

Legislative History for Connecticut Act

<u>HB 5510</u>	<u>PA 522</u>	<u>1987</u>
House 9095, 11709-11718		11p.
Senate 1119-1120, 5161-5164, 5286		7p.
General law 389-394, 530-540		16p.
		<u>34p.</u>

Transcripts from the Joint Standing Committee Public Hearing(s) and/or Senate
and House of Representatives Proceedings

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CONNECTICUT
GEN. ASSEMBLY
HOUSE

PROCEEDINGS
1987

VOL. 30
PART 25
9063-9420

pt

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House of Representatives

Friday, May 22, 1987

SPEAKER STOLBERG:

The bill is passed.

CLERK:

Page 6, Calendar 787, Substitute for House Bill 5510, AN ACT CONCERNING NEW CAR WARRANTIES AND DISPUTE RESOLUTION PROCECURES. Favorable Report of the Committee on Finance, Revenue and Bonding.

SPEAKER STOLBERG:

Rep. Robert Frankel.

REP. FRANKEL: (121st)

Mr. Speaker, I would move that this item be referred to the Committee on Judiciary.

SPEAKER STOLBERG:

Motion is to refer to the Committee on Judiciary.

Is there objection? Is there objection? Seeing no objection, it is so ordered.

CLERK:

Page 7, Calendar 790, Substitute for House Bill 7595, AN ACT CONCERNING STATE ASSISTANCE FOR THE REMOVAL OF HEALTH HAZARDS FROM RESIDENTIAL STRUCTURES. Favorable Report of the Committee on Finance, Revenue and Bonding.

SPEAKER STOLBERG:

Rep. Robert Frankel.

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GEN. ASSEMBLY
HOUSE

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House of Representatives

Monday, June 1, 1987

SPEAKER STOLBERG:

Will you remark further? Will you remark further? If not, all those in favor of the Resolution please indicate by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER STOLBERG:

All those to the contrary, nay. The Resolution is adopted.

CLERK:

Please turn to Page 19, Calendar 787, Substitute for House Bill 5510, AN ACT CONCERNING NEW CAR WARRANTIES AND DISPUTE RESOLUTION PROCEDURES. Favorable Report of the Committee on Judiciary.

REP. FOX: (144th)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. John Wayne Fox.

REP. FOX: (144th)

Mr. Speaker, I move acceptance of the Joint Committee's Favorable Report and passage of the bill.

SPEAKER STOLBERG:

Will you remark?

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House of Representatives

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REP. FOX: (144th)

Yes, sir. Mr. Speaker, this is an amendment to the procedures provided for under our lemon law bill. There are a number of technical changes. Let me outline what I would consider the four major changes being made by the bill.

First of all, it eliminates the repair of a vehicle as a remedy that an arbitration panel can impose. Secondly, it exempts the panels from the provisions of the Uniform Administrative Procedures Act.

Thirdly, it sets a reduced time for a vehicle to be subject to a disability or defect is that defect is likely to cause death or serious injury within a period of two years, for the period of one year, rather, or if it is returned twice for that type of problem, then it would come within the qualifications of the lemon law.

In addition, the bill provides for and validates past and future arbitration decisions which would exceed the 60 day limitation provided for in the statute.

Prior to final discussion on the bill, Mr. Speaker, there is an amendment that I would like to call. It is LCO No. 7764. I ask that it be called and that the Clerk read it, sir.

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SPEAKER STOLBERG:

The Clerk has an amendment, LCO 7764, House "A".
Will the Clerk please call and read.

CLERK:

LCO 7764 designated House "A" offered by Rep.
Fox.

After line 664, add the following:

"Sec. 6. This act shall take effect from its
passage."

SPEAKER STOLBERG:

Will you remark?

REP. FOX: (144th)

First of all, Mr. Speaker, may I yield to Rep.
Garavel.

SPEAKER STOLBERG:

Rep. Garavel, do you accept the yield? And will
you move adoption, please.

REP. GARAVEL: (110th)

Sure. I move adoption, Mr. Speaker.

SPEAKER STOLBERG:

Will you remark?

REP. GARAVEL: (110th)

May the record reflect that I'm excusing myself

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for a potential conflict of interest.

SPEAKER STOLBERG:

Rep. Garavel, I'm going to have you withdraw your motion to adopt the amendment, first.

REP. GARAVEL: (110th)

I withdraw my motion to adopt the amendment, and ask that the Journal, excuse for a potential conflict of interest, and I would yield back to Rep. Fox.

SPEAKER STOLBERG:

The Journal will so note. Rep. Fox, do you accept the yield?

REP. FOX: (144th)

Yes, sir. I accept the yield and I move adoption and passage of the amendment.

SPEAKER STOLBERG:

Will you remark?

REP. FOX: (144th)

Yes, sir. As is evidenced, this is a very simple amendment which provides that the act will take effect from its passage. We are particularly concerned with a number of outstanding arbitration hearings and outstanding decisions which would be invalidated because they're

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beyond the 60 day requirement. Consequently, this act takes effect from its passage and I think we can save the work that's been done and the decisions, whatever they might be with respect to those arbitration hearings.

I would recommend that we adopt the amendment, sir.

SPEAKER STOLBERG:

Will you remark further on the amendment? Will you remark further. All those in favor of the amendment please indicate by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER STOLBERG:

All those to the contrary, nay. The amendment is adopted.

Will you remark further?

REP. BELDEN: (113th)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Belden.

REP. BELDEN: (113th)

Thank you, Mr. Speaker. The Clerk has an

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amendment, LCO 7779. Could he call and read, please.

SPEAKER STOLBERG:

The Clerk has an amendment, LCO 7779, House "B".

Will the Clerk please call and read.

CLERK:

LCO 7779 designated House "B" offered by

Rep. Belden.

In line 511, delete the word "AD" and insert
the following in lieu thereof: "COMPELLING TESTIMONY
OF THE PRODUCTION OF DOCUMENTS"

In line 512, delete the following: "TESTIFICANCUM,
SUBPOENAS DUCES TECUM"

REP. BELDEN: (113th)

Mr. Speaker, I move adoption.

SPEAKER STOLBERG:

Will you remark?

REP. BELDEN: (113th)

Mr. Speaker, the amendment is before us for
the very reason that you just heard the Clerk really
have to stumble to get through those words that the
amendment deletes.

