

CHAPTER 325F

CONSUMER PROTECTION; PRODUCTS AND SALES

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325F.56 DEFINITIONS.

[For text of subds 1 to 7, see M.S.1986]

Subd. .8. "Written estimate" means a writing which includes:

- (a) The name and address of the shop;
- (b) A description of the problem to be repaired as described by the customer and any specific repair requested by the customer;
- (c) The charges for parts or materials listed with reasonable particularity and indicating whether the parts are new, used, rebuilt, reconditioned, or replated if this information is known by the shop. If parts, other than window glass, used in the repair are new parts, the estimate must indicate whether or not those parts are original equipment parts;
- (d) Labor charges;
- (e) Tax;
- (f) Any delivery charge;
- (g) Any other charges; and
- (h) The total estimated price.

History: 1987 c 64 s 3

325F.60 INVOICE.

Subdivision 1. **Definition; requirements.** Notwithstanding the provisions of section 325F.56, subdivision 2, for the purpose of this section "repair" means work of any value performed under a manufacturer's warranty, a service contract, or an insurance policy; or any repair work performed for a total value of more than \$50, including the price of parts and materials, to restore a malfunctioning, defective, or worn motor vehicle, appliance, or dwelling place used primarily for personal, family, or household purposes and not primarily for business or agricultural purposes. "Repairs" do not include service calls or estimates. Upon completion of repairs, a shop shall provide the customer with a copy of a dated invoice for the repairs performed. If the customer receives a repaired motor vehicle or appliance without face to face contact with the shop, the shop shall mail the invoice to the customer within two business days after the shop has knowledge of removal of the item. The invoice shall contain the following information:

- (a) The date of repair;
- (b) The name and address of the shop;
- (c) A description of all repairs performed;
- (d) An itemization of the charges for parts, materials, labor, tax, delivery, and any other charges assessed against the customer;
- (e) A notation specifying which parts, if any, are new, used, rebuilt, reconditioned, or replated if that information is known by the shop. If parts, other than window glass, used in the repair are new parts, the invoice must indicate whether or not those parts are original equipment parts;
- (f) A statement of any charge for a service call or for making an estimate;

(g) A statement of the odometer reading at the time a motor vehicle is presented for repairs; and

(h) A statement of the symptoms, as described by the customer, for which the repairs were sought.

[For text of subd 2, see M.S.1986]

History: 1987 c 64 s 4

325F.665 NEW MOTOR VEHICLE WARRANTIES; MANUFACTURER'S DUTY TO REPAIR, REFUND, OR REPLACE.

Subdivision 1. **Definitions.** For the purposes of this section, the following terms have the meanings given them:

(a) "consumer" means the purchaser or lessee, other than for purposes of resale or sublease, of a new motor vehicle used for personal, family, or household purposes at least 40 percent of the time, a person to whom the new motor vehicle is transferred for the same purposes during the duration of an express warranty applicable to the motor vehicle;

(b) "manufacturer" means a person engaged in the business of manufacturing, assembling or distributing motor vehicles, who will, under normal business conditions during the year, manufacture, assemble or distribute to dealers at least ten new motor vehicles;

(c) "manufacturer's express warranty" and "warranty" mean the written warranty of the manufacturer of a new motor vehicle of its condition and fitness for use, including any terms or conditions precedent to the enforcement of obligations under that warranty;

(d) "lease" means a contract in the form of a lease or bailment for the use of personal property by a natural person for a period of time exceeding four months, used for personal, family, or household purposes at least 40 percent of the time, whether or not the lessee has the option to purchase or otherwise become the owner of the property at the expiration of the lease;

(e) "motor vehicle" means (1) a passenger automobile as defined in section 168.011, subdivision 7, including pickup trucks and vans, and (2) the self-propelled motor vehicle chassis or van portion of recreational equipment as defined in section 168.011, subdivision 25, which is sold or leased to a consumer in this state;

(f) "informal dispute settlement mechanism" means an arbitration process or procedure by which the manufacturer attempts to resolve disputes with consumers regarding motor vehicle nonconformities and repairs that arise during the vehicle's warranty period;

(g) "motor vehicle lessor" means a person who holds title to a motor vehicle leased to a lessee under a written lease agreement or who holds the lessor's rights under such agreement; and

(h) "early termination costs" means expenses and obligations incurred by a motor vehicle lessor as a result of an early termination of a written lease agreement and surrender of a motor vehicle to a manufacturer under subdivision 4, including penalties for prepayment of finance arrangements.

