



General Assembly

January Session, 2007

Amendment

LCO No. 8560

SB0073908560SD0

Offered by:
SEN. DEFRONZO, 6th Dist.

To: Senate Bill No. 739

File No. 217

Cal. No. 264

"AN ACT CONCERNING REPAIRS TO MOTOR VEHICLES."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. Section 42-181 of the general statutes is repealed and the
4 following is substituted in lieu thereof (*Effective October 1, 2007*):

5 (a) The Department of Consumer Protection, shall provide an
6 independent arbitration procedure for the settlement of disputes
7 between consumers and manufacturers of motor vehicles which do not
8 conform to all applicable warranties under the terms of section 42-179.
9 The [commissioner shall establish one or more automobile dispute
10 settlement panels which shall consist of three members appointed by
11 the Commissioner of Consumer Protection, only one of whom may be
12 directly] Commissioner of Consumer Protection shall appoint as
13 arbitrators individuals who shall not be employees or independent
14 contractors with any business involved in the manufacture,
15 distribution, sale or service of any [product. Members shall be persons

16 interested in consumer disputes] motor vehicle. The arbitrator shall be
17 a member of an arbitration organization and shall serve [without] with
18 compensation. [for terms of two years at the discretion of the
19 commissioner. In lieu of referring an arbitration dispute to a panel
20 established under the provisions of this section, the] The Department
21 of Consumer Protection may refer an arbitration dispute to the
22 American Arbitration Association or other arbitration organization in
23 accordance with regulations adopted in accordance with the
24 provisions of chapter 54, provided such organization and any
25 arbitrators appointed by such organization to hear cases shall not be
26 affiliated with any motor vehicle manufacturer, distributor, dealer or
27 repairer. Such arbitration organizations shall comply with the
28 provisions of subsections (b) and (c) of this section.

29 (b) If any motor vehicle purchased at any time on or after October 1,
30 1984, or leased at any time on or after June 17, 1987, fails to conform to
31 such applicable warranties as defined in said section 42-179, a
32 consumer may bring a grievance to an [arbitration panel] arbitrator if
33 the manufacturer of the vehicle has not established an informal dispute
34 settlement procedure which the Attorney General has certified as
35 complying in all respects with the requirements of said section 42-179.
36 The consumer may initiate a request for arbitration by calling a toll-
37 free telephone number designated by the commissioner or by
38 requesting an arbitration hearing in writing. The consumer shall file,
39 on forms prescribed by the commissioner, any information deemed
40 relevant to the resolution of the dispute and shall return the form
41 accompanied by a filing fee of fifty dollars. [Such complaint form shall
42 offer the consumer a choice of presenting any subsequent testimony
43 orally or in writing.] Prior to submitting the complaint to an
44 [arbitration panel] arbitrator, the Department of Consumer Protection
45 shall conduct an initial review of the complaint. The department shall
46 determine whether the complaint should be accepted or rejected for
47 arbitration based on whether it alleges that the manufacturer has failed
48 to comply with section 42-179. The filing fee shall be refunded if the
49 department determines that a complaint does not allege a violation of

50 any applicable warranty under the requirements of said section 42-179.
51 Upon acceptance of the complaint, the commissioner shall notify the
52 manufacturer of the filing of a request for arbitration and shall obtain
53 from the manufacturer, in writing on a form prescribed by the
54 commissioner, any information deemed relevant to the resolution of
55 the dispute. The manufacturer shall return the form within fifteen days
56 of receipt, together with a filing fee of two hundred fifty dollars. Upon
57 written agreement of the parties, the case may be presented to the
58 arbitrator solely based on the written documents submitted by such
59 parties. A lessee who brings a grievance to an [arbitration panel]
60 arbitrator under this section shall, upon filing the complaint form
61 provided for in this section, provide the lessor with notice by
62 registered or certified mail, return receipt requested, and the lessor
63 may petition the [arbitration panel] arbitrator to be made a party to the
64 arbitration proceedings. Initial determinations to reject a complaint for
65 arbitration shall be submitted to an [arbitration panel] arbitrator for a
66 final decision upon receipt of a written request from the consumer for
67 a review of the initial eligibility determination and a filing fee of fifty
68 dollars. If a complaint is accepted for arbitration, an [arbitration panel]
69 arbitrator may determine that a complaint does not allege that the
70 manufacturer has failed to comply with section 42-179 at any time
71 before such [panel] arbitrator renders its decision on the merits of the
72 dispute. The fee accompanying the consumer's complaint form shall be
73 refunded to the consumer and the fee accompanying the form filed by
74 the manufacturer shall be refunded to the manufacturer if the
75 [arbitration panel] arbitrator determines that a complaint does not
76 allege a violation of the provisions of section 42-179.