I think that just under the concept of plain
language that the statute should wherever possible,

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reflect what we're talking about in laymen's terms and not in Latin, so the amendment merely takes, the I guess it's Latin terms out of it and puts it in plain language. Thank you.

SPEAKER STOLBERG:

Will you remark on House "B"? Rep. Fox.

REP. FOX: (144th)

Mr. Speaker, let me just inquire for purpose of legislative intent from Rep. Belden. I am assuming and please correct me if I'm wrong sir, that it is not your intention to change the purpose or what is provided for, with respect to the language, the technical language that is there, but it is simply for no other reason than to make it more easily readable by a layman.

REP. BELDEN: (113th)

Through you, Mr. Speaker.

SPEAKER STOLBERG:

Rep. Belden.

REP. BELDEN: (113th)

Rep. Fox, that's absolutely correct. It's not in any way to change the meaning of the language of the file at all. But after discussion with some of our legal people, that was the best terminology in plain language that they could come up with.

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REP. FRANKEL: (121st)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Frankel.

REP. FRANKEL: (121st)

Yes, just one follow up question, through you,
to the proponent.

SPEAKER STOLBERG:

Please frame your question.

REP. FRANKEL: (121st)

I believe, and perhaps I'm being repetitive.
I apologize if I'm doing so, subpoenas duces tecum is
still going to be allowed and the fact that it's not
specifically referenced here does not alter the
procedures and the use of such a subpoena. Is that
your intention, sir?

REP. BELDEN: (113th)

Through you, Mr. Speaker, that's absolutely
correct.

REP. FRANKEL: (121st)

Thank you.

SPEAKER STOLBERG:

Will you remark further on House "B"? If not,

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all those in favor of the amendment, please indicate
by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER STOLBERG:

All those to the contrary, nay.

The amendment is adopted. Will you remark
further? Will you remark further? If not, will members
please be seated. Staff and guests to the well of the
House. The machine will be opened.

CLERK:

The House of Representatives is voting by roll
call. Members to the Chamber please. The House of
Representatives is voting by roll call. It's first
roll call vote of the day. Members please hurry to
the Chamber.

SPEAKER STOLBERG:

Have all the members voted? Have all the members
voted and is your vote properly recorded?

If all the members have voted, the machine will
be locked and the Clerk will take a tally.

Will the Clerk please announce the tally.

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CLERK:

House Bill 5510 as amended by House Amendment
"A" and "B".

Total number voting	129
Necessary for passage	65
Those voting yea	129
Those voting nay	0
Those absent and not voting	22

SPEAKER STOLBERG:

The bill as amended is passed.

CLERK:

Calendar 814, Substitute for House Bill 7607,
AN ACT CREATING A TASK FORCE ON MANUFACTURING IN
CONNECTICUT. Favorable Report of the Committee on GAE.

SPEAKER STOLBERG:

Rep. McNally.

REP. MC NALLY: (47th)

Mr. Speaker, I move acceptance of the Joint
Committee's Favorable Report and passage of the bill.

SPEAKER STOLBERG:

Will you remark?

REP. MC NALLY: (47th)

Mr. Speaker, the Clerk has an amendment LCO

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764-1135

Technical Session
April 6, 1987

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Certification of Substance Abuse Counselors.

Tabled for the Calendar and printing

Public Health - Senate Bill 1105. An Act Concerning Disclosure of Routine Inspection Information.

Tabled for the Calendar and printing

Finance, Revenue & Bonding - Senate Bill 995. An Act Concerning Technical Changes Under the Sales and Use Tax Regulated to certain Transfers of Motor Vehicles and Statutory use of The Terms "Vessel" and "Aircraft".

Tabled for the Calendar and printing

HOUSE BILLS FAVORABLY REPORTED - WITH A CHANGE OF REFERENCE

Environment - House Bill 5012. An Act Concerning Authorization of Bonds of the State for a Grant and Loan to the Town and City of West Haven for Improvements to a Sewage Treatment Facility.

Referred to Finance, Revenue & Bonding

Housing - Substitute House Bill 5250. An Act Concerning Emergency, Temporary and Transitional Housing for the Homeless.

Referred to Planning & Development

Housing - Substitute House Bill 5256. An Act Concerning the Development of a State-Wide Housing Plan.

Referred to Planning & Development

General Law - Substitute House Bill 5510. An Act Concerning New Car Warranties and Dispute Resolution Procedures.

Technical Session
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Referred to Government Administration & Elections

Housing - Substitute House Bill 5606. An Act Concerning a Regional Fair Housing Compact Pilot Program.

Referred to Planning & Development

Environment - House Bill 5722. An Act Concerning Authorization of Bonds of the State for Sherwood Mill Pond in Westport.

Referred to Finance, Revenue & Bonding

Environment - Substitute House Bill 6024. An Act Establishing a Medical Monitoring Program for Employees of the Department of Environmental Protection who Handle Hazardous Materials.

Referred to Appropriations

Environment - House Bill 6032. An Act Concerning an Appropriation for the Preservation of Tracey's Pond in Waterbury.

Referred to Appropriations

Environment - House Bill 6033. An Act Concerning Authorization of Bonds of the State to Improve the Water Quality of Highland Lake in Winchester.

Referred to Finance, Revenue & Bonding

Environment - House Bill 6035. An Act Concerning an Appropriation for a Farm Implements Museum in Bloomfield.

Referred to Appropriations

Environment - House Bill 6043. An Act Concerning Funds for the Chemical Disposal Day Program.

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GEN. ASSEMBLY
SENATE

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4816-5199

TUESDAY
June 2, 1987

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nd

Immediate roll call has been ordered in the Senate.

Will all Senators please return to the Chamber. An immediate roll call has been ordered in the Senate, will all Senators please return to the Chamber.

THE CHAIR:

The question before the Chamber is a motion to adopt Calendar 872, Substitute for House Bill No. 7607, File 1032. The machine is open. Please record your vote.

Has everyone voted? The machine is closed. The Clerk please tally the vote.

The result of the vote:

35 Yea

0 Nay

The bill is adopted.

