

# IS YOUR CAR A 'LEMON'?

Steps To Take When Your  
New Car Goes Sour



**ALEX SIMANOVSKY, ESQ.**

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New Car Goes Sour

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# TESTIMONIALS

*"Great representation! – Alex went to bat for us as an ordinary individual auto purchaser/owner who was experiencing over a year of recurrent/ongoing troubles. He was very easy to talk to and truly cared about our circumstances and went back to the manufacturer, again and again, to obtain the fairest recompense for all the aggravation and loss of usage we encountered. Thank you, Alex!"*

**– Gary**

\*\*\*\*\*

*"Best there is! – Mr. Alex was there day or night he was quick to respond anytime I needed him and when we talked he answered any question that I may have had. I felt that I could ask him anything and he wouldn't make me feel uneducated or unknowledgeable. He made sure that the process was easy and pain-free for me. I would highly recommend him to anyone!"*

**– Callie**

\*\*\*\*\*

*"Honest and straightforward – They were very honest and very straightforward worked hard and almost tripled the initial offer made to me"*

**– David**

\*\*\*\*\*

*“Very helpful in dealing with GM manufacturer – I purchased a 2019 gmc terrain, few weeks into ownership my vehicle started showing signs of problems. Went to different dealerships for repairs and none of them could fix my vehicle properly. So I reached out to Alex FileLemonLaw.com, and he was able to help me deal with GM. I can’t thank Alex enough for His help.”*

**– Edson**

\*\*\*\*\*

*“Won over \$5000 on a Breach of Warranty Dispute – My 1.5-year-old Chrysler was having a recurring problem with the Cruise Control that the dealership was unable to fix. I originally contacted Alex about pursuing a Lemon Law case, however, Chrysler denied it because the car was 120 miles over the limit. Instead of dropping the case, Alex hit them with a Breach of Warranty and I was awarded over \$5000 for my troubles, and I got to keep the car! I would highly recommend.”*

**– Blake**

\*\*\*\*\*

*“Lemon law case – I contact Mr. Simanovsky’s law firm for a lemon law case, of a brand new 2019 Chevrolet Silverado that the transmission came out defective and of course, he got me a money settlement with GM for my hassle and my time expended in the shop. Thank you all sincerely.”*

**– Luis**

\*\*\*\*\*

*“King of getting the work done – Mr. Alex Simanovsky  
you are the best lawyer ever. You stand by your words and  
defend your clients to the fullest. Thank you for all your hard  
work Nadege Raymond”*

***– Nadege***

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## CHAPTER 1

# AN INTRODUCTION TO LEMON LAWS & YOUR CONSUMER RIGHTS



My name is Alex Simanovsky and I've been an attorney since 1995. Since 1999, my firm has handled over 25,000 lemon law cases for consumers with defective vehicles all over the country. This is all we do... and we do it every day.

### *The Ultimate How-To Guide*

This book is for any consumer who may have purchased a defective vehicle, a vehicle that's been in

the shop multiple times that the dealer just can't seem to fix. It's intended as a general guide for consumers in all 50 states about the lemon law. This little guide should acquaint the consumer with the steps they need to take to enforce the law. It should also help consumers get the manufacturer to either take their defective vehicle back or compensate them for the vehicle.

### ***A Brief Introduction To Lemon Laws In The U.S.***

The term "lemon," as a reference to a defective vehicle, dates back to the early 1900s. Over the years, the word lemon infers a bad car, which came from British slang that meant to hand someone a lemon or give them something substandard. Thus, lemon is slang for a loser.

Every state has its own lemon law. These laws are mostly similar, but some states have different requirements than others. Additionally, there is a national lemon law, called the Magnuson-Moss Warranty Act that was enacted federally in 1975. It protects citizens of all states to ensure that car manufacturers honor their warranties on their vehicles.

## ***The Frequency Of Lemon Law Cases***

Unfortunately, a lot of new vehicles wind up being defective. My firm has handled over 25,000 lemon law cases. While no one ever expects to purchase a lemon, it happens far more often than you might think.

In 2020, there were about 14.5 million new vehicles sold. Defective vehicles make up .5% of all these vehicles, making the gross number of lemons come out to somewhere over 72,500 every year. Thus, purchasing a defective vehicle is a fairly common issue, especially with vehicles being so technologically complicated these days.

## ***How Soon To Know Your Car Falls Under A Lemon Law Claim***

While some consumers can drive their vehicle for years before having problems, defective vehicles generally “turn yellow” fairly soon after purchase.

Keep in mind that all states have time limits on when you can submit a claim after the date of purchase of the vehicle. For example, the time limit is twelve months in Colorado, three years in Georgia, and four

years in New York. If the consumer doesn't have the problem until five or six years after they bought the vehicle, it's too late to do anything about it under a lemon law claim.

### ***Lemon Laws Only Cover Passenger Vehicles & Light Duty Trucks***

Generally, all passenger vehicles and light trucks are covered under state lemon laws. However, most states have weight limits for vehicles covered under the lemon law.

For this reason, most states do not cover motorcycles or RVs. Although most state lemon laws would apply to the mechanical part of an RV, they still may be too big to be covered based on their weight.

Additionally, most states have weight limits for larger trucks. This is because the law considers large trucks to be commercial vehicles – even if they're driven as your daily vehicle.

For example, in Georgia, any vehicle (usually a truck) that weighs over 12,000 pounds is not covered.

Therefore, if you happen to own a monster truck (or any other large vehicle) it may likely be too big to be a “lemon”.



## CHAPTER 2

# EVERYTHING YOU NEED TO KNOW ABOUT LEMON LAW CLAIMS



### *Establishing Issues With Use, Value, Or Safety*

To be covered under lemon laws, the defect has to be serious in that it affects the use, value, or safety of the vehicle. However, there are some types of defects that will qualify a vehicle and others that won't. For example, if your car stereo doesn't work, it's not the same thing as your car's engine not working.

If your vehicle makes a noise, the manufacturer would certainly argue that that's not a serious defect. While it might be annoying, it may not rise to the level of what's called "substantial non-conformity" to be able to bring a lemon law claim.

In the event the vehicle continues to have multiple repairs that can't be fixed, that would (in most instances) be enough to bring a claim against the manufacturer of the vehicle under the lemon law.

### ***The General Rule: You Need To Show Three Or Four Repairs***

Each state has its separate requirements, but generally speaking, three or four repair attempts must be attempted to be able to bring a valid a lemon law claim.

In Georgia for example, to meet the definition under the lemon law, a vehicle has to have three or more repair attempts or thirty or more calendar days at the shop. Once either of these two conditions is met, then the consumer has enough to make a claim.

A common misconception is that just because the vehicle is in the shop 3 times or for 30 days or even

100 days, something automatically happens: the manufacturer automatically gives you either a new vehicle or a refund. That's not the case.

The law sets forth the guidelines that courts follow to decide whether the vehicle is classified as defective or not. Just because it's in the shop for more than 30 days doesn't mean that the manufacturer has to give you a refund or a new vehicle. What it does mean is that you have enough to go to court and have a judge decide.

### ***A Manufacturer's Last Chance: The Final Repair Attempt***

Most state lemon laws require that you give the manufacturer one last chance to fix the vehicle after it's been in the shop the required number of times or days.

The final repair attempt is triggered by sending written notice to the manufacturer, putting them on notice of the defects in the vehicle, and requesting or requiring them to set up an appointment for you at a convenient, authorized repair facility. Then, the manufacturer is to have what the law classifies as a final repair attempt.

If the defects continue after the final repair attempt, the consumer can then make the claim that the vehicle is a lemon. Some states' lemon laws do not require a final repair attempt at all, and some states do not require a final repair attempt if the vehicle's been in the shop for 30 or more days.

### ***The Importance of Documentation***

Since the lemon law generally requires multiple repairs, you need to be sure to go to the authorized dealership for repairs as soon as you start having issues with the vehicle.

Then, make sure that every time you take it into the authorized dealer's service department you get documents detailing things like: the date you brought it in, the date you picked it up, and the issues that you're complaining about. Once you have multiple repairs or excessive days out of service, you should then contact an experienced lemon law attorney.

### ***Picking An Experienced Lemon Law Attorney***

Once you have completed the required number of repair attempts, you should contact an experienced

attorney for a lemon claims consultation. In your consultation, the attorney will need all the documentation relating to the repairs of the vehicle as well as the sales and finance documents and a copy of the registration. These documents will assist the attorney in reviewing your case.

You can also contact an organization such as the Better Business Bureau (BBB) to file a complaint. The bureau has a free service called the BBB AUTO LINE. This is a self-help arbitration program where you can file a claim against the manufacturer.

Once the vehicle starts having multiple repairs or repetitive repairs, (even if you only have two repairs), you can still contact a lemon law attorney to get a consultation about what to do going forward. But, if you have multiple repairs or multiple days out of service, you should contact an experienced lemon law attorney for advice, providing the lawyer with all your documents for review.

## CHAPTER 3

# PROTECTING YOUR CLAIM: WHAT TO DO... AND WHAT TO AVOID



### *Making Payments*

Be sure that you continue to make payments on your vehicle. Ultimately, your lemon law claim against the car manufacturer has nothing to do with the bank that you borrowed money from to buy the vehicle. If you stop making payments on the vehicle, the bank or the finance company has the right to repossess it – even

if you have a lemon law claim in process with the manufacturer.

### ***Fixing Your Vehicle's Problems***

Don't attempt to repair or pay someone to repair your defective vehicle before taking the claim to the manufacturer.

If the vehicle is covered by a manufacturer's warranty, you should always take it to the manufacturer's dealership for service. Most manufacturers' warranties state that you would void the warranty if you have a non-authorized manufacturer or repair facility make any type of repairs to it.

This does not include routine maintenance like oil changes. But if you're having an engine issue, for example, and you have some local mechanic work on the engine, you may be voiding the warranty on that vehicle. Thus, you should always take it to the manufacturer's authorized dealership.

## *Time Limits*

It's always important to check the filing deadline of your state's statute of limitations.

Each state's lemon law sets forth the statute of limitations for a lemon law claim. The statute of limitations is the deadline for filing a case in court. These vary from state to state and can be as short as 12 months in Colorado or as long as 5 years in Ohio. Consumers should always consult an experienced lemon law attorney to determine what the time limit is in their state.

## *Refunds*

The value of a vehicle that falls under the definition of your state's lemon laws varies from state to state.

In general, if you are successful in your lemon law claim, you might get a refund for your vehicle. That means the manufacturer takes the vehicle back, pays off the loan, and you get a refund based on a formula that each state sets forth in specific lemon law.



Some states include the interest that you've paid on the loan as part of a lemon law refund. Some states don't. Every state is slightly different in its formula. In general, the formula is what you have paid on the vehicle loan less a deduction for the vehicle's mileage.

### *The Cost Of Mileage*

All state lemon laws call for a deduction from any refund based on the mileage that you have put on the vehicle, which varies from state to state.

Vehicle Mileage x (Cost of Vehicle/100,000) = Mileage  
Deduction.

Cost of Vehicle – Mileage Deduction = Refund  
Amount

In most states, the formula is the price of the vehicle divided by 100,000, which gives you the per-mile charge. Then you multiply that by the mileage on the vehicle to determine what your mileage deduction is.

For example, say you purchased the latest electric vehicle for \$44,000. After three months, you had put on 3,000 miles. The formula would be  $3,000 \times (44,000 / 100,000)$ , which is  $3,000 \times .44$ , equalling a deduction of \$1,320.

Therefore, if your state calculates the refund cost using this formula, you'd receive a refund for \$42,680.

### ***Recoverable Costs***

While recoverable costs vary from state to state, most states' lemon laws allow you to recover other costs.

For example, if you had to pay out of pocket for:

- the cost of a tow truck,
- alternative transportation
- a rental car.

These types of costs are generally recoverable under most state lemon laws. But costs such as insurance or gas are generally never recoverable.

## *Lemon Law Arbitration*

Arbitration is a procedure to resolve disputes outside of court. The good news is that while lawsuits might take years, arbitrations might take months.

Several organizations conduct arbitration hearings for defective vehicles such as the Better Business Bureau AUTO LINE or NCDS (National Center for Dispute Settlement). They have programs that are free to consumers where they help arbitrate a dispute between the consumer and the manufacturer.

Some states such as Georgia and Texas have their own state-administered lemon law arbitration programs. These state-sponsored programs are much faster, much less expensive, and much more consumer-friendly than actually going to court, a process that can take years to resolve.

## CHAPTER 4

# WHAT IT LOOKS LIKE TO FIND A SUCCESSFUL OUTCOME



### *Hire An Experienced Lemon Law Attorney*

It's time to contact an experienced lemon law lawyer when you have become frustrated due to multiple repairs on your vehicle or you have experienced excessive days with it out of service. You may have also been in contact with the manufacturer's customer service department and have not received any satisfaction.

The time to contact an attorney is not after you've gone to arbitration by yourself and lost. The best way forward is to get an experienced lemon law attorney involved at the beginning.

Most state lemon laws make the manufacturer pay your attorney's fees. This means that, if the claim is successful, you can get free or no cost or no out-of-pocket cost representation. The attorney will recover the legal fees from the manufacturer. Of course, attorney fees vary from state to state.

### ***Arbitration: All Or Nothing***

Arbitration is like going to court, which means it's an all-or nothing-proposition. You will either be successful and the arbitrator will award a refund or a replacement vehicle to you, or the manufacturer will be successful and you'll get nothing. There is no in-between.

If you go to arbitration and lose or are in a state that does not have a mandatory arbitration provision in its lemon law, you will then have to go to court to enforce the law if you are unable to resolve the claim through negotiations with the manufacturers.

## *The Worthiness of Litigation*

Expect litigation, (otherwise known as a lawsuit), to take a long time. The lawsuit is the very last resort in a lemon law case because it's costly and it can take years to resolve.

Additionally, you should never try to sue without having an attorney. When you litigate without a lawyer, you wind up fighting in court as an individual consumer against a huge multi-billion-dollar corporation like General Motors, Ford, Chrysler, or Volkswagen. It's not a fair fight if you are suing on your own – and it's a fight that's by all accounts nearly impossible to win.

## *Trading In A Problem Vehicle*

Legally speaking, a vehicle is not considered a lemon until a judge determines it is. Before the judge's ruling, while it is a defective vehicle, it is acceptable to trade it in. Most car dealers will accept a vehicle with issues as a trade-in to sell the consumer another vehicle.

Now, the repair history on your trade-in may affect the vehicle's trade-in value. Thus, it may be worthwhile for you to look into what can be done based on the lemon law before trading the vehicle in.

### ***A Successful Claim: Refund Or Replacement***

At the end of the successful lemon law claim, the manufacturer will either provide a replacement vehicle or a refund as per the lemon law formula.

$$\text{Vehicle Mileage} \times (\text{Cost of Vehicle} / 100,000) = \text{Mileage Deduction.}$$

$$\text{Cost of Vehicle} - \text{Mileage Deduction} = \text{Refund Amount}$$

Under most states' lemon law, you get to choose whether you receive a refund or a replacement. However, there are some states where the manufacturer gets to decide whether you receive a refund or a replacement.

A replacement vehicle is generally an MSRP (Manufacturer's Suggested Retail Price) to MSRP swap, meaning that you take the MSRP of the vehicle that you have, less the mileage deduction, and apply that to the MSRP of the replacement vehicle.

For the replacement option, no lemon law requires the manufacturer to give the identical vehicle as a replacement. All the law says is that the replacement has to be a "comparable vehicle" to the one that you have that was judged to be a defective vehicle. For example, say you have a blue truck. You win your case and you get a replacement vehicle. You may not get a blue truck but a red truck instead.

In most instances in a replacement, you will go and pick the vehicle you want as a replacement. If it costs more than the original vehicle, you would be responsible for paying the difference. If you want an upgraded vehicle as a replacement, then you have to make up that difference in the price. This is because you are not entitled to more than the original purchase price of the vehicle minus deductions.



## CHAPTER 5

# THE OUTSTANDING BENEFITS OF HIRING AN ATTORNEY



### *You Have To Remember: All Lemon Law Claims Are Filled With “Technicalities”*

If your vehicle's been in an dealership's service department for repairs a handful of times, that's certainly grounds for you to think about having an attorney review the case. Getting a consultation at the very early stages never hurts. The sooner you have legal representation, the better, as an attorney can help to develop the case to make

sure that all the necessary steps and notifications are done properly.

In submitting a lemon law claim on your own, you should know that you will be judged as if you were an expert at each step of the way. So, if you've got five hoops to jump through, but you only jump through four, you're going to lose the case.

Fortunately, you don't have to handle your case alone. If you choose to schedule a consultation with an experienced lemon law attorney early in the process, you can make sure that all prerequisites are met, the case is handled properly, and that it is going to be free or at no out-of-pocket cost to you.

