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Bill Analysis
Legislative Service Commission

H.B. 17

126th General Assembly
(As Introduced)

Reps. Miller, Key, C. Evans, Allen, Barrett, Sykes, S. Patton, Skindell, Beatty, Brown, Healy, Woodard, Schaffer, Koziura, Carano, DeGeeter, Otterman

BILL SUMMARY

- Prohibits a court in a civil action brought under the Lemon Law by the purchaser of a new motor vehicle from setting off mileage accrued by the purchaser on the vehicle against the purchaser's award of the full purchase price of the vehicle.
- Prohibits the Attorney General from adopting rules that permit an informal dispute resolution mechanism established pursuant to the Lemon Law to offset a purchaser's award of the full purchase price of a new motor vehicle by the mileage accrued by the purchaser on the vehicle.

CONTENT AND OPERATION

Background

Under the Lemon Law (R.C. 1345.71 to 1345.81), if a consumer purchases a new motor vehicle that does not conform to any express warranty and reports the nonconformity to the manufacturer, its agent, or its authorized dealer within the earlier of one year after purchase or during the first 18,000 miles of operation, the manufacturer, agent, or dealer must make the necessary repairs to conform the vehicle to the express warranty. The consumer may elect to either accept a replacement for the vehicle or receive a refund of the full purchase price plus all incidental damages if the manufacturer, agent, or dealer does not make the vehicle conform to the applicable express warranty after a reasonable number of repair attempts. If the manufacturer, agent, or dealer is obliged to replace the vehicle or refund the purchase price in full plus incidental damages and fails to do so, the purchaser has a civil cause of action for replacement or refund plus reasonable attorney's fees and court costs. (R.C. 1345.72 and 1345.75.) However, if the

manufacturer has established an informal dispute resolution mechanism pursuant to rules adopted by the Attorney General and the purchaser receives timely notification of the availability of the mechanism, the purchaser must first attempt to resolve the dispute through that mechanism. If the consumer is dissatisfied with the decision that is produced by the mechanism or the manufacturer, agent, or dealer fails to promptly fulfill the terms produced by the mechanism, the consumer may bring a civil action to resolve the dispute. (R.C. 1345.77.)

Ohio appellate courts have held that in a civil action brought under the Lemon Law, a court may not set off an amount for mileage accrued on the vehicle by the purchaser against the full purchase price. *Page v. Chrysler Corp.* (1996), 116 Ohio App.3d 125; *Kapel v. Ford Motor Co.* (1997), 1997 Ohio App. LEXIS 2983. However, under a former rule of the Attorney General (repealed in 2000), a dispute resolution board could set off an amount for reasonable use of the vehicle against the amount of the award to the purchaser. In *Maitland v. Ford Motor Company* (2004), 103 Ohio St.3d 463, the Ohio Supreme Court held that nothing in the Lemon Law prohibits a setoff in a settlement of a civil action or in an informal dispute resolution proceeding pursuant to the Attorney General's rules.

Operation of the bill

The bill expressly prohibits a court in a civil action brought by a purchaser under R.C. 1345.75 from setting off mileage accrued by a consumer on a new motor vehicle against the consumer's award of the full purchase price (R.C. 1345.75(E)). The bill also prohibits the Attorney General from adopting rules that permit the informal dispute resolution mechanism to offset a consumer's award of the full purchase price of a new motor vehicle by the mileage accrued by the consumer on the vehicle. (R.C. 1345.77(A).)

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	01-25-05	p. 82

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