

HB 3611 STAFF MEASURE SUMMARY

House Committee On Rules

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Meeting Dates: 5/25

WHAT THE MEASURE DOES:

Establishes that supplier manufactures or distributes consumer products, or sells or leases consumer products, at retail subject to an implied warranty unless supplier disclaims warranty, sells a consumer product "as is," and provides required notice. Establishes that retail seller sells or leases consumer products at retail subject to implied warranty of fitness if retail seller has reason to know that buyer requires a consumer product for particular purpose and is relying on retail seller's skill or judgment to select or provide product suitable for particular purpose. Prohibits supplier or buyer from disclaiming or waiving implied warranty of merchantability or implied warranty of fitness, unless supplier sells consumer product "as is" and provides required notice. Allows supplier to provide express warranty subject to requirements of measure, including providing warranty in simple and readily understood language that conforms to certain federal law. Allows supplier to provide product registration card or form or electronic product registration form in compliance with requirements of measure but makes supplier's express warranty valid and enforceable even if resident individual does not register product. Requires person who performs warranty repairs or service on consumer product to provide buyer with copy of work order or invoice for warranty repairs or service containing required notice. Requires supplier, if supplier maintains repair and service facilities in state, to provide buyer with specified information on service and repair facilities. Requires manufacturer who makes express warranty for consumer product sold or leased in state to maintain or authorize other persons to maintain adequate repair and service facilities reasonably close to locations of retail sales or leases, or to provide buyer with sufficient prepaid postage and shipment container to send product to repair and service facility outside of reasonable distance or outside the state. Establishes conditions and liabilities if manufacturer does not comply for buyer to return defective consumer product for service or repair, replacement, or refund. Sets requirements for service or repair to begin; buyer delivery of consumer product for service or repair; conditions for service or repair at buyer's residence or location of product; and for manufacturer to replace consumer product or refund buyer in certain circumstances. Defines terms. Applies to transactions on or after January 1, 2024.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

According to the Federal Trade Commission, the law recognizes two basic kinds of warranties—implied warranties and express warranties. Implied warranties are unspoken, unwritten promises, created by state law, that go from a seller or merchant to the customer. Implied warranties are based upon the common law principle of "fair value for money spent" and are promises about the condition of products at the time they are sold. There are two types of implied warranties: (1) the implied warranty of merchantability is a merchant's basic promise that the goods sold will do what they are supposed to do and that there is nothing significantly wrong with them; and (2) the implied warranty of fitness for a particular purpose is a promise that the seller makes when a customer relies on the seller's advice that a product can be used for some specific purpose.

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Express warranties are explicitly offered and are promises and statements that the seller voluntarily makes about a product or about seller's commitment to remedy the defects and malfunctions that some customers may experience. Express warranties can take a variety of forms, ranging from advertising claims to formal certificates, and can be made either orally or in writing. Only written warranties on consumer products are covered by the Magnuson-Moss Warranty Act.

The Magnuson-Moss Warranty Act is the federal law that governs consumer product warranties. Passed by Congress in 1975, the Act requires warrantors of consumer products to provide consumers with detailed information about warranty coverage. It affects both the rights of consumers and the obligations of warrantors under written warranties. The Act does not require any business to provide a written warranty; it allows businesses to determine whether to warrant their products in writing. However, once a business decides to offer a written warranty on a consumer product, it must comply with the Act.

House Bill 3611 provides that sales or leases of consumer products in Oregon occur subject to an implied warranty of merchantability and, as appropriate, to an implied warranty of fitness, unless the supplier sells or leases consumer product as is with certain required disclosures, and that a buyer may not waive an implied warranty. The measure also permits a manufacturer to provide express warranty and specifies express warranty conditions, the disclosures required, and remedies for the buyer.