

2021 Regular Session

SENATE BILL NO. 210

BY SENATOR FOIL

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

MOTOR VEHICLES. Provides relative to recreational vehicle warranties. (8/1/21)

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AN ACT

To amend and reenact R.S. 32:1253(A)(3)(a) and R.S. 51:1941(6), and to enact Part IV-A of Chapter 6 of Title 32 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 32:1270.31 through 1270.39, relative to recreational vehicle warranties; to provide for the function of certain appointed members of the Louisiana Motor Vehicle Commission; to provide relative to recreational vehicle warranties; to provide for definitions; to provide for the powers and duties of the Louisiana Motor Vehicle Commission; to provide relative to the manufacturer's duty to repair for nonconformity; to provide relative to consumer remedies; to provide for exclusiveness of consumer remedies, warranties, and preemptive periods relative to recreational vehicles; to revise the definition of "motor vehicle" relative to motor vehicle warranties; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 32:1253(A)(3)(a) is hereby amended and reenacted and Part IV-A of Chapter 6 of Title 32 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 32:1270.31 through 1270.39, is hereby enacted to read as follows:

§1253. Motor Vehicle Commission; appointment and qualifications of members;

1 terms of office; organization; oath; official bond; compensation;
2 powers and duties

3 A. The Louisiana Motor Vehicle Commission is hereby created within the
4 office of the governor and shall be composed of eighteen members appointed by the
5 governor, as follows:

6 * * *

7 (3)(a) Each of the three remaining appointive members shall be a public
8 member who is not a licensee under this Chapter and shall be appointed from the
9 state at large. These three commissioners shall have the sole function of hearing and
10 deciding matters concerning brokers and disputes between manufacturers,
11 distributors, converters, motor vehicle lessor franchisors, or representatives and
12 motor vehicle dealers, recreational products dealers, specialty vehicle dealers, ~~and~~
13 motor vehicle lessors, **and hearings pursuant to R.S. 32:1270.31 et seq.**

14 * * *

15 **PART IV-A. RECREATIONAL VEHICLE WARRANTIES**

16 **§1270.31. Short title**

17 **This Part shall be known as and may be cited as the "New Recreational**
18 **Vehicle Warranty Act".**

19 **§1270.32. Definitions**

20 **The following words, terms, and phrases, when used in this Part, shall**
21 **have the meanings respectively ascribed to them in this Section, except where**
22 **the context clearly indicates a different meaning:**

23 **(1) "Collateral costs" means sales tax, license fees, and registration fees**
24 **and any similar government charges.**

25 **(2) "Commission" means the Louisiana Motor Vehicle Commission.**

26 **(3) "Consumer" means:**

27 **(a) The purchaser, other than for purposes of a resale, of a new**
28 **recreational vehicle normally used for personal, family, or household purposes**
29 **and subject to a manufacturer's express warranty.**

1 **(b) A person, other than for purposes of a resale, to whom a recreational**
2 **vehicle is transferred during the term of an express warranty applicable to the**
3 **recreational vehicle.**

4 **(c) Any other person entitled to enforce the recreational vehicle**
5 **warranty.**

6 **(4) "Dealer" means a person holding a license from the commission**
7 **authorized by the manufacturer to service the items in a recreational vehicle**
8 **warranted by the manufacturer, and actively engaged in the business of buying,**
9 **selling, or exchanging new recreational vehicles at retail, and who has an**
10 **established place of business.**

11 **(5) "Manufacturer" means any person, firm, association, corporation,**
12 **or trust, resident or nonresident, who manufactures or assembles recreational**
13 **vehicles or the chassis for recreational vehicles.**

14 **(6) "Manufacturer's express warranty" and "warranty" mean the**
15 **written warranty issued by the manufacturer.**

16 **(7) "Nonconformity" means any specific or generic defect or condition**
17 **which substantially impairs the use, market value, or both, of a new recreational**
18 **vehicle.**

19 **(8) "Out of service" means the days a recreational vehicle is not able to**
20 **be used but does not include routine maintenance days.**

21 **(9) "Recreational vehicle" means a motorized or towable vehicle, sold in**
22 **this state, that provides temporary living quarters for travel, recreation, and**
23 **camping. For purposes of this Part, a "recreational vehicle" includes a motor**
24 **home, a travel trailer, a fifth-wheel travel trailer, a folding camper trailer, a**
25 **slide-in truck camper, and a park model trailer.**

26 **§1270.33. Commission; powers and duties; nonconformity notices; hearings;**
27 **records**

28 **A. The commission is hereby vested with the powers and duties necessary**
29 **to enable it to fully and effectively carry out the provisions and objectives of this**

1 Part and to adopt rules, regulations and forms in accordance with the
2 Administrative Procedure Act to accomplish the purposes of this Part. The
3 enumeration of any power or authority herein shall not be construed to deny,
4 impair, disparage, or limit any other power or authority of the commission.

