Assembly Judiciary Committee Hearing – May 29, 2013

Public Testimony of the Truck and Engine Manufacturers Association
On Wisconsin Assembly Bill 200

Presented by
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Mr. Chairman and Members of the Committee:

I am Joe Suchecki, Director of Public Affairs with the Truck and Engine Manufacturers Association (EMA). EMA is the trade association that represents all the major manufacturers of heavy-duty trucks as well as the manufacturers of engines used in a variety of on-highway vehicles and nonroad equipment; lawn, garden and utility equipment; and stationary generators. EMA represents our 28 member companies on state and federal legislation and regulation related to emissions, safety, manufacturing, and warranty and franchise issues. Several EMA members have facilities and operations here in Wisconsin including Briggs and Stratton, Caterpillar, Cummins, Inc., John Deere, GE Waukesha Engines, Kohler and Navistar.

I am here today to voice EMA’s strong support for Assembly Bill 200 that provides practical and well-reasoned amendments to Wisconsin’s lemon law. Wisconsin’s lemon law was crafted to help assure that consumer complaints regarding motor vehicle warranty issues were resolved quickly. It is one of the very few state lemon laws in the country that applies to commercial and heavy-duty vehicles.

The changes to existing law proposed in Assembly Bill 200 are needed for two main reasons.

First, the existing law applies the same process and requirements to resolve warranty issues for medium and heavy-duty vehicles as it does for light-duty automobiles. For example, if a vehicle owner requests a replacement truck, a manufacturer must deliver a comparable truck within 30 days. Because almost all commercial and heavy-duty vehicles are custom built to the specifications of the purchaser, it is often impossible to provide a comparable vehicle under the current law within a 30-day time period. Truck and bus manufacturers simply cannot go to a dealer’s lot somewhere and find a comparable vehicle – they need to be manufactured and assembled to specifications. The fact that essentially all heavy-duty trucks are not mass-produced but built to owner specifications can subject truck manufacturers to double damages under current law because there is no way they can physically comply with the required timeline that is based on a light-duty automobile model where the cars are mass-produced.
Another key difference between commercial vehicles and cars is that car manufacturers are vertically integrated and truck and bus manufactures are not. A heavy-duty truck is likely to have a chassis from the vehicle manufacturer, an engine from another manufacturer, a transmission or axle from another manufacturer and a body from yet another manufacturer. For that reason, the actual vehicle manufacturer may not have warranty responsibility for all components. For example, under federal law, the emissions warranty and certification requirements remain with the engine manufacturer. The lack of complete vertical integration in the heavy-duty vehicle industry creates a need to address the real differences between car and truck manufacturers on this issue.

Second, the existing law provides opportunities to abuse the system by providing incentives to vehicle owners and their attorneys to game the system in order to obtain larger cash settlements from manufacturers. By law, any rewards are automatically doubled if the 30-day time period to supply a replacement is not met. Owners can use defective vehicles for years and then require a new replacement under the law. Owners often demand new vehicles or refunds and claim that non-essential component of the vehicle affect use and performance.

Truck manufacturers have been subject to the same problems and unjust settlements under the current law as have the light-duty sector. Some examples include:

- One manufacturer was forced to pay double damages, as well as transaction fees and interest payments even though the manufacturer offered the vehicle owner a settlement check but the vehicle owner refused to accept the check within the 30-day time period and then sued for the double damages.

- Another manufacturer was forced to pay a vehicle owner more than 1.5 times the value of the original truck even though the vehicle owner drove the truck for over two years and put on more than 200,000 miles before making his claim. In this way, the owner essentially got the manufacturer to pay for the owner’s loan on the vehicle.

- Out of state trucking companies are claiming delivery to a Wisconsin address and then making a lemon law claim under Wisconsin law to get double damages, even though the truck was never registered or used in Wisconsin.

- Vehicle owners are making an initial warranty claim, and then driving the vehicle for years before making a lemon law claim, and thus gaming the system to get a new vehicle at no cost. This has resulted in manufacturers providing a brand new replacement vehicle even though the owner kept the vehicle in service and doing work for many years before making a claim. Some of those claims are for frivolous repairs, such as door seal leaks that do not significantly affect the overall performance of the vehicle.

Assembly Bill 200 addresses those issues by more clearly defining out-of-service, deleting automatic double damages and leaving the determination of appropriate awards to the courts, providing a more reasonable time frame for the owner to make a claim, and for commercial vehicles, extending the time period allowed for replacement vehicles to 120 days rather than 30 days.
The amendments proposed in AB 200 do not change the basic consumer protections inherent in the current lemon law for vehicle owners in Wisconsin, but they do close the loopholes and incentives that allow abuse and inappropriately large settlements, awards and attorney fees. The language in the current law not only results in unjustified and high costs for manufacturers doing business in Wisconsin but also is bad for Wisconsin consumers since they are the ones who must eventually pay for those large settlements through increased vehicles costs in the state.

EMA and its members support the need to ensure that motor vehicle owners in Wisconsin continue to have a fair and reasonable process to resolve vehicle warranty disputes. The proposed amendments do nothing to take away that process.

Finally, while EMA supports the bill, we seek an additional amendment to address the definition of commercial motor vehicle. The bill currently defines commercial vehicles as vehicles over 26,000 pounds. In reality vehicles over 10,000 pounds are generally classified as medium and heavy duty vehicles, are almost always used for commercial purposes and are built to specifications and not mass produced. Thus, we ask the committee to approve an amendment to the bill to define heavy-duty vehicles as vehicles over 10,000 pounds and to apply the proposed 120 day period to provide a replacement vehicle to all heavy-duty vehicles and not just those over 26,000 pounds.

Thank you for the opportunity to speak today, and I would be happy to answer any questions that you may have.