the consumer and dealer shall cooperate with each other to execute all necessary documents in order to clear the title of any encumbrances on the repurchased vehicle.

Sec. 8. Private sellers. – A private seller shall clearly disclose to any prospective buyer, before the sale is completed, all defects the seller knows of which impair the used motor vehicle's safety or substantially impair its use. Failure to so disclose known defects shall entitle the buyer, within thirty (30) days after the sale, to rescind the sale and be entitled to return of all monies paid to the seller less a reasonable amount for use as defined in clause (iv) of paragraph (A) subsection (3). A reasonable allowance

1 for use shall be ten pesos per kilometer the motor vehicle had been operated between
2 its sale and the seller's repurchase.

3 In any subsequent action by a buyer under this section, it shall be an affirmative
4 defense in any such action that an alleged defect does not impair the vehicle's safety,
5 or substantially impair its use, or that it is the result of the buyer's negligence, abuse,
6 damage caused by accident, vandalism, or attempt to modify the vehicle.

7 Sec. 9. *Implementing Agency and its duties.* – The DTI Secretary shall, within
8 sixty (60) days from the effectivity of this Act, promulgate rules and regulations,
9 including those of disciplinary nature, to carry out and enforce the provisions of this
10 Act. Further, the DTI shall be the lead agency in carrying out the provisions of this
11 Act.

12 Sec. 10. *Assistance by other agencies.* – The DOTC and other agencies, political
13 subdivisions and local government units, including government-owned and controlled
14 corporations, shall render such assistance as required by the DTI in order to effectively
15 implement the provisions of this Act.

16 Sec. 11. *Penalties.* – The dealer adjudged to have violated the provisions in this
17 Act shall be liable to pay a minimum amount of One Hundred Thousand Pesos
18 (Php100,000.00) as damages to the aggrieved party without prejudice to any civil or
19 criminal liability they and/or the responsible officer may incur under existing laws.

20 Sec. 12. *Other Remedies.* – No provisions of this Act shall be construed to limit
21 the remedies available to the dealer or buyer under any other provision of law.

22 Sec. 13. *Separability Clause.* – If any provision or part hereof is held invalid or
23 unconstitutional, the same shall not affect the validity and effectiveness of the other
24 provisions hereof.

25 Sec. 14. *Repealing Clause.* – All laws, decrees, orders, and issuances, or
26 portions thereof, which are inconsistent with the provisions of this Act, are hereby
27 repealed, amended, or modified accordingly.

28 Sec. 15. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after its
29 publication in the Official Gazette or in two (2) newspapers of general circulation.

30

31 *Approved,*