



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

SB3548

Introduced 2/10/2010, by Sen. Antonio Muñoz

#### SYNOPSIS AS INTRODUCED:

815 ILCS 380/2

from Ch. 121 1/2, par. 1202

815 ILCS 380/4.5 new

Amends the New Vehicle Buyer Protection Act. Changes the definition of "express warranty to provide that the term means (i) any written affirmation of fact or written promise made in connection with the sale of a new vehicle by a seller to a consumer that relates to the nature of the material or workmanship and affirms or promises that the material or workmanship is defect-free or will meet a specified level of performance over a specified period of time or (ii) any undertaking in writing in connection with the sale by a seller of a new vehicle to refund, repair, replace, or take other remedial action with respect to the new vehicle in the event that the vehicle fails to meet the specifications set forth in the undertaking, if the written affirmation, promise, undertaking becomes part of the basis of the bargain between the seller and the consumer for purposes other than resale of the vehicle (instead of providing that the term has the same meaning as in the Uniform Commercial Code). Provides that if a consumer finally prevails in an action brought under the Act, the court may allow the consumer to recover as part of the judgment a sum equal to the aggregate amount of costs and expenses (including attorney's fees based on actual time expended) determined by the court to have been reasonably incurred by the consumer for or in connection with the commencement and prosecution of the action, unless the court in its discretion determines that such an award of attorney's fees would be inappropriate. Effective immediately.

LRB096 16141 DRJ 31391 b

1 AN ACT concerning business.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The New Vehicle Buyer Protection Act is amended  
5 by changing Section 2 and by adding Section 4.5 as follows:

6 (815 ILCS 380/2) (from Ch. 121 1/2, par. 1202)

7 Sec. 2. Definitions. For the purposes of this Act, the  
8 following words have the meanings ascribed to them in this  
9 Section.

10 (a) "Consumer" means an individual who purchases or leases  
11 for a period of at least one year a new vehicle from the seller  
12 for the purposes of transporting himself and others, as well as  
13 their personal property, for primarily personal, household or  
14 family purposes or a fire department, fire protection district,  
15 or township fire department that purchases or leases for a  
16 period of at least one year a new vehicle from the seller.

17 (b) "Express warranty" means:

18 (1) any written affirmation of fact or written promise  
19 made in connection with the sale of a new vehicle by a  
20 seller to a consumer that relates to the nature of the  
21 material or workmanship and affirms or promises that the  
22 material or workmanship is defect-free or will meet a  
23 specified level of performance over a specified period of

1 time, if the written affirmation or promise becomes part of  
2 the basis of the bargain between the seller and the  
3 consumer for purposes other than resale of the vehicle; or

4 (2) any undertaking in writing in connection with the  
5 sale by a seller of a new vehicle to refund, repair,  
6 replace, or take other remedial action with respect to the  
7 new vehicle in the event that the vehicle fails to meet the  
8 specifications set forth in the undertaking, if the written  
9 undertaking becomes part of the basis of the bargain  
10 between the seller and the consumer for purposes other than  
11 resale of the vehicle. ~~has the same meaning, for the~~  
12 ~~purposes of this Act, as it has for the purposes of the~~  
13 ~~Uniform Commercial Code.~~

14 (c) "New vehicle" means a passenger car, as defined in  
15 Section 1-157 of the Illinois Vehicle Code, a motor vehicle of  
16 the Second Division having a weight of under 8,000 pounds, as  
17 defined in Section 1-146 of that Code, a vehicle purchased by a  
18 fire department, a fire protection district, or a township fire  
19 department, and a recreational vehicle, except for a camping  
20 trailer or travel trailer that does not qualify under the  
21 definition of a used motor vehicle, as set forth in Section  
22 1-216 of that Code.

23 (d) "Nonconformity" refers to a new vehicle's failure to  
24 conform to all express warranties applicable to such vehicle,  
25 which failure substantially impairs the use, market value or  
26 safety of that vehicle.

1 (e) "Seller" means the manufacturer of a new vehicle, that  
2 manufacturer's agent or distributor or that manufacturer's  
3 authorized dealer. "Seller" also means, with respect to a new  
4 vehicle which is also a modified vehicle, as defined in Section  
5 1-144.1 of the Illinois Vehicle Code, as now or hereafter  
6 amended, the person who modified the vehicle and that person's  
7 agent or distributor or that person's authorized dealer.  
8 "Seller" also means, with respect to leased new vehicles, the  
9 manufacturer, that manufacturer's agent or distributor or that  
10 manufacturer's dealer, who transfers the right to possession  
11 and use of goods under a lease.

12 (f) "Statutory warranty period" means the period of one  
13 year or 12,000 miles, whichever occurs first after the date of  
14 the delivery of a new vehicle to the consumer who purchased or  
15 leased it.

16 (g) "Lease cost" includes deposits, fees, taxes, down  
17 payments, periodic payments, and any other amount paid to a  
18 seller by a consumer in connection with the lease of a new  
19 vehicle.

20 (Source: P.A. 95-802, eff. 1-1-09.)

21 (815 ILCS 380/4.5 new)

22 Sec. 4.5. Civil action; consumer's costs and expenses;  
23 attorney's fees. If a consumer finally prevails in an action  
24 brought under this Act, the court may allow the consumer to  
25 recover as part of the judgment a sum equal to the aggregate

1 amount of costs and expenses determined by the court to have  
2 been reasonably incurred by the consumer for or in connection  
3 with the commencement and prosecution of the action. The sum  
4 may include an award of attorney's fees based on actual time  
5 expended, unless the court in its discretion determines that  
6 such an award of attorney's fees would be inappropriate.

7 Section 99. Effective date. This Act takes effect upon  
8 becoming law.