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## SUBCHAPTER 7.

### DAMAGE TO MOTOR VEHICLES WHILE IN TRANSIT

#### SECTIONS.

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#### **23-112-701. When delivery accomplished.**

"Delivery" of a motor vehicle to a dealer by a manufacturer or distributor for the purposes of this section shall be accomplished by the:

- (1) Tender of the motor vehicle and any documents necessary to enable the dealer to obtain title and possession of the motor vehicle at the dealer's place of business or designated place of delivery; and
- (2) Giving of notice of the tender of the motor vehicle and documents to the dealer.

**HISTORY:** Acts 1991, No. 952, § 1.

#### **23-112-702. Damage prior to delivery to the dealer -- Notice.**

(a) Whenever a motor vehicle is damaged while in transit when the carrier or the means of transportation is designated by the manufacturer or distributor, or whenever a motor vehicle is otherwise damaged prior to delivery to the dealer, the dealer must:

- (1) Notify the manufacturer or distributor of such damage within three (3) working days of the occurrence of the delivery of the motor vehicle; and
- (2) Request from the manufacturer or distributor authorization to repair the damages sustained or to replace the parts or accessories damaged.

(b) The notification of damage by the dealer must be by certified mail, with a notice of delivery requested to be returned to the dealer, and shall be presumed to have occurred upon deposit of the notice with the United States Postal Service.

**HISTORY:** Acts 1991, No. 952, § 2.

#### **23-112-703. Failure to repair.**

In the event the manufacturer or distributor refuses or fails to authorize repair or replacement of any such damage within three (3) working days of notification of damage by the dealer, ownership of the motor vehicle shall revert to the manufacturer or distributor, and the dealer shall incur no obligations, financial or otherwise, for the damage to the motor vehicle.

In determining when the notification of the damage by the dealer to the manufacturer or distributor occurs, the date the notice is received by the manufacturer or distributor by the United States Postal Service indicated on the notice of delivery returned to the dealer shall be controlling.

**HISTORY:** Acts 1991, No. 952, § 3.

#### **23-112-704. Computing time.**

In computing the lapse of three (3) working days under this subchapter, the day of the occurrence of delivery of the motor vehicle to the dealer by the manufacturer or distributor or the day of notification of the damage to the manufacturer or distributor by the dealer, as described in § 23-112-703, is not to be included, but the last working day of the period so computed is to be included.

**HISTORY:** Acts 1991, No. 952, § 4.

#### **23-112-705. Disclosure of damage to consumer -- Certification.**

(a) Prior to the sale of any motor vehicle damaged prior to delivery to the dealer as described in § 23-112-702, excluding damage to glass, tires, and bumpers when replaced by identical manufacturer's original equipment, and any damage not exceeding six percent (6%) of the sticker price of the vehicle, the occurrence and extent of such damage must be disclosed by the dealer to the consumer, and, upon repair of the damage sustained, or replacement of the parts or accessories damaged, the manufacturer or dealer must certify to the consumer that the motor vehicle has been repaired or remanufactured to the manufacturer's standards.

(b) (1) If the dealer makes the certification, the dealer shall be indemnified by the manufacturer.

(2) Upon such certification, liability for any concealed damages then remaining with the motor vehicle shall lie with the manufacturer.

**HISTORY:** Acts 1991, No. 952, § 5.

#### **23-112-706. Damage after delivery to the dealer -- Disclosure to the consumer -- Certification.**

(a) Whenever a motor vehicle is damaged after delivery to the dealer by the manufacturer or distributor but before sale by the dealer to the consumer, and the occurrence and extent of such damage is in excess of six percent (6%) of the sticker price of the vehicle, it must be disclosed by the dealer to the consumer prior to the sale, and upon repair of the damage sustained, or replacement of parts or accessories damaged, the dealer must certify to the consumer that this motor vehicle has been repaired or remanufactured according to the manufacturer's standards.

(b) Upon such certification, liability for any concealed damages then remaining with the motor vehicle shall lie with the dealer.

**HISTORY:** Acts 1991, No. 952, § 6.

**23-112-707. Manufacturer required to indemnify franchised dealers.**

Notwithstanding the terms of any franchise agreement, it shall be a violation of this subchapter for any new motor vehicle manufacturer to fail to indemnify and hold harmless its franchised dealers against any judgment or settlement agreed to in writing by the manufacturer for damages, including, but not limited to, court costs and reasonable attorney's fees of the new motor vehicle dealer, arising out of complaints, claims, or lawsuits, including, but not limited to, strict liability, negligence, misrepresentation, or warranty to the extent that the judgment or settlement agreed to in writing by the manufacturer relates to the alleged defective or negligent manufacture, assembly, or design of new motor vehicles, parts, or accessories, or other functions by the manufacturer, beyond the control of the dealer.

**HISTORY:** Acts 1991, No. 952, § 7.

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