



**House  
Legislative  
Analysis  
Section**

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**NOTIFY NEW CAR BUYERS OF REPAIRS  
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House Bill 5147 as introduced DEC 10 1987  
First Analysis (11-23-87)

Mich. State Law Library

Sponsor: Rep. Nick Ciaramitaro  
Committee: Consumers

**THE APPARENT PROBLEM:**

Stories abound of buyers of "new" or "demonstrator" cars experiencing problems with their recently purchased automobiles and subsequently discovering that the vehicles had been damaged and repaired before the sale. For example, sometimes a car is stolen off a dealer's lot, damaged in a crash, recovered, repaired, and sold as a "demonstrator." The fresh body work or other repairs a car receives can conceal prior damage and potential problems. Many believe that when a person is sold what is supposed to be a new or barely used car, one should at least be notified of significant repairs made on the vehicle, and that it should be the dealer's legal responsibility to so notify the purchaser.

In response to this problem, the House at present has before it House Bill 4862, which would require car dealers to notify prospective buyers of repairs totaling at least \$250, and would allow aggrieved buyers to rescind sales contracts and sue for damages. Additional strength would be given the requirement, however, if the vehicle code were amended to allow the denial, suspension, or revocation of the license of a dealer who failed to notify a prospective buyer of repairs.

**THE CONTENT OF THE BILL:**

The bill would amend the Michigan Vehicle Code to allow the secretary of state to deny, suspend, or revoke the license of a motor vehicle dealer who failed to provide a prospective buyer with written notice when a new or demonstrator vehicle had undergone repairs totaling at least \$250 retail. The notice would apply to repairs about which the dealer knew or should have known, whether or not those repairs were made by him or her.

MCL 257.249

**FISCAL IMPLICATIONS:**

The Department of State says that the bill would have no significant fiscal implications. (11-20-87)

**ARGUMENTS:**

**For:**

It smacks of fraud for a dealer to withhold information that a vehicle about to be sold as new or virtually new has already undergone significant repairs. A dealer who fails to notify a prospective purchaser of those repairs as required by law should be subject to licensure sanctions; such sanctions would ensure that dealers took this responsibility seriously. Although aggrieved buyers can seek restitution under the Consumer Protection Act, that action would require a buyer to file suit and litigate several issues (such as whether the damage and repairs that predated purchase materially affected the vehicle's value) before the buyer could recover damages. In conjunction with House Bill 4862, the bill would clearly establish a dealer's responsibility to notify a prospective purchaser of repairs performed on a "new" car, and it would indirectly provide a threshold figure for litigation over what may

be considered to materially affect the value of the vehicle.

**Against:**

The bill is superfluous and unfairly burdens dealers. For one thing, buyers who believe they have been cheated can seek restitution under the consumer protection act. In addition, the bill's notification requirement is based on an arbitrary and unrealistically low figure. A prospective buyer could be dissuaded by the disclosure required by this bill and House Bill 4862, even though no future problem with the vehicle was implied. Repairs such as replacement of windows or tires can easily exceed the bill's \$250 threshold, but would not indicate any impairment of the vehicle's value. At the least, the bill's threshold figure should be higher and indexed to the price of the vehicle. Moreover, demonstrators are not represented to be new cars and should be exempted from the notification requirement.

It would be too harsh to allow licensure actions to be applied to dealers who failed to notify customers of repairs, particularly when House Bill 4862 would in addition allow rescission of the sales contract and collection of damages. The bill would in essence threaten a dealer with being deprived of his or her livelihood for what may have been a simple oversight. Worse, the bill would apply not only when a dealer knew of repairs, but also when he or she should have known of them. Dealers do not always know what may have been done to a vehicle prior to its delivery from the factory or another dealer, and should not be held to the notification requirement under such circumstances. Further, the bill is inconsistent with House Bill 4862 in this respect, because House Bill 4862 only applies when a dealer knew of repairs.

**Response:** "Knew or should have known" is a commonly used standard, and not one which would make a dealer unduly liable. The bill is not overly burdensome in its measures: it would merely authorize licensure sanctions, not require them, and the secretary of state would have to hold a hearing under the Administrative Procedures Act prior to imposing one of the sanctions. No dealer is going to have his or her license revoked because of a single failure to notify a customer of repairs made to a new car, but routinely failing to so notify customers when required by law is fraudulent activity that would be deterred and should be punished by the sanctions authorized by the bill.

**Against:**

A person who buys a car represented to be a new or demonstrator vehicle deserves to be notified of all repairs which have been performed on it, not just those totaling more than \$250.

**POSITIONS:**

The Michigan Consumers Council supports the bill. (11-19-87)

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The Department of State supports the bill. (11-20-87)

The Michigan Automobile Dealers Association opposes the bill. (11-23-87)