THE CLERK:

Calendar 873, File 993, Substitute for House Bill No. 5510, AN ACT CONCERNING NEW CAR WARRANTIES AND DISPUTE RESOLUTION PROCEDURES. (As amended by House Amendments Schedules "A" and "B"). Favorable Report of the Committee on JUDICIARY.

THE CHAIR:

Senator Thomas Sullivan.

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SENATOR THOMAS SULLIVAN:

Mr. President, I move acceptance of the Joint Committee's Favorable Report and adoption of the bill in concurrence with the House.

THE CHAIR:

Would you remark?

SENATOR SULLIVAN:

Yes, Mr. President, this bill deals with technical problems that surfaced during the first year of operation of the state arbitration process in regard to automobile and the historic Lemon Law. This bill now clarifies the panels which issue decisions under the Lemon Law are not state agencies, and are therefore exempt from the administrative procedures act.

It allows the refund of the filing fee if the panel determines that it has no jurisdiction, makes time periods for decisions directly rather than mandatory and imposes stiffer penalties to fail to comply with arbitration awards and enhances the ability of the attorney general to oversee and to evaluate manufacturer's arbitration programs

THE CHAIR:

Further remarks? Senator Upson.

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SENATOR UPSON:

Yes, if I may, Mr. President, through you, ask
Senator Sullivan a question.

THE CHAIR:

You may proceed.

SENATOR UPSON:

It says here and I'm reading OLO Report, hopefully
it's correct. It says that the current law requires an
arbitration panel to render a decision within 60 days of
consumers filing the completed request for arbitration.
I know we had some problems with that, Senator Sullivan,
because of the number of people on the panels, I believe
they're all panels, and I ask is the 60 day requirement
still with us, and if so what happens if they don't meet
the 60 day requirement, if I can through you, Mr. President.

THE CHAIR:

Senator Sullivan.

SENATOR SULLIVAN:

Through you, Mr. President, I believe that the 60
day limitation doesn't exist. It's a guideline more so
than it is mandatory. I believe that Senator Upson is
justified to be concerned about it, because we were before.

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But again, this is our guideline, this is not mandatory.

SENATOR UPSON:

Thank you very much, Mr. President.

THE CHAIR:

Further remarks? Senator Sullivan.

SENATOR SULLIVAN:

If there are no objections, Mr. President, I would
like to move this to the Consent Calendar.

THE CHAIR:

Without objection? It is so ordered.

THE CLERK:

Calendar 874, File 994, Substitute for House Bill
No. 7595, AN ACT CONCERNING STATE ASSISTANCE FOR THE
REMOVAL OF HEALTH HAZARDS FROM RESIDENTIAL STRUCTURES.
Favorable Report of the Committee on PUBLIC HEALTH.

THE CHAIR:

Senator Barrows.

SENATOR BARROWS:

Yes, Mr. President, I move acceptance of the
Joint Committee's Favorable Report and passage of the
bill.

THE CHAIR:

Would you remark?

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TUESDAY
June 2, 1987

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House Bill No. 7581. Calendar 869, Substitute for House
Bill No. 6114. Calendar page 3, Calendar 873, Substitute
for House Bill 5510.

Calendar 874, Substitute for House Bill No. 7595,
Calendar page 4, Calendar 879, Substitute for House Bill
5940. Calendar 435, Substitute for Senate Bill 648.

Calendar 570, Substitute for Senate Bill No. 313.
Calendar page 5, Calendar 266, Substitute for Senate Bill
No. 89. Calendar page 6, Calendar 875, Substitute for
Senate Bill 847. Calendar 876, House Bill 5979, Calendar
880, Substitute for House Bill No. 5329. Calendar 881,
Substitute for House Bill 7091. That completes the 1st
Consent Calendar, Mr. President.

THE CHAIR:

Any corrections or omissions? The machine is open,
please record your vote. Senator Matthews. Senator
Przybysz. Senator Rinaldi. Has everyone voted? The
machine is closed. The Clerk please tally the vote.

The result of the Vote:

32 Yea

0 Nay

The Consent Calendar is adopted.

JOINT
STANDING
COMMITTEE
HEARINGS

GENERAL LAW
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347-664

1987

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GENERAL LAW

March 10, 1987

REP. WOODCOCK: (continued)

Department of Consumer Protection?

MR. AMATO: I'm not sure I'm familiar with that one.

REP. WOODCOCK: Okay, there is a State Arbitration Program that went into affect on October 1 of 1984, and it concerned all new cars purchased on or after 1, 84. You went General Motors own private arbitration program, run by the Better Business Bureau. You were not aware of the fact that General Motors paid for the Better Business Program were you?

MR. AMATO: No I didn't.

REP. WOODCOCK: Well as a matter of record that program run by the Better Business Bureau, is paid for by General Motors, maybe that explains some of the unpleasant experiences you had with them. That is why we passed the law in 1984 to create the safe program, precisely because of the type of experience that you are telling us.

MR. AMATO: Excuse me, I didn't just come here to get it off my chest, but I would like to ask when you are amending this law, that you take serious consideration when you charge people for mileage. There is no reason to have General Motors get another 3800 dollars for this vehicle. There is not reason. Just because I had it for 33,000 miles, does not mean that every single part in that transmission and clutch was working, if I took it just like the transmission and clutch and each piece, and the two pieces combined cost 1500 dollars, and I could break it down to how it worked on every single hour, I paid them 1500 dollars to have it working like that, for the hours that I would own the vehicle, not for every mile.

REP. FOX: Any other questions? Mr. Amato thank you for taking the time to come up and testify. Next speaker is Kathy Curry.

HB 5570

MS. CURRY: Thank you Mr. Chairman, my name is Kathleen Curry and I am the Bureau Chief for the Department of Consumer Protection. And I wanted to speak to

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March 10, 1987

MS. CURRY: (continued)

you briefly regarding House Bill 5510. You are receiving, as you are aware when the Department met with the Committee Chairman at the beginning of the year, we mentioned that we had attached some amendments to the lemon law and agreed that since you had two bills before you regarding technical amendments that we would offer ours as an addition to those, rather than raising a separate third bill, regarding technical amendments.

So what the Clerk is giving out is a summary which includes HB 5510 and add the technical amendments which we had discussed with the Committee at the beginning of the session.

