

SENATE BILL No. 48

January 11, 1989, Introduced by Senator GEO. HART and referred to the Committee on State Affairs, Tourism, and Transportation.

A bill to amend Act No. 236 of the Public Acts of 1961, entitled as amended "Revised judicature act of 1961," as amended, being sections 600.101 to 600.9947 of the Michigan Compiled Laws, by adding section 2954.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Act No. 236 of the Public Acts of 1961, as
2 amended, being sections 600.101 to 600.9947 of the Michigan
3 Compiled Laws, is amended by adding section 2954 to read as
4 follows:

5 SEC. 2954. (1) AS USED IN THIS SECTION:

6 (A) "DEALER" MEANS THAT TERM AS DEFINED IN SECTION 11 OF THE
7 MICHIGAN VEHICLE CODE, ACT NO. 300 OF THE PUBLIC ACTS OF 1949,
8 BEING SECTION 257.11 OF THE MICHIGAN COMPILED LAWS.

1 (B) "USED OR SECONDHAND VEHICLE" MEANS THAT TERM AS DEFINED
2 IN SECTION 78 OF ACT NO. 300 OF THE PUBLIC ACTS OF 1949, BEING
3 SECTION 257.78 OF THE MICHIGAN COMPILED LAWS.

4 (2) A BUYER OF A USED OR SECONDHAND VEHICLE MAY BRING AN
5 ACTION SEEKING RESCISSION OR DAMAGES IN A COURT OF COMPETENT
6 JURISDICTION. IN AN ACTION UNDER THIS SECTION, THE PLAINTIFF
7 SHALL HAVE THE BURDEN OF PROVING ALL OF THE FOLLOWING BY CLEAR
8 AND CONVINCING EVIDENCE IN RELATION TO THE SALE:

9 (A) THE SELLER KNOWINGLY MADE A REPRESENTATION PERTAINING TO
10 THE VEHICLE THAT WAS BOTH MATERIAL AND FALSE.

11 (B) THE REPRESENTATION DESCRIBED IN SUBDIVISION (A) WAS MADE
12 WITH THE INTENT TO DECEIVE THE BUYER.

13 (C) THE BUYER ACTED IN RELIANCE UPON THE REPRESENTATION
14 DESCRIBED IN SUBDIVISION (A).

15 (D) THE BUYER SUFFERED A LOSS AS A CONSEQUENCE OF RELYING
16 UPON THE REPRESENTATION DESCRIBED IN SUBDIVISION (A).

17 (3) THIS SECTION SHALL APPLY TO ALL PERSONS INCLUDING, BUT
18 NOT LIMITED TO, A DEALER.