5 B. The powers and duties of the commission shall include but are not
6 limited to the following:

7 (1) Receive complaints of a recreational vehicle nonconformity to
8 warranty from consumers.

9 (2) Keep records of consumer complaints of a nonconformity related to
10 recreational vehicle warranty defects.

11 (3) Schedule hearings on consumer complaints of a nonconformity before
12 the commission's three appointed members pursuant to R.S. 32:1252(A)(3)(a).

13 C. The commission may collect costs to defray the expense of
14 administering the requirements of this Part.

15 §1270.34. Manufacturers' duty to repair; nonconformity

16 If a new recreational vehicle does not conform to the manufacturer's
17 express warranty, and the consumer reports the nonconformity to the
18 manufacturer, or any of its authorized recreational vehicle dealers, and makes
19 the recreational vehicle available for repair before the expiration of the
20 warranty, or not later than one year after the date of original delivery of the
21 recreational vehicle to the consumer, the manufacturer, its agent, or its
22 authorized dealer shall make repairs that are necessary to conform the vehicle
23 to the manufacturer's express warranty, notwithstanding the fact that the
24 repairs are made after the expiration of the warranty term or the one-year
25 period.

26 §1270.35. Express warranties; time limit to conform

27 A.(1) It shall be presumed that a reasonable number of attempts have
28 been undertaken to conform a recreational vehicle to the applicable express
29 warranty if the vehicle is out of service by reason of repair for a cumulative

1 total of ninety or more calendar days, or the same nonconformity has been
2 subject to repair four or more times by the manufacturer, its agent, or its
3 authorized dealer, within the warranty term, or not later than one year from the
4 date of original delivery of the new recreational vehicle to the consumer.

5 (2)(a) Notwithstanding the provisions of Paragraph (1) of this
6 Subsection, the consumer shall provide written notification of the need to repair
7 the nonconformity to the manufacturer and the commission, and either of the
8 following:

9 (i) Evidence of a cumulative total of at least ninety days of the
10 recreational vehicle being out of service within the warranty term.

11 (ii) Evidence that the same nonconformity has been subject to repair four
12 or more times by the manufacturer, its agent, or its authorized dealer, within
13 the warranty term, or not later than a period of one year from the date of
14 original delivery of the new recreational vehicle to the consumer.

15 (b) The manufacturer shall respond to the consumer not later than ten
16 business days after receipt of the consumer's written notification of a
17 nonconformity as to when and where the recreational vehicle may be delivered
18 for a final repair attempt. The repair facility shall be one that is authorized by
19 the manufacturer to perform the necessary warranty work.

20 (c) The repair facility shall have ten business days from the date of
21 delivery of the recreational vehicle to the facility to complete repairs using
22 replacement parts and thirty calendar days from the date of delivery of the
23 recreational vehicle to the facility to complete structural repairs to conform the
24 recreational vehicle to the applicable warranty. The time periods provided in
25 this Paragraph may be extended only if the consumer authorizes the extension
26 in writing.

27 (3) If a manufacturer fails to respond to the consumer or to perform the
28 repairs within the time periods provided in Paragraphs (1) and (2) of this
29 Subsection, the manufacturer shall be deemed to have waived his rights to a

1 final attempt to cure the nonconformity.

2 B. The duration of an express warranty shall be extended by any period
3 of time during which repair services are not available to the consumer because
4 of war, pandemic, invasion, strike, fire, flood, or natural disaster.

5 C. The provisions of Subsection (A) of this Section shall be suspended for
6 any period of time during which repair services cannot be performed by the
7 manufacturer, its agents, or authorized dealer, because of war, pandemic,
8 invasion, strike, fire, flood, or natural disaster.

9 §1270.36. Recreational vehicle replacement or refund

10 A. If the commission determines a nonconformity in a recreational
11 vehicle has not been repaired within the time periods provided in R.S.
12 32:1270.35, the manufacturer shall either:

13 (1) Replace the recreational vehicle with a comparable new recreational
14 vehicle.

15 (2) At the manufacturer's option, accept return of the recreational
16 vehicle and refund the full purchase price, and any amounts paid by the
17 consumer at the point of sale, and all collateral costs, less a reasonable
18 allowance for use by the consumer, or any holder of a perfected security interest
19 in the recreational vehicle, as their interest may appear, if the transaction was
20 a sale. Refunds shall be made to the consumer and lienholder of record, if any,
21 as their interests may appear.

