Assembly Bill 1755

Lemon Law

Assembly Member Ash Kalra and Senator Tom Umberg

SUMMARY

AB 1755 seeks to expedite recovery for consumers with defective vehicles by addressing delay stemming from the unprecedented the number of lemon law cases being filed in courts across California. This bill will improve current procedures so consumers can get their car replaced or bought back within months rather than years.

AB 1755 enacts prelitigation notices to better enable consumers to resolve claims out-of-court. The bill also streamlines discovery and mediation of lemon law claims, and adopts several new consumer-friendly remedies designed to facilitate the timely resolution of lemon law disputes.

BACKGROUND

The Song-Beverly Consumer Warranty Act, compels auto manufacturers to buy back or replace a defective vehicle (lemon) sold in California. The lemon law is triggered when a problem vehicle cannot be fixed despite a "reasonable" number of attempts to repair and remedy the defect. Typically, a reasonable number of repairs ranges from two to four repair attempts depending on the severity of the problem and the defect's impact on the vehicle's safety.

While a manufacturer has an affirmative obligation to remedy a lemon, generally the consumer contacts the manufacturer prior to ligation and requests a buy back or replacement. However, existing law does not require this notice to be in writing. Upon receiving a notice, a manufacturer is obligated to repurchase any vehicle that is truly a lemon. A willful failure to repurchase the vehicle exposes a manufacturer to two times civil penalties in addition to the cost of the vehicle itself and reasonable attorney's fees.

Unfortunately, in a growing number of lemon law cases, litigation is drawing out longer due to discovery disputes and delay. Unnecessarily prolonging litigation is causing backlogs in the courts and delaying a consumer's ability to resolve their lemon law disputes. As a result of these delays, California's lemon law statutes must be amended to ensure they are serving their vital consumer protection and public safety goals.

SOLUTION

AB 1755 modernizes California's lemon law statutes in a manner that benefits consumers, expedites dispute resolution, and prevents unjustified litigation tactics that delay access to justice for all parties to a lemon law dispute.

Seeking to provide timely resolution for consumers, before lemon law cases ever making it to court, this bill enhances prelitigation notices and procedures.

First, the bill requires a consumer to notify a manufacturer of their request to seek a buy-back or replacement *in writing* if the consumer wishes to eventually seek double civil penalties for a manufacturer's refusal to comply with the existing law's buy-back provisions. Additionally, the bill requires a manufacturer to provide their offer of repurchase or replacement to a consumer within 30 days of receiving the written notice and to fully complete the transaction within 60 days. The bill also provides that lemon law civil actions must be filed within one year of the expiration of an applicable warranty and no later than six years from the date of the vehicle's delivery.

In the event a lemon law case is filed in court, this measure also seeks to expedite its resolution. The bill adopts new discovery timelines, offers early depositions, and mandates mediation where all decision makers are present.

Finally, AB 1755 adopts consumer-friendly expedited settlement procedures to ensure that once a consumer and manufacturer reach an agreement related to a defective vehicle, the consumer is made whole in a timely manner. If the manufacturer

delays, they can be held subject to a $50 per day penalty.

AB 1755 reflects a compromise between consumer advocates and automotive manufacturers that ensures fair treatment to all sides and the timely resolution of lemon law disputes.

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