

SALES AND EXCHANGE

CHAPTER 473

SENATE BILL NO. 2415

(Senators W. Stenehjem, Tennesos)
(Representatives Gorman, Mahoney)

LEASED MOTOR VEHICLE REFUNDS

AN ACT to create and enact a new section to chapter 51-07 of the North Dakota Century Code, relating to refunds on leased vehicles; and to amend and reenact section 51-07-16, subsection 1 of section 51-07-18, subsection 1 of section 51-07-19, and section 51-07-22 of the North Dakota Century Code, relating to repair, replacement, sale, and lease of returned passenger motor vehicles.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 51-07-16 of the North Dakota Century Code is amended and reenacted as follows:

51-07-16. Definitions. As used in sections 51-07-16 through 51-07-22, and unless the context ~~or subject matter~~ otherwise requires:

1. "Consumer" means the purchaser or lessee, other than for purposes of resale or lease, of a passenger motor vehicle normally used for personal, family, or household purposes. ~~"Consumer"~~ The term includes any person to whom the passenger motor vehicle is transferred for the same purposes during the duration of an express warranty applicable to that passenger motor vehicle, and any other person entitled by the terms of the warranty to enforce the obligations of the warranty.
2. "Passenger motor vehicle" means a passenger motor vehicle as defined in section 39-01-01 or a truck with registered gross weight of ten thousand pounds [4536 kilograms] or less which is sold or leased in this state. ~~"Passenger motor vehicle"~~ The term does not include a house car, as defined in section 39-01-01.

²³⁰ **SECTION 2. AMENDMENT.** Subsection 1 of section 51-07-18 of the North Dakota Century Code is amended and reenacted as follows:

1. If the manufacturer, its agent, or its authorized dealer is unable to make the passenger motor vehicle conform to any applicable express warranty by repairing or correcting any defect or condition that substantially impairs the use and market value of the passenger motor vehicle, after a

²³⁰ Section 51-07-18 was also amended by section 1 of House Bill No. 1285, chapter 474.

reasonable number of attempts, the manufacturer shall replace that passenger motor vehicle with a comparable passenger motor vehicle or accept return of the passenger motor vehicle from the consumer, and refund to the consumer the full purchase price, including all collateral charges, less a reasonable allowance for the consumer's use of the vehicle. Refunds must be made to the consumer, the lessor, and the lienholder, if any, as their interests may appear. A reasonable allowance for use is the amount directly attributable to use by the consumer before the consumer's first report of the nonconformity to the manufacturer, agent, or dealer, and during any subsequent period when the vehicle is not out of service for repair.

SECTION 3. A new section to chapter 51-07 of the North Dakota Century Code is created and enacted as follows:

Refunds for leased passenger motor vehicles. In any case in which a refund is tendered by a manufacturer for a leased motor vehicle under section 51-07-18, the refund and rights of the motor vehicle lessor, lessee, and manufacturer are as follows:

1. The manufacturer shall provide to the lessee the sum of all payments previously paid to the motor vehicle lessor by the lessee less a reasonable allowance for the consumer's use of the vehicle. Payments include all cash payments, security deposits, and trade-in allowance, if any, tendered by the lessee to the motor vehicle lessor under the lease agreement.
2. The manufacturer shall provide to the motor vehicle lessor the sum of the following:
 - a. The lessor's actual purchase cost, less payments made by the lessee;
 - b. The freight cost, if applicable;
 - c. The cost for dealer or manufacturer installed accessories, if applicable; and
 - d. An amount equal to five percent of the lessor's actual purchase cost as provided in subdivision a. The amount in this subdivision is in lieu of any early termination costs or penalties described in the lease agreement.
3. Upon return of the passenger motor vehicle, the consumer's lease agreement with the lessor is terminated and no penalty for early termination may be assessed.
4. Any refund to be paid to the motor vehicle lessor must be made to the lessor and lienholder, if any, as their interests may appear.

SECTION 4. AMENDMENT. Subsection 1 of section 51-07-19 of the North Dakota Century Code is amended and reenacted as follows:

1. It is presumed that a reasonable number of attempts have been undertaken to make a passenger motor vehicle conform to the applicable express warranties, if:

- a. The same nonconformity has continued to exist, despite having been subject to repair more than three times by the manufacturer, its agent, or its authorized dealer, within the express warranty term or within one year of the date of original delivery of the passenger motor vehicle to a consumer, whichever is the earlier date.
- b. The passenger motor vehicle is out of service for repair for a cumulative total of at least thirty business days during the warranty term or in a year, whichever is less.

SECTION 5. AMENDMENT. Section 51-07-22 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

51-07-22. Resale of returned passenger motor vehicles - Penalty.

