

 KeyCite Yellow Flag - Negative Treatment
Proposed Legislation

United States Code Annotated
Title 49. Transportation (Refs & Annos)
Subtitle VI. Motor Vehicle and Driver Programs
Part A. General
Chapter 301. Motor Vehicle Safety (Refs & Annos)
Subchapter II. Standards and Compliance

49 U.S.C.A. § 30120

§ 30120. Remedies for defects and noncompliance

Effective: June 4, 2016

[Currentness](#)

(a) Ways to remedy.--(1) Subject to subsections (f) and (g) of this section, when notification of a defect or noncompliance is required under [section 30118\(b\)](#) or (c) of this title, the manufacturer of the defective or noncomplying motor vehicle or replacement equipment shall remedy the defect or noncompliance without charge when the vehicle or equipment is presented for remedy. Subject to subsections (b) and (c) of this section, the manufacturer shall remedy the defect or noncompliance in any of the following ways the manufacturer chooses:

(A) if a vehicle--

(i) by repairing the vehicle;

(ii) by replacing the vehicle with an identical or reasonably equivalent vehicle; or

(iii) by refunding the purchase price, less a reasonable allowance for depreciation.

(B) if replacement equipment, by repairing the equipment, replacing the equipment with identical or reasonably equivalent equipment, or by refunding the purchase price.

(2) The Secretary of Transportation may prescribe regulations to allow the manufacturer to impose conditions on the replacement of a motor vehicle or refund of its price.

(b) Tire remedies.--(1) A manufacturer of a tire, including an original equipment tire, shall remedy a defective or noncomplying tire if the owner or purchaser presents the tire for remedy not later than 180 days after the later of--

(A) the day the owner or purchaser receives notification under [section 30119](#) of this title; or

(B) if the manufacturer decides to replace the tire, the day the owner or purchaser receives notification that a replacement is available.

(2) If the manufacturer decides to replace the tire and the replacement is not available during the 180-day period, the owner or purchaser must present the tire for remedy during a subsequent 180-day period that begins only after the owner or purchaser receives notification that a replacement will be available during the subsequent period. If tires are available during the subsequent period, only a tire presented for remedy during that period must be remedied.

(c) **Adequacy of repairs.**--(1) If a manufacturer decides to repair a defective or noncomplying motor vehicle or replacement equipment and the repair is not done adequately within a reasonable time, the manufacturer shall--

(A) replace the vehicle or equipment without charge with an identical or reasonably equivalent vehicle or equipment; or

(B) for a vehicle, refund the purchase price, less a reasonable allowance for depreciation.

(2) Failure to repair a motor vehicle or replacement equipment adequately not later than 60 days after its presentation is prima facie evidence of failure to repair within a reasonable time. However, the Secretary may extend, by order, the 60-day period if good cause for an extension is shown and the reason is published in the Federal Register before the period ends. Presentation of a vehicle or equipment for repair before the date specified by a manufacturer in a notice under [section 30119\(a\)\(5\)](#) or [30121\(c\)\(2\)](#) of this title is not a presentation under this subsection.

(3) If the Secretary determines that a manufacturer's remedy program is not likely to be capable of completion within a reasonable time, the Secretary may require the manufacturer to accelerate the remedy program if the Secretary finds--

(A) that there is a risk of serious injury or death if the remedy program is not accelerated; and

(B) that acceleration of the remedy program can be reasonably achieved by expanding the sources of replacement parts, expanding the number of authorized repair facilities, or both.

The Secretary may prescribe regulations to carry out this paragraph.

(d) **Filing manufacturer's remedy program.**--A manufacturer shall file with the Secretary a copy of the manufacturer's program under this section for remedying a defect or noncompliance. The Secretary shall make the program available to the public and publish a notice of availability in the Federal Register. A manufacturer's remedy program shall include a plan for reimbursing an owner or purchaser who incurred the cost of the remedy within a reasonable time in advance of the manufacturer's notification under [subsection \(b\)](#) or [\(c\) of section 30118](#). The Secretary may prescribe regulations establishing what constitutes a reasonable time for purposes of the preceding sentence and other reasonable conditions for the reimbursement plan. In the case of a remedy program involving the replacement of tires, the manufacturer shall include a plan addressing how to prevent, to the extent reasonably within the control of the manufacturer, replaced tires from being resold for installation on a motor vehicle, and how to limit, to the extent reasonably within the control of the manufacturer, the disposal of replaced tires in landfills, particularly through shredding, crumbling, recycling, recovery, and other alternative beneficial non-vehicular uses.

The manufacturer shall include information about the implementation of such plan with each quarterly report to the Secretary regarding the progress of any notification or remedy campaigns.

(e) Hearings about meeting remedy requirements.--On the motion of the Secretary or on application by any interested person, the Secretary may conduct a hearing to decide whether the manufacturer has reasonably met the remedy requirements under this section. Any interested person may make written and oral presentations of information, views, and arguments on whether the manufacturer has reasonably met the remedy requirements. If the Secretary decides a manufacturer has not reasonably met the remedy requirements, the Secretary shall order the manufacturer to take specified action to meet those requirements and may take any other action authorized under this chapter.