### ***Contacting A Decision-Maker Vs. Calling Customer Service***

Any time you're not satisfied with your vehicle, the first step is to contact the manufacturer to put them on notice of the lemon claim. Of course, someone is going to have to contact the manufacturer, but that person doesn't have to be you. You can certainly get an attorney to make all the necessary contacts.

An experienced lemon law attorney will make the process just that much less aggravating for you. This way, you don't have to be on the phone with the manufacturer's customer service department, being bounced around from one person to the next person saying, "I'll call you back in a week," or "We'll give you a decision in 30 days."

*Why is this?* Because manufacturers handle claims differently when a vehicle owner comes in with an attorney. One benefit of having an attorney is having the leverage to say, "Well, if you don't follow the law, we're going to sue to enforce it." Another benefit is that you're dealing with someone who can contact a decision-maker...

If you contact the manufacturer by calling customer service, you won't get connected to the department or people that my firm (or any lawyer) will call.

In most cases, these are not the people that you will ever be able to get to by calling the customer service number. Most people have to talk to a customer service representative who has no authority

to do anything on their own. They will make note of all the information before having to report it to somebody else. That somebody else might make the decision before it goes back to the customer service person who then calls you back. What's worse, some customer service departments may or may not follow up with you at all.

The truth is, all manufacturers have lemon law departments staffed by lawyers and paralegals. As your attorney, we have the direct connections you need to get to the source – we'll be calling someone in their legal department.

### ***We're Here For You – From Start To Finish***

Our firm has been helping clients with lemon law issues since 1999, and lemon law cases are pretty much all we do. We have helped tens of thousands of consumers like you, and we've never charged a consumer any out-of-pocket attorney's fees for a lemon law case.

We also deal with manufacturers all day every day. We have relationships with their legal

departments to try and make these things go as quickly and as smoothly as possible.

These manufacturers know that if they don't deal with us, we're not letting it go. We're going to file a lawsuit. We're going to take them to court. The manufacturers know that we're serious about these claims, and follow through, which generally leads to better and quicker results for you in most cases.

We at Alex Simanovsky & Associates can handle your lemon law claim from start to finish so that you don't have to be bothered dealing with representatives of the manufacturers.

# LEMON LAW STANDARDS

## Alaska Lemon Law

### *Alaska Motor Vehicle Warranties Act*

The following is a brief explanation of most relevant provisions of the Alaska lemon law. The complete text of the lemon law can be found at Alaska Stats. 45.45.300 et seq.

### *Vehicles Covered*

The Alaska lemon law covers motor vehicles that are (1) normally used for personal, family, or household purposes, and (2) required to be registered in Alaska.

The lemon law does not cover tractors, farm vehicles and vehicles designed primarily for off-road use. Guidance from the Attorney General's Office indicates the lemon law does not cover used vehicles.

### *Consumers Covered*

The lemon law covers the purchaser of a new motor vehicle, other than for resale, and a person to

whom ownership of the motor vehicle is transferred. The lemon law does not cover a lessee.

### *Problems Covered*

The lemon law covers any nonconformity, which is defined as a defect or condition in a motor vehicle caused by a manufacturer, distributor, dealer, or repairing agent that substantially impairs the use or market value of a motor vehicle. The nonconformity must also cause the vehicle to not conform to an applicable manufacturer's written warranty.

“Substantially impairs the use” means a nonconformity that prevents a motor vehicle from being operated or makes the vehicle unsafe to operate. “Substantially impairs the market value” means a nonconformity that substantially decreases the dollar value of a vehicle to the owner when compared to the dollar value of a similar vehicle that does not have the nonconformity.

The lemon law does not apply if the manufacturer or distributor can show that the alleged nonconformity is the result of:

1. Alteration of the vehicle by the owner or a person other than a dealer or repairing agent that is not authorized by the manufacturer or distributor; or
2. Abuse or neglect by the owner or a person other than the dealer or repairing agent.

### ***Manufacturer's Duty To Repair***

If a motor vehicle does not conform to the manufacturer's express written warranty and the owner reports the nonconformity to the manufacturer or the manufacturer's or distributor's dealer during the term of the warranty, then the manufacturer, distributor, dealer, or a repairing agent must make the necessary repairs to conform the motor vehicle to the express warranty.

### ***Manufacturer's Duty To Repurchase Or Replace A Vehicle***

If the manufacturer, distributor, dealer, or repairing agent is unable to conform the vehicle to an applicable manufacturer-written warranty after a reasonable number of attempts during the term of the



manufacturer-written warranty or within one year from the date of delivery of the motor vehicle to the original owner, whichever period ends first, then the manufacturer must, at the owner's option, repurchase or replace the motor vehicle.

### ***Reasonable Number Of Repair Attempts***

The Alaska lemon law establishes a presumption that a reasonable number of repair attempts have been made to conform a vehicle under an applicable manufacturer's express written warranty if, during the term of the express warranty or the one-year period after delivery of the motor vehicle to the original owner, whichever period ends first, either of the following occurs:

1. The same nonconformity has been subject to repair three or more times by the manufacturer, distributor, dealer, or repairing agent but the nonconformity continues to exist; or
2. The vehicle is out of service for repair for a total of 30 or more business days during the express warranty term or the one-year period after

delivery to the original owner, whichever period ends first. Any period that repairs are not performed for reasons that are beyond the control of the manufacturer, distributor, dealer, or repairing agent is excluded from the 30-day time period.

### ***Notice And Opportunity To Repair***

In order to claim a refund or replacement under the lemon law, the owner must give written notice by certified mail to the manufacturer and its dealer or repairing agent at any time before 60 days have elapsed after the expiration of the manufacturer's express written warranty or the one-year period after the date of delivery of the motor vehicle to the original owner, whichever period ends first. This written notice must:

1. State that the vehicle has a nonconformity;
2. Provide a reasonable description of the nonconformity;
3. State that the manufacturer, distributor, dealer, or repairing agent has made a reasonable

number of repair attempts to conform the vehicle; and

4. State that the owner demands a refund or replacement vehicle to be delivered on the 60th day after the mailing of the written notice.

The manufacturer may make a final repair attempt to be completed within 30 days of receiving the required written notice.

### ***Dispute Resolution***

If the manufacturer or distributor has established an informal dispute settlement procedure that substantially complies with 16 C.F.R. Part 703, or if the manufacturer or distributor offers in writing to participate in an arbitration or mediation process that is binding on the manufacturer or distributor but not on the consumer, and if the informal dispute settlement procedure or arbitration/mediation process is approved by the Attorney General, then the provisions requiring refund or replacement do not apply unless the consumer has first resorted to the informal dispute settlement procedure or arbitration/mediation process.

## ***Time Period For Filing Claims***

Not specified. Assuming that the UCC statute of limitations applies, a claim must be filed with BBB AUTO LINE within four years from the date the alleged defect is discovered.

Important: In order to claim a refund or replacement under the lemon law, the owner must give written notice by certified mail to the manufacturer and its dealer or repairing agent at any time before 60 days have elapsed after the expiration of the manufacturer's express written warranty or the one-year period after the date of delivery of the motor vehicle to the original owner, whichever period ends first.

## ***Remedies Under The Alaska Lemon Law Repurchase***

The Alaska lemon law provides that a manufacturer must pay the following amounts when it repurchases an owned vehicle under the lemon law:

1. Full purchase price of the vehicle, which is defined as the total price paid for the motor vehicle by the original owner, including costs added to the retail price such as the original registration fees, transportation fees, dealer preparation, and dealer installed options;
2. Less a reasonable allowance for use.

The reasonable allowance for the consumer's use of the vehicle means an amount attributable to an owner's use of a motor vehicle. The reasonable allowance may not exceed:

1. An amount equal to the depreciation in value of the vehicle for the period during which the vehicle is available for use by the owner, calculated by a straight line depreciation method over seven years;
2. Plus an amount equal to the depreciation in value of the vehicle that is caused by:
  - any neglect or abuse by the owner; or
  - body damage not caused by a nonconformity.

## *Replacement*

When replacing a vehicle under the Alaska lemon law, the manufacturer must provide a new, comparable vehicle.

## **Alabama Lemon Law**

The following is a brief explanation of most relevant provisions of the Alabama lemon law. The complete text of the lemon law can be found at Alabama Code Section 8-20A-1 et seq.

### ***Vehicles Covered***

The Alabama lemon law covers self-propelled vehicles intended primarily for use and operation on public highways. The lemon law does not cover motor homes or any motor vehicle having a manufacturer's gross vehicle weight rating of 10,000 pounds or more.

### ***Consumers Covered***

The lemon law covers the purchaser, other than for purposes of resale, of a new or previously untitled motor vehicle used in substantial part for personal, family, or household purposes; and any other person who is entitled to enforce the warranty.

The lemon law does not cover consumers who purchase the vehicle primarily for commercial purposes and appears not to cover lessees.

## ***Vehicle Problems Covered***

The lemon law covers nonconforming conditions. A nonconforming condition means any motor vehicle condition that does not conform to the manufacturer's express warranty and that:

1. Significantly impairs the use, value, or safety of the motor vehicle;
2. Occurs or arises solely in the course of the ordinary use of the motor vehicle;
3. Does not arise or occur as a result of abuse, neglect, modification, or alteration of the motor vehicle not authorized by the manufacturer; and
4. Does not arise or occur as a result of any accident or other damage to the motor vehicle that occurs or arises after the vehicle was delivered to the consumer by an authorized dealer.

## ***Lemon Law Coverage Period***

The lemon law establishes a lemon law rights period ending one year after the date of the vehicle's original delivery to a consumer or the first 12,000 miles of operation, whichever occurs first.



## ***Manufacturer's Duty To Repair***

The Alabama lemon law provides that the manufacturer must make the necessary repairs to remedy any nonconforming condition if the consumer delivers the vehicle to the manufacturer, its agent, or authorized dealer, and the consumer gives notice of the nonconforming condition during the lemon law coverage period.

## ***Manufacturer's Duty To Repurchase Or Replace A Vehicle***

If the manufacturer, its agent, or authorized dealer is unable to conform the motor vehicle to any express warranty after reasonable attempts by repairing or correcting a nonconforming condition that first occurred during the lemon law rights period, then the manufacturer must replace or repurchase the motor vehicle, at the option of the consumer.

## ***Reasonable Number Of Repair Attempts***

The Alabama lemon law creates a presumption that a manufacturer has had a reasonable number of repair attempts if, during the period of 24 months

following the vehicle's delivery or 24,000 miles, whichever comes first, either of the following occurs:

1. The manufacturer, its agent, or authorized dealer has attempted to repair the same nonconforming condition three or more times, at least one of which occurs during the lemon law coverage period, plus the manufacturer has made a final attempt to repair, and the nonconforming condition continues to exist; or
2. For a cumulative total of 30 or more calendar days, the vehicle was out of service and in the custody of the manufacturer, its agent, or authorized dealer for repair attempts (including the final repair attempt), one of which occurred during the lemon law coverage period.

The 30-day out-of-service period is extended for conditions beyond the control of the manufacturer, its agent, or authorized dealer, such as war, invasion, strike, fire, flood, or other natural disaster.

## ***Notice And Final Repair Attempt***

Before commencing a civil action, a consumer must give notice of a nonconforming condition by certified mail to the manufacturer, and demand correction or repair of the nonconforming condition. If, at the time of this notice, the presumption of a reasonable number of repair attempts has been met, the manufacturer is given a final opportunity to cure the nonconforming condition.

Within seven calendar days of receiving the certified notice, the manufacturer must notify the consumer of a reasonably accessible repair facility. After the consumer delivers the vehicle to the authorized repair facility, the manufacturer must attempt to correct the nonconforming condition within 14 calendar days.

## ***Dispute Resolution***

If the manufacturer has established an informal dispute settlement procedure that complies with 16 C.F.R. Part 703, then the consumer must first exhaust

any remedy afforded by the procedure before instituting a cause of action under the lemon law.

### ***Time Period For Filing Claims***

Actions must be commenced within three years following the date of the original delivery of the motor vehicle to the consumer.

### ***Remedies Under The Alaska Lemon Law*** ***Repurchase***

#### ***Repurchase***

The Alabama lemon law provides that a manufacturer must pay the following amounts when it repurchases a vehicle under the lemon law:

1. the full contract price, including but not limited to charges for undercoating, dealer preparation, and transportation charges, and installed options;
2. the nonrefundable portions of extended warranties and service contracts;
3. all collateral charges, including but not limited to sales tax, license and registration fees, and similar government charges;

4. all finance charges incurred by the consumer after the first report of the nonconforming condition to the manufacturer, its agent, or authorized dealer; AND
5. any incidental damages, including reasonable costs for alternative transportation, incurred during the period that the consumer is without the use of the vehicle because of the nonconforming condition.

The lemon law provides for an offset against any monetary recovery of the consumer for the consumer's use of the vehicle. The reasonable allowance for use directly attributable to the consumer is determined by the following formula:

Reasonable allowance for the use	#miles traveled prior to 1st report of the nonconformity to manufacturer/dealer	Full purchase price
	<b>X</b>	
	120,000	

## *Replacement*

When replacing a vehicle under the Alabama lemon law, the manufacturer must provide a new vehicle that is comparable to the vehicle that is being replaced. The reasonable allowance for use does not apply to a replacement.

## **Arkansas Lemon Law**

### ***New Motor Vehicle Quality Assurance Act***

The following is a brief explanation of most relevant provisions of the Arkansas lemon law. The complete text of the lemon law can be found at Ark. Code Ann. 4-90-401 et seq.

### ***Vehicles Covered***

The Arkansas lemon law covers motor vehicles that are licensed, purchased, or leased in Arkansas and primarily designed for the transportation of persons or property over public streets and highways.

The lemon law excludes mopeds, motorcycles, the living facilities of motor homes, vehicles with a G.V.W. rating over 13,000 pounds (other than motor homes), and any vehicle over 10,000 lbs. G.V.W.R. that has been substantially altered after its initial sale from a dealer. Used vehicles might be covered if transferred during the MVQA period.

## *Consumers Covered*

The lemon law covers:

1. The purchaser or lessee, other than for the purpose of resale or sublease, of a new or previously untitled motor vehicle, provided the motor vehicle is titled and registered as prescribed by law; or
2. Any other “person” entitled to enforce the obligations of a manufacturer’s new vehicle warranty during the duration of the Motor Vehicle Quality Assurance period [see definition below], provided the motor vehicle is titled and registered as prescribed by law.

The definition of “person” includes any natural person, a partnership, firm, corporation, association, joint venture, trust, or other legal entity.

## *Problems Covered*

The lemon law covers vehicle nonconformities. Nonconformity means any specific or generic defect or



condition, or any concurrent combination of defects or conditions, that:

1. Substantially impairs the use, market value, or safety of a motor vehicle; or
2. Renders the vehicle nonconforming to the terms of an applicable manufacturer's express warranty or implied warranty of merchantability.

The lemon law provides the manufacturer with an affirmative defense if it can be shown that:

1. The nonconformity, defect, or condition does not substantially impair the use, value, or safety of the vehicle; or
2. The nonconformity, defect, or condition is the result of an accident, abuse, neglect, or unauthorized modification or alteration of the vehicle by persons other than the manufacturer, its agent, or authorized dealer.

### ***The Motor Vehicle Quality Assurance Period***

The lemon law establishes a Motor Vehicle Quality Assurance period, which will be referred to as

the MVQA period. The MVQA period is the period of time that:

**BEGINS** on the date of original delivery of a motor vehicle to a consumer AND

**ENDS** 24 months after the date of the original delivery of the vehicle to a consumer, or the first 24,000 miles of operation attributable to the consumer, WHICHEVER IS LATER.

### ***Manufacturer's Duty To Repair***

The Arkansas lemon law provides that, if a motor vehicle does not conform to the warranty and the consumer reports the nonconformity to the manufacturer, its agent, or authorized dealer during the MVQA period (see definition above), the nonconformity must be corrected, even if the repairs are made after the expiration of the MVQA period.

### ***Notice And Final Repair Attempt***

After 3 attempts have been made to repair the same nonconformity, or after 1 attempt to repair a

nonconformity likely to cause death or serious bodily injury, the consumer must notify the manufacturer BY CERTIFIED OR REGISTERED MAIL of the need to repair the nonconformity in order to allow the manufacturer a final attempt to cure the nonconformity.

Within 10 days after receipt of the certified or registered notice from the consumer, the manufacturer must provide the consumer with the opportunity to have the vehicle repaired at a reasonably accessible repair facility. Repairs must be accomplished within 10 days after the vehicle is delivered by the consumer to that repair facility.

Guidance from the Arkansas Attorney General's Office indicates that the requirement for notice and final repair attempt does not apply to a consumer who is not asserting the presumptions that arise after three attempts to the same nonconformity or one attempt to a nonconformity likely to cause death or bodily injury.

The requirement that the manufacturer be given a final attempt to cure the nonconformity does not apply if:

1. The manufacturer fails to notify and provide the consumer with the opportunity to have the vehicle repaired at a reasonably accessible repair facility; or
2. The manufacturer fails to perform the repairs within 10 days after the vehicle is delivered by the consumer to the designated repair facility.

