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H.884

Senator Pollina moves that the Senate propose to the House that the bill be amended by adding a Sec. XX to read:

Sec. XX. 9 V.S.A. § 4172 is amended to read:

§ 4172. ENFORCEMENT OF WARRANTIES

* * *

(e) If, after a reasonable number of attempts, the manufacturer, its agent or authorized dealer or its delegate is unable to conform the motor vehicle to any express warranty by repairing or correcting any defect or condition covered by the warranty which substantially impairs the use, market value, or safety of the motor vehicle to the consumer, the manufacturer shall, at the option of the consumer within 30 days of the effective date of the board's order, replace the motor vehicle with a new motor vehicle from the same manufacturer, if available, of comparable worth to the same make and model with all options and accessories with appropriate adjustments being allowed for any model year differences or shall accept return of the vehicle from the consumer and refund to the consumer the full purchase price or to the lessee in the case of leased vehicles, as provided in subsection (i) of this section. In those instances in which a refund is tendered, the manufacturer shall refund to the consumer the full purchase price as indicated in the purchase contract and all credits and allowances for any trade-in or downpayment, finance charges, credit charges,

1 registration fees and any similar charges and incidental and consequential
2 damages or in the case of leased vehicles, as provided in subsection (i) of this
3 section. Refunds shall be made to the consumer and lienholder, if any, as their
4 interests may appear or to the motor vehicle lessor and lessee as provided in
5 subsection (i) of this section. A reasonable allowance for use shall be that
6 amount directly attributable to use by the consumer prior to his or her first
7 repair attempt and shall be calculated by multiplying the full purchase price of
8 the vehicle by a fraction having as its denominator 100,000 and having as its
9 numerator the number of miles that the vehicle traveled prior to the first
10 attempt at repairing the vehicle. If the manufacturer refunds the purchase price
11 or a portion of the price to the consumer, any Vermont motor vehicle purchase
12 and use tax paid shall be refunded by the state to the consumer in the
13 proportionate amount. To receive a refund, the consumer must file a claim with
14 ~~the commissioner of motor vehicles~~ Commissioner of the Department of Motor
15 Vehicles within 90 days of the effective date of the order or settlement.

16 * * *

17 (i) In cases in which the lessee elects a replacement vehicle, a collateral
18 change with appropriate adjustments for any model year difference or excess
19 mileage, or both, shall be incorporated into an amended lease agreement. In
20 cases in which a refund is tendered by a manufacturer for a leased motor
21 vehicle under subsection (e) of this section, the refund and rights of the motor

1 vehicle lessor, lessee and manufacturer shall be in accordance with the
2 following:

3 * * *

4 (3) Vermont motor vehicle purchase and use tax shall be refunded by the
5 state to whomever paid the tax. The party must file a claim with the
6 ~~commissioner of the department of motor vehicles~~ Commissioner of the
7 Department of Motor Vehicles within 90 days of the effective date of the order
8 or settlement.

9 * * *

10 (j) A refund of purchase and use tax under subsections (e) or (i) of this
11 section shall be made by the State when the benefit to the consumer or motor
12 vehicle lessee results either from an action by the Board, or from a settlement
13 of a complaint to the Board before formal Board action. A taxpayer may elect
14 to have the refund of the purchase and use tax under subsections (e) or (i) of
15 this section paid in the form of a cash refund, or as a credit against another
16 purchase and use tax obligation.