

COUNCIL OF THE DISTRICT OF COLUMBIA

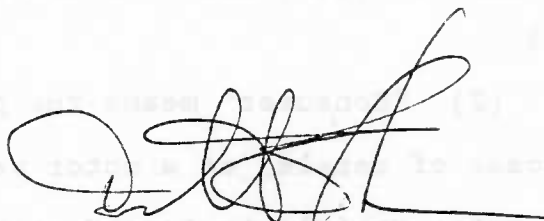
NOTICE

D.C. LAW 5-162

"Automobile Consumer Protection Act of 1984".

Pursuant to Section 412 of the District of Columbia Self-Government and Governmental Reorganization Act, P. L. 93-198, "the Act", the Council of the District of Columbia adopted Bill No. 5-288 on first and second readings, November 20, 1984 and December 4, 1984, respectively. Following the signature of the Mayor on December 7, 1984, this legislation was assigned Act No. 5-227, published in the January 11, 1985 edition of the D.C. Register, (Vol. 32 page 160) and transmitted to Congress January 8, 1985 for a 30-day review, in accordance with Section 602 (c)(1) of the Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional Review Period has expired, and therefore, cites this enactment as D.C. Law 5-162, effective March 14, 1985.



DAVID A. CLARKE  
Chairman of the Council

Dates Counted During the 30-day Congressional Review Period:

January	22,23,24,25,28,29,30,31
February	1,4,5,6,7,19,20,21,22,25,26,27,28
March	1,4,5,6,7,8,11,12,13

EFFECTIVE DATE MAR 14 1985

D.C. ACT 5 - 227

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DEC 07 1984

To protect consumers who purchase new vehicles which prove to be defective within the first 2 years or within the first 18,000 miles; to require manufacturers of defective vehicles either to replace them or to refund the purchase price if the vehicle cannot be repaired; to establish a Board of Consumer Claims Arbitration; to require the disclosure of defects and damage to the purchasers of used automobiles; and for other purposes.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Automobile Consumer Protection Act of 1984".

Sec. 2. Definitions.

For the purposes of this act, the term:

(1) "Board" means the Board of Consumer Claims Arbitration for the District of Columbia established by section 4.

(2) "Consumer" means the purchaser, other than for purposes of resale, of a motor vehicle; any person to whom the motor vehicle is leased or otherwise transferred during the duration of a warranty applicable to the motor vehicle; and any other person entitled to enforce the obligations of the warranty. For the purposes of section 4 of this act, the term "consumer" means any natural person who does or would purchase, lease, or receive consumer goods or services.

New,  
D.C. Code,  
sec. 40-1301  
Note,  
D.C. Code,  
secs. 28-3601  
-3801, & -390  
(1985 supp.)

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(3) "Council" means the Council of the District of Columbia.

(4) "Court" means the Superior Court of the District of Columbia.

(5) "District" means the District of Columbia.

(6) "Known" means, for the purposes of section 6 of this act, that a dealer or the dealer's agent or employee has obtained facts or information about the condition of a motor vehicle which would lead a reasonable person in similar circumstances to believe that the motor vehicle contained one or more material mechanical defects. The term "known" encompasses knowledge obtained through an inspection, from a previous owner, from the salesperson at an auction, or through other means.

(7) "Material mechanical defect" means any defect, failure, or malfunction of the mechanical system of a motor vehicle, including, but not limited to, the engine, transmission and drive shaft, differential, cooling system, electrical system, fuel system, or accessories, which significantly impairs the operation, safety, performance, or value of the motor vehicle.

(8) "Mayor" means the Mayor of the District of Columbia.

(9) "Motor vehicle" means a motor vehicle which is manufactured for sale, offered for sale, sold, or registered in the District and which is designed for the primary purpose of transporting a driver and one or more passengers on streets, roads, or highways. The term "motor

vehicle" shall not include buses sold for public transportation, motorcycles, motor homes, or motorized recreational vehicles.