Subd. 2. Manufacturer's duty to repair. 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 during the term of the applicable express warranties or during the period of two years following the date of original delivery of the new motor vehicle to a consumer, whichever is the earlier date, the manufacturer, its agent, or its authorized dealer shall make the repairs necessary to conform the vehicle to the applicable express warranties, notwithstanding the fact that the repairs are made after the expiration of the warranty term or the two-year period.

Subd. 3. Manufacturer's duty to refund or replace. (a) If the manufacturer, its agents, or its authorized dealers are unable to conform the new motor vehicle to any

applicable express warranty by repairing or correcting any defect or condition which substantially impairs the use or market value of the motor vehicle to the consumer after a reasonable number of attempts, the manufacturer shall either replace the new motor vehicle with a comparable motor vehicle or accept return of the vehicle from the consumer and refund to the consumer the full purchase price, including the cost of any options or other modifications arranged, installed, or made by the manufacturer, its agent, or its authorized dealer within 30 days after the date of original delivery, and all other charges including, but not limited to, sales tax, license fees and registration fees, reimbursement for towing and rental vehicle expenses incurred by the consumer as a result of the vehicle being out of service for warranty repair, less a reasonable allowance for the consumer's use of the vehicle not exceeding ten cents per mile driven or ten percent of the purchase price, whichever is less. If the manufacturer offers a replacement vehicle under this section, the consumer has the option of rejecting the replacement vehicle and requiring the manufacturer to provide a refund. Refunds must be made to the consumer, and lienholder, if any, as their interests appear on the records of the registrar of motor vehicles. Refunds shall include the amount stated by the dealer as the trade-in value of a consumer's used motor vehicle, plus any additional amount paid by the consumer for the new motor vehicle. A reasonable allowance for use is that amount directly attributable to use by the consumer and any previous consumer during any period in which the use and market value of the motor vehicle are not substantially impaired. It is an affirmative defense to any claim under this section (1) that an alleged nonconformity does not substantially impair the use or market value, or (2) that a nonconformity is the result of abuse, neglect, or unauthorized modifications or alterations of a motor vehicle by anyone other than the manufacturer, its agent or its authorized dealer.

(b) It is presumed that a reasonable number of attempts have been undertaken to conform a new motor vehicle to the applicable express warranties, if (1) the same nonconformity has been subject to repair four or more times by the manufacturer, its agents, or its authorized dealers within the applicable express warranty term or during the period of two years following the date of original delivery of the new motor vehicle to a consumer, whichever is the earlier date, but the nonconformity continues to exist, or (2) the vehicle is out of service by reason of repair for a cumulative total of 30 or more business days during the term or during the period, whichever is the earlier date.

(c) If the nonconformity results in a complete failure of the braking or steering system of the new motor vehicle and is likely to cause death or serious bodily injury if the vehicle is driven, it is presumed that a reasonable number of attempts have been undertaken to conform the vehicle to the applicable express warranties if the nonconformity has been subject to repair at least once by the manufacturer, its agents, or its authorized dealers within the applicable express warranty term or during the period of two years following the date of original delivery of the new motor vehicle to a consumer, whichever is the earlier date, and the nonconformity continues to exist.

(d) The term of an applicable express warranty, the two-year period and the 30-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.

(e) The presumption contained in paragraph (b) applies against a manufacturer only if the manufacturer, its agent, or its authorized dealer has received prior written notification from or on behalf of the consumer at least once and an opportunity to cure the defect alleged. If the notification is received by the manufacturer's agent or authorized dealer, the agent or dealer must forward it to the manufacturer by certified mail, return receipt requested.

(f) The expiration of the time periods set forth in paragraph (b) does not bar a consumer from receiving a refund or replacement vehicle under paragraph (a) if the reasonable number of attempts to correct the nonconformity causing the substantial impairment occur within three years following the date of original delivery of the new motor vehicle to a consumer, provided the consumer first reported the nonconformity

to the manufacturer, its agent, or its authorized dealer during the term of the applicable express warranty.