### ***Manufacturer's Duty To Repurchase Or Replace A Vehicle***

If the manufacturer, its agent, or authorized dealer has not conformed the motor vehicle to the warranty by repairing or correcting one or more nonconformities that substantially impair the motor vehicle after a reasonable number of attempts, the manufacturer must repurchase or replace the vehicle within 40 days.

### ***Reasonable Number Of Repair Attempts***

The Arkansas lemon law provides a rebuttable presumption that the manufacturer and its authorized service agent have had a reasonable number of attempts to repair a vehicle if any of the following occurs:

1. A nonconformity continues to exist after it has been subject to repair three times by the manufacturer and/or its dealers PLUS a final repair attempt by the manufacturer after receipt of certified or registered mail notice from the consumer;
2. A nonconformity that is likely to cause death or serious bodily injury continues to exist after it has been subject to repair one time by the manufacturer and/or its dealers PLUS a final repair attempt by the manufacturer after receipt of certified or registered mail notice from the consumer;
3. The vehicle is out of service by reason of repair, or attempt to repair, any nonconformity for a cumulative total of 30 calendar days; or
4. There have been 5 or more attempts, on separate occasions, to repair any nonconformities that together substantially impair the use and value of the vehicle to the consumer.

Guidance from the Arkansas Attorney General's Office indicates that the requirement that the

nonconformity continues to exist does not apply to a consumer who is not asserting the presumptions that arise after three attempts to the same nonconformity or one attempt to a nonconformity likely to cause death or bodily injury.

A **non-rebuttable presumption** arises if, after the consumer sends the required notice by certified or registered mail, the manufacturer fails to notify and provide the consumer with the opportunity to have the vehicle repaired at a reasonably accessible repair facility or the manufacturer fails to perform the repairs within 10 days after the vehicle is delivered by the consumer to the designated repair facility.

A manufacturer, its agent, or authorized dealer may not refuse to diagnose or repair any vehicle for the purpose of avoiding liability under the lemon law. A manufacturer, its agent, or authorized dealer must provide the consumer with a written repair order each time the vehicle is brought in for examination or repair. The repair order must include a reference to each defect, nonconformity, or other complaint brought to the attention of the manufacturer, its agent, or

authorized dealer. Each presentation of the vehicle by the consumer with a reasonable opportunity to repair the vehicle is considered a repair attempt for the defects, nonconformities, or other complaints noted in the repair order.

In the case of a motor home, where 2 or more manufacturers contributed to the construction of the vehicle, it shall be considered a repair attempt only if the facility is authorized by the manufacturer to provide warranty service for the vehicle. If a consumer presents their motor home for repairs at an authorized facility but decides to continue traveling rather than having the repairs done at that time, it does not count as a repair attempt.

### ***Dispute Resolution***

A manufacturer doing business in Arkansas, entering into franchise agreements for the sale of its vehicles in Arkansas, or offering express warranties on its vehicles sold or distributed in Arkansas must operate or participate in an informal dispute settlement procedure. The informal procedure must be located in Arkansas and must comply with the lemon law.

The lemon law provisions requiring the repurchase or replacement of a nonconforming motor vehicle do not apply to a consumer who has not first used the informal procedure before commencing a civil action, unless the manufacturer allows a consumer to forego the procedure, or the manufacturer, its agent or authorized dealer has failed to provide the consumer with the Attorney General's description of the consumer's rights and obligations under the lemon law.

### ***Time Period For Filing Claims***

An action in court must be commenced within two years following the date that the consumer first reports the nonconformity to the manufacturer, its agent, or authorized dealer, or two years following the date that the consumer files a claim with the informal dispute settlement procedure.

Guidance from the Attorney General's Office indicates that the lemon law does not establish a period for filing claims with BBB AUTO LINE.

### ***Remedies Under The Arkansas Lemon Law***



## *Repurchase*

### *Owned Vehicles*

The Arkansas lemon law provides that a manufacturer must pay the following amounts when it repurchases an owned vehicle under the lemon law:

1. Vehicle purchase price. This means the cash price paid for the vehicle appearing in the sales agreement or contract, including any net allowance given for a trade-in vehicle. Guidance from the Arkansas Attorney General's Office indicates that any document other than the sales agreement or contract may not be considered to determine the cash price.
2. Collateral charges. These are defined as additional charges to a consumer wholly incurred as a result of the acquisition of the motor vehicle. They include, but are not limited to:
  - Manufacturer-installed or agent-installed items;
  - Earned finance charges;
  - Sales taxes;
  - Title charges; and

- Charges for extended warranties provided by the manufacturer, its subsidiary, or agent.
3. Incidental charges. These are defined as reasonable costs (not including loss of use, loss of income, or personal injury claims) incurred by the consumer which are directly caused by nonconformity or nonconformities that are the subject of the claim. They include, but are not limited to:
    - Towing charges; and
    - Costs of obtaining alternative transportation.
  4. Less a reasonable offset for use and a reasonable offset for physical damage to the vehicle.

Refunds must be made to the consumer and lienholder of record, if any, as their interests may appear. At the time of the refund, the consumer or lienholder must furnish the manufacturer clear title to and possession of the motor vehicle.

### *Leased Vehicles*

The Arkansas lemon law provides that the manufacturer must pay the following amounts when it repurchases a leased vehicle:

*To the lessor:*

1. 105% of the lessor's actual purchase costs, minus the total of all deposit and rental payments paid by the lessee to the lessor;
2. Collateral charges (see above), if applicable;
3. Any fee paid to another to obtain the lease;
4. Any insurance or other costs expended by the lessor for the benefit of the lessee, and
5. An amount equal to state and local sales taxes, not otherwise included as collateral charges, paid by the lessor when the vehicle was purchased.

*To the Lessee:*

1. All deposit and rental payments paid by the lessee to the lessor; and
2. Incidental charges (see above), if applicable.
3. Less a reasonable offset for use and a reasonable offset for physical damage to the vehicle.

At the time of the refund, the consumer or lessor must furnish the manufacturer clear title to and possession of the motor vehicle. The consumer's lease

agreement with the lessor is terminated upon payment of the refund, and no penalty for early termination can be assessed.

*Allowance For The Consumer's Use Of Or Damage To Vehicle*

The Arkansas lemon law states that a reasonable offset for the vehicle’s use is deducted from the amounts a manufacturer pays to the owner or lessee when it repurchases a vehicle. The reasonable offset for use is determined by the following formula:

Number of miles traveled by vehicle prior to the time the consumer first delivered the vehicle to the manufacturer, agent, or dealer for correction of the problem that gave rise to the nonconformity	X	vehicle purchase price (including charges for transportation and manufacturer-installed options
120,000		

The Arkansas lemon law also provides that a reasonable offset be made for physical damage sustained to the vehicle while under the ownership of the consumer.

*Replacement*

If a manufacturer replaces a vehicle under the Arkansas lemon law, the consumer must receive a replacement vehicle that is identical or reasonably equivalent to the replaced motor vehicle as it existed at the time of the original acquisition. The manufacturer must also pay all collateral and incidental charges (see above).

The consumer is responsible for paying a reasonable offset for the use of the vehicle. The reasonable offset for use is determined by the following formula:

Number of miles traveled by vehicle prior to the time the consumer first delivered the vehicle to the manufacturer, agent or dealer for correction of the problem that gave rise to the nonconformity	X	vehicle purchase price (including charges for transportation and manufacturer-installed options)
120,000		

The Arkansas lemon law also provides that a reasonable offset be made for physical damage sustained to the vehicle while under the ownership of the consumer.

At the time of the replacement, the consumer, lienholder, or lessor must furnish to the manufacturer clear title to and possession of the motor vehicle.

## **Arizona Lemon Law**

The following is a brief explanation of the most relevant provisions of the Arizona lemon law. The complete text of the lemon law can be found at Ariz. Rev. Stat. section 44-1261 et seq.

### ***Vehicles Covered***

The Arizona lemon law covers motor vehicles, defined as self-propelled vehicles designated primarily for the transportation of persons or property over public highways, including the self-propelled vehicle and chassis of motor homes.

The lemon law appears to cover used vehicles. The lemon law does not cover the portions of a motor home designed, used, or maintained primarily as a mobile dwelling, office or commercial space, or vehicles with a declared gross weight over 10,000 pounds.

### ***Consumers Covered***

The lemon law covers the following consumers:

1. The purchaser of a motor vehicle for purposes other than resale;
2. Any person to whom the motor vehicle is transferred during the duration of an express warranty applicable to the motor vehicle; and
3. Any other person entitled by the terms of the warranty to enforce its obligations.

The lemon law does not cover lessees unless the lease language contains a provision stating that the Lemon Law applies and not the UCC, in which case the lessee shall be deemed the consumer of the motor vehicle.

### ***Problems Covered***

The lemon law covers any defect or condition that substantially impairs the use and value of the motor vehicle to the consumer. This is referred to as a nonconformity. The lemon law provides manufacturers with an affirmative defense if it can be shown that the nonconformity is the result of abuse, neglect, or unauthorized modifications or alterations of the motor vehicle.



## ***Manufacturer's Duty To Repair***

If a motor vehicle does not conform to all applicable express warranties, and the consumer reports the nonconformity to the manufacturer, its agent, or authorized dealer during the shorter of the following:

1. the term of the express warranty, or
2. the period of two years or 24,000 miles following the date of the motor vehicle's original delivery to the consumer, whichever is earlier;

Then the manufacturer, its agent, an authorized dealer, or the issuer of the warranty must make the necessary repairs to conform the motor vehicle to the express warranty.

The necessary repairs must be made even if the term of the warranty, the two-year period, or the 24,000-mile period has expired.

## ***Manufacturer's Duty To Repurchase Or Replace A Vehicle***

If the manufacturer, its agent or authorized dealer is unable to conform the motor vehicle to any

applicable express warranty by repairing or correcting a nonconformity after a reasonable number of attempts, the manufacturer must either replace the motor vehicle with a new motor vehicle or repurchase the motor vehicle.

### ***Reasonable Number Of Repair Attempts***

The Arizona lemon law establishes a presumption that a reasonable number of attempts has been undertaken to conform a motor vehicle to the applicable express warranties if, during the shorter of the term of the express warranty, or the period of two years or 24,000 miles following the date of the motor vehicle's original delivery to the consumer, whichever is earlier, either of the following occurs:

1. The same nonconformity has been subject to repair four or more times by the manufacturer, its agents, or authorized dealers but the nonconformity continues to exist.
2. The motor vehicle is out of service for repair for a cumulative total of 30 or more calendar days.

The term of an express warranty, the two-year period, and the 30-day period is extended by any period of time during which repair services are not available to the consumer because of war, invasion, strike, fire, flood, or other natural disaster.

### ***Notice And Opportunity To Repair***

The presumption that a reasonable number of repair attempts has occurred does not apply against a manufacturer unless the manufacturer has received prior direct written notification of the alleged defect from or on behalf of the consumer and has had an opportunity to cure the alleged defect.

### ***Dispute Resolution***

If the manufacturer has established or participates in an informal dispute settlement procedure that complies with 16 C.F.R. Part 703, then the provisions requiring refund or replacement do not apply unless the consumer has first resorted to the informal dispute settlement procedure.

## ***Time Period For Filing Claims***

An action must be commenced within six months following the earlier of (1) expiration of the express warranty term; (2) two years following the date of the vehicle's original delivery to the consumer; or (3) 24,000 miles following the date of the vehicle's original delivery to the consumer.

# **California Lemon Law**

## **Song-Beverly Consumer Warranty Act and Tanner Consumer Protection Act**

The following is a brief explanation of most relevant provisions of the California lemon law, included within the Song-Beverly Consumer Warranty Act and, in part, titled the Tanner Consumer Protection Act. The complete text of the lemon law can be found at California Civil Code § 1793.2 et seq.

### ***Vehicles Covered***

The California lemon law covers a “new motor vehicle” (including the chassis cab of a motor home, a dealer-owned vehicle, a “demonstrator”, or other vehicle sold with a manufacturer’s new car warranty) that:

- is used or bought for use primarily for personal, family, or household purposes, or
- has a gross vehicle weight under 10,000 pounds and be bought or used primarily for business purposes by any person or business to which at

least one but not more than five motor vehicles are registered in California.

In addition, the motor vehicle must have been:

- purchased or leased in California at retail (not a private sale), or
- purchased or leased by a full-time active duty member of the Armed Forces who was stationed or residing in California at the time of purchase or lease or at the time the claim is filed.

The lemon law does not cover any portion of a motor home designed, used, or maintained primarily for human habitation; a motorcycle; or a motor vehicle that is not registered under the Vehicle Code because it is to be operated or used exclusively off the highways.

### *Consumers Covered*

The lemon law covers a “consumer,” defined as:

1. Any individual who buys or leases a new motor vehicle from a person engaged in the business

of manufacturing, distributing, selling, or leasing new motor vehicles at retail;

2. A lessee for a term exceeding four months; and
3. Any individual to whom the vehicle is transferred during the duration of a written warranty or who is entitled under applicable state law to enforce the obligations of the warranty.

“Person” means any individual, partnership, corporation, limited liability company, association, or other legal entity that engages in such business.

### ***Problems Covered***

The lemon law covers vehicle nonconformities, which are defined as any vehicle defect or malfunction that:

1. Is covered by the manufacturer’s written new vehicle warranty and
2. Substantially impairs the use, value, or safety of the vehicle to the consumer.

The California lemon law does not cover vehicle problems that are caused by the unauthorized or unreasonable use of the vehicle after the sale. A service

contract is not an express warranty within the meaning of the lemon law, and the lemon law does not authorize a repurchase or replacement remedy for breaches of service contracts.

### ***Manufacturer's Duty To Repurchase Or Replace A Vehicle***

If the manufacturer or its representative in California is unable to service or repair a vehicle to conform to the applicable express warranties after a reasonable number of attempts, the manufacturer must either replace or repurchase the vehicle. The manufacturer must be provided with more than one attempt to repair the vehicle and each occasion that an opportunity for repairs is provided counts as an attempt, even if no repairs are actually undertaken.

A consumer does not need to possess or own the vehicle to avail himself or herself of the repurchase or replacement remedies.

### ***Reasonable Number Of Repair Attempts***

The California lemon law establishes a rebuttable presumption that a reasonable number of



repair attempts have been made if, within 18 months from delivery to the first retail buyer/lessee or 18,000 miles on the vehicle odometer, whichever comes first, one or more of the following occurs:

1. The same nonconformity results in a condition that is likely to cause death or serious bodily injury if the vehicle is driven and the nonconformity has been subject to repair two or more times by the manufacturer or its agents, and the consumer has at least once directly notified the manufacturer of the need for repair;
2. The same nonconformity has been subject to repair four or more times by the manufacturer or its agents and the consumer has at least once directly notified the manufacturer of the need for repair; or
3. The vehicle has been out of service for more than 30 calendar days (cumulative) since delivery by reason of repair of one or more nonconformities by the manufacturer or its agent (such as an authorized dealer).

The 30-day limit is extended only if repairs cannot be performed due to conditions beyond the control of the manufacturer or its agents. The consumer is required to directly notify the manufacturer pursuant to paragraphs (1) and (2) only if the manufacturer has clearly and conspicuously disclosed to the consumer, in the warranty or owner's manual, the provisions of the lemon law and the direct notice requirement.

### ***Remedies Under The California Lemon Law***

#### ***Repurchase Of Owned Vehicles***

The California lemon law provides that the manufacturer must refund to the purchaser the following amounts when repurchasing an owned vehicle under the lemon law:

1. Purchase price. The actual price paid for the vehicle, including any charges for transportation and manufacturer-installed options, but not including charges for nonmanufacturer items installed by a dealer or the consumer;

2. Collateral charges. Official fees associated with the sale of the vehicle, including sales tax, license fees, and registration fees; and
3. Incidental damages. Reasonable expenses incident to the vehicle problem for which the manufacturer is repurchasing the vehicle, not including charges for which the consumer is justly responsible. Incidental damages include but are not limited to the following:
  - Reasonable repair, towing, and rental car costs are actually incurred by the consumer.
  - Prepayment penalties, early termination charges, and earned finance charges, if actually paid, incurred, or to be incurred by the consumer.

The California lemon law, and regulations issued by the state to further explain lemon law requirements, provide that an arbitrator may make a deduction for the buyer's use of the vehicle by using the following formula:



contract or insurance included in the lease agreement.

*To the Lessee:*

1. *Collateral charges.* Official fees paid by the lessee including sales tax, license fees, and registration fees;
2. *Incidental damages.* Reasonable expenses incident to the vehicle problem for which the manufacturer is repurchasing the vehicle, not including charges for which the consumer is justly responsible. Incidental damages include but are not limited to the following:
  - Reasonable repair, towing, and rental car costs actually incurred by the consumer, and
  - Prepayment penalties, early termination charges, and earned finance charges, if actually paid, incurred, or to be incurred by the consumer;
3. Base monthly payments (total monthly payment minus collateral charges) made by the lessee to the lessor up to the time of repurchase;

4. The amount of any trade-in or deposit made by the lessee (capitalized cost reduction); and
5. The amount of any security deposit held by the lessor.

