

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2023-2024 Regular Session

AB 1849 (Grayson)
Version: June 6, 2024
Hearing Date: June 18, 2024
Fiscal: No
Urgency: No
AM

SUBJECT

Song-Beverly Consumer Warranty Act: services and repairs: travel trailers

DIGEST

This bill provides that, if the manufacturer or its representative in this state does not service or repair a travel trailer or a portion of motor homes designed, used, or maintained for human habitation to conform to the applicable express warranties after a reasonable number of attempts, the buyer is free to elect reimbursement in lieu of replacement, and in no event will the buyer be required by the manufacturer to accept a replacement travel trailer or motor home.

EXECUTIVE SUMMARY

The author notes that the recreational vehicle (RV) industry saw the highest sales demand during the COVID-19 pandemic, and that many consumers found themselves with faulty or poorly made RVs, with little to no recourse. This bill seeks to provide consumers of RVs, travel trailers and motor homes, with enhanced consumer protections. This bill is author sponsored and supported by Consumers for Auto Reliability and Safety and the Consumer Attorneys of California. No timely opposition was received by the Committee.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) The Song-Beverly Consumer Warranty Act (Song-Beverly Act) provides that, except as specified, every sale of consumer goods that are available for purchase by the

public in this state are to be accompanied by the manufacturer's and the retail seller's implied warranty that the goods are suitable for sale. (Civ. Code § 1792.¹)

- 2) Defines "express warranty" to mean:
 - a) a written statement arising out of a sale to the consumer of a consumer good that the manufacturer, distributor, or retailer undertakes to preserve or maintain the utility or performance of the consumer good or provide compensation if there is a failure in utility or performance; or
 - b) in the event of any sample or model, that the whole of the goods conforms to the sample or model. (§ 1791.2(a).)
- 3) Provides that, except as specified, existing state laws do not affect the right of a manufacturer, distributor, or retailer to make express warranties with respect to consumer goods, provided that the express warranties do not limit, modify, or disclaim the implied warranties. (§ 1793.)
- 4) Requires every manufacturer, distributor, or retailer making express warranties with respect to consumer goods to fully set forth those warranties in simple and readily understood language that clearly identifies the party making the express warranties, and that conforms to the federal standards for warranty terms and conditions. (§ 1793.1(a).)
- 5) Requires every manufacturer of consumer goods sold in this state and for which the manufacturer has made an express warranty to, among other things, do all of the following:
 - a) maintain in this state sufficient service and repair facilities reasonably close to all areas where its consumer goods are sold in order to carry out the terms of those warranties, or designate and authorize independent repair or service facilities reasonably close to all areas where its goods are sold;
 - b) commence service and repair for goods that do not conform to the express warranties within 30 days, unless the buyer agrees in writing to the contrary;
 - c) replace the goods or reimburse the buyer if the manufacturer does not service or repair the goods to conform to the express warranties after a reasonable number of attempts. (§ 1793.2.)
- 6) Establishes the Tanner Consumer Protection Act (Tanner Act), which defines a "new motor vehicle" as all of the following:
 - a) A new motor vehicle that is bought or used primarily for personal, family, or household purposes.
 - b) A new motor vehicle with a gross vehicle weight under 10,000 pounds that is bought or used primarily for business purposes by a person, including a partnership, limited liability company, corporation, association, or any other

¹ All further references are to the Civil Code unless otherwise stated.

