

S. No. 2211

H. No. 4082

Republic of the Philippines
Congress of the Philippines
Metro Manila

Sixteenth Congress

First Regular Session

Begun and held in Metro Manila, on Monday, the twenty-second day of July, two thousand thirteen.

[REPUBLIC ACT No. 10642]

AN ACT STRENGTHENING CONSUMER PROTECTION
IN THE PURCHASE OF BRAND NEW MOTOR
VEHICLES

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. *Short Title.* — This Act shall be known as the "Philippine Lemon Law".

SEC. 2. *Declaration of Policy.* — It is hereby declared the policy of the State to promote full protection to the rights of consumers in the sale of motor vehicles against business and trade practices which are deceptive, unfair or otherwise inimical to consumers and the public interest.

The State recognizes that a motor vehicle is a major consumer purchase or investment. Hence, the rights of consumers should be clearly defined, including the means for redress for violations thereof.

SEC. 3. *Definition of Terms.* - As used in this Act:

(a) *Brand new motor vehicle* refers to a vehicle constructed entirely from new parts and covered by a manufacturer's express warranty at the time of purchase that it has never been sold or registered with the Department of Transportation and Communications (DOTC) or an appropriate agency or authority, and has never been operated on any highway of the Philippines, or in any foreign state or country;

(b) *Collateral charges* refer to the fees paid to the Land Transportation Office (LTO) for the registration of a brand new motor vehicle and other incidental expenses such as, but not limited to, the cost of insurance pertaining to the vehicle, chattel mortgage fees and interest expenses if applicable;

(c) *Comparable motor vehicle* refers to a motor vehicle that is identical or reasonably equivalent to the motor vehicle to be replaced, in terms of specifications and values, subject to availability, as the motor vehicle existed at the time of purchase: *Provided*, That there shall be an offsetting from this value for reasonable allowance for its use;

(d) *Consumer* refers to any person, natural or juridical, who purchases a brand new motor vehicle either by cash or credit from an authorized distributor, dealer or retailer in the Philippines;

(e) *Dealer or retailer* refers to any person, natural or juridical, authorized by the manufacturer or distributor to sell brand new motor vehicles directly to the retail buyers and the public;

(f) *Distributor* refers to any person, natural or juridical, authorized by the manufacturer to sell brand new motor vehicles to duly authorized dealers or retailers;

(g) *Implementing agency* refers to the Department of Trade and Industry (DTI), reorganized under Title X, Book IV of Executive Order No. 292, series of 1987, otherwise known as the "Administrative Code of 1987";

(h) *Lemon Law rights period* refers to the period ending twelve (12) months after the date of the original delivery of a brand new motor vehicle to a consumer or the first twenty thousand (20,000) kilometers of operation after such delivery, whichever comes first. This shall be the period during which the consumer can report any nonconformity, as defined in paragraph (k) herein, to the standards and specifications of the manufacturer, authorized distributor, authorized dealer or retailer, and pursue any right as provided for under this Act;

(i) *Manufacturer* refers to any person, natural or juridical, engaged in the business of manufacturing or assembling motor vehicles;

(j) *Motor vehicle* refers to any self-propelled, four (4)-wheeled road vehicle designed to carry passengers including, but not limited to, sedans, coupes, station wagons, convertibles, pick-ups, vans, sports utility vehicles (SUVs) and Asian Utility Vehicles (AUVs) but excluding motorcycles, delivery trucks, dump trucks, buses, road rollers, trolley cars, street sweepers, sprinklers, lawn mowers and heavy equipment such as, but not limited to, bulldozers, payloaders, graders, forklifts, amphibian trucks, cranes, and vehicles which run only on rails or tracks, and tractors, trailers and traction engines of all kinds used exclusively for agricultural purposes. Trailers having any number of wheels, when propelled or intended by attachment to a motor vehicle, shall be classified as separate motor vehicle with no power rating;

(k) *Nonconformity* refers to any defect or condition that substantially impairs the use, value or safety of a brand new motor vehicle which prevents it from conforming to the manufacturer's or distributor's standards or specifications, which cannot be repaired, but excluding conditions resulting from noncompliance by the consumer of his or her obligations under the warranty, modifications not authorized by the manufacturer or distributor, abuse or neglect, and damage due to accident or *force majeure*;

(l) *Purchase price* refers to the invoice price or the amount of money which the dealer or retailer actually received for the brand new motor vehicle, in consideration of the sale of such brand new motor vehicle;

(m) *Warranty* refers to the written assurance, so labeled, of the manufacturer of a brand new motor vehicle including any term or condition precedent to the enforcement of obligations under the warranty; and

(n) *Warranty rights period* refers to the period provided for under the contract of sale when the manufacturer would guarantee the materials used, the workmanship and the roadworthiness of a brand new motor vehicle for ordinary use or reasonable intended purposes.