The California lemon law, and regulations issued by the state to further explain lemon law requirements, provide that an arbitrator may make a deduction for the lessee's use of the vehicle by using the following formula:

Use deduction =	<div style="border-top: 1px solid black; padding-top: 5px;"> # miles driven by the  consumer prior to  first delivery to the  <b>X</b>  manufacturer/dealer  for repair purchase of  the nonconformity  that led to the  repurchase </div>	purchase price
	120,000	

## *Replacement*

The lemon law provides that a replacement vehicle must be new and substantially identical to

the vehicle replaced. The replacement vehicle must be accompanied by all express and implied warranties that normally accompany new motor vehicles of that kind.

When replacing a vehicle, the manufacturer must pay for collateral charges incurred in connection with the replacement vehicle. The manufacturer does not have to pay for collateral charges incurred in connection with the purchase of the original vehicle. In addition, the manufacturer must reimburse the purchaser for any reasonable incidental damages.

If a vehicle is replaced, the consumer may be required to pay for the vehicle's use in accordance with the formula set out under the above *Repurchase sections*.

## **Colorado Lemon Law**

The following is a brief explanation of most relevant provisions of the Colorado lemon law. The complete text of the lemon law can be found at Colorado Rev. Stat. 42-10-101 et seq.

### ***Vehicles Covered***

The Colorado lemon law covers motor vehicles, which means private passenger vehicles, pickup trucks, and vans that are:

1. Designed primarily for travel on public highways;
2. Used to carry not more than ten persons; and
3. Sold to consumers in Colorado.

The lemon law does not cover motor homes or vehicles designed to travel on three or fewer wheels in contact with the ground. The lemon law does not cover leased vehicles but appears to cover used vehicles.



## *Consumers Covered*

The lemon law covers consumers who fall into any one of the following categories:

1. The purchaser, other than for purposes of resale, of a motor vehicle normally used for personal, family, or household purposes;
2. Any person to whom such motor vehicle is transferred for the same purposes during the term of the manufacturer's express warranty; or
3. Any other person entitled by the terms of such warranty to enforce its obligations.

## *Problems Covered*

The lemon law covers any defect or condition that substantially impairs the use and market value of the motor vehicle. This is referred to as a nonconformity.

The lemon law provides manufacturers with an affirmative defense if it can be shown that the alleged nonconformity is the result of abuse, neglect, or unauthorized modifications or alterations of the vehicle by the consumer.

## ***Manufacturer's Duty To Repair***

If a motor vehicle does not conform to the manufacturer's written warranty and the consumer reports the nonconformity to the manufacturer, its agent, or its authorized dealer during the term of the warranty or within one year after the vehicle's original delivery to a consumer, whichever comes first, the manufacturer, its agent, or its authorized dealer must make the necessary repairs to conform the motor vehicle to the warranty. Such repairs must be made even if they occur after the expiration of the warranty term or the one-year period.

## ***Manufacturer's Duty To Repurchase Or Replace A Vehicle***

If the manufacturer, its agent, or its authorized dealer is unable to conform the vehicle to the warranty by repairing or correcting a nonconformity after a reasonable number of repair attempts, the manufacturer must, at its option, replace or repurchase the motor vehicle.

## ***Reasonable Number Of Repair Attempts***

The Colorado lemon law establishes a presumption that a manufacturer has had a reasonable number of repair attempts if, within the warranty term or one year after the vehicle's original delivery, whichever comes first, either of the following occurs:

1. The same nonconformity has been subject to repair four or more times by the manufacturer, its agent, or its authorized dealer and the nonconformity continues to exist, or
2. The motor vehicle has been out of service by reason of repair for a cumulative total of 30 or more business days of the repairer.

The warranty term, the 12-month period and the thirty-day period are extended by any period of time during which repair services are unavailable due to war or invasion, strike, or natural disaster.

## ***Notice And Final Repair Attempt***

The above presumption applies only to manufacturers that received prior written notice by

certified mail from or on behalf of the consumer and had an opportunity to cure the alleged defect. The manufacturer's opportunity to cure counts as one repair attempt towards meeting the reasonable number of repair attempts presumption.

### ***Dispute Resolution***

If the manufacturer has established or participates in an informal dispute settlement procedure that substantially complies with 16 C.F.R. Part 703, the provisions requiring refund or replacement do not apply unless the consumer has first resorted to the informal dispute settlement procedure.

### ***Time Period For Filing Claims***

An action must be commenced within the earlier of (1) six months following the expiration date of any warranty term, or (2) one year following the date of the vehicle's original delivery to a consumer. The time periods do not run during the period the consumer has submitted to the informal dispute settlement procedure.

## *Remedies Under The Colorado Lemon Law*

### *Repurchase*

The Colorado lemon law provides that a manufacturer must pay the following amounts when it repurchases an owned vehicle under the lemon law:

1. Full Purchase price of the vehicle; and
2. Sales tax, license fees, registration fees, and any similar governmental charges;
3. Less a reasonable allowance for the consumer's use of the motor vehicle.

A reasonable allowance for use is the amount directly attributable to use by the consumer or any previous consumer prior to the consumer's first written report of the nonconformity to the manufacturer, its agent, or dealer and during any subsequent period when the vehicle is not out of service for repair.

### *Replacement*

When replacing a vehicle under the Colorado lemon law, the manufacturer must provide a comparable motor vehicle. The reasonable allowance for use appears not to apply to a replacement.

## **Connecticut Lemon Law**

The following is a brief explanation of most relevant provisions of the Connecticut lemon law. The complete text of the lemon law can be found at Conn. Gen. Stat. Ann. Sec. 42-179 et seq.

### ***Vehicles Covered***

The Connecticut lemon law applies to passenger motor vehicles, passenger/commercial motor vehicles, and motorcycles that are sold or leased in the state.

“Passenger motor vehicle” means a motor vehicle:

1. Used for the private transportation of persons and their personal belongings;
2. Designed to carry occupants in comfort and safety;
3. With not less than 50% of the total area enclosed by the outermost body contour lines, excluding the area enclosing the engine, as seen in a plain view, utilized for designated seating positions and necessary legroom; and

4. With a capacity of carrying not more than 10 passengers including the operator.

“Passenger and commercial motor vehicle” means a motor vehicle used for private passenger and commercial purposes that is eligible for combination registration.

“Combination registration” means the type of registration issued to a motor vehicle used for both private passenger and commercial purposes if the vehicle does not have a gross vehicle weight rating in excess of ten thousand pounds.

### ***Consumers Covered***

The lemon law covers the following consumers:

1. The purchaser, other than for purposes of resale, of a motor vehicle;
2. A lessee of a motor vehicle;
3. Any person to whom the motor vehicle is transferred during the duration of an express warranty applicable to the motor vehicle; and

4. Any person entitled by the terms of an express warranty applicable to a motor vehicle to enforce the warranty obligations.

### ***Vehicle Converters***

The lemon law does not apply to vehicle converters.

### ***Problems Covered***

The lemon law covers any defect or condition that substantially impairs the use, safety, or value of the motor vehicle to the consumer. This is referred to as a nonconformity.

The lemon law provides manufacturers with an affirmative defense if it can be shown that a nonconformity is the result of abuse, neglect, or unauthorized modifications or alterations of the motor vehicle by a consumer.

### ***Manufacturer's Duty To Repair***

If a motor vehicle does not conform to all applicable express warranties, and the consumer reports



the nonconformity to the manufacturer, its agent, or authorized dealer during the period of two years following the date of the motor vehicle's original delivery to a consumer or the first 24,000 miles of operation, whichever occurs first, then the manufacturer, its agent or authorized dealer must make the necessary repairs to conform the motor vehicle to the express warranties.

The necessary repairs must be made even if the applicable period has expired.

### ***Manufacturer's Duty To Repurchase Or Replace A Vehicle***

If the manufacturer, its agents, or authorized dealers are unable to conform the motor vehicle to any applicable express warranty by repairing or correcting a nonconformity after *a reasonable number of attempts*, then the manufacturer must either replace or repurchase the motor vehicle.

### ***Reasonable Number Of Repair Attempts***

The Connecticut lemon law establishes a presumption that a reasonable number of attempts

has been undertaken to conform a motor vehicle to the applicable express warranties if any of the following occurs:

1. During the period of two years following the date of the motor vehicle's original delivery to a consumer or the first 24,000 miles of operation, whichever occurs first, either:
  - the same nonconformity has been subject to repair four or more times by the manufacturer, its agents, or authorized dealers, but the nonconformity continues to exist; or
  - the motor vehicle is out of service by reason of repair for a cumulative total of 30 or more calendar days.
2. Within the express warranty term or during the period of one year following the date of the motor vehicle's original delivery to a consumer whichever occurs first:
  - the vehicle has a nonconformity that results in a condition likely to cause death or serious bodily injury if the vehicle is driven;

- the nonconformity has been subject to repair at least twice by the manufacturer, its agents, or authorized dealers; and
- the nonconformity continues to exist.

The two-year, 30-day, and one-year period, and the term of an express warranty, are extended by any period of time during which repair services are not available to the consumer because of war, invasion, strike or fire, flood, or other natural disaster.

### ***Notice And Opportunity To Repair***

A consumer may not be required to notify the manufacturer of a claim under the lemon law unless the manufacturer has clearly and conspicuously disclosed, in the warranty or owner's manual, that written notification of the nonconformity is required before the consumer is eligible for a refund or replacement of the vehicle.

A consumer may not assert a claim under the lemon law unless the manufacturer, its agent, or authorized dealer has made at least one attempt to

repair the nonconformity or the manufacturer, its agent or authorized dealer has refused to attempt to repair the nonconformity.

### ***Dispute Resolution***

The lemon law provisions requiring the repurchase or replacement of a nonconforming motor vehicle do not apply to a consumer who has not first used an informal dispute settlement procedure that has been certified by the Attorney General as complying with 16 C.F.R. Part 703 and the lemon law.

If the manufacturer has not established an informal dispute settlement procedure that has been certified by the Attorney General, the consumer may request arbitration through the procedure established by the Department of Consumer Protection.

### ***Time Period For Filing Claims***

Not specified. Assuming that the UCC statute of limitations applies, a claim must be filed with BBB AUTO LINE within four years from the date the alleged defect is discovered.

## *Remedies Under The Connecticut Lemon Law*

### *Repurchase*

The Connecticut lemon law sets out the following amounts that a manufacturer must pay when it repurchases a motor vehicle under the lemon law:

1. The full contract price of the vehicle, including but not limited to charges for undercoating, dealer preparation and transportation, and installed options;
2. All collateral charges, including but not limited to sales tax, license and registration fees, and similar government charges;
3. All finance charges incurred by the consumer after the consumer first reports the nonconformity to the manufacturer, agent, or dealer and during any subsequent period when the vehicle is out of service by reason of repair; [Although the lemon law limits the award of finance charges to periods when the vehicle is out of service due to repair, the Office of the Attorney General has interpreted other lemon

law provisions as permitting the refund of all earned finance charges.]

- 4. Incidental damages directly caused by the vehicle’s nonconformity, including reasonably incurred charges for alternate transportation, towing, and lodging.

Refunds must be made to the consumer, lessor, and lienholder, if any, as their interests may appear.

The Connecticut lemon law provides that a reasonable allowance for the consumer’s use of the motor vehicle be subtracted from the repurchase amounts. The reasonable allowance for use is calculated in accordance with the following formula:

Reasonable allowance for use=	# miles traveled attributable to use by the consumer before the X manufacturer’s acceptance of its return	Total contract price
	120,000	

[Note that BBB AUTO LINE arbitrators may use the **mileage at the time of the hearing** in this formula instead of the mileage at the time of the manufacturer's acceptance of the vehicle's return.]

### *Replacement*

When replacing a vehicle under the Connecticut lemon law, the manufacturer must provide a new vehicle acceptable to the consumer. The reasonable allowance for use does not apply to a replacement.

## **Washington, D.C. Lemon Law**

The following is a brief explanation of most relevant provisions of the Washington, D.C. lemon law. The complete text of the lemon law can be found at D.C. Code Ann. § 50-501 et seq.

### ***Vehicles Covered***

The Washington, D.C. lemon law covers motor vehicles sold or registered in the District of Columbia and designed primarily for transporting the driver and one or more passengers on streets, roads, or highways.

The lemon law appears to cover used vehicles, but does not cover buses sold for public transportation, motorcycles, motor homes, and motorized recreational vehicles.

### ***Consumers Covered The D.C. Lemon Law***

The lemon law covers the following consumers:

1. The purchaser, for purposes other than resale, of a motor vehicle;



2. Any person to whom the motor vehicle is leased or otherwise transferred during the duration of a warranty applicable to the motor vehicle; and
3. Any other person entitled to enforce the obligations of the warranty.

### ***Vehicle Converters***

The lemon law does not apply to vehicle converters.

### ***Problems Covered***

The lemon law covers any defect or condition that results in significant impairment of the motor vehicle. This is referred to as a nonconformity. A defect or condition significantly impairs the motor vehicle if it renders the motor vehicle unreliable or unsafe for normal operation, or reduces the motor vehicle's resale value below the average resale value for comparable motor vehicles.

The lemon law provides manufacturers with an affirmative defense if it can be shown that the nonconformity, defect, or condition is the result of abuse, neglect, or unauthorized modifications or alterations of the motor vehicle.

## ***Manufacturer's Duty To Repair***

If a motor vehicle does not conform to all warranties and the consumer reports the nonconformity, defect, or condition to the manufacturer, its agent, or authorized dealer during the first 18,000 miles of operation or within two years following the motor vehicle's delivery to the original purchaser, whichever is earlier, then the manufacturer, its agent, or authorized dealer must correct the nonconformity, defect or condition at no cost to the consumer.

Such repairs must be made even if the period of the first 18,000 miles of operation or two years following the motor vehicle's delivery to the original purchaser has expired.

## ***Manufacturer's Duty To Repurchase Or Replace A Vehicle***

If the manufacturer, its agent, or an authorized dealer is unable to repair or correct any nonconformity after a reasonable number of attempts, the manufacturer must, at the option of the consumer, either replace or repurchase the motor vehicle.

## *Reasonable Number Of Repair Attempts*

The lemon law establishes a presumption that a reasonable number of repair attempts have been undertaken if any of the following occurs during the period of two years following the motor vehicle's original delivery to a consumer or the first 18,000 miles of operation, whichever is earlier:

1. The same nonconformity has been subject to repair four or more times by the manufacturer, its agent, or authorized dealer, and the nonconformity continues to exist;
2. The same safety-related nonconformity has been subject to repair one or more times by the manufacturer, its agent, or authorized dealer, and the nonconformity continues to exist; or
3. The motor vehicle is out of service by reason of repair of any nonconformities for 30 days or more. The 30-day period is extended by any period during which repair services are unavailable to the consumer because of war, invasion, strike, flood, fire, or other natural disaster.

## ***Time Period For Filing Claims***

An action must be commenced within four years of the date of the vehicle's original delivery to the consumer.

## ***Remedies Under The District Of Columbia Lemon Law***

### ***Repurchase***

The Washington, D.C. lemon law sets out the following amounts that a manufacturer must pay when it repurchases an owned motor vehicle under the lemon law:

1. The full purchase price; and
2. All sales tax, license and registration fees, and any similar governmental charges;
3. Less a reasonable allowance for the consumer's use of the vehicle.

Refunds must be made to the consumer and the lienholder, if any, as their interests may appear on the records of ownership kept by the Department of Public Works.

The reasonable allowance for use may not exceed 10 cents per mile for the consumer's use of the motor vehicle in excess of the first 12,000 miles of operation. An allowance is also made for any damage not attributable to normal wear and tear or to nonconformity.

### ***Replacement***

When replacing a vehicle under the Washington, D.C. lemon law, the manufacturer must provide a new, comparable motor vehicle. The reasonable allowance for use does not apply to a replacement.

## **Delaware Lemon Law**

The following is a brief explanation of most relevant provisions of the Delaware lemon law. The complete text of the lemon law can be found at 5 Del. Code Ann. §§ 5001 et seq.

### ***Vehicles Covered***

The Delaware lemon law covers automobiles, defined as any passenger motor vehicle that is leased or bought in Delaware or registered in Delaware. The lemon law does not cover motorcycles or the living facilities of motor homes.

Guidance from the Delaware Department of Justice indicates that the lemon law applies only to new automobiles.

### ***Consumers Covered***

The lemon law covers the following consumers:

1. The purchaser of an automobile, for purposes other than resale;

2. A person to whom an automobile is transferred during the duration of an express warranty applicable to the automobile; and
3. Any other person entitled by the terms of the warranty to enforce the obligations of the warranty.

