

GENERAL ASSEMBLY OF NORTH CAROLINA  
1989 SESSION

CHAPTER 43  
HOUSE BILL 100

AN ACT TO AMEND THE NEW MOTOR VEHICLES WARRANTIES ACT TO PROVIDE THAT IF A MANUFACTURER RESELLS A MOTOR VEHICLE THAT WAS RETURNED TO IT PURSUANT TO ARTICLE 15A OF CHAPTER 20 OF THE GENERAL STATUTES OR ANY OTHER STATE'S APPLICABLE LAW, THE MANUFACTURER SHALL DISCLOSE THE FACT OF RETURN AND THE REASON FOR RETURN TO THE SUBSEQUENT PURCHASER.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-351.3 reads as rewritten:

**"§ 20-351.3. Replacement or refund; disclosure requirement.**

(a) If the manufacturer is unable, after a reasonable number of attempts, to conform the motor vehicle to any express warranty by repairing or correcting, or arranging for the repair or correction of, any defect or condition or series of defects or conditions which substantially impair the value of the motor vehicle to the consumer, and which occurred no later than 24 months or 24,000 miles following original delivery of the vehicle, the manufacturer shall, at the option of the consumer, replace the vehicle with a comparable new motor vehicle or accept return of the vehicle from the consumer and refund to the consumer the following:

- (1) The full contract price including, but not limited to, charges for undercoating, dealer preparation and transportation, and installed options, plus the non-refundable portions of extended warranties and service contracts;
- (2) All collateral charges, including but not limited to, sales tax, license and registration fees, and similar government charges;
- (3) All finance charges incurred by the consumer after he first reports the nonconformity to the manufacturer, its agent, or its authorized dealer; and
- (4) Any incidental damages and monetary consequential damages, less a reasonable allowance for the consumer's use of the vehicle. Refunds shall be made to the consumer, and any lienholders as their interests may appear. A reasonable allowance for use is that amount directly attributable to use by the consumer prior to his first report of the nonconformity to the manufacturer, its agent, or its authorized dealer, and during any subsequent period when the vehicle is not out of service because of repair. 'Reasonable allowance' is presumed to be the cash price of the vehicle multiplied by a fraction having as its

denominator 100,000 miles and its numerator the number of miles on the vehicle attributed to the consumer.

(b) If a manufacturer, its agent, or its authorized dealer resells a motor vehicle that was returned pursuant to this Article or any other State's applicable law, regardless of whether there was any judicial determination that the motor vehicle had any defect or that it failed to conform to all express warranties, the manufacturer, its agent, or its authorized dealer shall disclose to the subsequent purchaser prior to the sale:

(1) That the motor vehicle was returned pursuant to this Article or pursuant to the applicable law of any other State; and

(2) The defect or condition or series of defects or conditions which substantially impaired the value of the motor vehicle to the consumer.

Any subsequent purchaser who purchases the motor vehicle for resale with notice of the return, shall make the required disclosures to any person to whom he resells the motor vehicle."

Sec. 2. G.S. 20-351.1 is amended by adding the following language at the end of that section:

"(4) 'New motor vehicle' means a motor vehicle for which a certificate of origin, as required by G.S. 20-52.1 or a similar requirement in another state, has never been supplied to a consumer, or which a manufacturer, its agent, or its authorized dealer states in writing is being sold as a new motor vehicle."

Sec. 3. This act shall become effective October 1, 1989, and applies to resales of motor vehicles that occur on or after that date.

In the General Assembly read three times and ratified this the 5th day of April, 1989.