SEC. 4. *Coverage.* - This Act shall cover brand new motor vehicles purchased in the Philippines reported by a consumer to be in nonconformity with the vehicle's manufacturer or distributor's standards or specifications within twelve (12) months from the date of original delivery to the consumer, or up to twenty thousand (20,000) kilometers of operation after such delivery, whichever comes first. The following causes of nonconformity shall be excluded:

(a) Noncompliance by the consumer of the obligations under the warranty;

(b) Modifications not authorized by the manufacturer, distributor, authorized dealer or retailer;

(c) Abuse or neglect of the brand new motor vehicle; and

(d) Damage to the vehicle due to accident or *force majeure*.

SEC. 5. *Repair Attempts.* - At any time within the Lemon Law rights period, and after at least four (4) separate repair attempts by the same manufacturer, distributor, authorized dealer or retailer for the same complaint, and the nonconformity issue remains unresolved, the consumer may invoke his or her rights under this Act.

The repair may include replacement of parts, components, or assemblies.

SEC. 6. Notice of Availment of Lemon Law Rights. — Before availing of any remedy under this Act and subject to compliance with the provisions of Section 5 hereof, the consumer shall, in writing, notify the manufacturer, distributor, authorized dealer or retailer of the unresolved complaint, and the consumer's intention to invoke his or her rights under this Act within the Lemon Law rights period.

The warranty booklet issued by the manufacturer, distributor, authorized dealer or retailer shall clearly state the manner and form of such notice to constitute a valid and legal notice to the manufacturer, distributor, authorized dealer or retailer. It shall also clearly state the responsibility of the consumer under this section.

SEC. 7. Availment of Lemon Law Rights. — Subsequent to filing the notice of availment referred to in the preceding section, the consumer shall bring the vehicle to the manufacturer, distributor, authorized dealer or retailer from where the vehicle was purchased for a final attempt to address the complaint of the consumer to his or her satisfaction.

It shall be the duty of the manufacturer, distributor, authorized dealer or retailer, upon receipt of the motor vehicle and the notice of nonconformity required under Section 6 hereof, to attend to the complaints of the consumer including, as may be necessary, making the repairs and undertaking such actions to make the vehicle conform to the standards or specifications of the manufacturer, distributor, authorized dealer or retailer for such vehicle.

In case the nonconformity issue remains unresolved despite the manufacturer, distributor, authorized dealer or retailer's efforts to repair the vehicle, pursuant to the consumer's availment of his or her Lemon Law rights, the consumer may file a complaint before the DTI as provided for under this Act: *Provided, however,* That if the vehicle is not returned for repair, based on the same complaint, within thirty (30) calendar days from the date of notice of release of the motor vehicle to the consumer following this repair attempt within the Lemon Law rights period, the repair is deemed

successful: *Provided, finally,* That, in the event that the nonconformity issue still exists or persists after the thirty (30)-day period but still within the Lemon Law rights period, the consumer may be allowed to avail of the same remedies under Sections 5 and 6 hereof.

To compensate for the non-usage of the vehicle while under repair and during the period of availment of the Lemon Law rights, the consumer shall be provided a reasonable daily transportation allowance, an amount which covers the transportation of the consumer from his or her residence to his or her regular workplace or destination and vice versa, equivalent to air-conditioned taxi fare, as evidenced by official receipt, or in such amount to be agreed upon by the parties, or a service vehicle at the option of the manufacturer, distributor, authorized dealer or retailer. Any disagreement on this matter shall be resolved by the DTI.

Nothing herein shall be construed to limit or impair the rights and remedies of a consumer under any other law.

SEC. 8. *Remedies for Dispute Resolution.* - The DTI shall exercise exclusive and original jurisdiction over disputes arising from the provisions of this Act. All disputes arising from the provisions of this Act shall be settled by the DTI in accordance with the following dispute resolution mechanisms:

(a) Mediation

(1) The principles of negotiation, conciliation and mediation towards amicable settlement between the manufacturer, distributor, authorized dealer or retailer and the consumer shall be strictly observed;

(2) In the course of its dispute resolution efforts, the DTI shall endeavor to independently establish the validity of the consumer's outstanding complaint. The DTI shall likewise retain the services of other government agencies or qualified independent private entities in the ascertainment of the validity of the consumer's complaint. Any cost incurred in establishing the validity of the consumer's complaint shall be borne

jointly by the consumer and the manufacturer, distributor, authorized dealer or retailer;

(3) The complaint shall be deemed valid if it is independently established that the motor vehicle does not conform to the standards or specifications set by the manufacturer, distributor, authorized dealer or retailer;

(4) Upon failure of the negotiation or mediation between the manufacturer, distributor, authorized dealer or retailer and the consumer, the parties shall execute a certificate attesting to such failure; and

(5) At any time during the dispute resolution period, the manufacturer, distributor, authorized dealer or retailer and the consumer shall be encouraged to settle amicably. All disputes that have been submitted for mediation shall be settled not later than ten (10) working days from the date of filing of the complaint with the DTI.

(b) Arbitration

In the event there is a failure to settle the complaint during the mediation proceedings, both parties may voluntarily decide to undertake arbitration proceedings.

