

AMENDED IN ASSEMBLY APRIL 1, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 2086

Introduced by Assembly Member Bogh

February 19, 2002

An act to amend Section 1793.2 of the Civil Code, relating to consumer warranties.

LEGISLATIVE COUNSEL'S DIGEST

AB 2086, as amended, Bogh. Consumer goods: warranties: service and repair facilities.

Existing law requires every manufacturer of consumer goods sold in California for which the manufacturer has made an express warranty to maintain sufficient service and repair facilities, as specified, to carry out the terms of the warranties. Existing law permits a ~~manufacturer~~ *manufacturer* to enter into warranty service contracts with independent service and repair facilities to comply with this requirement. *Existing law requires these contracts with independent service and repair facilities to conform with certain provisions, including the right of these service and repair facilities, upon an assignment of buyers' rights, to collect the actual and reasonable cost of service and repair, as specified, plus a reasonable profit. A specified evidentiary presumption regarding the reasonable cost of service or repair applies to these contracts.* Existing law prohibits these warranty service contracts from covering a period in excess of one year.

This bill would *delete the requirement that the contracts with the independent service and repair facilities conform with the above-described requirements. The bill would permit a manufacturer to*

designate a retail seller to serve as an independent service and repair facility for the manufacturer’s consumer goods. This bill would also permit the warranty service contracts described above to cover a period in excess of one year.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1793.2 of the Civil Code is amended to
2 read:

3 1793.2. (a) Every manufacturer of consumer goods sold in
4 this state and for which the manufacturer has made an express
5 warranty shall:

6 (1) (A) Maintain in this state sufficient service and repair
7 facilities reasonably close to all areas where its consumer goods
8 are sold to carry out the terms of those warranties or designate and
9 authorize in this state as service and repair facilities independent
10 repair or service facilities reasonably close to all areas where its
11 consumer goods are sold to carry out the terms of the warranties.

12 (B) As a means of complying with this paragraph, a
13 manufacturer may enter into warranty service contracts with
14 independent service and repair facilities. The warranty service
15 contracts may provide for a fixed schedule of rates to be charged
16 for warranty service or warranty repair work. ~~However, the rates~~
17 ~~fixed by those contracts shall be in conformity with the~~
18 ~~requirements of subdivision (e) of Section 1793.3. A~~
19 ~~manufacturer may designate a retail seller to serve as an~~
20 ~~independent service and repair facility for the manufacturer’s~~
21 ~~consumer goods. The rates established pursuant to subdivision (e)~~
22 ~~of Section 1793.3, between the manufacturer and the independent~~
23 service and repair facility, shall not preclude a good faith discount
24 ~~which~~ that is reasonably related to reduced credit and general
25 overhead cost factors arising from the manufacturer’s payment of
26 warranty charges direct to the independent service and repair
27 facility. The warranty service contracts authorized by this
28 paragraph may be executed to cover a period of time in excess of
29 one year, and may be renewed only by a separate, new contract or
30 letter of agreement between the manufacturer and the independent
31 service and repair facility.



1 (2) In the event of a failure to comply with paragraph (1) of this
2 subdivision, be subject to Section 1793.5.

3 (3) Make available to authorized service and repair facilities
4 sufficient service literature and replacement parts to effect repairs
5 during the express warranty period.

6 (b) ~~Where~~ *If* those service and repair facilities are maintained
7 in this state and service or repair of the goods is necessary because
8 they do not conform with the applicable express warranties,
9 service and repair shall be commenced within a reasonable time by
10 the manufacturer or its representative in this state. Unless the buyer
11 agrees in writing to the contrary, the goods shall be serviced or
12 repaired so as to conform to the applicable warranties within 30
13 days. Delay caused by conditions beyond the control of the
14 manufacturer or ~~his~~ *its* representatives shall serve to extend this
15 30-day requirement. ~~Where~~ *If* delay arises, conforming goods
16 shall be tendered as soon as possible following termination of the
17 condition giving rise to the delay.

