

Government of the Virgin Islands

Department of Licensing &
Consumer Affairs



“Virgin Islands Lemon Law”

TITLE TWELVE A Consumer Code
Chapter 2. Consumer Protection Law of 1973
Subchapter V. Motor Vehicle Trade Practices

Foreword

The Motor Vehicle Trade Practices Law of the Virgin Islands, commonly known as the “Lemon Law” came into being as a result of the clamor of consumers for legislation that would effectively afford them redress when aggrieved by unscrupulous car dealers.

The “Lemon Law” is a hallmark legislation for the consumers of this territory. Enforcement has been statutorily assigned to the Department of Licensing and Consumer Affairs.

This booklet was printed in an effort to inform consumers and businesses of the law in its entirety, We encourage both groups to become familiar with its terms and provisions for their protection and benefit.

Remember, the Department of Licensing and Consumer Affairs is here to educate and protect you!

Commissioner, DLCA



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TITLE TWELVE A Consumer Code
Chapter 2. Consumer Protection Law of 1973
Subchapter V. Motor Vehicle Trade Practices

§ 180. Definitions

As used in this subchapter, unless the context clearly indicates otherwise:

(a) "Authorized distributor" means every person who is engaged in the wholesale or retail sale or distribution of motor vehicles by concession or agreement with the manufacturer; for purposes of this chapter the term "distributor" includes a "manufacturer".

(b) "Commissioner" means the Commissioner of the Department of Licensing and Consumer Affairs of the Virgin Islands of the United States.

(c) "Comparable motor vehicle" means a new motor vehicle which is identical or reasonably equivalent to the motor vehicle to be replaced.

(d) "Consumer" or "customer" means any person:

(1) who purchases, other than for resale, a motor vehicle for personal, family, or household use;

(2) to whom a motor vehicle is transferred for personal, family, or household use during the term of the express warranty applicable to the motor vehicle; or

(3) any other person entitled by the terms of the express warranty to enforce the obligations of the warranty.

(e) "New car dealer" means any person or business selling or offering motor vehicles for sale which has an express or implied contractual relationship with a manufacturer or distributor, or which holds itself out to the public as having an express or implied contractual relationship with a manufacturer.

In order to operate as a "new car dealer" there must be a permanent licensed place of business with personnel, sales areas,

service areas, and technical equipment appropriate to the needs arising from the responsibilities to the consumer resulting from this chapter.

(f) "Demo or demonstrator" means a motor vehicle, the title of which has not been transferred to a buyer, but which has been driven more than 500 miles by the dealer for demonstration or promotional purposes. Such demonstrator (demo) shall have affixed proper documentation indicating that the vehicle is a demonstrator. The purchaser of such a vehicle shall be entitled to the applicable manufacturer's warranty.

(g) "Express warranty" means any written warranty, of the manufacturer. The term warranty pertains to the obligations of the manufacturer in relation to the use of an automobile for personal, family or household purposes throughout the duration of the warranty period.

(h) "Manufacturer" means any person or business, which is engaged in the manufacture, making, assembly and distribution of motor vehicles, including its subsidiaries and affiliates.

(i) "Manufacturer's representative" means any person who is employed by the manufacturer or any subsidiary or affiliated corporations thereof.

(j) "Motor vehicle" means any self propelled vehicle primarily designed for transportation of persons or property on highways and roads. This does not include vehicles run only upon tracks, off road vehicles, trucks over 10,000 lbs. gross vehicle weight, or the live-in facilities of recreational vehicles.

(k) "New motor vehicle" means a motor vehicle, the equitable or legal title to which has never been transferred by a manufacturer, distributor, or dealer to an ultimate purchaser.

(l) "Nonconformity" means a defect or condition that substantially impairs the use, value, or safety of a new motor vehicle, but does not include a defect or condition which is the result of abuse, neglect, or unauthorized modification or alteration of a new motor vehicle.

(m) "Purchase Price" means the price the consumer paid for his vehicle, including cash and the value of any trade-in.

(n) "Reasonable allowance for use" means that amount directly attributed to use by the consumer at the time of replacement or refund. This amount shall be an amount equal to the depreciation in the value of the motor vehicle for the period during which the motor vehicle is used by the consumer, calculated by the straight line depreciation method over seven years.

