

1 HOUSE BILL NO. 781

2 INTRODUCED BY R. GREGG, S. FITZPATRICK

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING ADVANCE NOTICE TO THE DEALER RELATING TO
5 LAWSUITS INVOLVING UNFAIR OR DECEPTIVE PRACTICES IN THE SALES OF VEHICLES; REQUIRING
6 A PURCHASER OF A VEHICLE TO SERVE A NOTICE ON THE DEALER BEFORE FILING A CIVIL ACTION
7 RELATING TO VEHICLES; PROVIDING A DEADLINE FOR THE DEALER TO RESPOND; ALLOWING THE
8 PURCHASER TO FILE A CIVIL ACTION AFTER EXPIRATION OF THE RESPONSE PERIOD; PROVIDING
9 DEFINITIONS; AND AMENDING SECTION 30-14-133, MCA."

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11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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13 NEW SECTION. **Section 1. Procedure for suits against certain vehicles.** (1) A purchaser of a
14 vehicle may not serve a complaint under Rule 4 of the Montana Rules of Civil Procedure alleging a claim for a
15 violation of this chapter under 30-14-133 without serving a written notice on the dealer.

16 (2) (a) The notice must include the name of the buyer, the name of the dealer, the vehicle
17 identification number, the make, model, and year of the vehicle, and a description of the problem the purchaser
18 alleges with respect to the vehicle sold in the transaction.

19 (b) The notice must be sent by certified mail to the last known address of the dealer. The dealer
20 shall respond to the written notice within 28 days after the letter is mailed. After the 28-day period has expired,
21 the purchaser may serve the complaint on the dealer.

22 (3) For the purposes of this section, the following definitions apply:

23 (a) "Dealer" has the same meaning as provided in 61-1-101.

24 (b) "Vehicle" means a new or used motor vehicle propelled by its own power and designed or used
25 to transport persons or property on the highways of the state, a motorcycle, a trailer, semitrailer, pole trailer, or
26 travel trailer, a motorboat or sailboat, a snowmobile, or an off-highway vehicle.

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28 **Section 2.** Section 30-14-133, MCA, is amended to read:

1 **"30-14-133. Damages -- limitation on residential construction disputes -- notice to public**

2 **agencies -- attorney fees -- prior judgment as evidence.** (1) (a) Except as provided in subsection (1)(b), a
3 consumer who suffers any ascertainable loss of money or property, real or personal, as a result of the use or
4 employment by another person of a method, act, or practice declared unlawful by 30-14-103 may bring an
5 individual action but not a class action under the rules of civil procedure in the district court of the county in
6 which the seller, lessor, or service provider resides or has its principal place of business or is doing business to
7 recover money damages in the amount of any ascertainable loss of money or property or \$500, whichever is
8 greater. An individual claim may be brought in justice's court. The court may not award punitive damages but
9 may, in its discretion, award up to three times the money damages in the amount of any ascertainable loss of
10 money or property sustained, if actual damages do not exceed \$100,000, and may provide any other equitable
11 relief that it considers necessary or proper.

12 (b) A consumer may not bring or maintain an action under this section if
13 the consumer is bringing an action:

14 (i) _____ subject to 70-19-427 or 70-19-428 against a construction professional; or

15 (ii) _____ relating to the sale of vehicles and the consumer has not complied with the notice requirements
16 provided in [section 1].

17 (2) Upon commencement of any action brought under subsection (1), the clerk of court shall mail a
18 copy of the complaint or initial pleading to the department and the appropriate county attorney and, upon entry
19 of any judgment or decree in the action, shall mail a copy of the judgment or decree to the department and the
20 appropriate county attorney.

21 (3) In any action brought under this section, the court may award the prevailing party reasonable
22 attorney fees incurred in prosecuting or defending the action, except that attorney fees may not be awarded if
23 the consumer recovers actual damages of \$100,000 or more. Attorney fees are limited to no more than \$250 an
24 hour. A person who brings an action on the person's own behalf without an attorney may receive attorney fees
25 at the judge's discretion.

26 (4) Any permanent injunction, judgment, or order of the court made under 30-14-111 is prima facie
27 evidence in an action brought under this section that the respondent used or employed a method, act, or
28 practice declared unlawful by 30-14-103."

NEW SECTION. **Section 3. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 30, chapter 14, part 1, and the provisions of Title 30, chapter 14, part 1, apply to [section 1].

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