

1 **State of Arkansas**
2 **78th General Assembly**
3 **Regular Session, 1991**
4 **By: Representative Rorie**

A BILL ACT 952 OF 1991
HOUSE BILL 2002

For An Act To Be Entitled

8 "AN ACT TO PROVIDE THE DUTIES OF AN AUTOMOBILE DEALER
9 CONCERNING DAMAGE TO MOTOR VEHICLES WHILE IN TRANSIT FROM
10 THE MANUFACTURER OR DISTRIBUTOR; AND FOR OTHER PURPOSES."

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12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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14 SECTION 1. "Delivery" of a motor vehicle to a dealer by a manufacturer
15 or distributor for the purposes of this section shall be accomplished by the:

16 (1) tender of the motor vehicle and any documents necessary to enable
17 the dealer to obtain title and possession of the motor vehicle at the dealer's
18 place of business or designated place of delivery; and

19 (2) giving of notice of such tender of the motor vehicle and documents
20 to the dealer.

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22 SECTION 2. Whenever a motor vehicle is damaged while in transit when
23 the carrier or the means of transportation is designated by the manufacturer
24 or distributor, or whenever a motor vehicle is otherwise damaged prior to
25 delivery to the dealer, the dealer must:

26 (1) notify the manufacturer or distributor of such damage within three
27 (3) working days of the occurrence of the delivery of the motor vehicle; and

28 (2) must request from the manufacturer or distributor authorization to
29 repair the damages sustained or to replace the parts or accessories damaged.

30 Such notification of damage by the dealer must be by certified mail, with a
31 notice of delivery requested to be returned to the dealer, and shall be
32 presumed to have occurred upon deposit of the notice with the United States
33 Postal Service.

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35 SECTION 3. In the event the manufacturer or distributor refuses or
36 fails to authorize repair or replacement of any such damage within three (3)

1 working days of notification of damage by the dealer, ownership of the motor
2 vehicle shall revert to the manufacturer or distributor, and the dealer shall
3 incur no obligations, financial or otherwise, for such damage to the motor
4 vehicle in determining when such notification of the damage by the dealer to
5 the manufacturer or distributor occurs, the date the notice is received by the
6 manufacturer or distributor by the United States Postal Service indicated on
7 the notice of delivery returned to the dealer shall be controlling.

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9 SECTION 4. In computing the lapse of three (3) working days under this
10 act, the day of the occurrence of delivery of the motor vehicle to the dealer
11 by the manufacturer or distributor or the day of notification of the damage to
12 the manufacturer or distributor by the dealer, as described in section 3 of
13 this act, is not to be included, but the last working day of the period so
14 computed is to be included.

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16 SECTION 5. Prior to the sale of any motor vehicle damaged prior to
17 delivery to the dealer as described in section 2 of this act, excluding damage
18 to glass, tires and bumpers when replaced by identical manufacturer's original
19 equipment and any damage not exceeding six percent (6%) of the sticker price
20 of the vehicle, the occurrence and extent of such damage must be disclosed by
21 the dealer to the consumer, and upon repair of the damage sustained, or
22 replacement of the parts or accessories damaged, the manufacturer or dealer,
23 must certify to the consumer that the motor vehicle has been repaired or
24 remanufactured to the manufacturer's standards. If the dealer makes the
25 certification he shall be indemnified by the manufacturer. Upon such
26 certification, liability for any concealed damages then remaining with the
27 motor vehicle shall lie with the manufacturer.

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

1 certification, liability for any concealed damages then remaining with the
2 motor vehicle shall lie with the dealer.

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4 SECTION 7. Notwithstanding the terms of any franchise agreement, it
5 shall be a violation of this act for any new motor vehicle manufacturer to
6 fail to indemnify and hold harmless its franchised dealers against any
7 judgement or settlement agreed to in writing by the manufacturer for damages,
8 including, but not limited to, court costs and reasonable attorneys' fees of
9 the new motor vehicle dealer, arising out of complaints, claims or lawsuits
10 including, but not limited to, strict liability, negligence,
11 misrepresentation, or warranty to the extent that the judgement or settlement
12 agreed to in writing by the manufacturer relates to the alleged defective or
13 negligent manufacture, assembly, or design of new motor vehicles, parts, or
14 accessories or other functions by the manufacturer, beyond the control of the
15 dealer.

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17 SECTION 8. All provisions of this act of a general and permanent nature
18 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
19 Revision Commission shall incorporate the same in the Code.

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21 SECTION 9. If any provision of this act or the application thereof to
22 any person or circumstance is held invalid, such invalidity shall not affect
23 other provisions or applications of the act which can be given effect without
24 the invalid provision or application, and to this end the provisions of this
25 act are declared to be severable.

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27 SECTION 10. All laws and parts of laws in conflict with this act are
28 hereby repealed.

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30 /s/Roger L. Rorie

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32 APPROVED: 3/29/91

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