(o) "Reasonable number of attempts" means that the dealer has under the express warranty three attempts and the manufacturer one attempt, for a total of four attempts, or 40 cumulative business days out of service, to successfully repair nonconformities.

(p) "Repair shop" means a person or company who, for compensation, offers to the public, and engages in the business of, diagnosing or repairing malfunctions of, or damage to, motor vehicles, or who performs maintenance services on motor vehicles.

(q) "Extended warranty plan" means a contract in writing which becomes effective at the termination of the manufacturer's base warranty period, and which extends warranty coverage, for any period of time or for any specific mileage, to refund, repair, replace, maintain or take other action with respect to a motor vehicle, which contract is provided at an extra charge beyond the price of the motor vehicle.

(r) "Substantial impairment" results when a new or used motor vehicle is rendered unreliable, or unsafe for ordinary use or reasonable intended purposes, arising from the design or manufacture of the vehicle.

(s) "Ultimate purchaser" means, with respect to any new motor vehicle, the first person, other than a dealer, who purchases a new motor vehicle for other than commercial or resale purposes.

(t) "Used car dealer" means any person or business which sells or offers for sale, on a continuing basis, used motor vehicles.

In order to operate as a "used car dealer" there must be a permanent licensed place of business with personnel, sales areas, service areas, and technical equipment appropriate to the

need arising from the responsibilities to the consumer as stated in this chapter, or the person or business operating as a "use car dealer" must have in effect a contractual agreement, satisfactory to the Commissioner, to satisfy the purpose of this section.

This does not include businesses or individuals who sell vehicles that they purchased for their own use which they have used personally or commercially other than in a new or used car business.

(u) "Used motor vehicle" means any motor vehicle which has been previously titled or registered.

(v) "Used motor vehicle warranty" means any written undertaking, in connection with the sale by a dealer of a used motor vehicle, to refund, repair, replace, maintain or take other action with respect to the used motor vehicle.

(w) "Warranty period" or "warranty term" means the period ending one year after the date of the original delivery to the consumer of a new motor vehicle, or the term specified in the "base" warranty offered by the respective manufacturer, whichever is greater.

§ 181. New motor vehicles; manufacturer's express warranties; buy-backs and replacements

(a) New motor vehicles

(1) Each new motor vehicle which is sold in the United States Virgin Islands must conform to all applicable warranties issued by the manufacturer.

(2) If a new motor vehicle sold in the United States Virgin Islands does not conform to all express applicable warranties, and the consumer reports the nonconformity, in writing, to the manufacturer, its distributor, or dealer, during the term of the express warranty, then the manufacturer, its agent, distributor, or dealer shall, in accordance with the terms of the express warranty, make the repairs necessary to conform the motor vehicle to the express warranty at no charge to the consumer, provided that the manufacturer's warranty does not require a charge, and notwithstanding the fact that the repairs may occur after the ex-

piration of the term of the express warranty. If the effort to repair represents or is the third attempt to cure the same nonconformity, and the buyer has notified the manufacturer's authorized agent, distributor, or dealer, then the agent, distributor, or dealer shall forward written notice thereof to the manufacturer.

(3) If a new motor vehicle, not sold in the United States Virgin Islands, does not conform to any applicable express warranty, and the express warranty stipulated that any authorized dealer will make repairs to the vehicle, then no authorized dealer may refuse to make repairs to the vehicle in accordance with the manufacturer's warranty and in accordance with the provisions of paragraph (2) stated above.

(b) The manufacturer's standard warranty applicable in the United States shall apply to all vehicles imported into the United States Virgin Islands.