(10) "New motor vehicle" means a motor vehicle which is in the period of the first 18,000 miles of operation or the first 2 years after the date of delivery to the original purchaser, whichever is earlier.

(11) "Safety-related defect" means an impairment which reduces the operator's ability to control the motor vehicle in normal operation or which creates a risk of fire, explosion, or other life-threatening malfunction.

(12) "Significantly impair" means to render the motor vehicle unreliable or unsafe for normal operation or to reduce its resale value below the average resale value for comparable motor vehicles.

(13) "Used motor vehicle" means a motor vehicle which is offered for sale in the District and which is not within the period of the first 18,000 miles of operation or the first two years after the date of delivery to the original purchaser, whichever is earlier; but it does not mean a motor vehicle sold only for scrap or parts.

(14) "Warranty" means the written or implied warranty of the manufacturer of a motor vehicle.

Sec. 3. Consumer's Remedy for Defective Vehicles.

(a) If a new motor vehicle does not conform to all warranties during the first 18,000 miles of operation or during the period of two years following the date of delivery of the motor vehicle to the original purchaser,

New,  
D.C. Code,  
sec. 40-1302  
(1985 supp.)

whichever is the earlier date, the consumer shall during that period report the nonconformity, defect, or condition to the manufacturer, its agent, or its authorized dealer. If the notification is received by the manufacturer's agent or authorized dealer, the agent or dealer shall within seven days forward written notice thereof to the manufacturer by certified mail, return receipt requested. The manufacturer, its agent, or its authorized dealer shall correct the nonconformity, defect, or condition at no charge to the consumer, notwithstanding the fact that the repairs may be made after the expiration of the first 18,000-mile period of operation or the two-year period.

(b) If, after a reasonable number of attempts, the manufacturer, its agent, or authorized dealer is unable to repair or correct any nonconformity, defect, or condition which results in significant impairment of the motor vehicle, the manufacturer, at the option of the consumer, shall replace the motor vehicle with a comparable motor vehicle, or accept return of the motor vehicle from the consumer and refund to the consumer the full purchase price, including all sales tax, license fees, registration fees, and any similar governmental charges. In calculating a refund, the manufacturer may deduct from the consumer's full purchase price a reasonable allowance not to exceed 10 cents per mile for the consumer's use of the motor vehicle in excess of the first 12,000 miles of operation, and a reasonable allowance for any damage not attributable to normal wear or to the nonconformity, defect, or condition

which significantly impaired the motor vehicle. Refunds shall be made to the consumer, and the lienholder, if any, as their interests may appear on the records of ownership kept by the Department of Public Works.

(c) Each of the following circumstances shall be an affirmative defense to any claim under this section:

(1) The nonconformity, defect, or condition does not significantly impair the vehicle.

(2) The nonconformity, defect, or condition is the result of abuse, neglect, or unauthorized modifications or alterations of the motor vehicle.

(d) It shall be presumed that a reasonable number of attempts have been made to conform a motor vehicle to the warranties, if:

(1) the same nonconformity, defect, or condition, if it is not safety-related, has been subject to repair four or more times by the manufacturer, its agent, or authorized dealer after notification by the consumer within the first 18,000 miles of operation or during the period of two years following the date of original delivery of the motor vehicle to a consumer, whichever is the earlier date, but the nonconformity, defect, or condition continues to exist;

(2) the same nonconformity, defect, or condition, if it is safety-related, has been subject to repair one or more times by the manufacturer, its agents, or authorized dealers after notification by the consumer within the first 18,000 miles of operation or during the period of two years following the date of original delivery of the motor vehicle

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to a consumer, whichever is the earlier date, but the nonconformity, defect, or condition continues to exist; or

(3) the motor vehicle is out of service by reason of repair of any nonconformities, defects, or conditions which significantly impair the vehicle, on a cumulative total of 30 days or more during either period, whichever is the earlier date.

(e) The 30-day out-of-service period shall be extended by any time during which repair services are not available to the consumer because of a war, invasion, strike, fire, flood, or other natural disaster.