Because the lemon law covers leased vehicles, “consumer” appears to also include a lessee.

### ***Problems Covered***

The lemon law covers any nonconformity, which is defined as a defect or condition that substantially impairs the use, value, or safety of an automobile.

### ***Affirmative Defense***

The lemon law provides manufacturers with an affirmative defense if it can be shown that the alleged nonconformity is the result of abuse, neglect, or unauthorized modifications or alterations of the new automobile by anyone other than the manufacturer, its agent, or dealer.

## ***Manufacturer's Duty To Repair***

If a new automobile does not conform to the manufacturer's express warranty, and the consumer reports the nonconformity to the manufacturer, its agent, or dealer during the term of the warranty or the period of one year following the date of the automobile's original delivery to the consumer, whichever is earlier, then the manufacturer, its agent or dealer must make the necessary repairs within a reasonable period of time to conform the new automobile to the warranty.

The necessary repairs must be made even if the term of the warranty or the one-year period has expired.

## ***Manufacturer's Duty To Repurchase Or Replace An Automobile***

If the manufacturer, its agent, or its authorized dealer does not conform the automobile to any applicable express warranty by repairing or correcting any nonconformity after a reasonable number of repair attempts, then the manufacturer must replace or repurchase the automobile. The consumer has the



unqualified right to decline a replacement automobile and to demand instead a repurchase.

### ***Reasonable Number Of Repair Attempts***

The Delaware lemon law establishes a presumption that a reasonable number of repair attempts has been undertaken to conform a new automobile to the manufacturer's express warranty if, during the warranty term or during the period of one year following the date of the automobile's original delivery to a consumer, whichever is earlier, either of the following occurs:

1. Substantially the same nonconformity has been subject to repair or correction four or more times by the manufacturer, its agents, or dealers and the nonconformity continues to exist; or
2. The automobile is out of service by reason of repair or correction of a nonconformity by the manufacturer, its agents, or dealers for a cumulative total of more than 30 calendar days since the automobile's original delivery to the consumer. The 30-day limit begins on the first

day on which the consumer presents the automobile to the manufacturer, its agent, or dealer for service of the nonconformity, and the manufacturer, its agent or dealer prepares a written document describing the nonconformity.

This 30-day time limit is extended if repairs cannot be performed due to conditions beyond the control of the manufacturer, its agents, or dealers, including war, invasion, strike, fire, flood, or other natural disaster.

### ***Notice And Opportunity To Repair***

The presumption that a reasonable number of repair attempts has been undertaken does not apply against a manufacturer unless the manufacturer has received prior direct written notification from or on behalf of the consumer, and the manufacturer has had an opportunity to repair or correct the nonconformity.

### ***Dispute Resolution***

If the manufacturer has established an informal dispute settlement procedure that has been certified or

approved by the Division of Consumer Protection, the lemon law's remedies are not available to a consumer who has not first resorted to the informal dispute settlement procedure. If an informal dispute settlement procedure has not been certified or approved, the consumer may immediately and directly seek the remedies provided by the lemon law.

### ***Time Period For Filing Claims***

A judicial action must be filed within three years from the date the alleged defect is reported to the dealer or manufacturer, as long as the report is made during the term of the warranty or during the period of one year following the date of original delivery, whichever is earlier.

Guidance from the Delaware Department of Justice indicates that this statute of limitations does not stop running while a consumer uses an informal dispute settlement procedure.

## *Remedies Under Delaware Lemon Law*

### *Repurchase*

The Delaware lemon law provides that a manufacturer must pay the following amounts when it repurchases an automobile under the lemon law:

1. Full purchase price, including all credits and allowance for any trade-in vehicle; and
2. Related purchase costs, including sales taxes, registration fees, and dealer preparation fees.

The Delaware lemon law provides that a reasonable allowance for the consumer's use of the motor vehicle be subtracted from the repurchase amounts. The reasonable allowance for use may not exceed an amount calculated in accordance with the following formula:

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Reasonable allowance for = use	# miles driven attributable to the consumer before the nonconformity was first reported to the manufacturer, its agent, or dealer	X	Full purchase price
	100,000		

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An allowance is also made for damage not attributable to normal wear and tear, not including damage resulting from a nonconformity.

### *Replacement*

The Delaware lemon law provides that a replacement automobile be a comparable new automobile acceptable to the consumer. The reasonable allowance for use does not apply to a replacement.

The manufacturer must also reimburse the consumer for any incidental costs, including dealer preparation fees, fees for the transfer of registration,

sales tax, or other charges or fees incurred by the consumer as a result of the replacement.

When an automobile that was financed by the manufacturer or its subsidiary or agent is replaced, the manufacturer or its subsidiary or agent may not require the consumer to enter into any refinancing agreement for a replacement automobile that would create any financial obligations on the consumer beyond those created in the original financing agreement.

## **Florida Lemon Law**

### ***Motor Vehicle Warranty Enforcement Act***

The following is a brief explanation of most relevant provisions of the Florida lemon law. The complete text of the lemon law can be found at Florida Stat. Ann. Section 681.10 et seq.

To obtain a “Consumer Guide to the Florida Lemon Law,” or speak with someone about the Lemon Law, consumers in Florida may call the Attorney General’s Lemon Law Hotline at 1-800-321-5366, or 1-850-414-3500 for consumers outside Florida.

### ***Vehicles Covered***

The Florida lemon law covers cars and trucks that are sold in Florida to transport persons or property. This includes demonstrators, recreational vehicles (other than the living facilities), and also leased vehicles if the lessee is responsible for repairs. The Florida lemon law does not cover vehicles run only on tracks, off-road vehicles, trucks over 10,000 pounds G.V.W., motorcycles, mopeds, or the living facilities of recreational vehicles.

“Living facilities of recreational vehicles” are those portions designed, used, or maintained primarily as living quarters, and include but are not limited to the flooring, plumbing system, and fixtures, roof air conditioner, furnace, generator, and electrical systems other than automotive circuits, the side entrance door, exterior compartments, and windows other than the windshield and driver and front passenger windows.

### ***Consumers Covered***

The lemon law covers any of the following:

1. The purchaser, other than for purposes of resale, or the lessee, of a vehicle primarily used for personal, family, or household purposes;
2. Any person to whom such vehicle is transferred for the same purposes during the duration of the Lemon Law Rights Period; or
3. Any other person entitled by the terms of the warranty to enforce the obligations of the warranty.

Subsequent owners are covered if the vehicle is transferred from one consumer to another during



the Lemon Law Rights Period (24 months from original delivery).

### ***Problems Covered By The Florida Lemon Law***

The lemon law covers vehicle nonconformities. A nonconformity is defined as a defect or condition that substantially impairs the use, value, or safety of a vehicle. Regulations define “condition” to mean a general problem (e.g., vehicle fails to start, vehicle runs hot, etc.) that may be attributable to a defect in more than one part. In addition, the lemon law requires repurchase/replacement only if the nonconformity causes the vehicle to not conform to the warranty.

This does not include a defect or condition that results from an accident, abuse, neglect, modification, or alteration of the vehicle by persons other than the manufacturer or its authorized service agent.

### ***Lemon Law Rights Period***

The Lemon Law Rights Period established by the lemon law is the period ending 24 months after the date of original delivery of the vehicle to a consumer.

## ***Manufacturer's Duty To Repair***

If a motor vehicle does not conform to the warranty and the consumer first reports the problem to the manufacturer or its authorized service agent during the Lemon Law Rights Period, the manufacturer or its authorized service agent shall repair the motor vehicle, even if the repairs are made after the Lemon Law Rights Period.

## ***Final Repair Attempt***

The lemon law gives the manufacturer the right to a final repair attempt after there are 3 repair attempts for the same nonconformity or after the vehicle has been out of service for 15 days or more for the repair of one or more nonconformities.

### ***After three repair attempts:***

After three attempts have been made to repair the same nonconformity, the consumer must give written notice to the manufacturer, by registered or express mail, of the need to repair the nonconformity.

After the manufacturer receives the consumer's notice by registered or express mail, the manufacturer must respond within 10 days and give the consumer the opportunity to have the vehicle repaired at a reasonably accessible repair facility within a reasonable time after the consumer's receipt of the response. Regulations further provide that the manufacturer's response must be received by the consumer within 10 days from the date that the manufacturer receives the consumer's written notification.

After the vehicle is delivered to that facility, the manufacturer must correct the nonconformity within 10 days.\*

\*For recreational vehicles, the manufacturer has 45 days (not 10) to correct the nonconformity.

The requirement for the manufacturer to be given a final repair attempt does not apply if the manufacturer does not properly respond to the consumer within 10 days of receipt of the consumer's notice, or if it does not perform the repairs within the prescribed time periods.

*After 15 days out of service:*

If the motor vehicle is out of service by reason of repair of one or more nonconformities by the manufacturer or its authorized service agent for a cumulative total of 15 or more days, exclusive of down time for routine maintenance prescribed by the owner's manual, the consumer must give written notice to the manufacturer by registered or express mail.

After receiving the registered or express mail notice from the consumer, the manufacturer or its agent has an opportunity to inspect or repair the vehicle.

***Manufacturer's Duty To Repurchase Or Replace A Vehicle***

If the manufacturer or its authorized service agent cannot conform a vehicle to its warranty by repairing or correcting any nonconformity after a reasonable number of attempts, the manufacturer must either repurchase or replace the vehicle. The consumer has a right to choose repurchase rather than replacement.

## *Reasonable Number Of Repair Attempts*

It is presumed that a reasonable number of repair attempts have been made if, during the Lemon Law Rights Period, either:

1. The same nonconformity has been subject to repair at least three times by the manufacturer or its authorized service agent, plus a final attempt by the manufacturer after receiving the registered or express mail notice from the consumer, and the nonconformity continues to exist; or
2. The vehicle has been out of service by reason of repair of one or more nonconformities by the manufacturer or its authorized service agent for a cumulative total of 30\* or more days, exclusive of down time for routine maintenance prescribed by the owner's manual. The manufacturer must have had the opportunity for a final repair attempt as described above. The 30 and 60-day periods may be extended if repair services are not available because of war, invasion, strike, fire, flood, or natural disaster.

\*For recreational vehicles, the days out of service are 60 (not 30).

Regulations define “repair attempt” as the replacement of a component, or some adjustment made, to correct a substantial defect or condition covered by the manufacturer’s warranty. An examination of a reported defect or condition, without a subsequent adjustment or component replacement, may be considered a repair attempt if it is later shown that repair work was justified. Examination or repair performed by anyone other than the manufacturer or its authorized service agent is not considered a repair attempt.

Regulations define “out-of-service day” as any day, including weekends and holidays, when the vehicle is left at an authorized service agent or manufacturer’s designated repair facility for an examination or repair of one or more substantial defects or conditions covered by the manufacturer’s warranty. The days for each visit start on the day the vehicle is brought in to the repair facility and end on the day the work is completed. If the vehicle is left at the repair facility for routine maintenance, repair of

minor defects, or repairs to defects first reported after the lemon law rights period expired, the days will not be considered as out-of-service days.

### ***Dispute Resolution***

The lemon law provisions requiring the repurchase or replacement of a nonconforming motor vehicle do not apply to a consumer who has not first used a dispute settlement procedure if:

1. The procedure has been certified by the Office of the Attorney General as complying with 16 C.F.R. Part 703 and the lemon law and regulations; and
2. At the time of the vehicle's acquisition, the manufacturer informed the consumer in writing how and where to file a claim with the procedure.

### ***Time Period For Filing Claims***

If a manufacturer participates in a certified dispute settlement procedure, the consumer must file a claim with the certified procedure no later than 60 days after the expiration of the Lemon Law Rights

Period. A consumer may file a claim with the Florida New Motor Vehicle Arbitration Board if:

1. The certified procedure does not render a decision within 40 days of filing;
2. The consumer is not satisfied with the certified procedure's decision or the manufacturer's compliance with the decision; or
3. The manufacturer does not participate in a certified procedure.

The claim must be filed with the Florida New Motor Vehicle Arbitration Board no later than 60 days after the expiration of the Lemon Law Rights Period or 30 days after the final action of a certified procedure, whichever date occurs later.

## ***Remedies Under The Florida Lemon Law***

### ***Repurchase Of Owned Vehicle***

#### **Basic Repurchase Amount**

The Florida lemon law provides that the manufacturer must refund the following amounts when repurchasing a vehicle under the lemon law:



1. Purchase price of the vehicle. This is the cash price for the vehicle, inclusive of any allowance for a trade-in vehicle;
2. Collateral charges. These are reasonably-incurred additional charges to a consumer wholly incurred as a result of the acquisition of the vehicle. They include, but are not limited to:
  - a. sales taxes and title charges;
  - b. manufacturer-installed or agent-installed items or service charges;
  - c. earned finance charges; and
3. Reasonably incurred incidental charges. These are reasonable costs to the consumer that are directly caused by the nonconformity of the vehicle.

“Purchase price” excludes debt from a previous transaction. “Allowance for trade-in vehicle” means the net trade-in allowance as reflected in the purchase contract if acceptable to the consumer and the manufacturer. If that amount is not acceptable to both parties, then the trade-in allowance is an amount equal to the retail price of the trade-in vehicle as reflected in the NADA Official Used Car Guide (Southeastern

Edition) or NADA Recreation Vehicle Appraisal Guide, whichever is applicable, in effect at the time of the trade-in. The manufacturer is responsible for providing the applicable NADA book.

The refund will be paid to the consumer and lienholder of record, if any, as their interests may appear.

*Deductions from Amount Paid to Purchaser*

The Florida lemon law provides that the following deduction must be made as a reasonable offset for the vehicle’s use:

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Offset for use =	number of miles attributable to a consumer up to X the date of the arbitration hearing	Vehicle purchase price
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120,000 (60,000 for recreational vehicles)

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The Office of the Attorney General interprets “miles attributable to a consumer” to exclude

reasonable miles driven to and from the authorized service agent for the repair of the nonconformity.

## ***Repurchase Of Leased Vehicle***

### Basic Repurchase Amount

The Florida lemon law provides that the manufacturer must refund the following amounts when repurchasing a leased vehicle under the lemon law:

*To the lessee:*

1. *Lessee Cost.* This is the total deposit and rental payments previously paid to the lessor for the leased vehicle, excluding debt from a previous transaction;
2. *Collateral charges.* These are reasonably-incurred additional charges to a consumer wholly incurred as a result of the acquisition of the vehicle. They include, but are not limited to, sales taxes and title charges, manufacturer-installed or agent-installed items or service charges, and earned finance charges; and

3. *Reasonably incurred incidental charges.* These are reasonable costs to the consumer that are directly caused by the nonconformity of the vehicle.

*To the lessor:*

The *Lease Price* MINUS the Lessee Cost.

*Lease Price* means the capitalized cost and each of the following items to the extent not included in the capitalized cost:

1. The lessor's earned rent charges through the date of repurchase;
2. Collateral charges, if applicable;
3. Any fee paid to another to obtain the lease;
4. Any insurance or other costs expended by the lessor for the benefit of the lessee; and
5. An amount equal to state and local sales taxes, not otherwise included as collateral charges, paid by the lessor when the vehicle was initially purchased.

*Deductions from Amount Paid to Lessee*

The Florida lemon law provides that the following deduction must be made as a reasonable offset for the vehicle’s use:

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	number of miles attributable to a		
Offset for use	=	consumer up to the date of the arbitration hearing	X Vehicle purchase price

---

120,000 (60,000 for recreational vehicles)

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The Office of the Attorney General interprets “miles attributable to a consumer” to exclude reasonable miles driven to and from the authorized service agent for repair of the nonconformity.

*Replacement*

When replacing a vehicle under the Florida lemon law, the manufacturer must provide a new vehicle, acceptable to the consumer that is identical or reasonably equivalent to the vehicle to be replaced, as that vehicle existed at the time of purchase.

“Reasonably equivalent” means that the manufacturer’s suggested retail price (“M.S.R.P.”) of the replacement vehicle does not exceed 105% of the M.S.R.P. of the vehicle to be replaced. In the case of a recreational vehicle, the retail price of the replacement vehicle will not exceed 105% of the purchase price of the recreational vehicle to be replaced.

The Florida lemon law also provides that the manufacturer must refund to the consumer the following amounts when replacing a vehicle under the lemon law:

1. *Collateral charges.* These are reasonably incurred additional charges to a consumer wholly incurred as a result of the acquisition of the vehicle. They include, but are not limited to:
  - a. sales taxes and title charges;
  - b. manufacturer-installed or agent-installed items or service charges;
  - c. earned finance charges; and

2. *Reasonably incurred incidental charges.* These are reasonable costs to the consumer that are directly caused by the nonconformity of the vehicle.