(c) (1) If the manufacturer, distributor, or dealer is unable to conform any motor vehicle sold in the United States Virgin Islands to any applicable express warranty by repairing or correcting any defect or condition which substantially impairs the use and market value of the motor vehicle to the consumer after a reasonable number of documented attempts, then the manufacturer shall replace the motor vehicle with a comparable motor vehicle. The replacement vehicle will be assigned the license plates and registration of the original vehicle. The records at the Motor Vehicle Bureau shall be changed to show the description of the replacement vehicle. If the consumer chooses reimbursement, then the manufacturer shall accept return of the motor vehicle from the consumer and refund to the consumer the full purchase price, including all trade-in allowances, incidental costs, including interest and less a reasonable allowance for any damage not attributable to normal wear or usage which shall be determined by an appraiser if the parties fail to agree. Taxes resulting from any difference in the price or vehicle weight shall be paid by the consumer or refunded to the consumer at the time of transfer. A reasonable allowance for use shall include that amount directly attributable to the use by the consumer up to the time of replacement or refund. This amount may not exceed an amount equal to the depreciation in value of the motor vehicle for the period during which the motor vehicle is used by the consumer, calculated by a straight line depreciation method over seven years.

(2) Refunds shall be made to the consumer and lienholder, if any, as their interests may appear in the records of the lien held at the office of the Lieutenant Governor. The consumer shall provide the manufacturer/dealer with evidence of clear title or with copies of any security instruments or agreements. In the event of clear title, a refund shall be made to the consumer. In the event of a lien, the refund shall be made jointly to the consumer and the lienholder.

(3) In the alternative, if the consumer chooses replacement, the manufacturer may elect to replace the motor vehicle with a comparably priced motor vehicle, with such adjustments in price as the parties may agree to. An adjustment for reasonable use as defined in section 180, subsection (n), of this chapter, shall be made after the first 90 days. In the event the vehicle to be replaced is subject to a lien, the consumer shall present evidence to the dealer of free and clear title prior to receipt of a replacement or refund. The dealer shall provide the consumer with all documents necessary to facilitate production of free and clear title. It is an affirmative defense to any claim under this section that the nonconformity is the result of abuse, neglect, unauthorized modifications or alteration of the motor vehicle.

(d) (1) It shall be presumed that a reasonable number of documented attempts have been undertaken to conform a motor vehicle to the applicable express warranties, if:

(A) The dealer has, under express warranty, made three attempts and the manufacturer one attempt, for a total of four attempts, to successfully repair nonconformities; or

(B) The motor vehicle is out of service to successfully repair nonconformities for a cumulative total of 40 business days, whichever comes first. It shall be presumed that a nonconformity has been successfully repaired if it does not reoccur within 90 days of its alleged repair or 3,000 miles, whichever occurs first. Any reoccurrence of the same nonconformity after the expiration of the above stated period shall be considered a new conformity.

(2) The term of the express warranty and the 40 day repair period provided for in paragraph (1) of this subsection, shall be extended by any period of time during which repair services are not available to the consumer because of war, invasion, earth-

quake, hurricane, strike, fire, flood or other disaster, which delays repair service. The presumption regarding a reasonable number of attempts provided for in this subsection shall not apply against a manufacturer if the manufacturer, or its agent, distributor, or dealer has been denied a reasonable opportunity to repair the alleged nonconformity.

(e) Nothing in this subchapter shall in any way limit the rights or remedies which are otherwise available to the consumer under any other law.

(f) Any agreement entered into by a consumer for the purchase of a new motor vehicle, which purports to waive, limit, or disclaim the rights set forth in this section shall be void as contrary to public policy. This right shall inure to a subsequent transferee of a new motor vehicle, except where such a transfer of warranty is specifically prohibited by the terms of the express warranty. If a dealer fails to provide a written warranty as required by this section, the dealer shall nevertheless be deemed to have given the warranty as a matter of law.

(g) A court may award to a prevailing consumer, as part of the judgment, a sum equal to the aggregate amount of costs and expenses, including reasonable attorneys' fees, incurred by the consumer in connection with the commencement and prosecution of action.

(h) A court may assess costs, including reasonable attorneys' fees, against a consumer who is deemed to have filed a claim in bad faith, or in the absence of a justifiable issue of fact or law, or for the sole purpose of harassment.

(i) Whenever the repair work must take more than five business days from the written notification of the nonconformity, the manufacturer, or distributor, shall be required to compensate the consumer in an amount sufficient to rent a vehicle until the nonconformity is successfully repaired.

(j) If the car dealer successfully repairs a nonconformity, the repair shall be guaranteed for a period of 90 days or the remainder of the warranty, whichever is greater.