18 (c) The buyer shall deliver nonconforming goods to the
19 manufacturer's service and repair facility within this state, unless,
20 due to reasons of size and weight, or method of attachment, or
21 method of installation, or nature of the nonconformity, delivery
22 cannot reasonably be accomplished. If the buyer cannot return the
23 nonconforming goods for any of these reasons, he or she shall
24 notify the manufacturer or its nearest service and repair facility
25 within the state. Written notice of nonconformity to the
26 manufacturer or its service and repair facility shall constitute
27 return of the goods for purposes of this section. Upon receipt of
28 that notice of nonconformity, the manufacturer shall, at its option,
29 service or repair the goods at the buyer's residence, or pick up the
30 goods for service and repair, or arrange for transporting the goods
31 to its service and repair facility. All reasonable costs of
32 transporting the goods when a buyer cannot return them for any of
33 the above reasons shall be at the manufacturer's expense. The
34 reasonable costs of transporting nonconforming goods after
35 delivery to the service and repair facility until return of the goods
36 to the buyer shall be at the manufacturer's expense.

37 (d) (1) Except as provided in paragraph (2), if the
38 manufacturer or its representative in this state does not service or
39 repair the goods to conform to the applicable express warranties
40 after a reasonable number of attempts, the manufacturer shall



1 either replace the goods or reimburse the buyer in an amount equal
2 to the purchase price paid by the buyer, less that amount directly
3 attributable to use by the buyer prior to the discovery of the
4 nonconformity.

5 (2) If the manufacturer or its representative in this state is
6 unable to service or repair a new motor vehicle, as that term is
7 defined in paragraph (2) of subdivision (e) of Section 1793.22, to
8 conform to the applicable express warranties after a reasonable
9 number of attempts, the manufacturer shall either promptly
10 replace the new motor vehicle in accordance with subparagraph
11 (A) or promptly make restitution to the buyer in accordance with
12 subparagraph (B). However, the buyer shall be free to elect
13 restitution in lieu of replacement, and in no event shall the buyer
14 be required by the manufacturer to accept a replacement vehicle.

15 (A) In the case of replacement, the manufacturer shall replace
16 the buyer's vehicle with a new motor vehicle substantially
17 identical to the vehicle replaced. The replacement vehicle shall be
18 accompanied by all express and implied warranties that normally
19 accompany new motor vehicles of that specific kind. The
20 manufacturer also shall pay for, or to, the buyer the amount of any
21 sales or use tax, license fees, registration fees, and other official
22 fees which the buyer is obligated to pay in connection with the
23 replacement, plus any incidental damages to which the buyer is
24 entitled under Section 1794, including, but not limited to,
25 reasonable repair, towing, and rental car costs actually incurred by
26 the buyer.

27 (B) In the case of restitution, the manufacturer shall make
28 restitution in an amount equal to the actual price paid or payable
29 by the buyer, including any charges for transportation and
30 manufacturer-installed options, but excluding nonmanufacturer
31 items installed by a dealer or the buyer, and including any
32 collateral charges such as sales tax, license fees, registration fees,
33 and other official fees, plus any incidental damages to which the
34 buyer is entitled under Section 1794, including, but not limited to,
35 reasonable repair, towing, and rental car costs actually incurred by
36 the buyer.

37 (C) When the manufacturer replaces the new motor vehicle
38 pursuant to subparagraph (A), the buyer shall only be liable to pay
39 the manufacturer an amount directly attributable to use by the
40 buyer of the replaced vehicle prior to the time the buyer first



1 delivered the vehicle to the manufacturer or distributor, or its
2 authorized service and repair facility for correction of the problem
3 that gave rise to the nonconformity. When restitution is made
4 pursuant to subparagraph (B), the amount to be paid by the
5 manufacturer to the buyer may be reduced by the manufacturer by
6 that amount directly attributable to use by the buyer prior to the
7 time the buyer first delivered the vehicle to the manufacturer or
8 distributor, or its authorized service and repair facility for
9 correction of the problem that gave rise to the nonconformity. The
10 amount directly attributable to use by the buyer shall be
11 determined by multiplying the actual price of the new motor
12 vehicle paid or payable by the buyer, including any charges for
13 transportation and manufacturer-installed options, by a fraction
14 having as its denominator 120,000 and having as its numerator the
15 number of miles traveled by the new motor vehicle prior to the
16 time the buyer first delivered the vehicle to the manufacturer or
17 distributor, or its authorized service and repair facility for
18 correction of the problem that gave rise to the nonconformity.
19 Nothing in this paragraph shall in any way limit the rights or
20 remedies available to the buyer under any other law.