The speaker from the Attorney Generals' office Gordon Hall has, if I can just walk through these has all ready addressed, some of these were requested through us from the Attorney General and others are directed from the Departments. And as I say a lot of these are repeats of what you have in the bill. We found the best way for us to do it to get a is to just take that bill, add our own and draft it as a complete entity.

As I say several, most of these are technical amendments. But there are several substance of changes that I think, you should be aware of. Number 4, on the summary, will change the law currently to allow the Department of Consumer Protection Lemon Law Staff to screen for eligibility. Currently the Statute requires that screening goes through a panel of volunteer arbitrators. We find that this is can create a lag, and is not really a good use of our volunteers time. So, we feel that it is really a check list sort of process that could be done much more swiftly by staff. The other significant change through us is ellimination, and I think Representative Woodcock had questioned the Assistant Attorney Generals' Office, of the repair attempt as an option. It is our feeling after we have processed through the arbitration process over 500 arbitrations at this point. And it is our strong feeling that the repair attempt is not in keeping with the original intent of the Statute. And we have looked at other states which do not include repair

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March 10, 1987

MS. CURRY: (continued)

attempt as an option for the volunteer arbitrators and feel that our law will be much more be able to be handled much more expeditiously and provide a lot more protection for the individual consumer who are going through this process, much like the previous speaker, who in the course of the Better Business Bureau Arbitration Program, had been subjected to repeated repair attempts.

Representative Woodcock had also asked the percentages 36% of those that have come through our program has have had repair attempts ordered as a remedy. And again, after waiting, going through arbitration, having experienced all the criterea which is currently the thresh, the qualifying threshold for this Statute. And then after going through arbitration, having again been put in the position of having new repairs come, getting the vehicle to conform to the, an attempt to getting the vehicle to conform to the expressed warranty.

Now I'm saying that those 36%, for example, who have previously had repairs attempt ordered, will now get replacements or refunds. It's highly likely that perhaps half or more of those, will have no action as a result of the arbitration.

But I think, we, I have polled personally a goodly percentage of those who had repair attempts ordered. And without exception they have all indicated that they would much prefer to have had a decision of no action than been subjected to additional repairs and all the associated and ways and sections that go along with that. And we feel that that is an important change.

I think the other changes were pretty much addressed by Gordon Hall from the Attorney Generals' Office.

REP. FOX: I think that the only thing that I would ask is that, with suggestions like this if we could get them sooner, it makes it very difficult with our deadlines coming up. Any questions? If not thank you. Next speaker on the same bill is Kevin Robinson.

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March 10, 1987

MR. ROBINSON: Good evening Representative Fox and members of the Committee. My name is Kevin Robinson, and I am (inaudible) research group and I am here to speak in favor of Bill 5510.

In 1982 Connecticut passed the emissions first new car lemon law which was landmark legislation, and in 84 when the manufacturers who were not honoring the warranties, were not honoring the lemon law, Connecticut passed lemon law II. Which stated an arbitration board which made this resolution a little bit easier for consumers. So far it appears from data revealed by the Department of Consumer Protection that Lemon Law I and Lemon Law II are working well. They have found that between October 1st, 1984, and October 31st, 1986, that consumers accepted 85% of the decisions rendered by the paneled board. And less than 2% saw court action afterwards. And so that is just evidence that it seems to be working well. It is a good bill, it ought to pass and what it does it simply makes chapter 734B clearer, it clarifies the legislators intent. Section 1 exempts the arbitration panels from the uniformed administration procedure act. The Lemon Law was designed to set up a system where a consumer can obtain an address not get tangled up in red tape.

Section II clarifies who the Lemon Law applies to and the duration of the Lemon Laws Equitability. If its car maybe transferred and etc.

It further clarifies when the state can refund filing fees that do not qualify you do not pay your fee and then be rejected from arbitration without being refunded.

And thirdly, it eliminates references to the shorter Lemon Law qualifications period of Lemon Law I, which overlaps Lemon Law II between 84 and 85. Because they no longer pertain to the past two years now.

Extensively paragraph F makes it explicit that the doctrine that an unsafe new car which is dangerous to the health and safety of Connecticut's citizens qualifies for Lemon Law Arbitration after just one repair attempt instead of having a major safety problem.

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cjp

GENERAL LAW

March 10, 1987

MR. ROBINSON: (continued)

of trying to be repaired four time before it can be declared a lemon.

So in summation the data revealed by the Consumer Protection Agencies survey that this is a, the Lemon Law is a good law, has been working and proposed changes and clarification of Committee Bill 5510 will make it better. Thank you.

(CONTINUED ON TAPE 4)

s.#4

REP. FOX: Thank you any questions? Thank you very much. There is no one else listed to speak on that bill. We would then move on to HB 5605, An Act Concerning Used Car Warranties. I would indicate to you that we have 11 people wishing to speak on this bill, and I would ask in consideration of those that come after them, that the speakers would attempt to limit themselves to no more than 5 minutes. The first speaker is Raphael Podolsky.

MR. PODOLSKY: My name is Raphael Podolsky. I am a lawyer of Connecticut Legal Services. I want to speak in favor of HB 5605. What I would like to do in my time as quickly as I can is give you a little bit of background of this bill. Some of you may know I have been involved with this bill for several, a long period of time. And also to respond to some of the questions that were asked of other speakers. Because I think that there is a good deal of misunderstanding in about some aspects of the bill, particularly the waiver provision.

Basically in summary the core part of this bill is to say that it should provide a short term warranty. That is to say, when a used car is bought and it cost more than 3000 dollars, it is supposed to run at least for 30 days, or in some cases under this bill 60 days. That is basically what the bill provides. It's not a core a morality issue, it's really a kind of quality control issue. I think you will find that the highest quality in dealership, in fact, stand behind their vehicle. What this bill does, in my opinion is, it holds all dealerships by Statute to the kind of standards that the best dealership now do voluntarily. The source of problems that have led to this bill come from the way in which cars are sold by dealers. I can assure you that when you buy a used car from a dealer, nobody says we don't have the remotest idea if this car is any good or not. You are always told the car with a sales pitch that creates the implication that the car is a good car. And hopefully it is a good car. What the bill does, it is makes the sales pitch true. The common practice in the industry now, is to give what is called the 50, 50 warranty. The bill says that you can't do that. For the very short period that is covered by the warranty the warranty needs to be complete. The Federal Trade Commission examines 50, 50 warranties