§ 182. Sale of used motor vehicles; warranty

(a) This section does not apply to sales by private individuals or financial institutions pursuant to security agreement. In all cases of sales by a used car dealer, the consumer shall be provided a written statement indicating whether or not the manufacturer's express warranty applies to the used motor vehicle being purchased.

(b) No used car dealer shall sell a used motor vehicle to a consumer without giving the consumer a written warranty which shall, at a minimum, conform to the following terms:

(1) If the used motor vehicle has less than 24,000 miles, the warranty must be, at a minimum, four months or 3,000 miles, whichever comes first;

(2) If the used motor vehicle has more than 24,000 miles, but less than 50,000 miles, the warranty must be, at a minimum, 60 days or 1,500 miles, whichever comes first.

(3) If the motor vehicle has more than 50,000 miles, no warranty shall apply to the sale of the vehicle.

(c) Nothing contained in this section shall prevent or prohibit a used car dealer from granting a warranty, if no warranty is provided for, or from granting a warranty greater than the warranty provided for in this section.

(d) The written warranty shall require the used car dealer, or the dealer's agent, to repair or, at the election of the consumer, reimburse the consumer for the reasonable cost of repairing the failure of a covered part. Covered parts shall, at a minimum, include the following items:

(1) Engine: all lubricated parts, manifold, engine block, cylinder head, rotary engine housings, and flywheel;

(2) Transmission: the transmission case, internal parts, and the torque converter;

(3) Drive axle: shafts, propeller shafts;

(4) Brakes: master cylinder, vacuum assist booster, wheel

cylinder, hydraulic lines and fittings and disc brake calipers;

(5) Radiator;

(6) Steering: the steering gear housing and all internal parts, valve body, piston and rack;

(7) Electrical: alternator, starter, and ignition system, excluding the battery.

(e) The repair or reimbursement shall be made by the used car dealer, notwithstanding the fact that the warranty period has expired, provided, however, the consumer notifies the used car dealer of the failure of a covered part within the specified warranty period.

(f) If the express warranty period provided for in section 181 of this chapter is in effect at the time of the sale of the used motor vehicle, then the warranty specified in this section shall be required only for the remaining period of time, if any, between the expiration of the section 181 express warranty and the period specified in this section.

(g) The written warranty may contain additional language excluding coverage for the following:

(1) A failure of a covered part caused by a lack of customary maintenance;

(2) A failure of a covered part caused by collision, abuse, negligence, theft, vandalism, fire or other casualty;

(3) If the odometer has been stopped or altered such that the vehicle's actual mileage cannot be readily determined or if any covered part has been altered such that a covered part was thereby caused to fail;

(4) Maintenance services and the parts used in connection with such services such as seals, gaskets, oil or grease, unless required in connection with the repair of a covered part;

(5) A motor tune-up;

(6) A failure resulting from racing or other competition;

(7) A failure caused by towing a trailer or another vehicle, unless the used motor vehicle is equipped for this as recommended by the manufacturer;

(8) If the used motor vehicle is used to carry passengers for hire;

(9) If the used motor vehicle is rented to someone else;

(10) The repair of valves and/or rings to correct low compression and/or oil consumption which are considered normal wear, unless failure of valves or low compression occurs within 15 days of purchase;

(11) To the extent otherwise permitted by law, property damage arising out of the failure of a covered part;

(12) To the extent otherwise permitted by law, loss of use of the used motor vehicle, loss of time, inconvenience, commercial loss or consequential damages.

(h) If the used car dealer, or his agent, after receiving written notice of the nonconformity or defect fails to correct a malfunction or defect as required by the warranty specified in this section after a period of time, but not more than 30 days, and such malfunction or defect substantially impairs the value of the used motor vehicle to the consumer, the used car dealer shall accept return of the used motor vehicle from the consumer and refund to the consumer the full purchase price, including taxes, less a reasonable allowance for any modification which either increases or decreases the market value of the motor vehicle. In determining the purchase price to be refunded, the purchase price shall be deemed equal to the sum of the actual cash difference paid for the used motor vehicle plus, if the used car dealer elects not to return any motor vehicle trade-in by the consumer, the wholesale value of any such traded-in motor vehicle as listed in the National Automobile Dealers Association Used Car Guide, or such other guide as may be specified in regulations promulgated by the Commissioner, as adjusted for mileage, improvements, and any other physical or mechanical defects, rather than the value listed in the sales contract.