(f) The consumer, in order to seek the refund or replacement provided by this section, shall first submit a claim to the Board of Consumer Claims Arbitration established pursuant to section 4. If the Board rejects the case for arbitration, or if the claim is arbitrated and the consumer rejects the arbitration decision, the consumer may then bring an action in court to seek the remedies provided by this section.

(g)(1) If a motor vehicle is returned to a manufacturer, its agent, or authorized dealer pursuant to this section, the manufacturer, its agent, or authorized dealer shall notify the Department of Public Works that the motor vehicle was returned.

(2) The Department of Public Works shall note the fact that the motor vehicle was returned pursuant to this act on any certificate of title issued for the motor vehicle.

(3) A motor vehicle dealer shall state the fact that the motor vehicle was returned pursuant to this act in any sales contract for the motor vehicle prior to the signing of the contract by a prospective purchaser.

Sec. 4. Arbitration.

New,  
D.C. Code,  
sec. 40-1303  
Note,  
D.C. Code,  
sec. 1-612.8  
(1985 supp.)

(a) There is established in the Department of Consumer and Regulatory Affairs a Board of Consumer Claims Arbitration for the District of Columbia. The Board shall consist of seven members who shall be appointed by the Mayor with the advice and consent of the Council.

(b) The members shall be at least 18 years of age and residents of the District.

(c) Two members shall be attorneys admitted to the practice of law in the District, one of whom shall be designated by the Mayor as chairperson of the Board. Two members shall have training and experience in arbitration and mediation. One member shall be the Director of the Department of Consumer and Regulatory Affairs or his or her designee. One member shall have experience or training in representing the interests of consumers. One member shall have experience or training in the manufacture or wholesale or retail sales of consumer goods.

(d) The Mayor shall appoint the initial Board members within 60 days of the effective date of this act. Of the members first appointed, the chairperson and one other member shall be appointed for terms of three years; one member shall be appointed for a term of two years, and one member shall be appointed for a term of one year.



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Subsequent appointments shall be for terms of three years.

This subsection shall not apply to the representative of the Department of Consumer and Regulatory Affairs.

(e) Members of the Board shall be compensated pursuant to section 1108 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Code, sec. 1-612.8).

(f) The Mayor shall issue, and may amend from time to time, rules and regulations to implement the provisions of this section and may establish reasonable fees for the filing of complaints.

(g) The Board, in accordance with the rules and regulations issued pursuant to subsection (f), shall provide arbitration for claims filed by consumers against manufacturers, their agents, or dealers pursuant to sections 3 and 6, and for claims voluntarily filed by consumers against the provider of any consumer goods or services, who agrees to such arbitration, pursuant to rules and regulations issued by the Mayor.

(h) Consumers may submit claims to the Board by completing forms which shall be approved by the Mayor.

(i) Upon receipt of a written claim filed by a consumer, the Board shall within five business days determine whether the claim qualifies for arbitration pursuant to this act and notify the opposing party.

(j) The Board shall develop and maintain a roster of persons who are residents of the District, at least 18 years of age, and experienced in arbitration techniques who may be

employed to serve as arbitrators for specific cases.

(k) The Board shall assign cases for arbitration according to the following provisions:

(1) A case may be assigned to a single arbitrator if the Board first informs all parties to the case of the identity and background of the arbitrator and obtains their consent. When a case is assigned to a single arbitrator, the arbitrator must be an attorney-member of the Board or another attorney admitted to the practice of law in the District and chosen from the roster of arbitrators maintained by the Board.

(2) All cases not assigned to single arbitrators shall be assigned to a panel of three arbitrators, one of whom must be a member of the Board and one of whom must be an attorney admitted to the practice of law in the District. Participation on the panel by an attorney-member of the Board shall satisfy both requirements. The Board shall inform all parties to the case of the identity and background of the arbitrators tentatively selected for the panel and shall obtain the consent of both parties to the choice of arbitrators. The decision of the panel shall be by majority vote.