AN ACT CONCERNING NEW CAR WARRANTIES AND
DISPUTE RESOLUTION PROCEDURES

COMMITTEE BILL NO. 5510

SUMMARY OF SUGGESTED AMENDMENTS

- (1) Express exemption of arbitration panels from UAPA.
§ 4-166(1).
- (2) Clarify existing language regarding applicability for two years or 18,000 miles, whichever is earlier. § 42-179(e).
- (3) Make standing of individual to use DCP arbitration procedure, coextensive with definition of consumer in § 42-179(a) § 42-181(b).
- (4) Allow department to initially review complaints and accept or reject, subject to final decision by arbitration panel.
§42-181(b).
- (5) Allow arbitration panels to refund filing fees if they determine there is no jurisdiction. § 42-181(b).
- (6) Allow arbitrators to render their decisions even after expiration of 60 days. § 42-181(c).
- (7) Remove repair attempts as an enumerated remedy.
§42-181(c).

- (8) If appealed to superior court, copy of application to be mailed to attorney general. § 42-181(c).
- (9) Wilful failure of manufacturer to comply with arbitration award, will constitute separate violation for each day of noncompliance. § 42-181(c).
- (10) Validation Act - Section 5 - validates previous decisions of arbitrators which exceeded 60 days.
- (11) Authorize attorney general to issue investigative interrogatories regarding evaluation and certification of manufacturer arbitration programs. § 42-182(a).
- (12) Authorize service by certified mail of subpoenas and interrogatories in certification or evaluation by attorney general. § 42-182(a).
- (13) Authorize attorney general to seek compliance order from superior court for failure to comply with investigative subpoenas and interrogatories for purposes of certification and evaluation. § 42-182(a).
- (14) Require that all automobile arbitration programs keep certain records for purposes of certification and evaluation. § 42-182(c).
- (15) Require that manufactures notify department of motor vehicles of each vehicle returned by Connecticut consumers for refund or replacement. § 42-179(f).

AN ACT CONCERNING NEW CAR WARRANTIES
AND DISPUTE RESOLUTION PROCEEDINGS

COMMITTEE BILL NO. 5510
SUGGESTED AMENDMENTS

Section 1. Section 4-166 of the general statutes is repealed and the following is substituted in lieu thereof:

As used in this chapter:

- (1) "Agency" means each state board, commission, department or officer, other than the legislature, courts, judicial review council, council on probate judicial conduct, governor, lieutenant governor, attorney general, [or] town or regional boards of education, OR AUTOMOBILE DISPUTE SETTLEMENT PANELS ESTABLISHED PURSUANT TO SECTION 42-181, authorized by law to make regulations or to determine contested cases;
- (2) "Contested case" means a proceeding, including but not restricted to rate-making, price fixing and licensing, in which the legal rights, duties or privileges of a party are required by statute to be determined by an agency after an opportunity for hearing or in which a hearing is in fact held, but does not include hearings referred to in section 4-168;
- (3) "License" includes the whole or part of any agency permit, certificate, approval, registration, charter, or similar form of permission required by law, but it does not include a license required solely for revenue purposes;
- (4) "Licensing" includes the agency process respecting the grant, denial, renewal, revocation, suspension, annulment, withdrawal, or amendment of a license;
- (5) "Party" means each person or agency named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party;
- (6) "Person" means any individual, partnership, corporation, association, governmental subdivision, or public or private organization of any character other than an agency;
- (7) "Regulation" means each agency statement of general applicability, without regard to its designation, that implements, interprets, or prescribes law or policy, or describes the organization procedure, or practice requirements of any agency. The term includes the amendment or repeal of a prior regulation, but does not include (A) statements concerning only the internal management of any agency and not affecting private rights or procedures available to the public, (B) declaratory

rulings issued pursuant to section 4-176, or (C) intra-agency or interagency memoranda;

(8) "Proposed regulation" means any proposed change in, or addition to, the regulations of an agency, whether by means of adoption of a new regulation or amendment or repeal of an existing regulation.

Sec. 2. Section 42-179 of the general statutes is repealed and the following is substituted in lieu thereof:

(a) As used in this section and section 42-180: (1) "Consumer" means the purchaser, other than for purposes of resale, of a motor vehicle, any person to whom such motor vehicle is transferred during the duration of an express warranty applicable to such motor vehicle, and any other person entitled by the terms of such warranty to enforce the obligations of the warranty; and (2) "motor vehicle" means a passenger motor vehicle or a passenger and commercial vehicle, as defined in section 14-1, which is sold in this state.

(b) If a new motor vehicle does not conform to all applicable express warranties, and the consumer reports the nonconformity to the manufacturer, its agent or its authorized dealer [. (1) during the term of such express warranties or during the period of one year following the date of original delivery of the motor vehicle to a consumer whichever is the earlier date or (2) in the case of a motor vehicle sold on or after July 1, 1984,] during the period of two years following [such] THE date of original delivery OF THE MOTOR VEHICLE TO A CONSUMER or during THE PERIOD OF the first eighteen thousand miles of operation, whichever [is the earlier date] PERIOD ENDS FIRST, the manufacturer, its agent or its authorized dealer shall make such repairs as are necessary to conform the vehicle to such express warranties, notwithstanding the fact that such repairs are made after the expiration of the [appropriate time] APPLICABLE period.

(c) No consumer shall be required to notify the manufacturer of a claim under this section and sections 42-181 to 42-184 inclusive, unless the manufacturer has clearly and conspicuously disclosed to the consumer, in the warranty or owner's manual, that written notification of the nonconformity is required before the consumer may be eligible for a refund or replacement of the vehicle. The manufacturer shall include with the warranty or owner's manual the name and address to which the consumer shall send such written notification.