The consumer must pay a reasonable offset for the vehicle's use in accordance with the following formula:

Offset for use =	number of miles attributable to a consumer up to the date of the arbitration hearing	X	Vehicle purchase price
120,000 (60,000 for recreational vehicles)			

  

offset number of miles attributable to a consumer vehicle for use	up to the date of the arbitration hearing	X	purchase price
price 120,000 (60,000 for recreational vehicles)			

The Office of the Attorney General interprets “miles attributable to a consumer” to exclude reasonable miles driven to and from the authorized service agent for repair of the nonconformity.



## **Georgia Lemon Law**

The following is a brief explanation of most relevant provisions of the Georgia Lemon Law, codified at Georgia Code Section 10-1-780 et seq.

### ***Vehicles Covered***

The Georgia Lemon Law covers a new motor vehicle that was leased, purchased, or registered in Georgia by the consumer or lessee to whom the original motor vehicle title was issued without previously having been issued to any person other than the new motor vehicle dealer. This includes the self-propelled vehicle and chassis of a motor home. It does not include motorcycles, golf carts, trucks with a G.V.W. rating greater than 12,000 pounds, or vehicles that are bought used.

### ***Consumers Covered***

The Georgia Lemon Law covers a consumer who purchases or leases a new motor vehicle for personal, family, or household uses, and a person that purchases or leases no more than ten new motor

vehicles a year for business purposes other than limousine rental services.

### ***Problems Covered***

The Lemon Law covers vehicle nonconformities. A nonconformity is a defect, serious safety defect, or condition that substantially impairs the use, value, or safety of a new motor vehicle to the consumer, or renders the new motor vehicle nonconforming to a warranty. A nonconformity does not include a defect, a serious safety defect, or a condition that is the result of abuse, neglect, or unauthorized modification or alteration of the new motor vehicle.

“Serious safety defect” means a life-threatening defect or a malfunction that impedes the consumer’s ability to control or operate the motor vehicle for ordinary use or reasonable intended purposes, or creates a risk of fire or explosion.

“Warranty” means any manufacturer’s express warranty or any affirmation of fact or promise made by the manufacturer in connection with the sale of a

new motor vehicle to a consumer concerning the vehicle's materials, workmanship, operation, or performance which becomes part of the basis of the bargain. The term does not include any extended coverage purchased by the consumer as a separate item or any statements made by the dealer in connection with the sale of the motor vehicle to a consumer which relates to the nature of the material or workmanship and affirms or promise that such material or workmanship is free of defects or will meet a specified level of performance.

### ***Report And Repair Of Nonconformities***

Nonconformities must be reported during the **lemon law rights period**, which is the period ending two years after the date of the original delivery of a new motor vehicle to a consumer OR the first 24,000 miles of operation after delivery of a new motor vehicle to the original consumer, whichever occurs first. The **lemon law rights period** is extended by one day for each day that repair services are not available to the consumer as a direct result of a strike, war, invasion,

terrorist act, blackout, fire, flood, other disaster, or declared state of emergency.

If a consumer reports a nonconformity during the lemon law rights period, the manufacturer, its authorized agent, or dealer must be allowed a **reasonable number** of attempts to repair and correct the nonconformity.

### ***Reasonable Number Of Repair Attempts***

A reasonable number of attempts is deemed to have been undertaken by the manufacturer, its authorized agent, or the dealer if, during the lemon law rights period:

1. A serious safety defect has been subject to repair one time and has not been corrected;
2. The same nonconformity has been subject to repair three times and has not been corrected; or
3. The vehicle is out of service by reason of repair of one or more nonconformities for a cumulative total of 30 days.

If the lemon law rights period expires while the vehicle is being repaired by the manufacturer through an authorized agent or new motor vehicle dealer, the lemon law rights period is extended until that repair attempt has been completed.

“Repair attempt” means the replacement of a component or some adjustment made to correct a nonconformity. An examination of a reported nonconformity, without any adjustment or component replacement, may constitute a repair attempt if it is later shown that repair work was justified. An examination or repair performed by any person not authorized by the manufacturer or its authorized agent is not considered a repair attempt. If the new motor vehicle is a motor home and the consumer goes to a repair facility for repair of a nonconformity while traveling, and that facility does not have the necessary part(s) to perform the repair, and the consumer elects to continue traveling and seek repair of the nonconformity at another repair facility rather than wait for the initial facility to get the part(s), then the visit to the initial repair facility does not constitute a repair attempt.

An “out of service” day means any day, including weekends and legal holidays, when a vehicle is left at a repair facility of the manufacturer’s agent or dealer for examination or repair of a nonconformity. The number of out of service days for each visit commences the day the vehicle is brought to the facility for that repair work and ends the day the work is completed. Out of service days do not include (1) any day a vehicle is dropped off at the repair facility after close of business; or (2) any day on which the vehicle is left at the repair facility exclusively for routine maintenance; for repair of problems not found to be nonconformities; or for repair of nonconformities after the expiration of the lemon law rights period.

### ***Manufacturer’s Right To Final Opportunity To Repair***

If the manufacturer, its agent, or the new motor vehicle dealer is unable to repair and correct a serious safety defect or the same nonconformity after a **reasonable number of attempts**, the consumer must notify the manufacturer and allow a final opportunity to repair. (The requirement for a final opportunity to

repair does not apply if the vehicle was out of service by reason of repair of one or more nonconformities for a cumulative total of 30 days within the lemon law rights period.)

This notice must be sent by certified mail, return receipt requested, or by statutory overnight delivery to the address provided by the manufacturer in the owner's manual. The manufacturer is then entitled to a final repair attempt, as long as the manufacturer notifies the consumer of a reasonably accessible repair facility within 7 days of receiving the consumer's notice. The manufacturer must complete the final repair attempt within 28 days after receiving the consumer's notice.

However, if the consumer delivers the vehicle to the repair facility more than 14 days after the manufacturer received the consumer's notice, the 28 day period is extended and the manufacturer has 14 days from the date the consumer delivers the vehicle to the repair facility to complete the final repair attempt.

If the manufacturer fails to notify the consumer or complete the final repair within the time periods

prescribed above, the final opportunity to repair requirement shall not apply.

Notice sufficiently complies with “statutory overnight delivery” if (1) the notice is delivered through the United States Postal Service (USPS) or through a commercial firm regularly engaged in the business of document and/or package delivery; (2) the document is to be delivered not later than the next business day following the day on which it is received for delivery by USPS or the commercial firm; and (3) the sender receives a receipt, signed by the addressee or its agent, acknowledging receipt of the document.

### ***Manufacturer’s Obligation To Repurchase Or Replace***

If the manufacturer, through its agent or dealer, is unable to correct a nonconformity after the final repair attempt, or if the vehicle was out of service by reason of repair to one or more nonconformities for a cumulative total of 30 days within the lemon law rights period, the consumer must request, by certified mail, return receipt requested, or statutory overnight



delivery that the manufacturer either repurchase or replace the vehicle, at the option of the consumer. The manufacturer must, within 20 days of receipt of this last request, repurchase or replace the vehicle.

### ***Dispute Resolution***

If the manufacturer participates in an informal dispute settlement mechanism that has been certified by the Georgia Department of Law's Consumer Protection Unit, then a consumer must submit a dispute under the Lemon Law to the informal dispute resolution procedure before submitting it to the Georgia new motor vehicle arbitration panel. The consumer is not required to use an informal dispute settlement mechanism that has not been certified by the Consumer Protection Unit.

The consumer has the option of either accepting or rejecting the decision of an informal dispute resolution mechanism. If a decision is not rendered by the informal dispute mechanism within forty days of filing, the consumer will become eligible to apply for arbitration by the Georgia new motor vehicle arbitration panel.

The provisions of the Lemon Law are not available to a consumer in a civil action unless the consumer has first exhausted any certified informal dispute settlement mechanism and the Georgia new motor vehicle arbitration panel.

### ***Period For Filing Claims***

A consumer must file a claim with a certified informal dispute resolution mechanism within one year after the expiration of the lemon law rights period.

A consumer who rejects the decision or determination of a certified informal dispute resolution mechanism may request a hearing with the state-administered panel by requesting, completing, and submitting forms to the Georgia Lemon Law Administration, within one year after expiration of the lemon law rights period or sixty (60) days from the date the certified mechanism concludes its proceedings, whichever occurs later. To request a state arbitration application, please call (404) 651-8600 or (800) 869-1123, or visit [www.consumer.georgia.gov](http://www.consumer.georgia.gov).

## *Remedies Under The Georgia Lemon Law*

### *Repurchase Of An Owned Vehicle*

The Georgia Lemon Law sets out the following amounts that a manufacturer must pay when it repurchases an owned vehicle under the Lemon Law:

1. *Purchase price.* This means the cash price of the vehicle appearing in the sales agreement, including any reasonable allowance for a trade-in vehicle.
2. *Collateral charges.* Collateral charges are those charges incurred by a consumer as a result of the purchase of the vehicle. Collateral charges include but are not limited to:
  - Sales tax;
  - Title charges;
  - Factory or dealer installed options; and
  - Earned finance charges.
3. *Incidental costs.* Incidental costs are any reasonable expenses incurred by the consumer in connection with the repair of the vehicle, including but not limited to:

- Payments to new motor vehicle dealers for attempted repair of nonconformities;
  - Towing charges; and
  - Costs of obtaining alternative transportation.
4. *Reasonable offset for use.* A reasonable offset for the consumer's use is subtracted from the amounts paid to the consumer. The Lemon Law provides that the reasonable offset for use is computed using the following formula:

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Reasonable offset =	number of miles directly attributable to consumer's use on the date consumer first delivered the vehicle to manufacturer/agent for repair of a nonconformity	X	Vehicle purchase price
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120,000 (90,000 for motor home)

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Refunds under this provision will be made to the consumer and to the lien holder of record, if applicable.

### *Replacement Of An Owned Vehicle*

If a manufacturer replaces an owned vehicle under the Georgia Lemon Law, it must give the consumer a new motor vehicle that is identical or at least equivalent to the motor vehicle to be replaced, as the vehicle to be replaced existed at the time of purchase. In addition to replacing the vehicle, the manufacturer must pay the consumer for:

1. Incidental costs. Incidental costs are any reasonable expenses incurred by the consumer in connection with the repair of the vehicle, including but not limited to:
  - Payments to new motor vehicle dealers for attempted repair of nonconformities;
  - Towing charges; and
  - Costs of obtaining alternative transportation.
2. Charges. All charges that the consumer will incur as a result of the replacement transaction.

## *Repurchase Of A Leased Vehicle*

For repurchase of a leased vehicle, the Georgia Lemon Law requires that the manufacturer pay certain amounts to the lessor and to the lessee. A repurchase award will consist of the following amounts that the manufacturer must pay to the lessee and the lessor:

*To the lessee:*

1. Lessee cost. An amount equal to all payments made by the lessee under the lease agreement, including but not limited to, the aggregate payment made at the inception of the lease agreement or contract, inclusive of any allowance for a trade-in vehicle, and all other lease payments made by or on behalf of the lessee.
2. Incidental costs. Incidental costs are any reasonable expenses incurred by the consumer in connection with the repair of the vehicle, including but not limited to:
  - Payments to new motor vehicle dealers for attempted repair of nonconformities;
  - Towing charges; and

- Costs of obtaining alternative transportation.
3. Reasonable offset for use. A reasonable offset for the lessee's use of the nonconforming vehicle is subtracted from the amounts paid to the lessee. The Georgia Lemon Law provides that the reasonable offset for use is computed using the following formula:

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Reasonable offset =	number of miles directly attributable to consumer's use on the date consumer first delivered <b>X</b> the vehicle to manufacturer/agent for repair of a nonconformity	Agreed upon value of vehicle shown in lease
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120,000 (90,000 for motor home)

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*To the lessor:*

1. An amount equal to 110 percent of the adjusted capitalized cost shown in the lease agreement for the nonconforming vehicle.

After the manufacturer pays the amount to the lessor, and after the lessee pays the lessor any past due payments, the lease agreement is terminated, with no penalty for early termination.

### ***Replacement Of A Leased Vehicle***

If a manufacturer replaces a leased vehicle, the Georgia Lemon Law requires the manufacturer to give the lessee a new motor vehicle that is identical or at least equivalent to the motor vehicle to be replaced, as that vehicle existed at the time it was leased. All terms of the existing lease contract will remain in effect, except for the terms of the agreement that identified the vehicle. In addition to replacing the vehicle, the manufacturer must pay the lessor and/or the lessee for certain charges and incidental costs as defined below:

1. Charges. All charges that either the lessor or the lessee, or both, will incur as a result of the replacement transaction.
2. Incidental costs. Incidental costs are any reasonable expenses incurred by the lessee in



connection with the repair of the vehicle,  
including but not limited to:

- Payments to new motor vehicle dealers for attempted repair of nonconformities;
- Towing charges; and
- Costs of obtaining alternative transportation.

## **Hawaii Lemon Law**

The following is a brief explanation of most relevant provisions of the Hawaii lemon law. The complete text of the lemon law can be found at Hawaii Rev. Stat. section 481I-1 et seq.

### ***Vehicles Covered***

The Hawaii lemon law covers a motor vehicle, defined as a self-propelled vehicle primarily designed for the transportation of persons or property over public streets and highways and used primarily for personal, family, or household purposes.

This includes:

1. A motorcycle purchased or leased on or after September 1, 2010;
2. A demonstrator vehicle assigned by a dealer for the purpose of demonstrating qualities and characteristics common to vehicles of the same or similar model or type;

3. An individually registered vehicle used for an individual's business purposes and for personal, family, or household purposes; and
4. A vehicle owned or leased by a sole proprietorship, corporation, or partnership that has purchased or leased no more than one vehicle per year, and used for household, individual, or personal use in addition to business use.

The lemon law covers used vehicles, but does not cover mopeds, motor scooters, or vehicles with a gross vehicle weight rating over 10,000 pounds.

### *Consumers Covered*

The lemon law covers the following consumers:

1. The purchaser, for purposes other than resale;
2. The lessee of a motor vehicle who leases a motor vehicle for one year or more pursuant to a written lease agreement which provides that the lessee is responsible for repairs, or pursuant to a lease-purchase agreement;

3. Any person to whom the motor vehicle is transferred during the duration of the express warranty applicable to the motor vehicle; and
4. Any other person entitled to enforce the terms of the express warranty.

### ***Problems Covered***

The lemon law covers any nonconformity, which it defines as a defect, malfunction, or condition that:

1. Fails to conform to the motor vehicle's applicable express warranty and
2. Substantially impairs the use, market value, or safety of a motor vehicle. "Substantially impairs" is defined to mean rendering the motor vehicle unfit, unreliable, or unsafe for warranted or normal use, or significantly diminishing the value of the motor vehicle.

The lemon law does not cover a defect, malfunction, or condition that results from an accident, abuse, neglect, modification, or alteration of the motor vehicle by anyone other than the manufacturer, its agent, distributor, or an authorized dealer.

## ***Lemon Law Rights Period***

The lemon law establishes a lemon law rights period, which it defines as the term of the manufacturer's express warranty, the period ending two years after the date of the motor vehicle's original delivery to a consumer, or the first 24,000 miles of operation, whichever occurs first.

## ***Manufacturer's Duty To Repair***

If a motor vehicle does not conform to all applicable express warranties, and the consumer reports the nonconformity to the manufacturer, its agent, distributor, or authorized dealer during the lemon law rights period, then the manufacturer, its agent, distributor, or authorized dealer must make the necessary repairs to conform the motor vehicle to the express warranty.

The necessary repairs must be made even if the lemon law rights period has expired.

## ***Manufacturer's Duty To Repurchase Or Replace A Vehicle***

If the manufacturer, its agent, distributor, or an authorized dealer is unable to conform the motor

vehicle to any applicable express warranty by repairing or correcting a nonconformity after a reasonable number of documented attempts, the manufacturer must either replace or repurchase the motor vehicle.

### ***Reasonable Number Of Repair Attempts***

The Hawaii lemon law establishes a presumption that a reasonable number of attempts have been undertaken to conform a motor vehicle to the applicable express warranties if, during the lemon law rights period, any of the following occurs:

1. The same nonconformity has been subject to examination or repair at least three times by the manufacturer, its agents, distributors, or authorized dealers but the nonconformity continues to exist;
2. A nonconformity that is likely to cause death or serious bodily injury if the vehicle is driven has been subject to examination or repair at least once by the manufacturer, its agents,

distributors, or authorized dealers but the nonconformity continues to exist; or

3. The motor vehicle is out of service for repair of one or more nonconformities by the manufacturer, its agents, distributors, or authorized dealers for a cumulative total of 30 or more business days.

The lemon law defines “business day” to mean any day during which the service departments of the manufacturer’s authorized dealers are normally open for business. The term of the lemon law rights period and the 30 days are extended by any period of time during which repair services are not available to the consumer because of war, invasion, strike, fire, flood, or other natural disaster.