(i) (1) The contract of sale for the used motor vehicle shall include conspicuous language indicating how the value of any ve-

hicle traded in by the consumer is to be determined if the consumer should become entitled to a refund pursuant to this section, because the dealer elected not to return the trade-in to the consumer. The amount of such refund shall be determined by reference to the National Automobile Dealers Association Used Car Guide wholesale value or such other guide as may be approved by the Commissioner, as adjusted for mileage, improvements and any physical or mechanical defects, rather than the value listed in the sales contract.

(2) Refunds shall be made jointly to the consumer and lienholder, if any, as their interests may appear in the records of the lien held at the office of the Lieutenant Governor. The consumer shall provide the manufacturer/dealer with evidence of clear title or with copies of any security instruments or agreements. In the event of clear title, a refund shall be made to the consumer. In the event of a lien, the refund shall be made jointly to the consumer and lienholder.

(3) In the alternative, the dealer may elect to replace the motor vehicle with a comparably priced motor vehicle, with such adjustments in price as the parties may agree to. An adjustment for reasonable use as defined in section 180, subsection (n), of this chapter, shall be allowed. In the event the vehicle to be replaced is subject to a lien, the consumer shall present evidence to the dealer of free and clear title prior to receipt of a replacement or refund. The dealer shall provide the consumer with all documents necessary to facilitate production of free and clear title for the replacement vehicle.

(j) It shall be an affirmative defense to any claim under this section that the malfunction or defect is the result of abuse, neglect, or unreasonable modifications or alterations of the used motor vehicle.

(k) It shall be presumed that a dealer has had a reasonable opportunity to correct a malfunction or defect in the used motor vehicle if:

(1) The same malfunction or defect has been subject to repair three or more times by the selling dealer or his agent, within the warranty period, but the malfunction or defect continues to exist; or

(2) The motor vehicle is out of service by reason of repair or malfunction or defect for a cumulative total of 30 or more business days during the warranty period.

(l) In the event the used car dealer repairs a nonconformity, the repair must be guaranteed for a period of 30 days or the remainder of the warranty, whichever is greater.

(m) The term of any warranty, the term of the service contract, and the 30 business day out-of-service period, shall be extended by any time during which repair services are not available to the consumer because of war, invasion, earthquake, hurricane, strike, fire, flood or other disaster, or any event which delays repair services.

(n) Any agreement, except when selling through a dealer, entered in by consumers for purchase of a used motor vehicle which waives, limits, or disclaims the rights set forth in this section shall be void as contrary to public policy. If a used car dealer fails to give the written warranty required by this section, the used car dealer shall nevertheless be deemed to have given the warranty as a matter of law.

(o) Nothing in this section shall in any way limit the rights or remedies which are otherwise available under any other law.

(p) This section shall not apply to used motor vehicles with 50,000 miles or more or motor vehicles which are sold for less than \$ 2,300. Such vehicles may be sold "AS-IS". For vehicles sold under this subsection, the dealer shall post a notice, unobstructed and conspicuously on the vehicle to be sold such as the "Buyer's Guide Form" set out in Federal Trade Commission (FTC) Rules 16 CFR 455. This form must be signed by the consumer.

(q) In an action brought to enforce the provisions of this section, the court may award reasonable attorney's fees and costs to a prevailing plaintiff.

(r) Any legal action brought pursuant to this section shall be commenced within two years following the expiration of any express warranty term.