(d) If the manufacturer, or its agents or authorized dealers are unable to conform the motor vehicle to any applicable express warranty by repairing or correcting any defect or condition which substantially impairs the use, safety or value of the motor vehicle to the consumer after a reasonable number of attempts, the manufacturer shall replace the motor vehicle with a new motor vehicle acceptable to the consumer, or accept return of the

vehicle from the consumer and refund to the consumer the following: (1) The full contract price including, but not limited to charges for undercoating, dealer preparation and transportation and installed options, (2) all collateral charges, including, but not limited to, sales tax, license and registration fees, and similar government charges, (3) all finance charges incurred by the consumer after he first reports the nonconformity to the manufacturer, agent or dealer and during any subsequent period when the vehicle is out of service by reason of repair, and (4) all incidental damages as defined in section 42a-2-715, less a reasonable allowance for the consumer's use of the vehicle. No authorized dealer shall be held liable by the manufacturer for any refunds or vehicle replacements in the absence of evidence indicating that dealership repairs have been carried out in a manner inconsistent with the manufacturers' instructions. Refunds shall be made to the consumer, and lienholder if any, as their interests may appear. A reasonable allowance for use shall be that amount obtained by multiplying the total contract price of the vehicle by a fraction having as its denominator one hundred thousand and having as its numerator the number of miles that the vehicle traveled prior to the manufacturer's acceptance of its return. It shall be an affirmative defense to any claim under this section (1) that an alleged conformity does not substantially impair such use, safety or value or (2) that a nonconformity is the result of abuse, neglect or unauthorized modifications or alterations of a motor vehicle by a consumer.

(e) It shall be presumed that a reasonable number of attempts have been undertaken to conform a motor vehicle to the applicable express warranties, if (1) the same nonconformity has been subject to repair four or more times by the manufacturer or its agents or authorized dealers [(A) within the express warranty term or during the period of one year following the date of original delivery of the motor vehicle to a consumer, whichever is the earlier date or (B) in the case of a motor vehicle sold on or after July 1, 1984,] during the period of two years following [such] THE date of original delivery OF THE MOTOR VEHICLE TO A CONSUMER or during THE PERIOD OF the first eighteen thousand miles of operation, whichever [is the earlier date] PERIOD ENDS FIRST, but such nonconformity continues to exist or (2) the vehicle is out of service by reason of repair for a cumulative total of thirty or more calendar days [during such term or] during [such] THE APPLICABLE PERIOD [, whichever is the earlier date] DETERMINED PURSUANT TO SUBDIVISION (1) OF THIS SUBSECTION. The term of [an express warranty, such one-year period,] such two-year period and such thirty-day period shall be extended by any period of time during which repair services are not available to the consumer because of a war, invasion, strike or fire, flood or other natural disaster.

(f) No motor vehicle which is returned to the manufacturer and which requires replacement or refund shall be resold in the state without clear and conspicuous written disclosure of the fact that

such motor vehicle was so returned prior to resale. The commissioner of motor vehicles shall, by regulations adopted in accordance with the provisions of chapter 54, prescribe the form and content of any such disclosure statement and establish provisions by which the commissioner may remove such written disclosure after such time as the commissioner may determine that such motor vehicle is no longer defective.

(g) All express and implied warranties arising from the sale of a new motor vehicle shall be subject to the provisions of part 3 of article 2 of title 42a.

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

(i) If a manufacturer has established an informal dispute settlement procedure which is certified by the attorney general as complying in all respects with the provisions of Title 16 Code of federal Regulations Part 703, as in effect on October 1, 1982, and with the provisions of subsection (b) of section 42-182, the provisions of subsection (d) of this section concerning refunds or replacement shall not apply to any consumer who has not first resorted to such procedure.

Section 3. Subsection (b) of section 42-181 of the general statutes is repealed and the following is substituted in lieu thereof:

(b) [An owner of] ANY PERSON WHO PURCHASES any motor vehicle, [purchased] FOR PURPOSES OTHER THAN RESALE, at any time on or after October 1, 1984, which fails to conform to such applicable warranties as defined in said section 42-179, ANY PERSON TO WHOM SUCH MOTOR VEHICLE IS TRANSFERRED DURING THE DURATION OF AN EXPRESS WARRANTY APPLICABLE TO SUCH MOTOR VEHICLE, OR ANY OTHER PERSON ENTITLED BY THE TERMS OF SUCH WARRANTY TO ENFORCE THE OBLIGATIONS OF THE WARRANTY, may bring a grievance to an arbitration panel if the manufacturer of the vehicle has not established an informal dispute settlement procedure which the attorney general has certified as complying in all respects with the requirements of said section 42-179. The consumer may initiate a request for arbitration by calling a toll-free telephone number designated by the commissioner or by requesting an arbitration hearing in writing. The consumer shall file, on forms prescribed by the commissioner, any information deemed relevant to the resolution of the dispute and shall return the form accompanied by a filing fee of fifty dollars. Such complaint form shall offer the consumer a choice of presenting any subsequent testimony orally or in writing. [The filing fee shall be refunded if the arbitration panel determines that a complaint does not allege a violation of any applicable warranty under the requirements of said section 42-179] PRIOR TO SUBMITTING THE COMPLAINT TO AN ARBITRATION PANEL, THE DEPARTMENT OF CONSUMER PROTECTION SHALL CONDUCT AN INITIAL REVIEW OF THE

COMPLAINT. THE DEPARTMENT SHALL DETERMINE WHETHER THE COMPLAINT SHOULD BE ACCEPTED OR REJECTED FOR ARBITRATION BASED ON WHETHER IT ALLEGES THAT THE MANUFACTURER HAS FAILED TO COMPLY WITH SECTION 42-179. Upon acceptance of the complaint, the commissioner shall notify the manufacturer of the filing of a request for arbitration and shall obtain from the manufacturer, in writing on a form prescribed by the commissioner, any information deemed relevant to the resolution of the dispute. The manufacturer shall return the form within fifteen days of receipt, together with a filing fee of two hundred fifty dollars. INITIAL DETERMINATIONS TO REJECT A COMPLAINT FOR ARBITRATION SHALL BE SUBMITTED TO AN ARBITRATION PANEL FOR A FINAL DECISION UPON RECEIPT OF A WRITTEN REQUEST FROM THE CONSUMER FOR A REVIEW OF THE INITIAL ELIGIBILITY DETERMINATION. IF A COMPLAINT IS ACCEPTED FOR ARBITRATION, AN ARBITRATION PANEL MAY DETERMINE THAT A COMPLAINT DOES NOT ALLEGE THAT THE MANUFACTURER HAS FAILED TO COMPLY WITH SECTION 42-179 AT ANY TIME BEFORE SUCH PANEL RENDERS ITS DECISION ON THE MERITS OF THE DISPUTE. THE FEE ACCOMPANYING THE CONSUMER'S COMPLAINT FORM SHALL BE REFUNDED TO THE CONSUMER AND THE FEE ACCOMPANYING THE FORM FILED BY THE MANUFACTURER SHALL BE REFUNDED TO THE MANUFACTURER IF THE ARBITRATION PANEL DETERMINES THAT A COMPLAINT DOES NOT ALLEGE A VIOLATION OF REQUIREMENTS OF SECTION 42-179.