22 B. A reasonable allowance for use by the consumer shall be determined
23 by the commission and shall be that amount directly attributable to use by the
24 consumer prior to his first written notice of a nonconformity to the
25 manufacturer, agent, or dealer, and during any subsequent period when the
26 vehicle was not out of service by reason of repair.

27 C. If a manufacturer has established an informal dispute resolution
28 procedure that substantially complies with the provisions of 16 CFR Part 703,
29 the provisions of Subsections (A) and (B) of this Section shall not apply to any

1 consumer who has not first resorted to such procedure.

2 D. The consumer shall have no more than one hundred eighty days after
3 the end of the express warranty term to file a complaint with the manufacturer
4 and the commission to force compliance with the provisions of this Section.

5 §1270.37. Transfer of title; time limitation

6 Upon receipt of the comparable new recreational vehicle or refund
7 pursuant to R.S. 32:1270.36, the consumer shall surrender the recreational
8 vehicle subject to the nonconformity to the manufacturer together with the
9 certificate of title with all endorsements necessary to transfer title to the
10 manufacturer. The manufacturer shall provide the consumer with a
11 comparable new recreational vehicle or refund no later than thirty days after
12 receipt of an offer to transfer title in compliance with this Section by the
13 consumer, or no later than thirty days after a decision by the commission.

14 §1270.38. Mandatory disclosure of a nonconformity to warranty by sellers

15 A.(1) Upon the sale or transfer of title by a manufacturer, its agent, or
16 any dealer of any second-hand recreational vehicle, previously returned to a
17 manufacturer for nonconformity to its warranty pursuant to the requirements
18 of this Part, the manufacturer shall execute an instrument in writing on a form
19 prescribed by the commission setting forth the following information in ten
20 point, all capital type, and deliver to the buyer:

21 "IMPORTANT: THIS RECREATIONAL VEHICLE WAS
22 RETURNED TO THE MANUFACTURER OR DEALER BECAUSE IT DID
23 NOT CONFORM TO ITS WARRANTY AND THE DEFECT OR
24 CONDITION WAS NOT FIXED WITHIN THE TIME PROVIDED BY
25 LOUISIANA LAW."

26 (2) Notice that a recreational vehicle was returned to the manufacturer
27 because it did not conform to its warranty shall also be conspicuously printed
28 on the recreational vehicle's certificate of title.

29 B. The failure of a manufacturer to deliver the instrument required by

1 this Section shall constitute a violation of this Part and is punishable by a fine
2 of not less than five hundred dollars nor more than one thousand dollars for
3 each violation.

4 §1270.39. Exclusiveness

5 This Part provides exclusive remedies, warranties, and preemptive
6 periods as between the manufacturer, dealer, and consumer, relative to
7 nonconformity defects as defined in this Part, and no other provisions of law
8 relative to recreational vehicle warranties and redhibitory vices and defects
9 shall apply. Nothing herein shall be construed to affect or limit any warranty
10 of title.

11 Section 2. R.S. 51:1941(6) is hereby amended and reenacted to read as follows:

12 §1941. Definitions

13 The following definitions apply when used in this Chapter:

14 * * *

15 (6) "Motor vehicle" means a passenger motor vehicle or a passenger and
16 commercial motor vehicle as defined in R.S. 32:1252~~(13)~~, sold in this state on or
17 after September 1, 1984. "Motor vehicle" shall include a personal watercraft as
18 defined in R.S. 34:855.2 and an all-terrain vehicle as defined in R.S. 32:771~~(1)~~
19 **32:1252**, sold in this state or still under warranty on or after August 15, 1999, which
20 is used exclusively for personal and not commercial purposes. ~~"Motor vehicle" shall~~
21 ~~include the chassis and drive train of a motor home as defined in R.S. 32:1252(12),~~
22 ~~sold in this state or still under warranty on or after August 15, 1999, which is used~~
23 ~~exclusively for personal and not commercial purposes.~~ For the purposes of this
24 Chapter, the following motor vehicles are excluded:

25 (a) Motor vehicles, ~~except for motor homes,~~ 10,000 GVW or above.

26 (b) Motor vehicles used exclusively for commercial purposes.

27 * * *

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Sharon F. Lyles.

DIGEST

SB 210 Original

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 pursuant to R.S. 32:1270.31 et seq. 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 deemed 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 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 if a manufacturer has an established informal dispute resolution procedure that substantially complies with 16 CFR Part 703, the provisions of proposed law shall not apply to any consumer who has not resorted to such procedure.

Proposed law provides for 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 non-disclosure.

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 (R.S. 51:1941(6)) 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.

Effective August 1, 2021.

(Amends R.S. 32:1253(A)(3)(a) and R.S. 51:1941(6); adds R.S. 32:1270.31-1270.39)