(1) The Board is authorized to reject for arbitration consumer claims which are determined by a majority of the Board to be frivolous, fraudulent, or beyond the legal authority of the Board.

(m) The Board shall promptly assign all cases accepted for arbitration to an arbitrator or arbitrators who shall

appoint a time and place for a hearing and notify the parties personally or by registered mail not less than five days prior to the hearing. Hearings shall be public and shall be recorded electronically.

(n) At all arbitration hearings, the parties are entitled to present oral and written testimony, to present witnesses and evidence relevant to the controversy, to cross-examine witnesses, and to be represented by counsel.

(o) The Board may issue subpoenas for the attendance of witnesses and for the production of books, records, documents, and other evidence. The Board or arbitrators designated by the Board shall have the power to administer oaths and affirmations and take acknowledgements.

(p) Upon application by any party to an arbitration proceeding, or upon its own motion, an arbitrator or arbitration panel may retain independent technical experts as needed to determine the facts in the case. The arbitrator or arbitration panel may assign the costs of the technical experts to one or both parties to the case.

(q)(1) The arbitrator or arbitration panel shall determine whether the defendant is liable to the claimant and, if so, shall award the claimant relief.

(2) The arbitrator or arbitration panel may award the claimant the relief provided by this act, any relief available under any other law, and reasonable attorneys' fees. The defendant may be assessed the costs of arbitration as part of any award rendered by the arbitrator or arbitration panel.

(3) Decisions of an arbitrator or arbitration panel shall be in writing and shall be entered by and in the name of the Board.

(4) Decisions shall be entered no later than 60 days from the date the Board accepts a case for arbitration.

(5) The decision shall state the relief granted, if any, and shall specify a time limit for compliance.

(6) The board shall promptly provide a copy of the decision to each party.

(r) The Board or any party to a case may petition the court to issue an order compelling compliance with a decision by the Board.

(s)(1) Any party to a case may, within 20 days after receipt of the Board's decision, petition the court to vacate the decision and grant a trial de novo.

(2) Upon receipt of a petition, the court shall first determine the validity of the arbitration proceeding and shall vacate an arbitration award upon a finding that:

(A) the award was procured by corruption, fraud, or other misconduct in violation of law;

(B) the arbitrator or arbitration panel exceeded its powers;

(C) the arbitrator or arbitration panel failed to conform to the rules and regulations issued pursuant to this act, and the failure to conform prejudiced the rights of a party to the complaint; or

(D) the award is based on a numerical error or other error of fact which the Board has failed to

correct.

(3) If the court determines the arbitration process was valid but grants the petition for a trial de novo on other grounds, the decision of the Board shall be admissible as evidence and shall be presumed correct.

Sec. 5. Disclosure of Rights.

New,  
D.C. Code,  
sec. 40-1304  
(1985 supp.)

(a) The manufacturer, its agent, or authorized dealer shall provide written notification to the prospective consumer of any motor vehicle to be sold or registered in the District of the rights provided to the consumer by this act.

(b) The Mayor shall issue rules and regulations prescribing the form and content of the notification required by this section.

(c) Any agreement entered into by a consumer for the purchase of a motor vehicle which waives, limits, or disclaims the rights set forth in this act shall be void. These rights shall inure to a subsequent transferee of the motor vehicle.

Sec. 6. Disclosure of Damage or Defects of Used Motor Vehicles.

New,  
D.C. Code,  
sec. 40-1305  
(1985 supp.)

(a) No motor vehicle dealer may offer for sale any used motor vehicle without first providing:

(1) written notice to the prospective consumer of any material mechanical defect in the motor vehicle and any damage sustained by the motor vehicle due to fire, water, collision, or other causes for which the cost of repairs exceeded \$1,000, when the defect or damage was known to the

dealer; and

(2) written notice to the prospective consumer whether the dealer has conducted any inspection of the motor vehicle to determine known defects or damage.