Section 4. Subsection (c) of section 42-181 of the general statutes is repealed and the following is substituted in lieu thereof:

(c) The department of consumer protection shall investigate, gather and organize all information necessary for a fair and timely decision in each dispute. The commissioner may issue subpoenas on behalf of any arbitration panel to compel the attendance of witnesses and the production of documents, papers and records relevant to the dispute. The department shall forward a copy of all written testimony, including all documentary evidence, to an independent technical expert certified by the National Institute of Automotive Service Excellence or having a degree of other credentials from a nationally recognized organization or institution attesting to automotive expertise, who shall review such material and be available to advise and consult with the arbitration panel. An expert shall sit as a nonvoting member of an arbitration panel whenever oral testimony is presented. Such experts may be recommended by the commissioner of motor vehicles at the request of the commissioner of consumer protection. An arbitration panel shall [as expeditiously as possible, but not later than] WITHIN sixty days after the time the consumer files the complaint form together with the filing fee, render a fair decision based on the information gathered and disclose its findings and the reasons therefor to the parties involved. THE FAILURE OF THE ARBITRATORS TO RENDER A DECISION WITHIN SIXTY DAYS SHALL NOT VOID ANY SUBSEQUENT DECISION OR OTHERWISE LIMIT THE POWERS OF THE ARBITRATORS. The decision shall provide appropriate remedies, including, but not limited to one or more of the following:

[(1) Repair of the vehicle;]

(1)[(2)] Replacement of the vehicle with an identical or comparable new vehicle acceptable to the consumer.

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

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

(4)[(5)] Any other remedies available under the applicable warranties, section 42-179, this section and sections 42-182 to 42-184, inclusive, or the Magnuson-Moss Warranty-Federal Trade Commission Improvement Act, 88 Stat. 2183 (1975), 15 USC 2301 et seq., as in effect on October 1, 1982.

The decision shall specify a date for performance and completion of all awarded remedies. Notwithstanding any provision of the general statutes or any regulation to the contrary, the department of consumer protection shall not amend, reverse, rescind or revoke any decision or action of an arbitration panel. The department shall contact the consumer, within ten working days after the date for performance, to determine whether performance has occurred. The manufacturer shall act in good faith in abiding by any [department] ARBITRATION decision. In addition, if the decision is accepted by the consumer, either party to the arbitration may make application to the superior court for the judicial district in which one of the parties resides or, when the court is not in session, any judge thereof for an order confirming, vacating, modifying or correcting any award, in accordance with the provisions of sections 52-417, 52-418, 52-419 and 52-420. UPON FILING SUCH APPLICATION THE MOVING PARTY SHALL MAIL A COPY OF THE APPLICATION TO THE ATTORNEY GENERAL AND, UPON ENTRY OF ANY JUDGMENT OR DECREE, SHALL MAIL A COPY TO THE ATTORNEY GENERAL. If it is determined by the court that the manufacturer has acted without good cause in bringing an appeal of an award, the court, in its discretion, may grant to the consumer his costs and reasonable attorney's fees. IF THE MANUFACTURER FAILS TO PERFORM ALL AWARDED REMEDIES BY THE DATE FOR PERFORMANCE SPECIFIED BY THE ARBITRATORS, AND THE ENFORCEMENT OF THE AWARD HAS NOT BEEN STAYED PURSUANT TO SECTION 52-420(c), THEN EACH ADDITIONAL DAY THE MANUFACTURER WILLFULLY FAILS TO COMPLY SHALL BE DEEMED A SEPARATE VIOLATION FOR PURPOSES OF SECTION 42-184.

Section 5.[NEW] Any arbitration decision rendered by a panel of the automobile dispute settlement program pursuant to section 42-181, during the period commencing on October 1, 1984 and ending on the effective date of this act, in which the time requirements prescribed in section 42-181(c) for the rendering of decisions were not met, is validated, notwithstanding the failure of said panels to act within the prescribed time period.

Section 6. Subsection (a) of section 42-182 of the general statutes is repealed and the following is substituted in lieu thereof:

Certification of manufacturer's informal dispute settlement procedures. (a) The attorney general shall prepare an annual report evaluating the operation of informal dispute settlement procedures established by manufacturers of new motor vehicles and shall issue a certificate of approval to those manufacturers whose settlement procedures comply in all respects with the provisions of Title 16 Code of Federal Regulations Part 703, as in effect on October 1, 1982, and with the provisions of subsection (b) of this section. The report and certification shall be public records. The attorney general or an agent authorized by him may conduct any inquiry or investigation in connection with the certification or evaluation of a manufacturer's informal dispute settlement procedure and may hold hearings, issue subpoenas requiring the attendance of witnesses and the production of records, documents or other evidence in connection therewith, administer oaths, examine witnesses and receive oral and documentary evidence[.] AND ISSUE WRITTEN INTERROGATORIES PRESCRIBING A RETURN DATE WHICH WOULD ALLOW A REASONABLE TIME TO RESPOND, WHICH RESPONSES SHALL BE UNDER OATH. SERVICE OF SUBPOENAS AD TESTIFICANDUM, SUBPOENAS DUCES TECUM AND WRITTEN INTERROGATORIES AS PROVIDED HEREIN, MAY BE MADE BY (1) PERSONAL SERVICE OR SERVICE AT THE USUAL PLACE OF ABODE; OR (2) BY REGISTERED OR CERTIFIED MAIL, RETURN RECEIPT REQUESTED, A DULY EXECUTED COPY THEREOF ADDRESSED TO THE PERSON TO BE SERVED AT HIS PRINCIPAL PLACE OF BUSINESS IN THIS STATE, OR, IF SAID PERSON HAS NO PRINCIPAL PLACE OF BUSINESS IN THIS STATE, TO HIS PRINCIPAL OFFICE OR TO HIS RESIDENCE. IN THE EVENT THAT ANY PERSON SHALL FAIL TO COMPLY WITH A SUBPOENA OR WITH INTERROGATORIES ISSUED PURSUANT TO THIS SECTION, THE ATTORNEY GENERAL OR AN AGENT AUTHORIZED BY HIM MAY APPLY TO THE SUPERIOR COURT FOR THE JUDICIAL DISTRICT OF HARTFORD-NEW BRITAIN FOR COMPLIANCE, WHICH COURT MAY, UPON NOTICE TO SUCH PERSON, ISSUE AN ORDER REQUIRING SUCH COMPLIANCE, WHICH SHALL BE SERVED UPON SUCH PERSON.