(g) At the time of purchase or lease, the manufacturer must provide directly to the consumer a written statement on a separate piece of paper, in 10-point all capital type, in substantially the following form: "IMPORTANT: IF THIS VEHICLE IS DEFECTIVE, YOU MAY BE ENTITLED UNDER THE STATE'S LEMON LAW TO REPLACEMENT OF IT OR A REFUND OF ITS PURCHASE PRICE OR YOUR LEASE PAYMENTS. HOWEVER, TO BE ENTITLED TO REFUND OR REPLACEMENT, YOU MUST FIRST NOTIFY THE MANUFACTURER, ITS AGENT, OR ITS AUTHORIZED DEALER OF THE PROBLEM IN WRITING AND GIVE THEM AN OPPORTUNITY TO REPAIR THE VEHICLE. YOU ALSO HAVE A RIGHT TO SUBMIT YOUR CASE TO THE CONSUMER ARBITRATION PROGRAM WHICH THE MANUFACTURER MUST OFFER IN MINNESOTA."

(h) The amount of the sales tax to be paid by the manufacturer to the consumer under paragraph (a) shall be the tax paid by the consumer when the vehicle was purchased less an amount equal to the tax paid multiplied by a fraction, the denominator of which is the purchase price of the vehicle and the numerator of which is the allowance deducted from the refund for the consumer's use of the vehicle.

Subd. 4. Manufacturer's duty to consumers with leased vehicles. A consumer who leases a new motor vehicle has the same rights against the manufacturer under this section as a consumer who purchases a new motor vehicle, except that, if it is determined that the manufacturer must accept return of the consumer's leased vehicle pursuant to subdivision 3, then the consumer lessee is not entitled to a replacement vehicle, but is entitled only to a refund as provided in this subdivision. In such a case, the consumer's leased vehicle shall be returned to the manufacturer and the consumer's written lease with the motor vehicle lessor must be terminated. The manufacturer shall then provide the consumer with a full refund of the amount actually paid by the consumer on the written lease, including all additional charges set forth in subdivision 3, if actually paid by the consumer, less a reasonable allowance for use by the consumer as set forth in subdivision 3. The manufacturer shall provide the motor vehicle lessor with a full refund of the vehicle's original purchase price plus any early termination costs, not to exceed 15 percent of the vehicle's original purchase price, less the amount actually paid by the consumer on the written lease.

Subd. 5. Resale or re-lease of returned motor vehicle. (a) If a motor vehicle has been returned under the provisions of subdivision 3 or a similar statute of another state, whether as the result of a legal action or as the result of an informal dispute settlement proceeding, it may not be resold or re-leased in this state unless:

(1) the manufacturer provides the same express warranty it provided to the original purchaser, except that the term of the warranty need only last for 12,000 miles or 12 months after the date of resale, whichever is earlier; and

(2) the manufacturer provides the consumer with a written statement on a separate piece of paper, in 10-point all capital type, in substantially the following form: "IMPORTANT: THIS VEHICLE WAS RETURNED TO THE MANUFACTURER BECAUSE IT DID NOT CONFORM TO THE MANUFACTURER'S EXPRESS WARRANTY AND THE NONCONFORMITY WAS NOT CURED WITHIN A REASONABLE TIME AS PROVIDED BY MINNESOTA LAW."

The provisions of this section apply to the resold or re-leased motor vehicle for full term of the warranty required under this subdivision.

(b) Notwithstanding the provisions of paragraph (a), if a new motor vehicle has been returned under the provisions of subdivision 3 or a similar statute of another state because of a nonconformity resulting in a complete failure of the braking or steering system of the motor vehicle likely to cause death or serious bodily injury if the vehicle was driven, the motor vehicle may not be resold in this state.

Subd. 6. Alternative dispute settlement mechanism. (a) Any manufacturer doing business in this state, entering into franchise agreements for the sale of its motor

vehicles in this state, or offering express warranties on its motor vehicles sold or distributed for sale in this state shall operate, or participate in, an informal dispute settlement mechanism located in the state of Minnesota which complies with the provisions of the Code of Federal Regulations, title 16, part 703, and the requirements of this section. The provisions of subdivision 3 concerning refunds or replacement do not apply to a consumer who has not first used this mechanism before commencing a civil action, unless the manufacturer allows a consumer to commence an action without first using this mechanism.

(b) An informal dispute settlement mechanism provided for by this section shall, at the time a request for arbitration is made, provide to the consumer and to each person who will arbitrate the consumer's dispute, information about this section as approved and directed by the attorney general, in consultation with interested parties. The informal dispute settlement mechanism shall permit the parties to present or submit any arguments based on this section and shall not prohibit or discourage the consideration of any such arguments. In developing and approving information about this section as provided herein, the attorney general is not subject to the rulemaking provisions of chapter 14.

(c) If, in an informal dispute settlement mechanism, it is decided that a consumer is entitled to a replacement vehicle or refund under subdivision 3, then any refund or replacement offered by the manufacturer or selected by a consumer shall include all amounts authorized by subdivision 3.