1. A person may not sell or lease in this state a passenger motor vehicle that was returned to the manufacturer in accordance with sections 51-07-16 through 51-07-22, unless the manufacturer provides:
 - a. The same express warranty it provided to the original purchaser, except the term of the warranty must be for at least twelve thousand miles or twelve months after the date of resale, whichever is earlier; and
 - b. The purchaser a statement on a separate document that must be signed by the manufacturer and the purchaser and must be in ten point, capitalized type, in substantially the following form:
"IMPORTANT: THIS VEHICLE WAS RETURNED TO THE MANUFACTURER BECAUSE DEFECTS COVERED BY THE MANUFACTURER'S EXPRESSED WARRANTY WERE NOT REPAIRED WITHIN A REASONABLE TIME AS PROVIDED BY NORTH DAKOTA LAW".
2. A person may not ship or deliver for resale or lease in another state a passenger motor vehicle returned to the manufacturer in accordance with sections 51-07-16 through 51-07-22 unless full disclosure of the reasons for return is made to any prospective buyer.
3. Violation of this section is a class B misdemeanor.

Approved March 15, 1995

Filed March 15, 1995

CHAPTER 474**HOUSE BILL NO. 1285**
(Representatives Kelsch, Stenehjem)**DEFECTIVE MOTOR VEHICLE REFUNDS**

AN ACT to amend and reenact subsection 1 of section 51-07-18 of the North Dakota Century Code, relating to refunds for defective passenger motor vehicles.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²³¹ **SECTION 1. AMENDMENT.** Subsection 1 of section 51-07-18 of the North Dakota Century Code is amended and reenacted as follows:

1. If the manufacturer, its agent, or its authorized dealer is unable to make the passenger motor vehicle conform to any applicable express warranty by repairing or correcting any defect or condition that substantially impairs the use and market value of the passenger motor vehicle, after a reasonable number of attempts, the manufacturer shall replace that passenger motor vehicle with a comparable passenger motor vehicle or accept return of the passenger motor vehicle from the consumer, and refund to the consumer the full purchase price, including all collateral charges, less a reasonable allowance for the consumer's use of the vehicle not exceeding ten cents per mile [1.61 kilometers] driven or ten percent of the purchase price, whichever is less. Refunds must be made to the consumer, and lienholder, if any, as their interests may appear. A reasonable allowance for use is the amount directly attributable to use by the consumer before the consumer's first report of the nonconformity to the manufacturer, agent, or dealer, and during any subsequent period when the vehicle is not out of service for repair.

Approved March 7, 1995
Filed March 7, 1995

²³¹ Section 51-07-18 was also amended by section 2 of Senate Bill No. 2415, chapter 473.

CHAPTER 475**HOUSE BILL NO. 1315**
(Representatives Gorman, Koppelman)**ADVERTISING REPRESENTATIONS OF VALUE**

AN ACT to amend and reenact section 51-12-09 of the North Dakota Century Code, relating to representation as to worth or value as false advertising.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 51-12-09 of the North Dakota Century Code is amended and reenacted as follows:

51-12-09. Representation as to worth or value. For the purpose of sections 51-12-08 through 51-12-14 the worth or value of any thing advertised is the prevailing market price, wholesale if the offer is at wholesale, retail if the offer is at retail, at the time of publication of ~~such~~ the advertisement in the locality wherein the advertisement is published.

No price may be advertised as a former price of any advertised thing unless the alleged former price was the prevailing market price as above defined within three months next immediately preceding the publication of the advertisement or unless the date when the alleged former price did prevail is clearly, exactly, and conspicuously stated in the advertisement.

This section does not apply to any publisher, owner, or employee of a newspaper, magazine, broadcasting or cable station, advertising device, or other publication by any means of communication, who publishes an advertisement in good faith, without knowledge of its false, deceptive, or misleading character; nor to any owner, manager, or employee of an advertising agency or a printer that prepares, places, or prints an advertisement in good faith, without knowledge of its false, deceptive, or misleading character; nor to any employee of the person who offers the advertised thing if that employee in good faith relied on the statements of the person and did not have knowledge that the statements were false, deceptive, or misleading.

Approved March 24, 1995

Filed March 27, 1995

CHAPTER 476**HOUSE BILL NO. 1220**

(Representative Keiser)

(Senator Krebsbach)

CREDIT SERVICE CHARGE LIMITATIONS

AN ACT to amend and reenact section 51-14-03 of the North Dakota Century Code, relating to the limitation on credit service charges.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 51-14-03 of the North Dakota Century Code is amended and reenacted as follows:

51-14-03. Limitation of credit service charge. A seller may, in a revolving charge agreement, contract for and, if so contracted for, the seller or holder thereof may charge, receive, and collect the service charge authorized by this section. The service charge may not exceed ~~one and one-half percent per month~~ the amount agreed to by the parties computed on the outstanding indebtedness from month to month. In the event any payment by a buyer is insufficient to pay both the credit service charge and that portion of the outstanding indebtedness then due, such payments must first be applied to the credit service charge then due.

Approved March 31, 1995
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