Hearings under this subsection shall be held in the manner provided for contested cases under sections 4-177 to 4-181, inclusive, except that no informal disposition may be made by stipulation, agreed settlement, consent order or default, in any proceeding concerning the certification of an automobile manufacturer's informal dispute settlement procedure unless such proceeding is open to the public in accordance with the provisions of section 1-21. The attorney general, after notice and hearing, may suspend or revoke the certification of an automobile manufacturer's informal dispute settlement procedure which violates the provisions of subsection (b) of this section or the provisions of Title 16 Code of Federal Regulations Part 703, as in effect on October 1, 1982. Any person aggrieved by a decision of the attorney general or his authorized agent, may appeal in accordance with the provisions of sections 4-184. Section 4-184a shall be applicable to such appeals. Hearings,

meetings and conferences, except telephone conversations, relating to evaluation and certification shall be open to the public in accordance with the provisions of section 1-21. If the attorney general certifies a manufacturer's informal dispute settlement procedure, the provisions of subsection (d) of section 42-179 concerning refunds or replacement shall not apply to any consumer who has not first resorted to such procedure. A copy of the attorney general's report and certification shall be forwarded by the attorney general to the commissioner of motor vehicles, who may consider such report and certification in determining the fitness of an applicant for a manufacturer's license to engage in business as a manufacturer of motor vehicles for sale in this state, as provided for in section 14-67a.

Section 7. Subsection (c) of section 42-182 of the general statutes is repealed and the following is substituted in lieu thereof:

(c) ANY MANUFACTURER OPERATING OR PARTICIPATING IN AN INFORMAL DISPUTE SETTLEMENT PROCEDURE FOR RESOLVING DISPUTES WITH CONNECTICUT CONSUMERS SHALL BE REQUIRED TO MAINTAIN RECORDS WHICH INDICATE THE NUMBER OF CASES IN EACH OF THE FOLLOWING CATEGORIES:

- (1) NUMBER OF VEHICLES SOLD IN THIS STATE DURING THE REPORTING PERIOD
- (2) TELEPHONE AND WRITTEN REQUESTS FROM CONSUMERS TO ENTER THE DISPUTE RESOLUTION PROGRAM
- (3) REQUESTS REJECTED AS INELIGIBLE FOR THE PROGRAM
- (4) REQUESTS ACCEPTED FOR RESOLUTION BY THE PROGRAM
- (5) CASES IN WHICH A DECISION WAS REACHED AND THE MANUFACTURER HAS COMPLIED WITHIN THE TIME PERIOD FOR COMPLIANCE ESTABLISHED BY THE DECISION
- (6) CASES IN WHICH A DECISION WAS REACHED AND THE MANUFACTURER'S COMPLIANCE OCCURRED AFTER THE EXPIRATION OF THE TIME PERIOD FOR COMPLIANCE ESTABLISHED BY THE DECISION
- (7) CASES IN WHICH A DECISION WAS REACHED, THE TIME PERIOD FOR COMPLIANCE HAS EXPIRED AND THE MANUFACTURER HAS NOT COMPLIED
- (8) CASES IN WHICH A DECISION WAS REACHED AND THE TIME PERIOD FOR COMPLIANCE HAS NOT YET EXPIRED
- (9) CASES IN WHICH A DECISION AWARDED NO RELIEF TO THE CONSUMER
- (10) CASES IN WHICH A DECISION AWARDED THE CONSUMER FURTHER REPAIR OR EXTENDED WARRANTY.

(11) CASES IN WHICH A DECISION REQUIRED THE MANUFACTURER TO ACCEPT THE RETURN OF THE VEHICLE AND A REFUND WAS ISSUED TO THE CONSUMER

(12) CASES IN WHICH A DECISION REQUIRED THE MANUFACTURER TO ACCEPT THE RETURN OF THE VEHICLE AND A REPLACEMENT VEHICLE WAS PROVIDED TO THE CONSUMER

(13) CASES IN WHICH A DECISION IS PENDING

(14) CASES IN WHICH THE CONSUMER ACCEPTED THE DECISION

(15) CASES IN WHICH THE CONSUMER REJECTED THE DECISION

(16) CASES RESOLVED BY PREDECISION SETTLEMENT.

Section 8. Subsection (f) of section 42-179 of the general statutes is repealed and the following is substituted in lieu thereof:

(f) No motor vehicle which is returned to the manufacturer and which requires replacement or refund shall be resold in the state without clear and conspicuous written disclosure of the fact that such motor vehicles shall, by regulations adopted in accordance with the provisions of chapter 54, prescribe the form and content of any such disclosure statement and establish provisions by which the commissioner may remove such written disclosure after such time as the commissioner may determine that such motor vehicle is no longer defective.

WHENEVER A MANUFACTURER ACCEPTS THE RETURN OF A MOTOR VEHICLE FROM A CONNECTICUT CONSUMER DUE TO A NONCONFORMITY OR DEFECT, IN EXCHANGE FOR A REFUND OR A REPLACEMENT VEHICLE, WHETHER AS A RESULT OF AN ADMINISTRATIVE OR JUDICIAL DETERMINATION, AN ARBITRATION PROCEEDING OR A VOLUNTARY SETTLEMENT, THE MANUFACTURER SHALL NOTIFY THE DEPARTMENT OF MOTOR VEHICLES AND SHALL PROVIDE THE DEPARTMENT WITH ALL RELEVANT INFORMATION INCLUDING THE YEAR, MAKE, MODEL, VEHICLE IDENTIFICATION NUMBER AND PRIOR TITLE NUMBER OF THE VEHICLE.