

Senate Fiscal Agency  
P. O. Box 30036  
Lansing, Michigan 48909-7536

**SFA**



**BILL ANALYSIS**

Telephone: (517) 373-5383  
Fax: (517) 373-1986  
TDD: (517) 373-0543

Senate Bill 774 (Substitute S-1 as reported)  
House Bill 5000 (Substitute S-1 as reported)  
Sponsor: Senator Gary Peters (S.B. 774)  
Representative Ted Wallace (H.B. 5000)  
Senate Committee: Economic Development, International Trade and Regulatory Affairs  
House Committee: Consumer Protection (H.B. 5000)

Date Completed: 10-14-98

### **RATIONALE**

Public Act 87 of 1986 (the auto lemon law) was enacted to give consumers a clearly defined remedy against manufacturers of defective vehicles. The Act provides that if a defect or condition of a purchased new motor vehicle that is reported to the manufacturer or new vehicle dealer continues to exist and the vehicle has been subjected to a reasonable number of repairs, the manufacturer must either replace the vehicle with a comparable vehicle currently in production and acceptable to the consumer, or refund the full amount of the purchase price paid by the consumer (less certain deductions). Reportedly, since increasing numbers of consumers are choosing to lease rather than purchase new vehicles, some people believe that the auto lemon law provisions should be extended to leased new vehicles. In addition, many consumers who are faced with fault-ridden new motor vehicles that fail to function as reliable transportation for ordinary personal or household use, even after several attempts to correct defects, apparently do not know of the existence of the auto lemon law. It has been suggested that purchasers as well as lessees of new vehicles should be clearly notified in writing of the existence and requirements of the law.

### **CONTENT**

**The bills would amend Public Act 87 of 1986 to include leases of new motor vehicles in the Act's provisions; and require the Secretary of State to include a written statement notifying consumers about the Act's provisions for purchased new motor vehicles until December 31, 1999, and for both purchased and leased new vehicles beginning January 1, 2000. The bills would apply to all new motor vehicles purchased or leased by the original consumer**

**on or after the effective date of the bills.** The bills are tie-barred to each other.

#### **House Bill 5000 (S-1)**

Under the bill, if a defective condition of a leased new motor vehicle that was reported to the manufacturer or new vehicle dealer continued to exist and the vehicle had been subjected to a reasonable number of repairs, the consumer would have a right to a refund of the lease price paid by the consumer, or the consumer could agree to accept a comparable replacement vehicle in lieu of a refund. If a consumer agreed to accept a replacement vehicle, the lease agreement would not be altered except for the vehicle identification. The bill provides that a lessor, if any, would have to be notified if a refund were made to a lessee under the Act. A lessor could not assess a fee for early termination of a lease under the Act. The bill also provides that a consumer of a purchased new motor vehicle would have the right to demand a refund from the manufacturer.

The Act specifies that the refundable purchase price includes the cost of any options or other modifications installed or made by or for the manufacturer, and the amount of all other charges made by or for the manufacturer, less a reasonable allowance for the consumer's use of the vehicle. Under the bill, this provision also would apply to a vehicle's lease price. ("Lease price" would mean the actual vehicle sales price paid by the lessor including any cash payment made by the consumer, any allowance for trade-in, and any sales tax, license and registration fees, and similar government charges paid by the lessor on behalf of the lessee. "Purchase price" would mean the actual vehicle sales price listed on the buyer's

order, including any cash payment, an allowance for trade-in, and any sales tax, license and registration fees, and similar government charges paid by the consumer. Lease price or purchase price would not include debt from any other transaction or any manufacturer to consumer discount, rebate, or incentive appearing in the agreement or contract or that was applied to reduce the purchase or lease cost.)

Currently, the reasonable allowance for the consumer's use of the vehicle may not exceed 10 cents per mile driven at the time of the initial report of the defect or 10% of the vehicle's purchase price, whichever is less. The bill would delete that provision. The bill would define "reasonable allowance for use" as the purchase or lease price of the new motor vehicle multiplied by the number of miles of use directly attributable to the consumer and any previous consumer prior to the first report of the defect plus all miles beyond 25,000; and divided by 100,000 miles.

