

**ACT 301**

H.B. NO. 2425-86

A Bill for an Act Relating to Motor Vehicles Under Warranties.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 490:2-313.1, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (b) to read:

“(b) If the manufacturer, its agents, distributor, or authorized dealers are unable to conform the motor vehicle to any applicable express warranty by repairing or correcting any defect or condition which substantially impairs the use and market value of the motor vehicle to the consumer after a reasonable number of documented attempts, then the manufacturer shall replace the motor vehicle with a comparable motor vehicle or accept return of the vehicle from the

consumer and refund to the consumer the following: the full purchase price including, but not limited to, charges for undercoating, dealer preparation, transportation and installed options, and all collateral charges, including, but not limited to, towing charges, replacement car rental costs, general excise tax, license and registration fees, title charges, and similar government charges, excluding interest, and less a reasonable allowance for the consumer's use of the motor vehicle. Refunds made pursuant to this subsection shall be deemed to be refunds of the sales price and treated as such for purposes of section 237-3. Refunds shall be made to the consumer, and lienholder, if any, as their interests may appear. A reasonable allowance for use shall be that amount directly attributable to use by the consumer prior to the consumer's first report of the nonconformity to the manufacturer, agent, distributor, or dealer and during any subsequent period when the motor vehicle is not out of service by reason of repair. It shall be an affirmative defense to any claim under this section [(1) that] that: (1) an alleged nonconformity does not substantially impair [such] the use and market value[,] of the motor vehicle, or (2) [that] a nonconformity is the result of abuse, neglect, or unauthorized modifications or alterations of a motor vehicle by a consumer."

2. By amending subsection (e) to read as follows:

"(e) If a manufacturer has established or participates in an informal dispute settlement procedure which substantially complies with title 16, Code of Federal Regulations, part 703, as from time to time amended, the provisions of subsection (b) concerning refunds or replacement shall not apply to any consumer who has not first resorted to [such] that procedure[.]; provided that the manufacturer, its agents, distributors, or authorized dealers provide the consumer at the time of purchase of the motor vehicle a written notice setting forth the terms of the informal dispute settlement procedure and a statement of the rights of the consumer under this section in plain language, the form of which has been previously reviewed and approved by the department of commerce and consumer affairs for substantial compliance with title 16, Code of Federal Regulations, part 703, and the requirements of this section. Any decision rendered resolving the dispute shall provide appropriate remedies including, but not limited to the following:

- (1) Repair of the motor vehicle; or
- (2) Replacement of the motor vehicle with a comparable motor vehicle;  
or
- (3) Acceptance of the motor vehicle from the consumer and refund of the full purchase price, including all collateral charges as specified in subsection (b).

The decision shall specify a date for performance and completion of all awarded remedies."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 30, 1986.)