(b) A motor vehicle dealer who fails to provide the notices required by this section or who provides false or misleading notices shall, upon conviction, be subject to the following penalties:

(1) a fine of not less than \$300 or more than \$1,000 for a first offense; and

(2) a fine of not less than \$1,000 or more than \$5,000, or suspension or revocation of the license issued pursuant to section 300 of the Vehicles and Traffic Regulations (18 DCMR 300.1 et seq.), or both, for a second or subsequent offense.

(c) The purchaser of a used motor vehicle shall have a right of action against a used motor vehicle dealer for damages or injuries sustained as a result of the dealer's failure to comply with the requirements of this section. The purchaser, in order to seek the remedies provided by this section, shall first submit a claim to the Board. If the Board rejects the case for arbitration, or if the claim is arbitrated and the purchaser rejects the arbitration decision, the purchaser may then bring an action in court to seek the remedies provided by this section.

(d) Violations of this section shall be prosecuted in the name of the District of Columbia by the Corporation Counsel of the District of Columbia.

Sec. 7. Bonding Requirements.

Section 3(b) of An Act to provide for the regulation of finance charges for retail installment sales of motor vehicles in the District of Columbia, and for other purposes approved April 22, 1960 (74 Stat. 72; D.C. Code, sec. 40-1103(b)), is amended to read as follows:

D.C. Code,  
sec. 40-1103  
Note,  
D.C. Code,  
sec. 40-1301  
(1985 supp.)

"(b)(1) The bonds authorized by this section shall be corporate surety bonds in amounts to be fixed by the Mayor, but no bond shall exceed \$25,000, except as required by paragraph (2).

"(2) Each person licensed to do business as a motor vehicle dealer in the District shall maintain a corporate surety bond in an amount not less than \$25,000.

"(3) The bond shall be conditioned upon the observance by the licensee and any officer, agent, employee, or other person acting on behalf of the licensee, of all laws and regulations in force in the District applicable to the licensee's conduct of the licensed business, for the benefit of any person who may suffer damages resulting from the violation of any law or regulation by or on the part of the licensee or any officer, agent, employee, or other person acting on behalf of the licensee."

Sec. 8. Listing of Odometer Readings.

The Department of Public Works shall list the odometer readings at the time of registration or transfer of registration on the title of all motor vehicles registered in the District.

New,  
D.C. Code,  
sec. 40-1306  
Note,  
D.C. Code,  
sec. 40-102  
(1985 supp.)

Sec. 9. Unfair Trade Practices; Other Rights or

D.C. Code,  
sec. 28-3904  
(1985 supp.)

Remedies.

(a) D.C. Code, sec. 28-3904 is amended by adding a new subsection (aa) to read as follows:

"(aa) refuses to provide the repairs, refunds, or replacement motor vehicles or fails to provide the disclosures of defects or damages required by the Automobile Consumer Protection Act of 1984."

(b) Nothing in this act shall in any way limit the rights or remedies which are otherwise available to a consumer under any other law.

(c) Any action brought pursuant to this act shall be commenced within four years of the date of original delivery of the motor vehicle to the consumer.

Sec. 10. Rules and Regulations.

The Mayor shall issue, and may amend from time to time, rules and regulations to implement the provisions of this act.

New,  
D.C. Code,  
sec. 40-1307  
Note,  
D.C. Code,  
sec. 40-11038  
-28-3904  
(1985 supp.)

Sec. 11. Provision for Alternative Arbitration System.

If the arbitration system established pursuant to section 4 cannot consistently handle complaints during the 60-day period as required by section 4(q)(4), and if the administration of the arbitration system results in expenditures beyond the sums budgeted annually for the program, the Mayor may certify an alternative arbitration system that complies with this act and rules issued to implement this act.

