

57-16A-3. Conformation to express warranties.

A. 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 such express warranties or during the period of one year following the date of original delivery of the motor vehicle to a consumer, whichever is the earlier date, the manufacturer, its agent or its authorized dealer shall make such repairs as are necessary to conform the vehicle to such express warranties.

B. If the manufacturer or its agent or authorized dealer, after a reasonable number of attempts, is 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 and market value of the motor vehicle to the consumer, the manufacturer shall replace the 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 all collateral charges, less a reasonable allowance for the consumer's use of the vehicle. The subtraction of a reasonable allowance for use shall apply when either a replacement or refund of the new motor vehicle occurs. As used in this subsection, a reasonable allowance for use shall be that amount directly attributable to use by the consumer prior to his first report of the nonconformity to the manufacturer, agent or dealer and during any subsequent period when the vehicle is not out of service by reason of repair. Refunds shall be made to consumers or lienholders as their interests may appear.

C. It shall be presumed that a reasonable number of attempts as mentioned in Subsection B of this section have been undertaken to conform a new motor vehicle to the applicable express warranties if:

(1) the same uncorrected nonconformity has been subject to repair four or more times by the manufacturer or its agents or authorized dealers within the express warranty term or during the period of one year following the date of original delivery of the motor vehicle to a consumer, whichever is the earlier date, but the nonconformity continues to exist; or

(2) the vehicle is in the possession of the manufacturer, its agent or authorized dealer for repair a cumulative total of thirty or more business days during such term or during such period whichever is the earlier date, exclusive of down time for routine maintenance as prescribed by the manufacturer. The term of an express warranty, such one-year period and such thirty-day period shall be extended by any period of time during which repair services are not available to the consumer because of war, invasion, strike, fire, flood or other natural disaster. In no event shall the presumption herein provided apply against a manufacturer unless the manufacturer has received prior direct written notification from or on behalf of the consumer and an opportunity to cure the defect alleged. The manufacturer shall provide written notice and

instruction to the consumer, either in the warranty or a separate notice, of the obligation to file this written notification before invoking the remedies available pursuant to the Motor Vehicle Quality Assurance Act [57-16A-1 to 57-16A-9 NMSA 1978].