Under the bill, if a court or an alternate dispute settlement procedure determined that the consumer had provided sufficient evidence that the vehicle did not provide reliable transportation for ordinary personal or household use for any period beyond the first 25,000 miles, the court or settlement procedure could reduce the usage deduction for mileage beyond 25,000 miles for the period that it determined that the vehicle had not provided useful transportation. To determine whether a vehicle had provided useful transportation, the court or settlement procedure would have to consider the number and cost of the repairs, the number of days the vehicle was out of service, and whether the need for repair significantly affected the consumer's ability to use the vehicle.

Currently, it is presumed that a reasonable number of attempts have been undertaken to repair a defect or condition if the same defect or condition that substantially impairs the use or value of the new motor vehicle to the consumer has been subject to repair a total of four or more times by the manufacturer or the new motor vehicle dealer, and the defect or condition continues to exist. Under the bill, these repairs would have to be made within two years of the date of the first attempt to repair the defect or condition.

The Act provides that any repairs required to be made under the Act must be made even if they cannot be performed until after the manufacturer's express warranty expires. The bill also provides

that the defect needing repair would have to be a continuation of the original attempt to repair the defect.

Currently, "motor vehicle" means a motor vehicle as defined in the Michigan Vehicle Code, that is designed as a passenger vehicle, but does not include a motor home, bus, truck other than a pickup truck or van, or a vehicle designed to travel on fewer than four wheels. The bill would include a sport utility vehicle as a motor vehicle.

### **Senate Bill 774 (S-1)**

The bill would require the Secretary of State, beginning January 1, 2000, to include a statement with any documentation for a purchased or leased new vehicle stating that if the vehicle were defective, the owner or lessee could be entitled under State law to the replacement of it or a refund of its purchase or lease price. The written statement also would have to provide that, to obtain a replacement or refund, the owner or lessee would be required to report the defect in writing to the manufacturer and could be required first to arbitrate the dispute. The statement would have to advise that, in order to protect the owner's or lessee's rights under the Act, he or she should keep copies of all correspondence to and from the manufacturer and dealer, and all work orders for repairs on the vehicle; and should follow all warranty requirements. Between the bill's effective date and December 31, 1999, the Secretary of State would be required to include the written statement with any title for a purchased new motor vehicle.

In addition, beginning January 1, 2000, the Secretary of State would have to include a summary of the Act's provisions in a database that would be accessible to the public through the Internet.

MCL 257.1401 & 257.1403 (H.B. 5000)  
257.1406 & 257.1408 (S.B. 774)

### **ARGUMENTS**

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

#### **Supporting Argument**

The auto lemon law is a consumer protection measure designed to protect individuals who purchase defective motor vehicles. Since leasing has become an increasingly popular way to obtain

a new motor vehicle, House Bill 5000 (S-1) would further protect consumers by extending the provisions of the auto lemon law to consumers who lease a new motor vehicle. The bill also would ensure that both purchasers and lessees would have the right to a refund or an acceptable replacement vehicle.

In addition, Senate Bill 774 (S-1) would require the Secretary of State to inform consumers of their rights under the auto lemon law through a written statement with any documentation for a purchased or leased new motor vehicle. Informed consumers would realize that they do not have to sell or return defective vehicles at a loss or face unpredictable, arduous lawsuits. Instead, they could take advantage of the legal remedies available under the auto lemon law.

### **Supporting Argument**

Under the law, a vehicle is presumed defective if four or more attempts are made to repair a problem without success. The law, however, does not specify how much time may pass between the repairs. Potentially, then, a consumer could let years go by between repair attempts and still have the vehicle declared defective. The House bill would make it clear that the repairs would have to be made within two years of the first attempt to repair the defect.

Legislative Analyst: N. Nagata

### **FISCAL IMPACT**

#### **Senate Bill 774 (S-1)**

The fiscal impact of these provisions is indeterminate.

The Department already includes a printed leaflet informing purchasers of vehicles of their rights as a customer. This leaflet is included with titles for all leased or purchased vehicles. Since the leaflet is already included with the title of all newly leased or purchased vehicles, these provisions would not have any additional fiscal impact on the Department.

#### **House Bill 5000 (S-1)**

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: E. Limbs

A9798\S774A

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.