(d) No documents shall be received by any informal dispute settlement mechanism unless those documents have been provided to each of the parties in the dispute at or prior to the mechanism's meeting, with an opportunity for the parties to comment on the documents either in writing or orally. If a consumer is present during the informal dispute settlement mechanism's meeting, the consumer may request postponement of the mechanism's meeting to allow sufficient time to review any documents presented at the time of the meeting which had not been presented to the consumer prior to the meeting.

(e) The informal dispute settlement mechanism shall allow each party to appear and make an oral presentation in the state of Minnesota unless the consumer agrees to submit the dispute for decision on the basis of documents alone or by telephone, or unless the party fails to appear for an oral presentation after reasonable prior written notice. If the consumer agrees to submit the dispute for decision on the basis of documents alone, then manufacturer or dealer representatives may not participate in the discussion or decision of the dispute.

(f) Consumers shall be given an adequate opportunity to contest a manufacturer's assertion that a nonconformity falls within intended specifications for the vehicle by having the basis of the manufacturer's claim appraised by a technical expert selected and paid for by the consumer prior to the informal dispute settlement hearing.

(g) Where there has been a recent attempt by the manufacturer to repair a consumer's vehicle, but no response has yet been received by the informal dispute mechanism from the consumer as to whether the repairs were successfully completed, the parties must be given the opportunity to present any additional information regarding the manufacturer's recent repair attempt before any final decision is rendered by the informal dispute settlement mechanism. This provision shall not prejudice a consumer's rights under this section.

(h) If the manufacturer knows that a technical service bulletin directly applies to the specific mechanical problem being disputed by the consumer, then the manufacturer shall provide the technical service bulletin to the consumer at reasonable cost. The mechanism shall review any such technical service bulletins submitted by either party.

(i) A consumer may be charged a fee to participate in an informal dispute settlement mechanism required by this section, but the fee may not exceed the conciliation court filing fee in the county where the arbitration is conducted.

(j) Any party to the dispute has the right to be represented by an attorney in an informal dispute settlement mechanism.

(k) The informal dispute settlement mechanism has all the evidence-gathering powers granted an arbitrator under section 572.14.

(l) A decision issued in an informal dispute settlement mechanism required by this section may be in writing and signed.

Subd. 7. Effect and admissibility of decision by informal dispute settlement mechanism. The decision issued in an informal dispute settlement mechanism required by this section is nonbinding on the parties involved, unless otherwise agreed by the parties. Any party, upon application, may remove the decision to district court for a trial de novo. If an application to remove a decision is not filed in the district court within 30 days after the date the decision is received by the parties, then the district court shall, upon application of a party, issue an order confirming the decision. A written decision issued by an informal dispute settlement mechanism, and any written findings upon which the decision is based, are admissible as nonbinding evidence in any subsequent legal action and are not subject to further foundation requirements.

Subd. 8. Treble damages for bad faith appeal of decision. If the district court finds that a party has removed a decision of an informal dispute settlement mechanism in bad faith, by asserting a claim or defense that is frivolous and costly to the other party, or by asserting an unfounded position solely to delay recovery by the other party, then the court shall award to the prevailing party three times the actual damages sustained, together with costs and disbursements, including reasonable attorney's fees.

Subd. 9. Civil remedy. Any consumer injured by a violation of this section may bring a civil action to enforce this section and recover costs and disbursements, including reasonable attorney's fees incurred in the civil action. In addition to the remedies provided herein, the attorney general may bring an action pursuant to section 8.31 against any manufacturer for violation of this section.

Subd. 10. Limitation on actions. A civil action brought under this section must be commenced within three years of the date of original delivery of the new motor vehicle to a consumer; except that, if the consumer applies to an informal dispute settlement mechanism within three years of the date of original delivery of a new motor vehicle to a consumer, then any civil action brought under this section must be commenced within six months after the date of the final decision by the mechanism.

Subd. 11. Remedy nonexclusive. Nothing in this section limits the rights or remedies which are otherwise available to a consumer under any other law.

Subd. 12. Disclosure requirement. In addition to any investigative powers authorized by law, the attorney general may inspect the records of the informal dispute settlement mechanism upon reasonable notice, during regular business hours, and may make available to the public information about the operation of the mechanism, but data on an individual may not be disclosed without the prior consent of the individual.

History: 1987 c 52 s 1; 1987 c 268 art 4 s 23

325F.75 ADVERTISING RESTRICTIONS; SCOPE; PENALTIES.

