

CHAPTER 325F

CONSUMER PROTECTION; PRODUCTS AND SALES

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manufacturer's duty to repair, refund,
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325F.665 NEW MOTOR VEHICLE WARRANTIES; MANUFACTURER'S DUTY TO REPAIR, REFUND, OR REPLACE.

[For text of subds 1 to 5, see M.S.1996]

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.

(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 and itemize all amounts authorized by subdivision 3. If the amount of excise tax refunded is not separately stated, or if the manufacturer does not apply for a refund of the tax within one year of the return of the motor vehicle, the department of public safety may refund the excise tax, as determined under subdivision 3, paragraph (h), directly to the consumer and lienholder, if any, as their interests appear on the records of the registrar of motor vehicles.

(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.

[For text of subs 7 to 13, see M.S.1996]

History: 1997 c 187 art 3 s 30

325F.68 DEFINITIONS.

[For text of subd 1, see M.S.1996]

Subd. 2. "Merchandise" means any objects, wares, goods, commodities, intangibles, real estate, loans, or services.

[For text of subs 3 to 5, see M.S.1996]

History: 1997 c 157 s 60

325F.693 FRAUDULENT TELEPHONE SERVICES; SLAMMING.

Subdivision 1. **Definitions.** (a) For the purposes of this section, a "telephone service subscriber" means a person who contracts with a telephone company for telephone services or a telecommunications company for telecommunications services.

(b) The definitions contained in chapter 237 apply to this section.

Subd. 2. **Slamming deemed consumer fraud.** (a) It is fraud under section 325F.69 to request a change in a telephone service subscriber's local exchange or interexchange carrier without the subscriber's verified consent.

(b) A telephone service subscriber may employ the remedies provided in section 237.66 for violations of paragraph (a). Section 8.31 may also be employed to remedy violations of paragraph (a).

(c) For the purposes of paragraph (a):

(1) the consent of the telephone service subscriber may be verified utilizing any method that is consistent with federal law or regulation;

(2) compliance with applicable federal law and regulation, or state law and rule, whichever is more stringent, is a complete defense to an allegation of consumer fraud under paragraph (a); and

(3) it is the responsibility of the company or carrier requesting a change in a telephone service subscriber's company or carrier to verify that the subscriber has authorized the change. A telephone company or telecommunications carrier providing local exchange service who has been requested by another telephone company or telecommunications carrier to process a change in a subscriber's carrier is only liable under this section if it knowingly participates in processing a requested change that is unauthorized.

Nothing in this section shall be construed to change a telephone company's or telecommunications carrier's obligations under section 237.66.

History: 1997 c 68 s 5

325F.785 SALES OF HIV HOME COLLECTION KITS AND HYPODERMIC SYRINGES AND NEEDLES.

Subdivision 1. **Information to purchasers.** A seller may provide each purchaser of an HIV home collection kit or hypodermic syringes and needles as authorized in section 151.40, at the time of purchase, with written information about the telephone numbers for public HIV counseling and testing sites, the state's HIV hotline, disposal of used syringes, and general HIV prevention and care.

Subd. 2. **Assistance for sellers.** The commissioner of health shall provide technical assistance and materials to pharmacies and to sellers related to compliance with this section and section 151.40. The commissioner, in consultation with organizations specializing in HIV prevention, shall provide printed materials, including the written information described under subdivision 1, at no charge to pharmacies that sell hypodermic needles or syringes under section 151.40, and sellers of HIV home collection kits under this section. A pharmacy or seller may request and the commissioner may authorize use of other methods for providing written information to purchasers. The commissioner may use funds appropriated under section 145.924, to provide technical assistance and materials.

History: 1997 c 203 art 2 s 27

NOTE: Subdivision 1 of this section, as added by Laws 1997, chapter 203, article 2, section 27, is effective July 1, 1998. Laws 1997, chapter 203, article 2, section 38.

325F.84 DEFINITIONS.

Subdivision 1. **Applicability.** As used in sections 325F.84 to 325F.97, the following terms have the meanings given them.

[For text of subds 2 to 8, see M.S.1996]

History: 1997 c 7 art 2 s 71

325F.98 [Repealed, 1997 c 7 art 2 s 67]