- legal entity, to which not more than five motor vehicles are registered in this state.
- c) New motor vehicle includes the chassis, chassis cab, and that portion of a motor home devoted to its propulsion, but does not include any portion designed, used, or maintained primarily for human habitation, a dealer-owned vehicle and a “demonstrator” or other motor vehicle sold with a manufacturer’s new car warranty but does not include a motorcycle or a motor vehicle which is not registered under the Vehicle Code because it is to be operated or used exclusively off the highways. A demonstrator is a vehicle assigned by a dealer for the purpose of demonstrating qualities and characteristics common to vehicles of the same or similar model and type. (§ 1793.22(e)(2).)
- 7) Defines “motor home” under the Tanner Act as a vehicular unit built on, or permanently attached to, a self-propelled motor vehicle chassis, chassis cab, or van, which becomes an integral part of the completed vehicle, designed for human habitation for recreational or emergency occupancy. (§ 1793.2(d)(2).)
 - 8) Requires that, if a manufacturer is unable to service or repair a new motor vehicle to conform to the applicable express warranties after a reasonable number of attempts, the manufacturer must either promptly replace the new motor vehicle or promptly make restitution to the buyer.
 - a) The buyer is free to elect restitution in lieu of replacement, and in no event can the buyer be required to accept a replacement vehicle. (*Id.* at (d)(2).)
 - 9) Authorizes any buyer of consumer goods who is damaged by a failure to comply with any obligation under an implied or express warranty or service contract to bring an action for the recovery of damages and other legal and equitable relief, including court costs and attorney’s fees.
 - a) If a buyer establishes that failure to comply was willful, the judgment may include, in addition to damages and other legal and equitable relief, a civil penalty which is not to exceed two times the amount of actual damages. (§ 1794.)

This bill:

- 1) Provides under the Song-Beverly Act that, if the manufacturer or its representative in this state does not service or repair a travel trailer or a portion of motor homes designed, used, or maintained for human habitation to conform to the applicable express warranties after a reasonable number of attempts, the buyer is free to elect reimbursement in lieu of replacement, and in no event will the buyer be required by the manufacturer to accept a replacement travel trailer or motor home.

- 2) Defines “travel trailer” as a vehicular unit without motive power that is designed to be towed or carried by a motor vehicle. “Travel trailer” does not include a mobilehome.
- 3) Defines “motor home” for the purposes of 1), above, in the same manner as under the Tanner Act.

COMMENTS

1. Stated need for the bill

The author writes:

During the COVID-19 pandemic, recreational vehicle (RV) sales skyrocketed and saw a massive surge in demand. According to the RV Industry Association (RVIA) in December of 2021, Over 600,000 RVs were shipped out with 544,028 being non-powered travel trailers and fifth wheel trailers. With this robust demand for RVs, many consumers found themselves with faulty or poorly made travel trailers or fifth wheels. The Song-Beverly Consumer Warranty Act and the Tanner Consumer Protection Act mandate that manufacturers and their representatives must offer warranties on their products and provide either a replacement or a refund if the product cannot be serviced or replaced within a reasonable timeframe. The Tanner Consumer Protection Act grants purchasers of new motor vehicles additional protections and autonomy by allowing them to choose their remedy, rather than having it dictated by the manufacturer. Unfortunately, these same options do not extend to purchasers of travel trailers. AB 1849 will help protect consumers and provide additional protections for individuals who unknowingly purchase defective travel trailers or fifth wheels. The bill extends the flexibility for consumers to elect their remedy, similar to purchasers of new motor vehicles.

Specifically, the bill will allow the buyer of a travel trailer to elect to receive a refund in the event that a manufacturer or its representative fails to service or repair the trailer after a reasonable number of attempts.

2. This bill seeks to provide greater consumer protections to consumers of travel trailers and motor homes under the Song-Beverly Act

The author states that the RV industry saw the highest sales demand during the COVID-19 pandemic, and that many consumers found themselves with faulty or poorly made RVs. As evidence of this, the author points to an investigative report from the Indianapolis Star newspaper that noted “three of the biggest RV manufacturers in the country have recalled hundreds of thousands of their products, according to data from

the National Highway Traffic Safety Administration.”² The article reports that owners of RVs have complained “of problems that range from cracks on cabinets and improperly installed ceiling fans to more serious ones such as mold due to water damage, faulty electrical wiring and gas leaks.”³