Subdivision 1. Restrictions. Except as provided in this section, where a plumbing license is required under section 326.40, no person offering plumbing services may do any of the following unless the person employs a licensed master plumber or the person is a licensed master or journeyman plumber:

(1) advertise as a plumbing contractor, master plumber, journeyman plumber, or plumber;

(2) append the person's name to, or in connection with, the title "plumbing contractor," "master plumber," "journeyman plumber," or "plumber";

(3) append the person's name to any other words that tend to represent the person as a plumbing contractor, master plumber, journeyman plumber, or plumber.

A person who advertises as a master plumber shall include in the advertisement the number of the person's license as a master plumber. A person who advertises as a journeyman plumber must include in the advertisement the person's master or

journeyman plumber license number. A person who advertises as a plumbing contractor shall include in the advertisement the license number of the master plumber employed by the plumbing contractor.

A vehicle used to conduct plumbing business must prominently display on its exterior the license number of the master plumber or journeyman plumber performing plumbing services.

Subd. 2. Scope. (a) This section applies to a person advertising plumbing services if that person engages in or works at the business of plumbing or offers plumbing services in a city of 5,000 or more population.

(b) This section also applies to a person advertising plumbing services who engages in or works at the business of plumbing or offers plumbing services in a city of less than 5,000 in population that by ordinance requires licensing to do business as a master or journeyman plumber.

Subd. 3. Penalties. (a) A person who is found guilty of violating subdivision 1 is subject to a fine not to exceed \$100 for the first offense.

(b) A person who is found guilty of violating subdivision 1 is subject to a fine not to exceed \$1,000 for the second offense.

(c) A person who is found guilty of violating subdivision 1 is subject to a fine not to exceed \$1,000 or imprisonment not to exceed 30 days, or both, for the third and subsequent offenses.

History: 1987 c 279 s 1

325F.77 PROMOTIONAL DISTRIBUTION.

Subdivision 1. [Repealed, 1987 c 399 s 5]

Subd. 2. [Repealed, 1987 c 399 s 5]

Subd. 3. Legislative intent. Because the state prohibits both the use of tobacco products by minors and the furnishing of tobacco products to minors, and because the enforcement of an age-related restriction on the promotional distribution of tobacco products is impractical and ineffective, it is the intent of the legislature to control the distribution of these products and discourage illegal activity by prohibiting all promotional distribution, except as allowed in this section.

Subd. 4. Prohibition. No person shall distribute smokeless tobacco products or cigarettes, cigars, pipe tobacco, or other tobacco products suitable for smoking, except that single serving samples of tobacco may be distributed in tobacco stores.

History: 1987 c 399 s 3,4

RETAIL SALES REFUNDS

325F.80 RETAIL SALES OF CONSUMER GOODS; REFUNDS.

Subdivision 1. **Definitions.** For purposes of this section, the following terms have the meanings given them under this subdivision:

(1) "consumer" means a natural person who buys goods for personal, family, or household purposes and not for commercial, agricultural, or business purposes;

(2) "seller" means a person who regularly sells goods at retail to consumers;

(3) "acceptable" means that the goods returned are in a condition acceptable to the seller using reasonable and objective standards, the goods are returned within a reasonable time from the date of purchase, and proof of purchase is presented by the consumer at time of return;

(4) "cash refund" means the seller provides the consumer cash at the time of the return; or the seller mails a check to the consumer within a reasonable time following return; or, for sales involving financial transaction cards, as defined in section 325G.02, subdivision 2, or sales in which the seller extends credit to the consumer, the seller credits the account that was charged.

Subd. 2. **Cash refunds required.** A seller may not refuse to give a cash refund to a consumer for goods that are acceptable for return unless the seller complies with subdivision 3.

Subd. 3. **Notice of refund policy.** If a seller wishes to alter the cash refund policy required by this section, written notice of the seller's cash refund policy must be clearly and conspicuously displayed on the premises. The notice must be written in boldface type of a minimum size of 14 points.

Subd. 4. **Nonapplication.** This section does not apply to home solicitation sales, as defined in section 325G.06, goods custom ordered or special ordered by the consumer, sellers licensed under section 168.27, or sales that are subject to a written agreement or contract under the uniform commercial code.

Subd. 5. **Violation.** A seller who violates this section is subject to the remedies under section 8.31, except that a civil penalty imposed under that section may not exceed \$500 per violation.

History: 1987 c 205 s 1