§ 183. Unfair or deceptive trade acts or practices; unfair methods of competition; new or used vehicles

(a) The following shall be considered unfair methods of competition, or unfair or deceptive trade acts and practices, where applicable, as they relate to any motor vehicle manufacturer, distributor, or used or new car dealer:

(1) A manufacturer or dealer failing to honor and accept, where applicable, any manufacturer's express warranty on a new vehicle or dealer warranty on a used motor vehicle or refusing to conform a new motor vehicle to an applicable express warranty;

(2) A dealer representing that a motor vehicle offered for sale can or will be delivered on or about a certain date, or within a specified period, when the dealer knows or should know that the motor vehicle cannot be delivered by the time specified or when the dealer has no information on which to base such a representation;

(3) A dealer failing to refund the full amount of a consumer deposit promptly when:

(A) the consumer cancels the contract prior to its acceptance by an authorized dealer representative;

(B) the contract is conditioned upon the consumer obtaining financing of his choice and the consumer cannot obtain such financing after exerting reasonable efforts to do so;

(C) the dealer does not accept the contract;

(D) the dealer fails to deliver to the consumer a motor vehicle which conforms to the terms of the contract; or

(E) the consumer cancels the contract because the dealer fails to deliver the motor vehicle within the time specified in the contract of sale, unless the delay is caused by acts beyond the control of the dealer and the manufacturer. All contracts shall have a delivery date specified.

(4) A dealer increasing the contract price of a motor vehicle after the contract has been accepted by the dealer or the authorized dealer representative;

(5) A dealer reappraising the value of a trade-in motor vehicle if a firm value is stated in the contract, unless the dealer can establish that the motor vehicle has suffered damage or serious mechanical deterioration since the date of the valuation but prior to its delivery to the dealer, or unless parts or accessories, or both, including tires, have been removed or replaced with parts or accessories of inferior quality;

(6) Where no express warranty is given, a dealer or manufacturer attempting to exclude the implied warranties of merchantability and fitness for a particular purpose in the sale of a motor vehicle purchased primarily for personal, family, or household purposes;

(7) Responsibility for fire, theft or damage to a motor vehicle left in the custody of a dealer or repair shop rests with the dealer or repair shop and no signs to the contrary are permitted;

(8) A manufacturer failing to provide consumers with a warranty comparable to that offered on the U.S. mainland;

(9) A manufacturer failing to provide an alternative service facility for warranty work within 30 days of closure or termination of a dealership or maintenance service center;

(10) A manufacturer failing to properly and promptly reimburse the dealer for bona-fide warranty repairs performed on behalf of the manufacturer;

(11) A dealer failing to provide the Commissioner, upon request, with copies of all applicable warranties for every type and model of automobile being sold in the territory;

(12) A manufacturer failing to provide dealers or distributors in the United States Virgin Islands with manufacturer financing, rebate programs and reimbursement for warranty work similar to those offered on the U.S. mainland;

(13) A manufacturer, dealer, distributor or agent failing to give to the purchaser of any new or used motor vehicle a certificate of warranty, or the FTC "Buyer's Guide" (16 CFR 455), where applicable, at the time of delivery;

(14) A dealer or distributor failing to disclose, in writing attached to any new or used car, the history of the vehicle as known to the dealer, including odometer disclosure and whether the vehicle was the subject of a buy-back;

(15) The manufacturer or dealer removing from the vehicle the price information disclosure sticker adhered thereon as required by Title 11, section 1301 et seq., of the Virgin Islands Code, and Title 15, section 2301 et seq., of the United States Code, before the vehicle has been delivered to the consumer;

(16) The manufacturer or dealer failing to place on each new vehicle for sale in the Territory of the United States Virgin Islands, the vehicle information disclosure sticker as required by Title 11, section 1301 et seq., Virgin Islands Code;

(17) A manufacturer failing to make available all warranty information in Spanish and English when requested;

(18) A dealer failing to provide a sales invoice or order form to the consumer/buyer at the time of purchase, the terms of which shall be binding on both parties;

(19) A manufacturer or dealer selling, as new, a car that is defined by this chapter as a demonstrator, or used car, or a car that has been the subject of a buy-back.

(b) Responsibility for fire, theft or damage to a motor vehicle left in the custody of a dealer or repair shop rests with the dealer or repair shop and no signs to the contrary are permitted.

§ 184. Motor vehicle repair shop practices

The following shall be considered unfair trade practice when operating a motor vehicle repair shop:

(1) A dealer or repair shop representative or agent making direct or indirect statements which to the best of his knowledge are not true or well founded to the effect:

(A) that repairs are necessary or desirable, or that repairs are unnecessary or undesirable, when such a declaration is, to the best of his knowledge not true;

(B) that a motor vehicle is in a dangerous condition or use of such motor vehicle may produce harm to the consumer, or that a motor vehicle is not in a dangerous condition or use of such a motor vehicle will not produce harm to the consumer, when such a declaration is not true, to the best of his knowledge;

(C) that repairs have been performed on a motor vehicle when such a declaration is not, in fact, true.