77 (c) The Department of Consumer Protection shall investigate, gather
78 and organize all information necessary for a fair and timely decision in
79 each dispute. The commissioner may issue subpoenas on behalf of any
80 [arbitration panel] arbitrator to compel the attendance of witnesses and
81 the production of documents, papers and records relevant to the
82 dispute. The department shall forward a copy of all written testimony,
83 including all documentary evidence, to an independent technical

84 expert certified by the National Institute of Automotive Service
85 Excellence or having a degree or other credentials from a nationally
86 recognized organization or institution attesting to automotive
87 expertise, who shall review such material and be available to advise
88 and consult with the [arbitration panel] arbitrator. An expert shall sit
89 as a nonvoting member of an arbitration panel whenever oral
90 testimony is presented. Such experts may be recommended by the
91 Commissioner of Motor Vehicles at the request of the Commissioner of
92 Consumer Protection. An [arbitration panel] arbitrator shall, as
93 expeditiously as possible, but not later than sixty days after the time
94 the consumer files the complaint form together with the filing fee,
95 render a fair decision based on the information gathered and disclose
96 [its] his or her findings and the reasons therefor to the parties involved.
97 The failure of the [arbitrators] arbitrator to render a decision within
98 sixty days shall not void any subsequent decision or otherwise limit
99 the powers of the [arbitrators] arbitrator. The [arbitration panel]
100 arbitrator shall base [its] his or her determination of liability solely on
101 whether the manufacturer has failed to comply with section 42-179.
102 The arbitration decision shall be final and binding as to the rights of
103 the parties pursuant to section 42-179, subject only to judicial review as
104 set forth in this subsection. The decision shall provide appropriate
105 remedies, including, but not limited to one or more of the following:

106 (1) Replacement of the vehicle with an identical or comparable new
107 vehicle acceptable to the consumer;

108 (2) Refund of the full contract price, plus collateral charges as
109 specified in subsection (d) of said section 42-179;

110 (3) Reimbursement for expenses and compensation for incidental
111 damages as specified in subsection (d) of said section 42-179;

112 (4) Any other remedies available under the applicable warranties,
113 section 42-179, this section and sections 42-182 to 42-184, inclusive, or
114 the Magnuson-Moss Warranty-Federal Trade Commission
115 Improvement Act, 88 Stat. 2183 (1975), 15 USC 2301 et seq., as in effect

