

ASSEMBLY, No. 1281

STATE OF NEW JERSEY

209th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2000 SESSION

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SYNOPSIS

Requires a dealer to disclose missing or defective emission control equipment in a used motor vehicle under certain circumstances, and exempts certain motor vehicles from regulation.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning the sale of certain used motor vehicles and
2 amending P.L.1995, c.373.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 1 of P.L.1995, c.373 (C.56:8-67) is amended to read as
8 follows:

9 1. As used in this act:

10 "As is" means a used motor vehicle sold by a dealer to a consumer
11 without any warranty, either express or implied, and with the
12 consumer being solely responsible for the cost of any repairs to that
13 motor vehicle.

14 "Consumer" means the purchaser or prospective purchaser, other
15 than for the purpose of resale, of a used motor vehicle normally used
16 for personal, family or household purposes.

17 "Covered item" means and includes the following components of a
18 used motor vehicle: Engine - all internal lubricated parts, timing
19 chains, gears and cover, timing belt, pulleys and cover, oil pump and
20 gears, water pump, valve covers, oil pan, manifolds, flywheel,
21 harmonic balancer, engine mounts, seals and gaskets, and
22 turbo-charger housing; however, housing, engine block and cylinder
23 heads are covered items only if damaged by the failure of an internal
24 lubricated part. Transmission Automatic/Transfer Case - all internal
25 lubricated parts, torque converter, vacuum modulator, transmission
26 mounts, seals and gaskets. Transmission Manual/Transfer Case - all
27 internal lubricated parts, transmission mounts, seals and gaskets, but
28 excluding a manual clutch, pressure plate, throw-out bearings, clutch
29 master or slave cylinders. Front-Wheel Drive - all internal lubricated
30 parts, axle shafts, constant velocity joints, front hub bearings, seals and
31 gaskets[,]. Rear-Wheel Drive - all internal lubricated parts, propeller
32 shafts, supports and U-joints, axle shafts and bearings, seals and
33 gaskets.

34 "Dealer" means any person or business which sells or offers for sale
35 a used motor vehicle after selling or offering for sale three or more
36 used motor vehicles in the previous 12-month period.

37 "Deduction for personal use" means the mileage allowance set by
38 the federal Internal Revenue Service for business usage of a motor
39 vehicle in effect on the date a used motor vehicle is repurchased by a
40 dealer in accordance with section 5 of this act, multiplied by the total
41 number of miles a used motor vehicle is driven by a consumer from the
42 date of purchase of that vehicle until the time of its repurchase.

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 "Director" means the Director of the Division of Consumer Affairs
2 in the Department of Law and Public Safety.

3 "Excessive wear and tear" means wear or damage to a used motor
4 vehicle beyond that expected to be incurred in normal circumstances.

5 "Material defect" means a malfunction of a used motor vehicle,
6 subject to a warranty, which substantially impairs its use, value or
7 safety.

8 "Repair insurance" means a contract in writing to refund, repair,
9 replace, maintain or take other action with respect to a used motor
10 vehicle for any period of time or any specified mileage and provided
11 at an extra charge beyond the price of the used motor vehicle.

12 "Service contract" means a contract in writing to refund, repair,
13 replace, maintain or take other action with respect to a used motor
14 vehicle for any period of time or any specific mileage or provided at
15 an extra charge beyond the price of the used motor vehicle.

16 "Used motor vehicle" means a passenger motor vehicle, excluding
17 motorcycles, motor homes and off-road vehicles, title to, or possession
18 of which has been transferred from the person who first acquired it
19 from the manufacturer or dealer, and so used as to become what is
20 commonly known as "secondhand," within the ordinary meaning
21 thereof, but does not mean a passenger motor vehicle, subject to a
22 motor vehicle lease agreement which was in effect for more than 90
23 days, which is sold by the lessor to the lessee, or to a family member
24 or employee of the lessee upon the termination of the lease agreement
25 and does not mean a used motor vehicle that: is sold without any
26 warranty, service contract, or repair insurance; is sold "as is;" and has
27 been declared a total loss by an insurance company or by a person
28 holding a certificate of self-insurance pursuant to section 30 of
29 P.L.1952, c.173 (C.39:6-52).

30 "Warranty" means any undertaking, in writing and in connection
31 with the sale by a dealer of a used motor vehicle, to refund, repair,
32 replace, maintain or take other action with respect to the used motor
33 vehicle, and which is provided at no extra charge beyond the price of
34 the used motor vehicle.

35 (cf: P.L.1997, c.22, s.1)

36

37 2. Section 2 of P.L.1995, c.373 (C.56:8-68) is amended to read as
38 follows:

39 2. It shall be an unlawful practice for a dealer:

40 a. To misrepresent the mechanical condition of a used motor
41 vehicle;

42 b. To fail to disclose, prior to sale, any material defect in the
43 mechanical condition of the used motor vehicle which is known to the
44 dealer;

45 c. To represent that a used motor vehicle, or any component
46 thereof, is free from material defects in mechanical condition at the

1 time of sale, unless the dealer has a reasonable basis for this
2 representation at the time it is made;

3 d. To fail to disclose, prior to sale, the existence and terms of any
4 written warranty, service contract or repair insurance currently in
5 effect on a used motor vehicle provided by a person other than the
6 dealer, and subject to transfer to a consumer, if known to the dealer;

7 e. To misrepresent the terms of any written warranty, service
8 contract or repair insurance currently in effect on a used motor vehicle
9 provided by a person other than the dealer, and subject to transfer to
10 a consumer;

11 f. To fail to disclose, prior to sale, the existence and terms of any
12 written warranty, service contract or repair insurance offered by the
13 dealer in connection with the sale of a used motor vehicle;

14 g. To misrepresent the terms of any warranty, service contract or
15 repair insurance offered by the dealer in connection with the sale of a
16 used motor vehicle;

17 h. To represent, prior to sale, that a used motor vehicle is sold with
18 a warranty, service contract or repair insurance when the vehicle is
19 sold without any warranty, service contract or repair insurance;

20 i. To fail to disclose, prior to sale, that a used motor vehicle is sold
21 without any warranty, service contract, or repair insurance; [and]

22 j. To fail to provide a clear written explanation, prior to sale, of
23 what is meant by the term "as is," if the used motor vehicle is sold "as
24 is" ; and

25 k. To fail to disclose to a consumer in a sale, other than at auction
26 prior to sale: (1) any missing emission control equipment in the used
27 motor vehicle; or (2) any defective emission control equipment in the
28 used motor vehicle which is known to the dealer.

29 (cf: P.L.1995, c.373, s.2)

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31 3. This act shall take effect on the 60th day following enactment.

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STATEMENT

36 This bill provides that it is an unlawful practice for a dealer of a
37 used motor vehicle to fail to disclose, prior to sale, any missing
38 emission control equipment in the used motor vehicle or any defective
39 emission control equipment in the used motor vehicle which is known
40 to the dealer. This amendment provides that failure by a dealer to
41 make such disclosures to a consumer in a sale at auction is not an
42 unlawful practice.