(c) Adjudication

(1) In the event that both parties do not undertake arbitration proceedings, at least one of the parties may commence adjudication proceedings, administered by the DTI. The DTI shall rely on the qualified independent findings as to conformity to standards and specifications established herein. In no case shall adjudication proceedings exceed twenty (20) working days;

(2) In case a finding of nonconformity is arrived at, the DTI shall rule in favor of the consumer and direct the manufacturer, distributor, authorized dealer or retailer to grant either of the following remedies to the consumer:

(i) Replace the motor vehicle with a similar or comparable motor vehicle in terms of specifications and values, subject to availability; or

(ii) Accept the return of the motor vehicle and pay the consumer the purchase price plus the collateral charges.

In case the consumer decides to purchase another vehicle with a higher value and specifications from the same manufacturer, distributor, authorized dealer or retailer, the consumer shall pay the difference in cost.

In both cases of replacement and repurchase, the reasonable allowance for use, as defined in this Act, shall be deducted in determining the value of the nonconforming motor vehicle; and

(3) In case a nonconformity of the motor vehicle is not found by the DTI, it shall rule in favor of the manufacturer, distributor, authorized dealer or retailer, and direct the consumer to reimburse the manufacturer, distributor, authorized dealer or retailer the costs incurred by the latter in validating the consumer's complaints.

An appeal may be taken from a final judgment or order of the Adjudication Officer which completely disposes of the case within fifteen (15) days from receipt thereof. The appeal shall be taken by filing a Memorandum of Appeal with the Secretary of the DTI, with Notice of Appeal to the Adjudication Officer, and with a copy duly furnished the adverse party or parties on any of the following grounds:

- (i) Grave abuse of discretion;
- (ii) The decision/order is in excess of jurisdiction or authority of the Adjudication Officer; and
- (iii) The decision/order is not supported by the evidence or there is serious error in the findings of facts.

The Secretary of the DTI shall decide on the appeal within thirty (30) days from receipt thereof. A party seeking further appeal from the decision of the Secretary of the DTI may file a case for *certiorari* to the Court of Appeals under Section 4, Rule 65 of the Revised Rules of Court.

SEC. 9. *Determination of Reasonable Allowance for Use.* – For purposes of this Act, “reasonable allowance for use” shall mean twenty percent (20%) *per annum* deduction from the purchase price, or the product of the distance traveled in kilometers and the purchase price divided by one hundred thousand (100,000) kilometers, whichever is lower.

SEC. 10. *Disclosure on Resale.* – Should the returned motor vehicle be made available for resale, the manufacturer, distributor, authorized dealer or retailer shall, prior to sale or transfer, disclose in writing to the next purchaser of the same vehicle the following information:

(a) The motor vehicle was returned to the manufacturer, distributor, authorized dealer or retailer;

(b) The nature of the nonconformity which caused the return; and

(c) The condition of the motor vehicle at the time of the transfer to the manufacturer, distributor, authorized dealer or retailer.

The responsibility of the manufacturer, distributor, authorized dealer or retailer under this section shall cease upon the sale of the affected motor vehicle to the first purchaser.

SEC. 11. *Penalty.* – The manufacturer, distributor, authorized dealer or retailer adjudged to have violated the provisions requiring disclosure as mentioned in the preceding section shall be liable to pay a minimum amount of One hundred thousand pesos (P100,000.00) as damages to the aggrieved party without prejudice to any civil or criminal liability they and/or the responsible officer may incur under existing laws.

SEC. 12. *Assistance by Other Agencies.* – The DOTC and other agencies, political subdivisions, local government units, including government-owned and/or -controlled corporations, shall render such assistance as required by the DTI in order to effectively implement the provisions of this Act.

SEC. 13. *Implementing Rules and Regulations.* – The DTI shall promulgate the necessary implementing rules and regulations within ninety (90) days from the effectivity of this Act.

SEC. 14. *Separability Clause.* – If, for any reason, any part or provision of this Act is declared invalid, such declaration shall not affect the other provisions of this Act.

SEC. 15. *Repealing Clause.* – All laws, decrees, executive orders, issuances, rules and regulations or parts thereof which are inconsistent with the provisions of this Act are hereby deemed repealed, amended or modified accordingly.

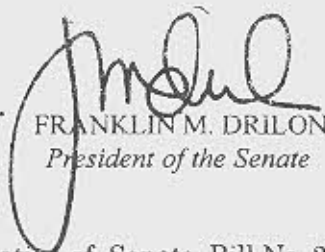
SEC. 16. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in any newspaper of general circulation.

Approved,



FELICIANO BELMONTE JR.

*Speaker of the House
of Representatives*



FRANKLIN M. DRILON

President of the Senate

This Act which is a consolidation of Senate Bill No. 2211 and House Bill No. 4082 was finally passed by the Senate and the House of Representatives on June 11, 2014 and June 10, 2014, respectively.



MARILYN B. BARUA-YAP

*Secretary General
House of Representatives*



OSCAR C. YABES

Secretary of the Senate

Approved: JUL 15 2014



BENIGNO S. AQUINO III

President of the Philippines