116 on October 1, 1982, other than repair of the vehicle. The decision shall
117 specify a date for performance and completion of all awarded
118 remedies. Notwithstanding any provision of the general statutes or
119 any regulation to the contrary, the Department of Consumer Protection
120 shall not amend, reverse, rescind or revoke any decision or action of an
121 [arbitration panel] arbitrator. The department shall contact the
122 consumer, within ten working days after the date for performance, to
123 determine whether performance has occurred. The manufacturer shall
124 act in good faith in abiding by any arbitration decision. In addition,
125 either party to the arbitration may make application to the superior
126 court for the judicial district in which one of the parties resides or,
127 when the court is not in session, any judge thereof for an order
128 confirming, vacating, modifying or correcting any award, in
129 accordance with the provisions of this section and sections 52-417, 52-
130 418, 52-419 and 52-420. Upon filing such application the moving party
131 shall mail a copy of the application to the Attorney General and, upon
132 entry of any judgment or decree, shall mail a copy of such judgment or
133 decree to the Attorney General. A review of such application shall be
134 confined to the record of the proceedings before the [arbitration panel]
135 arbitrator. The court shall conduct a de novo review of the questions of
136 law raised in the application. In addition to the grounds set forth in
137 sections 52-418 and 52-419, the court shall consider questions of fact
138 raised in the application. In reviewing questions of fact, the court shall
139 uphold the award unless it determines that the factual findings of the
140 [arbitrators] arbitrator are not supported by substantial evidence in the
141 record and that the substantial rights of the moving party have been
142 prejudiced. If the [arbitrators fail] arbitrator fails to state findings or
143 reasons for the award, or the stated findings or reasons are inadequate,
144 the court shall search the record to determine whether a basis exists to
145 uphold the award. If it is determined by the court that the
146 manufacturer has acted without good cause in bringing an appeal of
147 an award, the court, in its discretion, may grant to the consumer his
148 costs and reasonable attorney's fees. If the manufacturer fails to
149 perform all awarded remedies by the date for performance specified
150 by the [arbitrators] arbitrator, and the enforcement of the award has

151 not been stayed pursuant to subsection (c) of section 52-420, then each
152 additional day the manufacturer wilfully fails to comply shall be
153 deemed a separate violation for purposes of section 42-184.

154 (d) The department shall maintain such records of each dispute as
155 the commissioner may require, including an index of disputes by
156 brand name and model. The department shall annually compile and
157 maintain statistics indicating the record of manufacturer compliance
158 with arbitration decisions and the number of refunds or replacements
159 awarded. A copy of the statistical summary shall be filed with the
160 Commissioner of Motor Vehicles and shall be considered [by him] a
161 factor in determining the issuance of any manufacturer license as
162 required under section 14-67a. The summary shall be a public record.

163 (e) If a manufacturer has not established an informal dispute
164 settlement procedure certified by the Attorney General as complying
165 with the requirements of said section 42-179, public notice of the
166 availability of the department's automobile dispute settlement
167 procedure shall be prominently posted in the place of business of each
168 new car dealer licensed by the Department of Motor Vehicles to
169 engage in the sale of such manufacturer's new motor vehicles. Display
170 of such public notice shall be a condition of licensure under sections
171 14-52 and 14-64. The Commissioner of Consumer Protection shall
172 determine the size, type face, form and wording of the sign required
173 by this section, which shall include the toll-free telephone number and
174 the address to which requests for the department's arbitration services
175 may be sent.

176 (f) Any consumer injured by the operation of any procedure which
177 does not conform with procedures established by a manufacturer
178 pursuant to subsection (b) of section 42-182 and the provisions of Title
179 16 Code of Federal Regulations Part 703, as in effect on October 1, 1982,
180 may appeal any decision rendered as the result of such a procedure by
181 requesting arbitration de novo of the dispute by an [arbitration panel]
182 arbitrator. Filing procedures and fees for appeals shall be the same as
183 those required in subsection (b) of this section. The findings of the

184 manufacturer's informal dispute settlement procedure may be
185 admissible in evidence at such arbitration [panel hearing] and in any
186 civil action subsequently arising out of any warranty obligation or
187 matter related to the dispute. Any consumer so injured may, in
188 addition, request the Attorney General to investigate the
189 manufacturer's procedure to determine whether its certification shall
190 be suspended or revoked after proper notice and hearing. The
191 Attorney General shall establish procedures for processing such
192 consumer complaints and maintain a record of the disposition of such
193 complaints, which record shall be included in the annual report
194 prepared in accordance with the provisions of subsection (a) of section
195 42-182.

196 (g) The Commissioner of Consumer Protection shall adopt
197 regulations, in accordance with the provisions of chapter 54, to carry
198 out the purposes of this section. Written copies of the regulations and
199 appropriate arbitration hearing procedures shall be provided to any
200 person upon request."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2007</i>	42-181