

[First Reprint]
ASSEMBLY, No. 2274

STATE OF NEW JERSEY

INTRODUCED JULY 18, 1996

By Assemblymen PASCRELL and IMPREVEDUTO

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

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

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

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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
18 a 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

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly ACP committee amendments adopted December 16, 1996.

1 shafts, supports and U-joints, axle shafts and bearings, seals and
2 gaskets.

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

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

12 "Director" means the Director of the Division of Consumer Affairs
13 in the Department of Law and Public Safety.

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

16 "Material defect" means a malfunction of a used motor vehicle,
17 subject to a warranty, which substantially impairs its use, value or
18 safety.

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

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

27 "Used motor vehicle" means a passenger motor vehicle, excluding
28 motorcycles, motor homes and off-road vehicles, title to, or possession
29 of which has been transferred from the person who first acquired it
30 from the manufacturer or dealer, and so used as to become what is
31 commonly known as "secondhand," within the ordinary meaning
32 thereof. "Used motor vehicle" shall not include a used motor vehicle
33 that: is sold without any warranty, service contract, or repair
34 insurance; is sold "as is;" and has been declared a total loss by an
35 insurance company or by a person holding a certificate of self-
36 insurance pursuant to section 30 of P.L.1952, c.173 (C.39:6-52).

37 "Warranty" means any undertaking, in writing and in connection
38 with the sale by a dealer of a used motor vehicle, to refund, repair,
39 replace, maintain or take other action with respect to the used motor
40 vehicle, and which is provided at no extra charge beyond the price of
41 the used motor vehicle.¹

42 (cf: P.L.1995, c.373, s.1)

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44 ¹[1.] 2.¹ Section 2 of P.L.1995, c.373 (C.56:8-68) is amended to
45 read as follows:

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

- 1 a. To misrepresent the mechanical condition of a used motor
2 vehicle;
- 3 b. To fail to disclose, prior to sale, any material defect in the
4 mechanical condition of the used motor vehicle which is known to the
5 dealer;
- 6 c. To represent that a used motor vehicle, or any component
7 thereof, is free from material defects in mechanical condition at the
8 time of sale, unless the dealer has a reasonable basis for this
9 representation at the time it is made;
- 10 d. To fail to disclose, prior to sale, the existence and terms of any
11 written warranty, service contract or repair insurance currently in
12 effect on a used motor vehicle provided by a person other than the
13 dealer, and subject to transfer to a consumer, if known to the dealer;
- 14 e. To misrepresent the terms of any written warranty, service
15 contract or repair insurance currently in effect on a used motor vehicle
16 provided by a person other than the dealer, and subject to transfer to
17 a consumer;
- 18 f. To fail to disclose, prior to sale, the existence and terms of any
19 written warranty, service contract or repair insurance offered by the
20 dealer in connection with the sale of a used motor vehicle;
- 21 g. To misrepresent the terms of any warranty, service contract or
22 repair insurance offered by the dealer in connection with the sale of a
23 used motor vehicle;
- 24 h. To represent, prior to sale, that a used motor vehicle is sold
25 with a warranty, service contract or repair insurance when the vehicle
26 is sold without any warranty, service contract or repair insurance;
- 27 i. To fail to disclose, prior to sale, that a used motor vehicle is
28 sold without any warranty, service contract, or repair insurance; [and]
- 29 j. To fail to provide a clear written explanation, prior to sale, of
30 what is meant by the term "as is," if the used motor vehicle is sold "as
31 is" ; and
- 32 k. To fail to disclose, prior to sale: (1) any missing emission
33 control equipment in the used motor vehicle; or (2) any defective
34 emission control equipment in the used motor vehicle which is known
35 to the dealer.
36 (cf: P.L.1995, c.373, s.2)

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38 ¹[2.] 3.¹ This act shall take effect on the 60th day following
39 enactment.

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44 Requires a dealer to disclose missing or defective emission control
45 equipment in a used motor vehicle and exempts certain motor vehicles
46 from regulation.