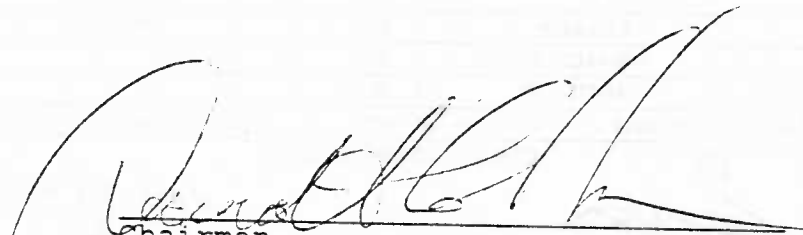
New,  
D.C. Code,  
sec. 40-1308  
(1985 supp.)

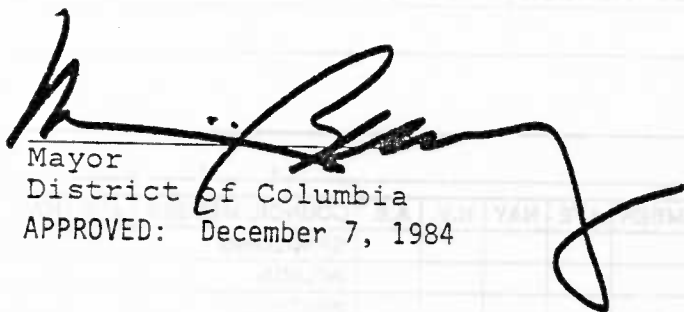
Sec. 12. Effective Date.

This act shall take effect after a 30-day period of



Congressional review following approval by the Mayor (or in the event of veto by the Mayor, action by the Council of the District of Columbia to override the veto) as provided in section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 813; D.C. Code, sec. 1-233(c)(1)).

  
Chairman  
Council of the District of Columbia

  
Mayor  
District of Columbia  
APPROVED: December 7, 1984



COUNCIL OF THE DISTRICT OF COLUMBIA  
Council Period Five — Second Session

RECORD OF OFFICIAL COUNCIL VOTE

DOCKET NO: B 5-288

Item on Consent Calendar

ACTION & DATE: Adopted First Reading, 11-20-84

VOICE VOTE: \_\_\_\_\_

Recorded vote on request

Absent: \_\_\_\_\_

ROLL CALL VOTE: — RESULT ( 12, 0, 0, 1 )

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
CHMN. CLARKE	X				MOORE, JR.	X				SPAULDING	X			
CRAWFORD				X	RAY	X				WILSON	X			
JARVIS	X				ROLARK	X				WINTER	X			
KANE	X				SHACKLETON	X								
MASON	X				SMITH, JR.	X								

X — Indicates Vote      A.B. — Absent      N.V. — Present, not voting

CERTIFICATION RECORD

Russell Smith  
Secretary to the Council

12/7/84  
Date

Item on Consent Calendar

ACTION & DATE: Adopted Final Reading, 12-4-84

VOICE VOTE: Unanimous

Recorded vote on request

Absent: Smith

ROLL CALL VOTE: — RESULT \_\_\_\_\_

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
CHMN. CLARKE					MOORE, JR.					SPAULDING				
CRAWFORD					RAY					WILSON				
JARVIS					ROLARK					WINTER				
KANE					SHACKLETON									
MASON					SMITH, JR.									

X — Indicates Vote      A.B. — Absent      N.V. — Present, not voting

CERTIFICATION RECORD

Russell Smith  
Secretary to the Council

12/7/84  
Date

Item on Consent Calendar

ACTION & DATE: \_\_\_\_\_

VOICE VOTE: \_\_\_\_\_

Recorded vote on request

Absent: \_\_\_\_\_

ROLL CALL VOTE: — RESULT \_\_\_\_\_

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
CHMN. CLARKE					MOORE, JR.					SPAULDING				
CRAWFORD					RAY					WILSON				
JARVIS					ROLARK					WINTER				
KANE					SHACKLETON									
MASON					SMITH, JR.									

X — Indicates Vote      A.B. — Absent      N.V. — Present, not voting

CERTIFICATION RECORD

\_\_\_\_\_  
Secretary to the Council

\_\_\_\_\_  
Date