### ***Notice And Opportunity To Repair***

The presumption that a reasonable number of repair attempts has occurred does not apply against a manufacturer unless the manufacturer has received a written report of the nonconformity from the consumer and has had a reasonable opportunity to

repair the alleged defect. The consumer is required to notify the manufacturer only if the consumer was provided, at the time of purchase, with written notice of the consumer's rights under the lemon law and the terms of any state-certified arbitration program.

### ***Time Period For Filing Claims***

An action must be initiated within one year following the expiration of the lemon law rights period (the term of the manufacturer's express warranty, the period ending two years after the date of the motor vehicle's original delivery to a consumer, or the first 24,000 miles of operation, whichever occurs first).

### ***Remedies Under The Hawaii Lemon Law***

#### ***Repurchase Of Owned Or Leased Vehicle***

The Hawaii lemon law sets out the following amounts that a manufacturer must pay when it repurchases a motor vehicle under the lemon law:

1. Full purchase price, meaning the cash price appearing in the sales agreement or contract and paid for the motor vehicle, including any net



allowance for any trade-in vehicle. This will include but is not limited to charges for undercoating, dealer preparation, transportation, and installed options;

2. Collateral charges, defined as those additional charges to a consumer wholly incurred as a result of the acquisition of the motor vehicle, including but not limited to finance and interest charges, manufacturer-installed or agent-installed items, general excise tax, license and registration fees, title charges, and similar government charges; and
3. Incidental charges, defined as those reasonable costs incurred by the consumer and directly caused by the nonconformity or nonconformities that are the subject of the claim, including but not limited to towing charges and the costs of obtaining alternative transportation, but excluding loss of use, loss of income, or personal injury claims;
4. Less a reasonable offset for the consumer's use of the motor vehicle.

Refunds must be made to the consumer and lienholder, if any, as their interests may appear on the records of ownership.

The reasonable offset for use is one percent of the purchase price for every thousand miles of use attributable to a consumer up to (1) the date of the third repair attempt of the same nonconformity which is the subject of the claim, (2) the date of the first repair attempt of nonconformity that is likely to cause death or serious bodily injury, or (3) the date of the 30th cumulative business day when the vehicle is out of service by reason of repair of one or more nonconformities, whichever occurs first.

An offset may also be made for damage to the vehicle not attributable to normal wear and tear, if unrelated to the nonconformity.

### ***Replacement Vehicle***

The Hawaii lemon law defines a replacement vehicle as a motor vehicle that is identical or reasonably equivalent to the motor vehicle to be replaced as it

existed at the time of original acquisition, including any service contract, undercoating, rustproofing, and factory- or dealer-installed options. The manufacturer is responsible for any general excise tax and license and registration fees for the replacement vehicle.

The Hawaii lemon law provides that a reasonable offset for the consumer's use of the motor vehicle be made. The reasonable offset for use is one percent of the purchase price for every thousand miles of use attributable to a consumer up to (1) the date of the third repair attempt of the same nonconformity which is the subject of the claim, (2) the date of the first repair attempt of nonconformity that is likely to cause death or serious bodily injury, or (3) the date of the 30th cumulative business day when the vehicle is out of service by reason of repair of one or more nonconformities, whichever occurs first.

An offset may also be made for loss to the fair market value of the vehicle resulting from damage beyond normal wear and tear unless the damage resulted from the nonconformity.

## **Iowa Lemon Law**

The following is a brief explanation of most relevant provisions of the Iowa lemon law. The complete text of the lemon law can be found at Iowa Chapter 322G et seq.

### ***Consumers Covered***

The Iowa lemon law covers persons who purchase or lease a new or previously untitled motor vehicle for purposes other than resale or sublease. The lemon law also covers any other person entitled by the warranty to enforce the obligations of the warranty during the lemon law rights period. The definition of “person” includes any natural person or his/her legal representative, a partnership, corporation, company, trust, business entity, or association.

### ***Vehicles Covered***

The lemon law covers motor vehicles that are purchased or leased in Iowa and motor vehicles purchased or leased in other states if the consumer is a resident of Iowa at the time the consumer’s rights

under the lemon law are asserted. The lemon law appears to cover used vehicles but does not cover mopeds, motorcycles, or motor homes. The lemon law also excludes vehicles with a G.V.W. rating of over 10,000 pounds if purchased before July 1, 2014, and a G.V.W. rating of over 15,000 pounds if purchased or leased on or after July 1, 2014.

### ***Vehicle Converters***

The lemon law applies to vehicle converters.

### ***Lemon Law Rights Period***

The lemon law provides a Lemon Law Rights Period that ends at the earlier of:

1. The expiration of the manufacturer's written warranty;
2. 24 months after the date of the initial retail delivery of a motor vehicle to a consumer; or
3. The first 24,000 miles of operation after such delivery.

## ***Problems Covered***

The lemon law covers vehicle nonconformities. A nonconformity is defined as a defect, malfunction, or condition in a motor vehicle that renders the motor vehicle nonconforming to the terms of an applicable manufacturer's warranty. This does not include a defect, malfunction, or condition that results from an accident, abuse, neglect, modification, or alteration of the motor vehicle by persons other than the manufacturer or its authorized service agent.

## ***Manufacturer's Duty To Repair***

If a motor vehicle has a nonconformity and the consumer reports the nonconformity to the manufacturer, its agent, or authorized dealer during the Lemon Law Rights Period (see definition above), the nonconformity must be corrected, even if the repairs are made after the expiration of the Lemon Law Rights Period.

## ***Notice And Opportunity To Repair***

After (1) three attempts have been made to repair the same nonconformity that substantially

impairs the motor vehicle; (2) one attempt has been made to repair a nonconformity that is likely to cause death or serious bodily injury; or (3) 20 or more cumulative days when the motor vehicle has been out of service by reason of repair of one or more nonconformities, a consumer may give written notification, by certified or registered mail or by overnight service, to the manufacturer of the need to repair the nonconformity to allow the manufacturer a final attempt to repair the nonconformity. Within ten days after receiving this notification, the manufacturer must contact the consumer to arrange for repairs at a reasonably accessible repair facility. After the motor vehicle is delivered to the repair facility, the manufacturer has an additional ten days to conform the motor vehicle to the warranty.

### ***Manufacturer's Duty To Repurchase Or Replace A Vehicle***

If the manufacturer, or its authorized service agent, does not correct one or more nonconformities that substantially impair a motor vehicle after a reasonable number of repair attempts, the

manufacturer must, at the consumer's option, repurchase or replace the vehicle.

### ***"Substantially Impair"***

A nonconformity substantially impairs a motor vehicle if the nonconformity renders the motor vehicle unfit, unreliable, or unsafe for warranted or ordinary use, or if it significantly diminishes the value of the motor vehicle.

### ***Reasonable Number Of Repair Attempts***

The Iowa lemon law provides a presumption that the manufacturer and its authorized service agent have had a reasonable number of repair attempts if any of the following occurs during the Lemon Law Rights Period (see definition above):

1. the same nonconformity that substantially impairs the motor vehicle continues to exist after it has been subject to examination or repair at least three times by the manufacturer or its authorized service agent, plus a final attempt by the manufacturer to repair the vehicle made



- within 10 days after receipt of the consumer's notice of the need to repair the nonconformity by express, certified or registered mail;
2. a nonconformity that is likely to cause death or serious bodily injury continues to exist after it has been subject to examination or repair at least once by the manufacturer or its authorized service agent, plus a final attempt by the manufacturer to repair the vehicle made within 10 days after receipt of the consumer's notice by express, certified or registered mail; or
  3. the vehicle is out of service for repair of any nonconformity that substantially impairs the motor vehicle for a cumulative total of thirty (30) or more calendar days, exclusive of down time for routine maintenance. The 30-day time period may be extended if repair services are unavailable because of war, invasion, strike, fire, flood, or natural disaster.

### ***Dispute Resolution***

The lemon law provisions requiring repurchase or replacement of a nonconforming motor vehicle do

not apply to a consumer who has not first used an informal dispute settlement procedure if:

1. The procedure has been certified by the Attorney General as complying with lemon law regulations; and
2. At the time of the vehicle's purchase or lease, the manufacturer clearly and conspicuously disclosed to the consumer in written materials accompanying the vehicle how and where to file a claim with the procedure.

### ***Time Period For Filing Claims***

An action must be commenced within one year from the expiration of the Lemon Law Rights Period (see definition above).

If a consumer resorts to a certified program and a decision is not rendered in 60 days, the consumer may file an action in court within one year from the expiration of the lemon law rights period. If a consumer resorts to a certified program and is not satisfied with the manufacturer's performance of a

decision, or the manufacturer does not perform with the time period specified by the decision, the consumer may file an action in court within six months after the date for performance specified in the decision. If a consumer resorts to a certified program but declines to accept the decision, the consumer may appeal the decision in court within 50 days after receipt of the decision or within 25 days from the date the consumer indicates acceptance of the decision to the manufacturer, whichever occurs first.

### ***Remedies Under The Iowa Lemon Law***

#### ***Repurchase Of Owned Vehicles***

The Iowa lemon law provides that a manufacturer must pay the following amounts when it repurchases an owned vehicle under the lemon law:

1. Vehicle purchase price. This means the cash price paid for the vehicle appearing in the sales agreement, including any net allowance given for a trade-in vehicle;
2. Collateral charges. These are defined as additional charges to a consumer wholly

incurred as a result of the acquisition of the motor vehicle, and include all use taxes and title charges; the cost of any manufacturer-installed or agent-installed options; and all earned finance charges; and

3. Incidental charges. These are defined as reasonable costs (not including loss of use, loss of income, or personal injury claims) incurred by the consumer as a direct result of the nonconformity, and include towing charges and costs of alternative transportation;
4. Less a reasonable offset for use by the consumer.

The refund must be made to the consumer and lienholder of record, if any, as their interests appear. At the time of the refund, the consumer or lienholder must furnish to the manufacturer clear title to and possession of the motor vehicle.

The reasonable offset for use is determined by the following formula:

Reasonable offset for use =	# miles at time of manufacturer's third repair attempt of same nonconformity, or at first attempt to repair a <b>X</b> nonconformity likely to cause death or serious bodily injury, or at 20th cumulative day that vehicle is out of service for repair for nonconformity	Vehicle's purchase price
	120,000	

## *Repurchase Of Leased Vehicles*

The Iowa lemon law provides that the manufacturer must pay the following amounts when it repurchases a leased vehicle:

*To the Lessor:*

The lease price, defined as –

1. 105% of the lessor's actual purchase costs, minus the total of all deposit and lease payments paid by the lessee to the lessor;
2. Collateral charges (see above), if applicable;
3. Any fee paid to another to obtain the lease;
4. Any insurance premiums or other costs expended by the lessor for the benefit of the lessee, and
5. An amount equal to state and local use taxes paid by the lessor when the vehicle was purchased, not otherwise included as collateral charges.

*To the Lessee:*

1. All deposit and lease payments paid by the lessee to the lessor;
2. Collateral charges, defined as additional charges to a consumer wholly incurred as a result of the acquisition of the motor vehicle, and include all use taxes and title charges; the cost of any manufacturer-installed or agent-installed options; and all earned finance charges; and

3. Incidental charges, defined as reasonable costs (not including loss of use, loss of income, or personal injury claims) incurred by the consumer as a direct result of the nonconformity, including towing charges and costs of alternative transportation;
4. Less a reasonable offset for use by the consumer.

The consumer's lease agreement with the lessor is terminated upon payment of the refund and no penalty for early termination can be assessed. At the time of the refund, the consumer or lessor must furnish to the manufacturer clear title to and possession of the motor vehicle.

The Iowa lemon law states that a reasonable offset for the consumer's use of a leased vehicle shall be deducted from the amounts a manufacturer pays to the lessee when it repurchases or replaces a vehicle. The reasonable offset for use is determined by the following formula:

Reasonable offset for use =	# miles at time of manufacturer's third repair attempt of same nonconformity, or at first attempt to repair a X nonconformity likely to cause death or serious bodily injury, or at 20th cumulative day that vehicle is out of service for repair for nonconformity	Lease price plus 2% of purchase price
	120,000	

Reasonable offset for use = # miles at time of manufacturer's third repair attempt of same nonconformity, or at first attempt to repair a nonconformity likely to cause death or serious bodily injury, or at 20th cumulative day that vehicle is out of service for repair for nonconformity 120,000 X lease price plus 2% of purchase price



## *Replacement Of Owned Or Leased Vehicles*

If a manufacturer replaces a vehicle under the Iowa lemon law, the consumer must receive a replacement vehicle acceptable to the consumer that is identical or reasonably equivalent to the replaced motor vehicle as it existed at the time of original acquisition. The replacement must be performed within 40 days of receipt the consumer's payment for a reasonable offset for use as determined by the appropriate formula above. In addition, the manufacturer must pay:

1. *Collateral charges.* These are defined as additional charges to a consumer wholly incurred as a result of the acquisition of the motor vehicle, and include:
  - all use taxes and title charges;
  - the cost of any manufacturer-installed or agent-installed options; and
  - all earned finance charges.
2. *Incidental charges.* These are defined as reasonable costs (not including loss of use, loss

of income, or personal injury claims) incurred by the consumer as a direct result of the nonconformity, and include:

- towing charges; and
- costs of alternative transportation.

At the time of the replacement, the consumer, lienholder, or lessor must furnish to the manufacturer clear title to and possession of the motor vehicle.

## **Idaho Lemon Law**

The following is a brief explanation of most relevant provisions of the Idaho lemon law. The complete text of the lemon law can be found at Idaho Code section 48-901 et seq.

### ***Vehicles Covered***

The Idaho lemon law covers motor vehicles that are sold or licensed in Idaho. The lemon law appears to cover used vehicles, but does not cover motorcycles, farm tractors, trailers, or motor vehicles with a gross laden weight over 12,000 pounds.

### ***Consumers Covered***

The lemon law covers the following “consumers”:

1. The purchaser or lessee, other than for purposes of resale or sublease, of a new motor vehicle used for personal business use or personal, family, or household purposes; and
2. A person to whom the new motor vehicle is transferred for the same purposes during the

duration of an express warranty applicable to the motor vehicle.

### ***Vehicle Converters***

The lemon law applies to vehicle converters.

### ***Problems Covered***

The lemon law covers any defect or condition that impairs the use or market value of the motor vehicle to the consumer. This is referred to as a nonconformity.

The lemon law provides manufacturers with an affirmative defense if it can be shown that the nonconformity is the result of abuse, neglect, or unauthorized modifications or alterations of the motor vehicle by anyone other than the manufacturer, its agent or authorized dealer.

### ***Manufacturer's Duty To Repair***

If a motor vehicle does not conform to all applicable express warranties, and the consumer reports the nonconformity to the manufacturer, its agent or authorized dealer during the earlier of:

1. The term of the applicable express warranties;
2. The period of two years following the date of the motor vehicle's original delivery to a consumer; or
3. The period ending on the date on which the mileage on the motor vehicle reaches 24,000 miles; then the manufacturer, its agent or authorized dealer must make the necessary repairs to conform the motor vehicle to the warranties. The necessary repairs must be made even after the expiration of the manufacturer's warranty term of the two-year period.

### ***Manufacturer's Duty To Repurchase Or Replace A Vehicle***

If the manufacturer, its agents or authorized dealers are unable to conform an owned motor vehicle to any applicable express warranty by repairing or correcting any nonconformity after a reasonable number of repair attempts within three years following the date of the vehicle's original delivery to a consumer, then the manufacturer must either replace the motor vehicle with a comparable motor vehicle or

repurchase the motor vehicle. The consumer has the option of requiring the manufacturer to provide a refund rather than a replacement motor vehicle.

If the manufacturer, its agents or authorized dealers are unable to conform a leased motor vehicle to any applicable express warranty by repairing or correcting any nonconformity after a reasonable number of repair attempts within three years following the date of the vehicle's original delivery to a consumer, then the manufacturer must repurchase the motor vehicle. The Idaho lemon law does not provide for the replacement of a leased vehicle.

### ***Reasonable Number Of Repair Attempts***

The manufacturer must repurchase or replace the motor vehicle if a reasonable number of repair attempts to correct a nonconformity occur within three years following the date of the motor vehicle's original delivery to a consumer.

The Idaho lemon law establishes a presumption that a reasonable number of attempts has been undertaken to conform a motor vehicle to the

applicable express warranties if, during the term of the express warranty, the period of two years following the date of the motor vehicle's original delivery to a consumer, or the period ending with the date on which the mileage on the motor vehicle reaches 24,000 miles, whichever is earlier, any of the following occurs:

1. The same nonconformity has been subject to repair four or more times by the manufacturer, its agents, or authorized dealers; the manufacturer had at least one opportunity to attempt to repair the vehicle; and the nonconformity continues to exist;
2. The motor vehicle is out of service by reason of repair for a cumulative total of 30 or more business days; or
3. A nonconformity results in a complete failure of the braking or steering system and is likely to cause death or serious bodily injury if the vehicle is driven; the nonconformity has been subject to repair at least once by the manufacturer, its agents or authorized dealers; the manufacturer had at least one opportunity

to attempt to repair the vehicle; and the nonconformity continues to exist.

