

SENATE BILL No. 423

By Committee on Federal and State Affairs

2-1

1 AN ACT concerning motor vehicles; relating to motor vehicle warranties;
2 modifying how reasonable allowance for use is calculated for
3 nonconforming vehicle warranty refunds; amending K.S.A. 8-2440 and
4 50-645 and repealing the existing sections.

5
6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. K.S.A. 8-2440 is hereby amended to read as follows: 8-
8 2440. If a transaction for the sale of a new motor vehicle ~~which~~ *that* does
9 not take place in the state of Kansas requires or allows delivery in the state
10 of Kansas, then such new motor vehicle shall be deemed to have been sold
11 in this state for purposes of meeting the definition set forth in ~~subsection~~
12 ~~(a)(2)~~ of K.S.A. 50-645, and amendments thereto, upon delivery of such
13 motor vehicle within the state of Kansas to a consumer as defined in
14 ~~subsection (a)(1)~~ of K.S.A. 50-645, and amendments thereto, and the new
15 motor vehicle shall thereafter be subject to the provisions of K.S.A. 50-
16 645 and 50-646, and amendments thereto.

17 Sec. 2. K.S.A. 50-645 is hereby amended to read as follows: 50-645.

18 (a) As used in this act:

19 (1) *"Collateral charges" means any reasonable out-of-pocket*
20 *expenses incurred and properly documented by the consumer after*
21 *initially reporting to the manufacturer, its agent or authorized dealer that*
22 *a motor vehicle does not conform to all applicable warranties, including:*

23 (A) *Any initial sales and property taxes paid on a motor vehicle;*

24 (B) *towing costs due to the defective issue;*

25 (C) *gasoline costs for miles incurred test driving after a*
26 *nonconforming warranty issue was reported and repairs were attempted;*
27 *and*

28 (D) *the replacement rental vehicle costs if such costs were included*
29 *in the warranty agreement or approved by the manufacturer, its agent or*
30 *its authorized dealer;*

31 (2) "consumer" means the original purchaser or lessee, other than for
32 purposes of resale, of a motor vehicle; and

33 ~~(2)(3)~~ "motor vehicle" means a new motor vehicle ~~which~~ *that* is sold
34 or leased in this state, and ~~which is~~ registered for a gross weight of 12,000
35 pounds or less, ~~and~~ *but* does not include the customized parts of motor
36 vehicles ~~which~~ *that* have been added or modified by second stage

1 manufacturers, first stage converters or second stage converters as defined
2 in K.S.A. 8-2401, and amendments thereto.

3 (b) If a motor vehicle does not conform to all applicable warranties,
4 and the consumer reports the nonconformity to the manufacturer, its agent
5 or its authorized dealer during the term of any warranties or during the
6 period of one year following the date of original delivery of the motor
7 vehicle to a consumer, whichever is the earlier date, the manufacturer, its
8 agent or its authorized dealer shall make such repairs as are necessary to
9 conform the vehicle to such warranties, notwithstanding the fact that such
10 repairs are made after the expiration of any such term or such one-year
11 period.

12 (c) If the manufacturer, or its agents or authorized dealers, are unable
13 to conform the motor vehicle to any applicable warranty after a reasonable
14 number of attempts, the manufacturer shall replace the motor vehicle with
15 a comparable motor vehicle under warranty or accept return of the vehicle
16 from the consumer and refund to the consumer the full purchase or lease
17 price including all collateral charges, less a reasonable allowance for the
18 consumer's use of the vehicle ~~as calculated from the most recent edition of~~
19 ~~*Your Driving Costs*, published by the American automobile association. A~~
20 ~~*reasonable allowance for the consumer's use shall be the full purchase or*~~
21 ~~*lease price of the motor vehicle multiplied by a fraction, the numerator of*~~
22 ~~*which is the miles directly attributable to use by the consumer beyond*~~
23 ~~*15,000 miles and the denominator of which is 120,000 miles.*~~ Refunds
24 shall be made to the consumer, and lienholder if any, as their interests may
25 appear. A reasonable allowance for *the consumer's* use shall be that
26 amount directly attributable to use by the consumer and any previous
27 consumer prior to the first report of the nonconformity to the
28 manufacturer, agent or dealer and during any subsequent period when the
29 vehicle is not out of service by reason of repair. It shall be an affirmative
30 defense to any claim under this act that:

31 (1) An alleged nonconformity does not substantially impair such use
32 and value; or

33 (2) a nonconformity is the result of abuse, neglect or unauthorized
34 modifications or alterations of a motor vehicle by a consumer.

35 (d) If the manufacturer receives actual notice of the nonconformity, it
36 shall be presumed that a reasonable number of attempts have been
37 undertaken to conform a motor vehicle to the applicable warranties, if:

38 (1) The same nonconformity ~~which~~ *that* substantially impairs the use
39 and value of the motor vehicle to the consumer has been subject to repair
40 four or more times by the manufacturer or its agents or authorized dealers
41 within the term of any warranty or during the period of one year following
42 the date of original delivery of the motor vehicle to a consumer, whichever
43 is the earlier date, but such nonconformity continues to exist;

1 (2) the vehicle is out of service by reason of repair for a cumulative
2 total of 30 or more calendar days during such term or period, whichever is
3 the earlier date; or

4 (3) there have been 10 or more attempts to repair any
5 nonconformities ~~which~~ *that* substantially impair the use and value of the
6 motor vehicle to the consumer and such attempts to repair have been
7 attempts by the manufacturer or its agents or authorized dealers.

8 The term of any warranty, such one-year period and such thirty-day
9 period shall be extended by any period of time ~~during which~~ *when* repair
10 services are not available to the consumer because of war, invasion, strike,
11 fire, flood or other natural disaster.

12 (e) If a manufacturer has established an informal dispute settlement
13 procedure ~~which~~ *that* complies in all respects with the provisions of title
14 16, code of federal regulations, part 703, ~~as from time to time amended,~~
15 the provisions of subsection (c) concerning refunds or replacement shall
16 not apply to any consumer who has not first resorted to such procedure.

17 (f) The attorney general shall have jurisdiction to enforce this section.

18 Sec. 3. K.S.A. 8-2440 and 50-645 are hereby repealed.

19 Sec. 4. This act shall take effect and be in force from and after its
20 publication in the statute book.