

103D CONGRESS
1ST SESSION

S. 485

To amend the Motor Vehicle Information and Cost Savings Act to require motor vehicle damage disclosure.

IN THE SENATE OF THE UNITED STATES

MARCH 3, 1993

Mr. PRESSLER introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To amend the Motor Vehicle Information and Cost Savings Act to require motor vehicle damage disclosure.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Automobile Damage
5 Consumer Protection Act of 1993”.

6 **SEC. 2. MOTOR VEHICLE DAMAGE DISCLOSURE REQUIRE-**
7 **MENTS.**

8 The Motor Vehicle Information and Cost Savings Act
9 (15 U.S.C. 1901 et seq.) is amended by inserting at the
10 end the following new title:

1 **“TITLE VII—DAMAGE DISCLOSURE**
2 **REQUIREMENTS**

3 **“SEC. 701. DAMAGE DISCLOSURE STATEMENT.**

4 “(a) IN GENERAL.—Not later than 90 days after the
5 date of enactment of this section, the Secretary shall issue
6 such regulations as may be necessary to require, prior to
7 the transfer of title of a motor vehicle in any State, that
8 the person transferring such vehicle disclose to the trans-
9 feree, in writing, any damage to the motor vehicle, which
10 occurred during the time such person owned the motor
11 vehicle, if the cost to repair the motor vehicle to its
12 predamaged condition exceeded, or will exceed, \$1,000 at
13 the time of the transfer of title. A copy of the damage
14 disclosure statement shall be submitted by such person to
15 the motor vehicle department of the State issuing the title.

16 “(b) SPECIFIC GUIDELINES.—In carrying out the
17 provisions of subsection (a), the Secretary shall require,
18 in addition to the damage disclosure statement required
19 by subsection (a), that each certificate of title issued by
20 a State on or after the date of enactment of this section
21 include—

22 “(1) an area for a damage disclosure form,
23 which shall be located on the back of each certificate
24 of title;

1 “(2) each certificate of title shall also contain
2 on its front a statement as to whether previous dam-
3 age disclosure statements indicate the motor vehicle
4 had been damaged at one time in excess of \$1,000;

5 “(3) a damage disclosure form, which will en-
6 able the person transferring the vehicle to disclose to
7 the transferee any damage to the motor vehicle that
8 must be disclosed under the provisions of subsection
9 (a);

10 “(4) a diagram of a motor vehicle on which any
11 damage to the motor vehicle that must be disclosed
12 under the provisions of subsection (a) is to be indi-
13 cated by circling the damaged area(s) on the dia-
14 gram; and

15 “(5) a written statement indicating that dam-
16 age disclosure is a requirement of Federal law.

17 “(c) UNIFORM CERTIFICATES OF TITLE.—Not later
18 than 180 days after the date of enactment of this section,
19 the Secretary shall prescribe by rule the form and content
20 of all certificates of title.

21 **“SEC. 702. FAILURE TO REPAIR.**

22 “‘In carrying out the provisions of this title, the Sec-
23 retary shall provide that the failure to repair a damaged
24 motor vehicle to its predamaged condition, when the cost
25 of such repairs would have exceeded \$1,000, shall not ex-

1 empt any person from the damage disclosure requirements
2 of this title.

3 **“SEC. 703. RECORD-KEEPING REQUIREMENT.**

4 “In carrying out the provisions of this title, the Sec-
5 retary shall require each State to establish and maintain
6 records of all damage disclosure statements submitted to
7 the State in accordance the provisions of section 701(a).
8 The State shall include these statements in the title his-
9 tory of the motor vehicles indicated in such statements.

10 **“SEC. 704. CERTAIN VEHICLES EXEMPTED.**

11 “The regulations promulgated pursuant to section
12 701(a) shall not apply to any motor vehicle that—

13 “(1) is more than 9 model years old at the time
14 of transfer of title; or

15 “(2) has a gross weight in excess of 16,000
16 pounds.

17 **“SEC. 705. CRIMINAL PENALTIES.**

18 “(a) IN GENERAL.—Any person who knowingly and
19 willfully commits any act or causes to be done any act
20 that violates any provision of this title or knowingly and
21 willfully omits to do any act or causes to be omitted any
22 act that is required by any such provision shall be guilty
23 of a Class A misdemeanor, as defined in section 3559 of
24 title 18, United States Code, and shall be punished in ac-
25 cordance with the provisions of that section.

1 “(b) REPEAT OFFENDERS.—In the case of a person’s
2 second or subsequent conviction under subsection (a),
3 such person shall be guilty of a Class E felony, as defined
4 in section 3559 of title 18, United States Code, and shall
5 be punished in accordance with the provisions of that
6 section.

7 **“SEC. 706. CIVIL PENALTIES.**

8 “(a) IN GENERAL.—Any person who violates any
9 provision of this title shall be subject to a civil penalty
10 of not more than \$2,000 for each such violation. A viola-
11 tion of this title shall, for purposes of this section, con-
12 stitute a separate violation with respect to each motor ve-
13 hicle or device involved, except that the maximum civil
14 penalty shall not exceed \$100,000 for any related series
15 of violations.

16 “(b) PROCEEDINGS.—Any civil penalty under this
17 section shall be assessed by the Secretary and collected
18 in a civil action brought by the Attorney General on behalf
19 of the United States. Before referral of civil penalty claims
20 to the Attorney General, civil penalties may be com-
21 promised by the Secretary after affording the person
22 charged with a violation of any section of this title an op-
23 portunity to present views and evidence in support thereof
24 to establish that the alleged violation did not occur.

1 “(c) AMOUNT OF PENALTY.—In determining the
2 amount of the civil penalty referred to in subsection (a),
3 the Secretary shall consider—

4 “(1) with respect to the person found to have
5 committed the violation—

6 “(A) the person’s degree of culpability;

7 “(B) any history of prior offenses;

8 “(C) the person’s ability to pay the pen-
9 alty; and

10 “(D) the potential effect of the penalty on
11 the person’s ability to continue to do business;

12 “(2) with respect to the violation committed—

13 “(A) the nature of the violation;

14 “(B) the circumstances of the violation;

15 “(C) the extent of the violation; and

16 “(D) the gravity of the violation; and

17 “(3) such other matters as justice may require.

18 **“SEC. 707. DEFINITIONS.**

19 “(a) CERTIFICATE OF TITLE.—For the purposes of
20 this title, the term ‘certificate of title’ means a document
21 issued by a State evidencing ownership of a motor vehicle.

22 “(b) COST.—For the purposes of this title, the term
23 ‘cost’ means the costs of all parts, frame work, paint and
24 labor.

1 “(c) DAMAGE.—For the purposes of the damage dis-
2 closure statement required by section 701(a), the term
3 ‘damage’ means damage to the motor vehicle caused by
4 theft, fire, vandalism, collision, weather, submersion in
5 water, or flood. This term does not include normal wear
6 and tear, glass damage, mechanical repairs or electrical
7 repairs that have not been caused by theft, fire, vandalism,
8 collision, weather, submersion in water, or flood.

9 “(d) MOTOR VEHICLE.—For the purposes of this
10 title, the term ‘motor vehicle’ means an automobile or a
11 motor truck. This term does not include motorcycles or
12 mopeds.

13 “(e) PERSON.—For the purposes of this title, the
14 term ‘person’ includes any manufacturer, distributor,
15 dealer, corporation, or other legal entity or individual.”.

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