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 DIGEST

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DIGEST

SB 210 Reengrossed                      2021 Regular Session                      Foil

Present law creates the Louisiana Motor Vehicle Commission in the office of the governor and provides for appointment of three public members who are not licensed by the commission from the state at large to hear and decide matters concerning brokers and disputes between manufacturers, distributors, converters, motor vehicle lessor franchisors, or representatives and motor vehicle dealers, recreational products dealers, specialty vehicle dealers, and motor vehicle lessors.

Proposed law adds hearings relative to recreational vehicle warranties.

Proposed law provides for the "New Recreational Vehicle Warranty Act".

Proposed law provides for definitions of the terms "collateral costs", "commission", "consumer", "dealer", "manufacturer", "manufacturer's express warranty" and "warranty", "nonconformity", "out of service", and "recreational vehicle" applicable to recreational vehicle warranties.

Proposed law authorizes the Louisiana Motor Vehicle Commission to adopt and enforce reasonable rules and regulations, and to prescribe forms pursuant to the Administrative Procedure Act necessary to exercise the objectives of proposed law and lists without limitation the powers and duties of the commission to include the receipt of nonconformity complaints from consumers, record keeping of nonconformity complaints, hearings on nonconformity complaints, and collection of costs associated with requirements of proposed law.

Proposed law requires the manufacturer of a recreational vehicle, or any of its authorized dealers, to make repairs necessary to conform the vehicle to the manufacturer's express warranty when a consumer reports nonconformity before the expiration of the warranty or not later than one year from the date of original delivery to the consumer.

Proposed law provides for a presumption of a reasonable number of attempts to conform a recreational vehicle to the express warranty if the vehicle is out of service by reason of repair for a cumulative total of 90 or more calendar days and the same nonconformity has been subject to repair four or more times by the manufacturer. Proposed law further provides that notwithstanding the presumption, the consumer shall provide written notice of a nonconformity to the manufacturer and the commission of the need to repair and evidence that the recreational vehicle has been out of service a total of at least 90 days or has been subject to repair four or more times.

Proposed law provides the manufacturer 10 business days from receipt of written notice of a nonconformity to attempt a final repair and requires the manufacturer to notify the consumer where and when to deliver the recreational vehicle to the repair facility. Proposed law provides the designated repair facility 10 business days for repairs using replacement parts and 30 calendar days for structural repairs. Only written extensions of the repair time periods by the consumer are authorized. Proposed law provides that a manufacturer is considered to have waived its right to a final attempt to cure the nonconformity if the manufacturer fails to respond or to perform the repairs in these time periods.

Proposed law authorizes courts to award reasonable attorney fees to the prevailing party on appeal if the commission's decision on nonconformity is appealed by either party.

Proposed law extends the express warranty term for the consumer and the manufacturer when repair services are not available or cannot be performed because of war, pandemic, invasion, strike, fire, flood, or natural disaster.

Proposed law provides that upon the commission's determination of a recreational vehicle's nonconformity, the manufacturer, at its option, is required to either replace the vehicle with a comparable new recreational vehicle, or to accept return of the recreational vehicle and refund to the consumer the vehicle's full purchase price and collateral costs minus a reasonable allowance for the consumer's use of the vehicle prior to notice of a nonconformity or subsequent use when the vehicle was not out of service for repair.

Proposed law provides that when the consumer receives a new recreational vehicle or refund, the consumer is required to surrender the certificate of title to the manufacturer not later than 30 days after offer to transfer title or not later than 30 days after the commission's decision.

Proposed law provides that a seller of a recreational vehicle previously returned to a manufacturer for nonconformity to warranty shall provide a written mandatory disclosure of nonconformity instrument to a buyer and subjects the manufacturer to a fine of not less than \$500 nor more than \$1,000 for each violation of nondisclosure.

Proposed law provides that its remedies, warranties, and preemptive periods relative to nonconformity defects of recreational vehicles are exclusive as between the manufacturer, dealer, and consumer.

Present law provides relative to the motor vehicle warranties law, (R.S. 51:1941 et seq.)

Present law defines a "motor vehicle" pursuant to motor vehicle warranties to include a motor home and the chassis and drive train of a motor home.

Proposed law removes motor home and the chassis and drive train of a motor home including the chassis and drive train from the definition and removes references to motor homes throughout the motor vehicle warranties law.

Effective August 1, 2021.

(Amends R.S. 32:1253(A)(3)(a) and R.S. 51:1941(3) and (6), 1943(A), and 1944(A)(intro para); adds R.S. 32:1270.31-1270.41; repeals R.S. 51:1948(E))

#### Summary of Amendments Adopted by Senate

##### Committee Amendments Proposed by Senate Committee on Commerce, Consumer Protection, and International Affairs to the original bill

1. Makes technical changes.
2. Requires warranty disputes be heard by the three-member panel of the La. Motor Vehicle Commission.
3. Provides which expenses are recoverable by the commission if a warranty dispute hearing is held.
4. Removes the requirement that a consumer first participate in the manufacturer's informal dispute resolution prior to a complaint being filed with the commission.

##### Senate Floor Amendments to Engrossed bill:

1. Authorizes courts to award reasonable attorney fees to the prevailing party on appeal if the commission's decision on nonconformity is appealed by either party.

2. Require the dealer to provide written notification of the remedy for any nonconformity defect.

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Commerce to the reengrossed bill:

1. Make technical changes.