

- SUBJECT:** Changing the applicability of the Texas Lemon Law
- COMMITTEE:** Transportation — committee substitute recommended
- VOTE:** 12 ayes — Morrison, Martinez, Burkett, Y. Davis, Goldman, Minjarez, Phillips, Pickett, Simmons, E. Thompson, S. Thompson, Wray
- 0 nays
- 1 absent — Israel
- WITNESSES:** For — (*Registered, but did not testify:* Jim Grace, CenterPoint Energy)
- Against — None
- On — (*Registered, but did not testify:* William Harbeson, Texas Department of Motor Vehicles)
- BACKGROUND:** Occupations Code, ch. 2301, subch. M provides that owners of vehicles have certain rights under certain warranties that may apply to new vehicles. Sec. 2301.604 provides that manufacturers or distributors must replace or accept the return of a new vehicle that has a nonconformity with an express warranty after a “reasonable number of attempts” to repair. This is sometimes referred to as a “Lemon Law.”
- Sec. 2301.605 establishes the criteria for what constitutes a rebuttable presumption that a reasonable number of attempts have been made to rectify certain conditions to meet the standards in an express warranty. For defects that are nonconformities with an express warranty, a reasonable number of attempts is presumed to have been undertaken if the nonconformity persists after the vehicle is subject to repair four or more times, and:
- two of the repair attempts were made in the first 12 months or 12,000 miles, whichever was first; and
 - the second two repair attempts were made in the 12 months or

12,000 miles that immediately followed the date of the second repair attempt.

For defects that are serious safety hazards, a reasonable number of attempts is presumed to have been undertaken if the defect persists after being subject to repair at least twice, and:

- at least one of the repair attempts was made in the first 12 months or 12,000, whichever was first; and
- the second attempt was made in the 12 months or 12,000 miles which immediately followed the date of the first repair attempt.

For defects that substantially impair the vehicle's use or market value, a reasonable number of attempts is presumed to have been undertaken if:

- it causes the vehicle to be out of service for a cumulative total of 30 or more days in the first 24 months or 24,000 miles, whichever occurs first; and
- at least two repair attempts were made in the first 12 months or 12,000 miles.

DIGEST:

CSHB 2070 would change the criteria for what constitutes a “reasonable number of attempts” to repair vehicle defects. For each of the three types of defects recognized in Occupations Code, sec. 2301.605 — nonconformity with an express warranty, serious safety hazards, and impairments to the vehicle's use or market value — the number of required repair attempts to be considered reasonable would be the same as in current law.

However, instead of having different criteria for each defect regarding when the repair attempts must be made, the bill would provide that the presumption would exist if the required repair attempts were made either before the warranty expired, or within the first 24 months or 24,000 miles, whichever is earlier, for all three of the types of defects.

The bill also would allow notices relating to a nonconformity under these

provisions to be provided electronically, rather than requiring that they be mailed.

This bill would take effect September 1, 2017, and would apply to a new vehicle sold or leased after that date.