

PERTINENT TEXT OF CONSTITUTION AND STATUTES

A. The First Amendment Of The U. S. Constitution

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

B. The Fourteenth Amendment Of The U. S. Constitution, Section 1

All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

C. Magnuson-Moss Act 15 U. S. C §2301 et. seq.

1. 15 U. S. C. § 2310(d)(1)

Subject to subsections (a)(3) and (e) of this section, a consumer who is damaged by the failure of a supplier, warrantor, or service contractor to comply with any obligation under this chapter, or under a written warranty, implied warranty, or service contract, may bring suit for damages and other legal and equitable relief ***” (emphasis added).

2. 15 U. S. C. § 2308

No supplier may disclaim or modify *** any implied warranty to a consumer with respect to such consumer product if (1) such supplier makes any written warranty to the consumer with respect to such consumer product***.

D. (810 ILCS 5/) Uniform Commercial Code

1. 810 ILCS 5/2-313(1)(a) Express warranty

Any affirmation of fact or promise made by the seller to the buyer, which relates to the goods and becomes part of the bargain creates an express warranty that the goods shall conform to the affirmation or promise.

2. 810 ILCS 5/2-314 (2)

Goods to be merchantable must be at least such as (a) pass without objection in the trade under the contract description; and (b) in the case of fungible goods, are of fair average quality within the description; and (c) are fit for the ordinary purpose for which such goods are used ***

3. 810 ILCS 5/2-315 Implied Warranty: fitness for particular purpose

Where the seller at the time of contracting has reason to know any particular purpose for which the goods are required and that the buyer is relying on the seller's skill or judgment to select or furnish suitable goods, there is unless excluded or modified under the next section, an implied warranty that the goods shall fit for such purpose.

4. 810 ILCS 5/2-608 Revocation of acceptance in whole or in part.

- (1) The buyer may revoke his acceptance of a lot or commercial unit whose non-conformity substantially impairs its value to him if he has accepted it. (a) on the reasonable assumption that The buyer may revoke his acceptance of a lot or commercial unit whose non-conformity substantially its non-conformity would be cured and it has not been seasonably cured; or (b) without discovery of such non-conformity if his acceptance was reasonably induced either by the difficulty of discovery before acceptance or by the seller's assurances.
- (2) Revocation of acceptance must occur within a reasonable time after the buyer discovers or should have discovered the ground for it and before any

substantial change in condition of the goods, which is not caused by their own defects. It is not effective until the buyer notifies the seller of it.

- (3) A buyer who so revokes has the same rights and duties with regard to the goods involved as if he had rejected them.

5. 810 ILCS 5/2-721

Remedies for material misrepresentation or fraud include all remedies available under this Article for non-fraudulent breach. Neither rescission nor a claim for rescission of the contract for sale nor rejection or return of the goods shall bar or be deemed inconsistent with the claim for damages or other remedy.

6. 810 ILCS 5/2-719 (2)

Where circumstances cause an exclusive or limited remedy to fail of its essential purpose, remedy may be had as provided in this Act.

E. The Vehicle Information and Cost Savings Act (“MVICSA”), 49 U. S. C. § 32701 et seq.

1. 49 U. S. C. § 32702 (7)

Title means the certificate of title or other document issued by the State indicating ownership.

2. 49 U. S. C. § 32705 (a)(1)

Disclosure Requirement. Under regulations prescribed by the Secretary of Transportation that include the way in which information is disclosed and retained under this section, a person transferring ownership of a motor vehicle shall give the transferee the following written disclosure: (A) Disclosure of the cumulative mileage registered on the odometer *** (emphasis added)

3. 49 U. S. C. § 32705 (a)(2)

A person transferring ownership of motor vehicle may not violate a regulation prescribed under this section or give a false statement to the transferee in making the disclosure required by such a regulation.

4. 49 U. S. C. § 32705 (a)(3)

A person acquiring a motor vehicle for resale may not accept a written disclosure under this section unless it is complete.

5. 49 U. S. C. § 32705 (b)(2)(A)

Under regulations prescribed by the Secretary, if the title to a motor vehicle issued to a transferor by a State is in the possession of a lienholder when the transferor transfers ownership of the vehicle, the transferor may use a written power of attorney (if allowed by State law) in making the mileage disclosure required under subsection (a) of this section.

6. 49 U. S. C. § 32710 (a)

Violation and Amount of Damages. A person that violates this chapter or a regulation prescribed or order issued under this chapter, with intent to defraud, is liable for 3 times the actual damages or \$1,500, whichever is greater.

F. The Illinois Consumer Fraud and Deceptive Business Practice Act 815 ILCS 505/2 et seq.

Unfair methods of competition and unfair or defective acts or practice, including but not limited to the use or employment of any deception, fraud, false pretense, false promise, misrepresentation or the concealment, suppression or omission of such material fact, or the use or employment of any practice described in Section of the “Uniform Deceptive Trade Practices Act”, approved August 5, 1965, in the

conduct of any trade or commerce are hereby declared unlawful whether any person has in fact been misled, deceived or damaged thereby. In construing this section consideration shall be given to the interpretation of the Federal Trade Commission and the federal courts relating to Section 5(a) of the Federal Trade Commission Act *** (emphasis added).

G. FTC Used Motor Vehicle Trade Regulation Rule (1-1-03 Edition)

16 C. F. R. Ch. I § 455.1 (a) states ” It is a deceptive act or practice for any used car dealer, when that dealer sells or offers for sale a used vehicle in or affecting commerce as commerce is defined in the Federal Trade Commission Act: (1) To misrepresent the mechanical condition of a used vehicle; (2) To misrepresent the terms of any warranty offered in connection with the sale of a used vehicle; and (3) To represent that a used vehicle is sold with a warranty when the vehicle is sold without any warranty.”

16 C. F. R. Ch. I § 455.1 (b) provides “ It is an unfair act or practice for any used car vehicle dealer, when that dealer sells or offers for sale a used vehicle in or affecting commerce as *commerce* is defined in the Federal Trade Commission Act: (1) To fail to disclose, prior to sale, that a used vehicle is sold without any warranty; and (2) To fail to make available the terms of any written warranty offered in connection with the sale of a used vehicle.

H. 735 ILCS 5/2-1203

(a) In all cases tried without a jury, any party may, within 30 days after the entry of the judgment or with any further time the court may allow within the 30 days or any extensions thereof, file a motion for rehearing, or a retrial, or modification of the judgment or to vacate the judgment or for other relief. (b) A motion filed in apt time stays enforcement of the judgment.