SENATE BILL NO. 2567

AN ACT TO CODIFY SECTION 63-21-40, MISSISSIPPI CODE OF 1972, TO PROHIBIT TRANSFER WITHOUT NOTICE OF ANY VEHICLE RETURNED UNDER THE LEMON LAWS; TO CODIFY SECTION 75-24-29, MISSISSIPPI CODE OF 1972, TO REQUIRE NOTICE THEREOF TO ALL FUTURE TRANSFEREES; TO AMEND SECTIONS 63-17-159 AND 63-21-71, MISSISSIPPI CODE OF 1972, IN CONFORMITY; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. The following provision shall be codified as Section 63-21-40, Mississippi Code of 1972:

63-21-40. In every sale or transfer of a motor vehicle returned to the manufacturer or its agent under the provisions of Section 63-17-151 et seq., a similar statute of another state, or as the result of a legal action or an informal dispute settlement procedure, the certificate of title to the motor vehicle shall thereafter indicate conspicuously the following information:

LEMON LAW BUY-BACK. The notice required by this section shall continue to appear on each certificate of title issued as a result of any subsequent sale or transfer of that motor vehicle.

SECTION 2. The following provision shall be codified as Section 75-24-29, Mississippi Code of 1972:

75-24-29. Every transferor of a vehicle subject to the requirements of the Motor Vehicle Warranty Enforcement Law, being Section 63-17-151 et seq., a similar statute of another state, or as the result of a legal action or an informal dispute settlement procedure who has received notice of the vehicle's nonconformity to its warranty, shall deliver the notice with the vehicle to the next transferee, purchaser or lessee or else may be required to repurchase the vehicle at the full purchase price plus all fees,
taxes and costs incurred for goods and services which were included in the subsequent transaction.

SECTION 3. Section 63-17-159, Mississippi Code of 1972, is amended as follows:

63-17-159. (1) If the manufacturer or its agent cannot conform the motor vehicle to any applicable express warranty by repairing or correcting any default or condition which impairs the use, market value, or safety of the motor vehicle to the consumer after a reasonable number of attempts, the manufacturer shall give the consumer the option of having the manufacturer either replace the motor vehicle with a comparable motor vehicle acceptable to the consumer, or take title of the vehicle from the consumer and refund to the consumer the full purchase price, including all reasonably incurred collateral charges, less a reasonable allowance for the consumer's use of the vehicle. The subtraction of a reasonable allowance for use shall apply when either a replacement or refund of the motor vehicle occurs. A reasonable allowance for use shall be that sum of money arrived at by multiplying the number of miles the motor vehicle has been driven by the consumer by Twenty Cents (20¢) per mile. Refunds shall be made to the consumer and lienholder of record, if any, as their interests may appear.

(2) It shall be an affirmative defense to any claim under Section 63-17-151 et seq. that:

(a) An alleged nonconformity does not impair the use, market value or safety of the motor vehicle;

(b) A nonconformity is the result of abuse, neglect or unauthorized modifications or alterations of a motor vehicle by a consumer;

(c) A claim by a consumer was not filed in good faith;

or

(d) Any other affirmative defense allowed by law.
(3) It shall be presumed that a reasonable number of attempts have been undertaken to conform a motor vehicle to the applicable express warranties if within the terms, conditions or limitations of the express warranty, or during the period of one (1) year following the date of original delivery of the motor vehicle to a consumer, whichever expires earlier, either:

(a) Substantially the same nonconformity has been subject to repair three (3) or more times by the manufacturer or its agent and such nonconformity continues to exist; or

(b) The vehicle is out of service by reason of repair of the nonconformity by the manufacturer or its agent for a cumulative total of fifteen (15) or more working days, exclusive of downtime for routine maintenance as prescribed by the owner's manual, since the delivery of the vehicle to the consumer. The fifteen-day period may be extended by any period of time during which repair services are not available to the consumer because of conditions beyond the control of the manufacturer or its agent.

(4) The terms, conditions or limitations of the express warranty, or the period of one (1) year following the date of original delivery of the motor vehicle to a consumer, whichever expires earlier, may be extended if the motor vehicle warranty problem has been reported but has not been repaired by the manufacturer or its agent by the expiration of the applicable time period.

(5) The manufacturer shall provide a list of the manufacturer's zone or regional service office addresses in the owner's manual provided with the motor vehicle. It shall be the responsibility of the consumer or his representative, prior to availing himself of the provisions of this section, to give written notification to the manufacturer of the need for the repair of the nonconformity, in order to allow the manufacturer an opportunity to cure the alleged defect. The manufacturer shall immediately notify the consumer of a reasonably accessible repair.
facility to conform the vehicle to the express warranty. After
delivery of the vehicle to the designated repair facility by the
consumer, the manufacturer shall have ten (10) working days to
conform the motor vehicle to the express warranty. Upon
notification from the consumer that the vehicle has not been
conformed to the express warranty, the manufacturer shall inform
the consumer if an informal dispute settlement procedure has been
established by the manufacturer in accordance with Section
63-17-163, and provide the consumer with a copy of the provisions
of Section 63-17-151 et seq. However, if prior notice by the
manufacturer of an informal dispute settlement procedure has been
given, no further notice is required. If the manufacturer fails
to notify the consumer of the availability of this informal
dispute settlement procedure, the requirements of Section
63-17-163 shall not apply.

(6) Any action brought under Section 63-17-151 et seq.
shall be commenced within one (1) year following expiration of the
terms, conditions or limitations of the express warranty, or
within eighteen (18) months following the date of original
delivery of the motor vehicle to a consumer, whichever is earlier,
or, if a consumer resorts to an informal dispute settlement
procedure as provided in Section 63-17-151 et seq., within ninety
(90) days following the final action of the panel.

(7) If a consumer finally prevails in any action brought
under Section 63-17-151 et seq., the court may allow him 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 plaintiff for or in connection with the
commencement and prosecution of such action.

(8) (a) In every sale or transfer of a motor vehicle
returned to the manufacturer or its agent under the provisions of
Section 63-17-151 et seq., a similar statute of another state, or
as the result of a legal action or an informal dispute settlement procedure, the manufacturer or its agent must disclose in writing to a subsequent purchaser the fact that the motor vehicle was returned and the nature of the nonconformity to the vehicle warranty, and the title to that vehicle shall conform to the requirements of Section 1 of Senate Bill No. 2567, 2001 Regular Session.

(b) Any person who transfers or attempts to transfer a motor vehicle in violation of this subsection (8) or who fails to deliver to the buyer the written notice required by this paragraph shall be subject to a fine of not more than Seven Thousand Five Hundred Dollars ($7,500.00) for each violation.

(c) Any subsequent transferor of a vehicle subject to the requirements of this section who has received the required notice shall deliver the notice with the vehicle to the next transferee, purchaser or lessee or else may be required to repurchase the vehicle at the full purchase price plus all fees, taxes and costs incurred for goods and services which were included in the subsequent transaction.

SECTION 4. Section 63-21-71, Mississippi Code of 1972, is amended as follows: 63-21-71. Except as otherwise provided in this chapter, it is a misdemeanor for any person to violate any of the provisions of this chapter unless such violation is by the law of this state declared to be a felony.

Every person convicted of a misdemeanor for the violation of any of the provisions of this chapter shall be punished by a fine of not more than Five Hundred Dollars ($500.00), or by imprisonment for not more than six (6) months, or by both such fine and imprisonment.

SECTION 5. This act shall take effect and be in force from and after July 1, 2001.