(2) A dealer, agent, or representative of a motor vehicle shop fails to record the required information in writing on an industry standard repair form, and fails to provide a copy of such record to the consumer prior to commencing repairs on the motor vehicle. The requisite information which the consumer must sign prior to the commencement of the requested repairs shall include, but not be limited to:

(A) the name and address of the consumer and a telephone number, if any, at which the consumer may be reached;

(B) the date the motor vehicle was delivered for repairs;

(C) the year, make, and vehicle identification number of the motor vehicle;

(D) the odometer reading on the motor vehicle;

(E) the specific repairs requested by the consumer or, if there is no specific request, a brief description of the problems the consumer experienced with the motor vehicle;

(F) the estimated labor hours and price per hour for completion of the repairs when practicable; and

(G) the total estimated cost for repairs, when practicable.

(3) If the dealer or repair shop is unable to obtain advance written authorization because the specific repairs or costs are not known when the motor vehicle is delivered for repair, the consumer must be so informed and must be afforded the opportunity to select one of the following options:

(A) no repairs shall be performed until the consumer is notified of the exact nature of the repairs to be performed and the total price to be charged, including parts and labor, and the written authorization of the consumer to perform such repairs is obtained;

(B) if the consumer decides not to have the motor vehicle repair shop repair the vehicle after being informed of the exact nature of the repairs and the total price, the motor vehicle repair shop shall be entitled to a reasonable diagnostic charge, provided the consumer was advised of the amount of that charge prior to commencement of the diagnostic work.

(4) A dealer or motor vehicle repair shop charges a consumer an amount in excess of that stated in a written estimate unless one of the following conditions apply:

(A) repairs may be initiated, but if repairs will exceed by 10% the price agreed to in advance by the consumer, the oral or written authorization of the consumer to proceed further must be obtained; or

(B) the consumer may give oral authorization to amend a previously written authorization, provided the authorization does not exceed \$ 499.99 for the complete repair service.

(5) The dealer or motor vehicle repair shop fails to display in a clear and conspicuous manner on the premises or fails to disclose to a consumer prior to obtaining written authorization for repairs:

(A) the labor costs for the repairs;

(B) that the consumer has the right, upon request, to have any parts which were replaced returned to the consumer at the completion of the service, or to inspect such parts, where possible, if such parts must be returned to the manufacturer or some other person under the terms of the warranty or rebuilding arrangement;

(C) that any part to be supplied is new, used, reconditioned, rebuilt, or genuine parts approved by the automobile manufacturer;

(D) the conditions under which the repair shop may impose daily or hourly storage charges for a motor vehicle and the amount of such charges;

(E) the amount of any charge to a consumer for an estimate or diagnosis; or

(F) the total estimated cost of repairs, when practicable.

(6) The dealer or motor vehicle repair shop fails to complete repairs on a motor vehicle within the time specified by the repair shop or dealer, unless the consumer is informed of a reasonable delay, or when no time for repairs is specified, failing to complete repairs within a reasonable period of time.

(7) The dealer or motor vehicle repair shop fails to guarantee and remedy promptly, at no charge to the consumer, any repair or maintenance service authorized on a standard repair order which was not performed in a skilled and workmanlike manner; provided, however, that the consumer complains or brings the disrepair to the attention of the repair shop within 30 days.

(8) The dealer or motor vehicle repair shop fails to provide at the completion of repair or maintenance work, a dated, written invoice containing the following information:

(A) the name and address of the consumer and repair shop;

(B) the year, make and Vehicle Identification Number of the motor vehicle;

(C) the date the motor vehicle was delivered for service;

(D) an itemized list of the specific repair or maintenance services performed on the motor vehicle;

(E) a list of the parts supplied, by name or number, and except for warranty work, the price charged by the repair shop for such parts, and the total amount charged the consumer for such parts;

(F) if any part not supplied by the manufacturer of the

vehicle was reconditioned, used or rebuilt, it should be so stated on the repair order;

(G) the number of hours and the total amount charged the consumer for labor.