(f) Fair reimbursement to dealers.--

(1) In general. --A manufacturer shall pay fair reimbursement to a dealer providing a remedy without charge under this section if--

(A) at the time of providing service for each of the manufacturer's motor vehicles it services, the dealer notifies the owner or the individual requesting the service of any open recall; and

(B) the notification requirement under subparagraph (A) is specified in a franchise, operating, or other agreement between the dealer and the manufacturer.

(2) Definition of open recall.--In this subsection, the term "open recall" means a recall for which a notification by a manufacturer has been provided under [section 30119](#) and that has not been remedied under this section.

(g) Nonapplication.--**(1)** The requirement that a remedy be provided without charge does not apply if the motor vehicle or replacement equipment was bought by the first purchaser more than 15 calendar years, or the tire, including an original equipment tire, was bought by the first purchaser more than 5 calendar years, before notice is given under [section 30118\(c\)](#) of this title or an order is issued under [section 30118\(b\)](#) of this title, whichever is earlier.

(2) This section does not apply during any period in which enforcement of an order under [section 30118\(b\)](#) of this title is restrained or the order is set aside in a civil action to which [section 30121\(d\)](#) of this title applies.

(h) Exemptions.--On application of a manufacturer, the Secretary shall exempt the manufacturer from this section if the Secretary decides a defect or noncompliance is inconsequential to motor vehicle safety. The Secretary may take action under this subsection only after notice in the Federal Register and an opportunity for any interested person to present information, views, and arguments.

(i) Limitation on sale or lease of new vehicles or equipment, or rental.--

(1) In general.--If notification is required by an order under [section 30118\(b\)](#) of this title or is required under [section 30118\(c\)](#) of this title and the manufacturer has provided to a dealer (including retailers of motor vehicle equipment) notification about

a new motor vehicle or new item of replacement equipment in the dealer's possession at the time of notification or the manufacturer has provided to a rental company notification about a covered rental vehicle in the company's possession at the time of notification that contains a defect related to motor vehicle safety or does not comply with an applicable motor vehicle safety standard prescribed under this chapter, the dealer or rental company may sell, lease, or rent the motor vehicle or item of replacement equipment only if--

(A) the defect or noncompliance is remedied as required by this section before delivery under the sale, lease, or rental agreement; or

(B) when the notification is required by an order under [section 30118\(b\)](#) of this title, enforcement of the order is restrained or the order is set aside in a civil action to which [section 30121\(d\)](#) of this title applies.

(2) Rule of construction.--Nothing in this subsection may be construed to prohibit a dealer or rental company from offering the vehicle or equipment for sale, lease, or rent.

(3) Specific rules for rental companies.--

(A) **In general.**--Except as otherwise provided under this paragraph, a rental company shall comply with the limitations on sale, lease, or rental set forth in subparagraph (C) and paragraph (1) as soon as practicable, but not later than 24 hours after the earliest receipt of the notice to owner under [subsection \(b\)](#) or [\(c\) of section 30118](#) (including the vehicle identification number for the covered vehicle) by the rental company, whether by electronic means or first class mail.

(B) **Special rule for large vehicle fleets.**--Notwithstanding subparagraph (A), if a rental company receives a notice to owner covering more than 5,000 motor vehicles in its fleet, the rental company shall comply with the limitations on sale, lease, or rental set forth in subparagraph (C) and paragraph (1) as soon as practicable, but not later than 48 hours after the earliest receipt of the notice to owner under [subsection \(b\)](#) or [\(c\) of section 30118](#) (including the vehicle identification number for the covered vehicle) by the rental company, whether by electronic means or first class mail.

(C) **Special rule for when remedies not immediately available.**--If a notification required under [subsection \(b\)](#) or [\(c\) of section 30118](#) indicates that the remedy for the defect or noncompliance is not immediately available and specifies actions to temporarily alter the vehicle that eliminate the safety risk posed by the defect or noncompliance, the rental company, after causing the specified actions to be performed, may rent (but may not sell or lease) the motor vehicle. Once the remedy for the rental vehicle becomes available to the rental company, the rental company may not rent the vehicle until the vehicle has been remedied, as provided in subsection (a).

(D) **Inapplicability to junk automobiles.**--Notwithstanding paragraph (1), this subsection does not prohibit a rental company from selling a covered rental vehicle if such vehicle--

(i) meets the definition of a junk automobile under section 201 of the Anti-Car Theft Act of 1992 ([49 U.S.C. 30501](#));

(ii) is retitled as a junk automobile pursuant to applicable State law; and

(iii) is reported to the National Motor Vehicle Information System, if required under section 204 of such Act (49 U.S.C. 30504).

(j) Prohibition on sales of replacement equipment.--No person may sell or lease any motor vehicle equipment (including a tire), for installation on a motor vehicle, that is the subject of a decision under [section 30118\(b\)](#) or a notice required under [section 30118\(c\)](#) in a condition that it may be reasonably used for its original purpose unless--

(1) the defect or noncompliance is remedied as required by this section before delivery under the sale or lease; or

(2) notification of the defect or noncompliance is required under [section 30118\(b\)](#) but enforcement of the order is set aside in a civil action to which [section 30121\(d\)](#) applies.

CREDIT(S)

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