

Senate Bill No. 234

CHAPTER 151

An act to amend Section 1791 of, and to add Section 1795.8 to, the Civil Code, relating to consumer warranties.

[Approved by Governor July 27, 2007. Filed with
Secretary of State July 27, 2007.]

LEGISLATIVE COUNSEL'S DIGEST

SB 234, Corbett. Consumer warranties: members of the Armed Forces.

The Song-Beverly Consumer Warranty Act provides consumer warranty protection to buyers of various products, including new and used motor vehicles. That law requires every manufacturer of consumer goods sold in California for which the manufacturer has made an express warranty to maintain sufficient service and repair facilities, as specified, to carry out the terms of the warranties.

This bill would permit a member of the Armed Forces, as defined, who is stationed in or a resident of this state at the time he or she purchased a motor vehicle, as defined, with a manufacturer's express warranty, in the United States from a manufacturer who sells motor vehicles in this state or its agent or when he or she filed an action under the Song-Beverly Consumer Warranty Act, to exercise his or her rights under that act, regardless of in which state the vehicle is purchased or registered.

The people of the State of California do enact as follows:

SECTION 1. Section 1791 of the Civil Code, as amended by Section 62 of Chapter 405 of the Statutes of 2002, is amended to read:

1791. As used in this chapter:

(a) "Consumer goods" means any new product or part thereof that is used, bought, or leased for use primarily for personal, family, or household purposes, except for clothing and consumables. "Consumer goods" shall include new and used assistive devices sold at retail.

(b) "Buyer" or "retail buyer" means any individual who buys consumer goods from a person engaged in the business of manufacturing, distributing, or selling consumer goods at retail. As used in this subdivision, "person" means any individual, partnership, corporation, limited liability company, association, or other legal entity that engages in any of these businesses.

(c) "Clothing" means any wearing apparel, worn for any purpose, including under and outer garments, shoes, and accessories composed primarily of woven material, natural or synthetic yarn, fiber, or leather or similar fabric.

(d) “Consumables” means any product that is intended for consumption by individuals, or use by individuals for purposes of personal care or in the performance of services ordinarily rendered within the household, and that usually is consumed or expended in the course of consumption or use.

(e) “Distributor” means any individual, partnership, corporation, association, or other legal relationship that stands between the manufacturer and the retail seller in purchases, consignments, or contracts for sale of consumer goods.

(f) “Independent repair or service facility” or “independent service dealer” means any individual, partnership, corporation, association, or other legal entity, not an employee or subsidiary of a manufacturer or distributor, that engages in the business of servicing and repairing consumer goods.

(g) “Lease” means any contract for the lease or bailment for the use of consumer goods by an individual, for a term exceeding four months, primarily for personal, family, or household purposes, whether or not it is agreed that the lessee bears the risk of the consumer goods’ depreciation.

(h) “Lessee” means an individual who leases consumer goods under a lease.

(i) “Lessor” means a person who regularly leases consumer goods under a lease.

(j) “Manufacturer” means any individual, partnership, corporation, association, or other legal relationship that manufactures, assembles, or produces consumer goods.

(k) “Place of business” means, for the purposes of any retail seller that sells consumer goods by catalog or mail order, the distribution point for consumer goods.

(l) “Retail seller,” “seller,” or “retailer” means any individual, partnership, corporation, association, or other legal relationship that engages in the business of selling or leasing consumer goods to retail buyers.

(m) “Return to the retail seller” means, for the purposes of any retail seller that sells consumer goods by catalog or mail order, the retail seller’s place of business, as defined in subdivision (k).

(n) “Sale” means either of the following:

(1) The passing of title from the seller to the buyer for a price.

(2) A consignment for sale.

(o) “Service contract” means a contract in writing to perform, over a fixed period of time or for a specified duration, services relating to the maintenance or repair of a consumer product, except that this term does not include a policy of automobile insurance, as defined in Section 116 of the Insurance Code.

(p) “Assistive device” means any instrument, apparatus, or contrivance, including any component or part thereof or accessory thereto, that is used or intended to be used, to assist an individual with a disability in the mitigation or treatment of an injury or disease or to assist or affect or replace the structure or any function of the body of an individual with a disability, except that this term does not include prescriptive lenses and other ophthalmic goods unless they are sold or dispensed to a blind person, as

defined in Section 19153 of the Welfare and Institutions Code and unless they are intended to assist the limited vision of the person so disabled.

(q) “Catalog or similar sale” means a sale in which neither the seller nor any employee or agent of the seller nor any person related to the seller nor any person with a financial interest in the sale participates in the diagnosis of the buyer’s condition or in the selection or fitting of the device.

(r) “Home appliance” means any refrigerator, freezer, range, microwave oven, washer, dryer, dishwasher, garbage disposal, trash compactor, or room air-conditioner normally used or sold for personal, family, or household purposes.

(s) “Home electronic product” means any television, radio, antenna rotator, audio or video recorder or playback equipment, video camera, video game, video monitor, computer equipment, telephone, telecommunications equipment, electronic alarm system, electronic appliance control system, or other kind of electronic product, if it is normally used or sold for personal, family, or household purposes. The term includes any electronic accessory that is normally used or sold with a home electronic product for one of those purposes. The term excludes any single product with a wholesale price to the retail seller of less than fifty dollars (\$50).

(t) “Member of the Armed Forces” means a person on full-time active duty in the Army, Navy, Marine Corps, Air Force, National Guard, or Coast Guard. Full-time active duty shall also include active military service at a military service school designated by law or the Adjutant General of the Military Department concerned.

This section shall become operative on January 1, 2008.

SEC. 2. Section 1795.8 is added to the Civil Code, to read:

1795.8. Notwithstanding any other provision of law, this chapter shall apply to a purchase in the United States of a motor vehicle, as defined in paragraph (2) of subdivision (e) of Section 1793.22, with a manufacturer’s express warranty by a member of the Armed Forces regardless of in which state his or her motor vehicle is purchased or registered, if both of the following apply:

(a) The member of the Armed Forces purchases a motor vehicle, as defined in paragraph (2) of subdivision (e) of Section 1793.22, with a manufacturer’s express warranty from a manufacturer who sells motor vehicles in this state or from an agent or representative of that manufacturer.

(b) The member of the Armed Forces was stationed in or a resident of this state at the time he or she purchased the motor vehicle or at the time he or she filed an action pursuant to this chapter.