The Song-Beverly Act sets forth standards for warranties that govern consumer goods and outlines remedies available to purchasers. Retail sales of consumer goods are accompanied by the manufacturer’s and the retail seller’s implied warranty that the goods are merchantable. In specified circumstances, an implied warranty that the good is fit for a particular purpose also attaches. Such implied warranties can generally not be waived or otherwise modified except in limited, specified circumstances. Under the Song-Beverly Act, every manufacturer of consumer goods sold in this state and for which the manufacturer has made an express warranty is required to, among other things, replace the warranted goods or reimburse the buyer if the manufacturer does not service or repair the goods to conform to the express warranties after a reasonable number of attempts. The Tanner Act, which is found within the Song-Beverly Act, applies specifically to new motor vehicles and provides consumers an additional protection by allowing them to choose whether they want restitution or replacement of a new vehicle if the manufacturer does not service or repair the goods to conform to the express warranties after a reasonable number of attempts. This bill seeks to allow a consumer of a travel trailer or motor the similar right to elect reimbursement of replacement.

3. All prior opposition to the bill has moved to neutral

When this bill was in the Assembly, the Center for Auto Safety and the National Association of Consumer Advocates were opposed to the bill; however, amendments were made and these organizations are now neutral on the bill.

4. Statements in support

Consumers for Auto Reliability and Safety was opposed to the bill, but after recent amends they are now in support writing:

CARS is pleased to support passage of AB 1849 (Grayson). As amended June 6, this measure will add additional clarity to the Song-Beverly Consumer Warranty Act regarding the remedies available to owners of lemon travel trailers and lemon motor homes (regarding the portions of motor homes designed, used and maintained for human habitation), making it clear that they are free to elect reimbursement in lieu of

² Phillips and Huang, “Bottom Line: Shoddy work. Unhappy buyers. A near-death experience. When the RV lifestyle goes wrong” Indianapolis Star (Oct. 19, 2022) available at <https://www.indystar.com/in-depth/news/investigations/2022/10/19/rv-horrors-defective-units-unhappy-buyers-a-near-death-experience/69523329007/>.

³ *Ibid.*

replacement. When consumers purchase travel trailers and motorhomes, they and their families are typically making a sizable investment in a major product, trusting that the manufacturer will live up to its warranty and they will be able to use those goods safely and without experiencing lengthy delays in obtaining repairs to any substantial problems that arise.

AB 1849 will help encourage manufacturers of travel trailers and motor homes to make appropriate investments in repair parts, diagnostic equipment, automotive technicians, plumbers, electricians, and other skilled workers necessary in order to comply with their warranties. Such investments have been required since 1970, when Governor Ronald Reagan signed the Song-Beverly Consumer Warranty Act into law, and are long overdue.

SUPPORT

Consumers for Auto Reliability and Safety
Consumer Attorneys of California

OPPOSITION

None received

RELATED LEGISLATION

Pending Legislation: None known.

Prior Legislation:

SB 244 (Eggman, 2023, Ch. 704, Stats. 2023) enacted the Right to Repair Act that requires manufacturers of certain electronic or appliance products that make express warranties for products worth \$50 or more to make available sufficient service literature and functional parts, on fair and reasonable terms, to owners of the equipment or products, service and repair facilities, and service dealers, as specified.

AB 1875 (Flora, 2022) would have exempted alarm companies governed by the Alarm Companies Act from certain provisions of Song-Beverly Act pertaining to service contracts. AB 1875 was never set for a hearing in the Assembly.

AB 2912 (Berman, Ch. 464, Stats. 2022) prohibits a manufacturer, distributor, or retail seller from making an express warranty with respect to a consumer good that commences earlier than the date of delivery of the good, unless the express warranty was made before July 1, 2023.

SB 713 (Anderson, 2017) would have expanded the definition of “new motor vehicle” under the Tanner Act to mean a vehicle with a gross vehicle weight of 10,000 pounds or greater that is bought or used exclusively for business purposes, by a person, including a partnership, limited liability company, corporation, association, or any other legal entity. SB 713 was never set for a hearing in the Senate.

SB 1326 (Roth, Ch. 226, Stats. 2014) requires that all new and used hearing aids sold in this state be accompanied by a written warranty providing specified language.

PRIOR VOTES

Assembly Floor (Ayes 72, Noes 0)

Assembly Privacy and Consumer Protection Committee (Ayes 10, Noes 0)