(9) The dealer or motor vehicle repair shop charges a consumer for repairs which have not actually been performed.

(10) The dealer or motor vehicle repair shop refuses to provide a consumer with an exact copy of the completed repair order containing the information as required by this section.

(11) The dealer or motor vehicle repair shop uses a motor vehicle of a consumer for any purposes other than a test drive or pick-up or delivery to the consumer unless the express written authorization of the consumer is obtained in advance.

(12) The dealer or motor vehicle repair shop fails to obtain prior approval of the consumer when used, reconditioned, or rebuilt parts not supplied by the manufacturer are to be used.

(13) When a vehicle enters storage without the consent of the owner (such as after an accident when the car is towed away without instruction from the owner) the dealer, motor vehicle repair shop or other storage facility must contact the owner or owner's agent as soon as possible to advise as to the vehicle's location and the proposed fees and charges. In these circumstances, towing fees or storage charges in excess of \$ 25 shall not accrue against a vehicle until 24 hours after such notification. The burden of proof of notification is upon the storing facility. If the consumer or his agent does not move the vehicle elsewhere within 24 hours of notification, consent to store the vehicle shall be presumed.

§ 185. Enforcement

(a) *Department of Licensing and Consumer Affairs.*

(1) Before bringing a civil action on a matter subject to subchapter V of this chapter, the consumer shall first submit his dispute to the Department of Licensing and Consumer Affairs for review. If a formal administrative hearing is required, the Com-

missioner, or his designee, shall hear the matter and may award the remedies under this chapter if the nonconformity, defect, or condition substantially impairs the use, value, or safety of the motor vehicle and a reasonable number of attempts have been taken to correct the nonconformity, defect, or condition without correction of the problem. All such awards shall be approved by the Commissioner.

(2) All manufacturers of automobiles shall submit to any administrative hearing conducted by the Department of Licensing and Consumer Affairs.

(3) The Commissioner of the Department of Licensing and Consumer Affairs may reject for hearing any dispute that he determines to be without merit, frivolous, fraudulent or beyond his authority. Any dispute deemed by the Commissioner of the Department of Licensing and Consumer Affairs to be ineligible for hearing due to insufficient evidence under the requirements of this chapter may be reconsidered by the Commissioner upon the submission of other information or documents regarding the dispute that would qualify for relief under this chapter, only if there is proof that the evidence could not have been presented at the original hearing. Following a second review, if necessary, the Commissioner may reject the dispute for hearing if evidence is still clearly insufficient to qualify the dispute for relief under this chapter. Any dispute rejected for hearing by the Commissioner shall be sent by certified mail to the consumer and the manufacturer and shall contain a brief explanation as to the reason therefor.

(4) The decision of the Commissioner shall be sent by certified mail to the consumer and the manufacturer and shall contain a written finding of whether the new motor vehicle meets the standards set forth under this chapter. A copy of the consumer's acceptance of the decision shall also be sent by the Commissioner to the manufacturer by certified mail, return receipt requested. The manufacturer shall have 60 calendar days from its receipt of the consumer's acceptance of the decision to comply with the terms of the decision. Compliance shall be deemed to have occurred on the date the consumer either receives the delivery of an acceptable replacement motor vehicle or the refund stipulated in the Administrative Hearing.

(b) Appeal.

If the Commissioner rejects a dispute for hearing or if a dispute is heard and any party rejects the hearing decision, the party may bring an action in court to seek the remedies provided under this chapter. A petition to the Superior Court without jury to appeal a decision shall be made within 30 calendar days of receipt of the Commissioner's decision. In any civil action arising under this chapter and relating to a matter considered by the Commissioner, any determination made to reject a dispute for hearing or any decision rendered by the Commissioner may be admissible evidence. At the time the petition to appeal is filed, the appellant shall send, by certified mail, a copy of such petition to the Commissioner.

Mission Statement

The Department of Licensing and Consumer Affairs has as its mission to issue business and professional licenses; assist, educate and protect consumers and ensure that all businesses and persons comply with the licensing and consumer protection laws of the Virgin Islands of the United States.

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