The presumption's two-year or 24,000 mile period is extended if the consumer first reported the nonconformity to the manufacturer, its agent, or authorized dealer during the term of the applicable express warranty, and if the reasonable number of repair attempts occur within three years following the date of the motor vehicle's original delivery to a consumer.

The term of an applicable express warranty, the two year period, and the 30 day period are extended by any period of time during which repair services are not available to the consumer because of war, invasion, strike, or fire, flood, or other natural disaster.

### ***Notice And Opportunity To Repair***

The presumption that a reasonable number of repair attempts has occurred does not apply against a manufacturer unless the manufacturer, its agent or authorized dealer has received prior written notification from or on behalf of the consumer and has



had an opportunity to cure the alleged defect. If the manufacturer's agent or authorized dealer receives the notification, the agent or dealer must forward it to the manufacturer by certified mail, return receipt requested. If the manufacturer is not notified by either the consumer or the manufacturer's agent or authorized dealer, then the manufacturer has at least one opportunity to cure the alleged defect.

### ***Dispute Resolution***

Any manufacturer doing business in Idaho, entering into franchise agreements for the sale of its vehicles in Idaho, or offering express warranties on its vehicles sold or distributed in Idaho, must operate or participate in an informal dispute settlement mechanism. The informal mechanism must be located in Idaho and must comply with 16 C.F.R. Part 703 and the lemon law.

The lemon law provisions requiring repurchase or replacement of a nonconforming motor vehicle do not apply to a consumer who has not first used the informal mechanism before commencing a civil action,

unless the manufacturer allows a consumer to forego the mechanism.

### ***Time Period For Filing Claims***

An action must be commenced within three years of the date of the vehicle's original delivery to a consumer. A consumer who applies to an informal dispute settlement mechanism may commence an appeal of the mechanism's decision with three months after the date of the mechanism's final decision.

### ***Remedies Under The Idaho Lemon Law***

#### ***Repurchase Of Owned Vehicles***

The Idaho lemon law sets out the following amounts that a manufacturer must pay when it repurchases an owned motor vehicle under the lemon law:

1. The amount the consumer paid for the motor vehicle, including the value of any trade-in, not to exceed 105% of the Manufacturer's Suggested Retail Price of the motor vehicle (the M.S.R.P. includes all manufacturer-installed options and the cost of any options or other modifications

arranged, installed, or made by the manufacturer's agent or authorized dealer within 30 days after the date of original delivery); and

2. All other charges, including but not limited to sales or excise tax (see below), license fees, registration fees, reimbursement for towing, and rental vehicle expenses incurred by the consumer as a result of the vehicle being out of service for warranty repair;
3. Less a reasonable allowance for the consumer's use of the motor vehicle.

The sales or excise tax refunded by the manufacturer to the consumer is calculated using the following formula:

$$\text{Tax paid}^* - (\text{Tax paid}^* \times \text{Reasonable allowance for use} / \text{Vehicle's purchase price})$$

\* Tax paid by the consumer when the vehicle was purchased.

Refunds must be made to the consumer and lienholder, if any, as their interests appear on the records of the Division of Motor Vehicles of the Idaho Transportation Department.

The reasonable allowance for use may not exceed the amount determined by the following formula:

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Number of miles attributable to the consumer up to the date of the arbitration hearing	X	purchase price
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120,000

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*Repurchase Of Leased Vehicles*

The Idaho lemon law sets out the following amounts that a manufacturer must pay when it repurchases a leased motor vehicle under the lemon law:

*To the lessor –*

1. The early termination charges; and
2. The residual value of the vehicle as specified in the lease agreement.

*To the lessee –*

1. The pro rata amount of any down payment paid by the lessee on the written lease (see below); and
2. All other charges actually paid by the lessee, including but not limited to lease payments, sales or excise tax, license fees, registration fees, reimbursement for towing, and rental vehicle expenses incurred by the consumer as a result of the vehicle being out of service for warranty repair.

The pro rata amount of any down payment refunded by the manufacturer is calculated using the following formula:

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Down payment	X	Number of months remaining after the date of arbitration
		Number of months of the lease agreement

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The Idaho lemon law provides that the repurchase amount be reduced by a reasonable allowance for the consumer's use of the motor vehicle. The reasonable allowance for use is defined as the lease payments made by the lessee until the time of the repurchase award.

The pro rata down payment refund plus the amount refunded to the lessor may not exceed 105% of the motor vehicle's original Manufacturer's Suggested Retail Price.

### *Replacement Of Owned Vehicles*

If a manufacturer replaces an owned vehicle under the Idaho lemon law, the consumer must receive a replacement vehicle that is comparable to the replaced motor vehicle. The reasonable allowance for use does not apply to a replacement.

# **Illinois Lemon Law**

## **New Vehicle Buyer Protection Act**

The following is a brief explanation of most relevant provisions of the Illinois lemon law. The complete text of the lemon law can be found at 815 Ill. Comp. Stat. Sec. 380/1-8.

### ***Vehicles Covered***

The Illinois lemon law covers the following new motor vehicles:

1. A passenger car, including a multipurpose passenger vehicle, that is designed for carrying not more than 10 persons;
2. A motor vehicle with a vehicle weight of under 8,000 pounds that is designed for carrying more than 10 persons or used for living quarters, for pulling or carrying freight, cargo, or implements of husbandry;
3. A vehicle purchased or leased by a fire department or fire protection district; and

4. A recreational vehicle other than a camping trailer or travel trailer. Does not cover used vehicles.

### ***Consumers Covered***

An individual who purchases, or leases for a period of at least one year, a new vehicle for the purposes of transporting himself and others, as well as their personal property, for primarily personal, household, or family purposes. Also covers a fire department or fire protection district that purchases, or leases for at least one year, a new motor vehicle.

### ***Vehicle Converters***

The lemon law applies to vehicle converters.

### ***Problems Covered***

The lemon law covers vehicle “nonconformities.” A nonconformity is defined as a vehicle’s failure to conform to all express warranties applicable to such vehicle, which failure substantially impairs the use, market value, or safety of that vehicle. The lemon law does not cover problems if the



manufacturer can show that they are the result of abuse, neglect, or unauthorized modifications or alterations.

### ***Manufacturer's Duty To Repurchase Or Replace A Vehicle***

The lemon law requires that a manufacturer repurchase or replace a vehicle if the manufacturer (including its agents and dealers) is unable to conform the new vehicle to any of its applicable express warranties after a reasonable number or attempts.

### ***Reasonable Number Of Repair Attempts***

The Illinois lemon law establishes a presumption that a reasonable number of repair attempts have been made if either of the following occurs during the period of one year or 12,000 miles, whichever occurs first, after the date of delivery of a new vehicle to the consumer who purchased or leased it:

1. The same nonconformity has been subject to repair 4 or more times by the manufacturer, its agents, or authorized dealers and such nonconformity continues to exist; or

2. The vehicle has been out of service by reason of repair of nonconformities for a total of 30 or more business days.

The presumption does not apply unless the consumer (or someone on the consumer's behalf) provides prior direct written notice of the alleged defect to the manufacturer, and the manufacturer has an opportunity to correct the alleged defect.

### ***Dispute Resolution***

The provisions requiring refund or replacement do not apply unless the consumer has first resorted to an informal dispute settlement procedure established by the manufacturer if (1) the informal dispute settlement procedure substantially conforms with 16 C.F.R. Part 703 and discloses certain information to the consumer about the consumer's rights under the lemon law with its decision, and (2) the consumer has received adequate written notice from the seller of the existence of the procedure. Adequate written notice includes but is not limited to the incorporation of the informal

dispute settlement procedure into the terms of the vehicle's written warranty.

### ***Time Period For Filing Claims***

An action must be commenced within 18 months following the date of the vehicle's original delivery to the consumer. This period is extended by the number of days that the subject matter of the action was pending in an informal dispute settlement procedure.

### ***Remedies Under The Illinois Lemon Law***

#### ***Repurchase Of Owned Vehicles***

The Illinois lemon law provides that a manufacturer must pay the following amounts to the consumer when it repurchases an owned vehicle under the lemon law:

1. Full purchase price of the new vehicle, minus a reasonable use allowance; and
2. Collateral charges, not including taxes paid by the purchaser on the initial purchase of the vehicle.

The refund is made to the consumer and lienholder, if any, as their respective interests may appear.

The Illinois lemon law provides that a reasonable allowance for the consumer's use of the vehicle shall be deducted from the consumer's award. The "reasonable allowance" is the amount directly attributable to the wear and tear incurred by the new vehicle as a result of its having been used prior to the first report of a nonconformity to the manufacturer (including its agents and dealers), and during any subsequent period in which it is not out of service by reason of repair.

### ***Repurchase Of Leased Vehicles***

The Illinois lemon law provides that a manufacturer must pay the following amounts to the consumer when it repurchases a leased vehicle under the lemon law:

1. Lease cost (including deposits, fees, taxes, down payments, periodic payments, and any other amount paid to a seller/lessor by a consumer in

connection with the lease of a new vehicle)  
minus a reasonable use allowance;

2. Collateral charges; and
3. Although not specifically provided in the lemon law, the manufacturer should also pay to the lessor the pay-off amount.

The refund is made to the consumer and lienholder, if any, as their respective interests may appear.

The Illinois lemon law provides that a reasonable allowance for the consumer's use of the vehicle shall be deducted from the consumer's award. The "reasonable allowance" is the amount directly attributable to the wear and tear incurred by the new vehicle as a result of its having been used prior to the first report of a nonconformity to the manufacturer (including its agents and dealers), and during any subsequent period in which it is not out of service by reason of repair.

### *Replacement*

When replacing a vehicle under the Illinois lemon law, the manufacturer must provide a new

vehicle of like model line, if available, or otherwise a comparable vehicle. The reasonable allowance for use appears not to apply to a replacement.

## **Indiana Lemon Law**

The following is a brief explanation of most relevant provisions of the Indiana lemon law. The complete text of the lemon law can be found at Indiana Code Sec. 24-5-13.

### ***Consumers Covered***

The Indiana lemon law covers any person who, for purposes other than resale or sublease, enters into an agreement or contract in Indiana for the transfer, lease, or purchase of a motor vehicle.

### ***Vehicles Covered***

The lemon law covers any self-propelled vehicle that:

1. Has a declared gross vehicle weight of less than 10,000 pounds;
2. Is sold to a consumer in Indiana and is registered in Indiana, or to a consumer in Indiana who is not an Indiana resident;
3. Is intended primarily for use and operation on public highways; and

4. Is required to be registered or licensed before use or operation.

The lemon law appears to cover used vehicles, but does not cover conversion vans; motor homes; farm tractors and other machines used in the actual production, harvesting, and care of farm products; road building equipment; truck tractors; road tractors; motor cycles; mopeds; snowmobiles; or vehicles designed primarily for off-road use.

### ***Vehicle Converters***

The lemon law does not apply to vehicle converters.

### ***Problems Covered***

The lemon law covers any “nonconformity”, which is defined as any specific or generic defect or condition or any concurrent combination of defects or conditions that:

1. Substantially impairs the use, market value, or safety of a motor vehicle; or



2. Renders the motor vehicle nonconforming to the warranty.

It is an affirmative defense to any claim under the lemon law that:

1. The nonconformity, defect, or condition does not substantially impair the use, value, or safety of the motor vehicle; or
2. The nonconformity, defect, or condition is the result of abuse, neglect, or unauthorized modification or alteration of the motor vehicle by the buyer.

### ***Manufacturer's Duty To Repair***

If a motor vehicle has a nonconformity and the consumer reports the nonconformity to the manufacturer, its agent, or authorized dealer within the "term of protection" (defined as the earlier of 18 months or 18,000 miles after the vehicle's original delivery to a consumer), the nonconformity must be corrected, even if the repairs are made after the expiration of the term of protection.

## ***Manufacturer's Duty To Repurchase Or Replace A Vehicle***

If the manufacturer, its agent, or authorized dealer is unable to correct a nonconformity after a reasonable number of attempts, the manufacturer must, at the consumer's option, either replace or repurchase the motor vehicle.

### ***Reasonable Number Of Repair Attempts***

The Indiana lemon law provides that a manufacturer has had a reasonable number of repair attempts if:

1. The nonconformity has been subject to repair at least four times by the manufacturer, its agents or authorized dealers, but the nonconformity continues to exist; or
2. The vehicle is out of service by reason of repair of any nonconformity for a cumulative total of at least thirty business days and the nonconformity continues to exist.

The period of thirty business days is extended by any period of time during which repair services are not available as a direct result of a strike, although the burden is on the manufacturer to show that the strike was the direct cause for the failure to cure any nonconformity during that time. The manufacturer, its agent or authorized dealer must provide or make provisions for the free use of a vehicle to any consumer whose vehicle is out of service by reason of repair during a strike.

### ***Written Notice To Manufacturer***

The consumer must notify the manufacturer in writing of a lemon law claim if the manufacturer has clearly and conspicuously disclosed in the warranty or owner's manual that such notice is required. The manufacturer must also include in the warranty or owner's manual the name and address to which the consumer must send the written notice.

### ***Dispute Resolution***

The lemon law does not apply to any consumer who has not first resorted to an informal dispute

settlement procedure established by the manufacturer or in which the manufacturer participates, if:

1. The procedure is certified by the Attorney General as complying with 16 C.F.R. Part 703 and any other rules concerning certification adopted by the Attorney General (including the requirement of oral hearings); and
2. The consumer has received adequate written notice from the manufacturer of the existence of the procedure, including incorporation of the procedure into the terms of the written warranty.

### ***Time Period For Filing Claims***

An action must be commenced within two years following the date that the consumer first reports the nonconformity to the manufacturer, its agent or authorized dealer. The two-year period does not run during the time the consumer resorts to a certified informal dispute settlement procedure.

## ***Remedies Under The Indiana Lemon Law***

### ***Repurchase Of Owned Vehicles***

The Indiana lemon law provides that the manufacturer must pay the following amounts when it repurchases an owned vehicle under the lemon law:

1. Total contract price of the vehicle, including all credits and allowances for any trade-in vehicle;
2. All sales tax;
3. The unexpended portion of the registration fee and excise tax that has been prepaid for any calendar year;
4. All actually expended finance charges;
5. The cost of all options added by the authorized dealer; and
6. Necessary towing and rental car costs incurred as a direct result of the nonconformity;
7. Less a reasonable allowance for use.

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Reasonable allowance =	#miles traveled prior to manufacturer's acceptance of vehicle return	X	Total contract price
	100,000		

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BBB AUTO LINE arbitrators may use the mileage at the time of the hearing instead of the mileage traveled prior to the manufacturer's acceptance of the vehicle's return.

### ***Repurchase Of Leased Vehicles***

The Indiana lemon law provides that the manufacturer must pay the following amounts when it repurchases a leased vehicle:

*To the lessor:*

1. 105% of the lessor's purchase cost, including freight and accessories;

2. Any fee paid by the lessor to another to obtain the lease;
3. Any insurance premiums or other costs expended by the lessor for the benefit of the lessee;
4. Sales tax paid by the lessor;
5. Minus the total of all deposit and lease payments paid by the lessee to the lessor, including all credits and allowances for any trade-in vehicle.

*To the lessee:*

1. All deposit and lease payments paid by the lessee to the lessor, including all credits and allowances for any trade-in vehicles; and
2. Necessary towing and rental car costs incurred as a direct result of the nonconformity;
3. Less a reasonable allowance for use.

The Indiana lemon law states that a reasonable allowance for the lessee's use of a vehicle must be subtracted from the amounts a manufacturer pays to the lessee when it repurchases a vehicle. The

reasonable allowance for use is determined by the following formula:

Reasonable allowance	# miles traveled prior to manufacturer's acceptance of vehicle return	X	Total lease obligation of the lessee at the inception of the lease
<hr/> <div>100,000</div>			

BBB AUTO LINE arbitrators may use the mileage at the time of the hearing instead of the mileage traveled prior to manufacturer's acceptance of vehicle's return.

## Replacement

When replacing a vehicle under the Indiana lemon law, the manufacturer must provide a replacement vehicle of comparable value. The reasonable allowance for use does not apply to a replacement.



The manufacturer must also reimburse the consumer for:

1. Any fees for the transfer of registration or any sales tax incurred by the consumer as a result of replacement; and
2. Necessary towing and rental costs actually incurred as a direct result of the nonconformity.

If the replaced vehicle was financed by the manufacturer, its subsidiary, or agent, the manufacturer, subsidiary or agent may not require the consumer to enter into any refinancing agreement concerning the replacement vehicle that would create any financial obligations upon the consumer that are less favorable than those of the original financing agreement.

## **Kansas Lemon Law**

The following is a brief explanation of most relevant provisions of the Kansas lemon law. The complete text of the lemon law can be found at Kansas Stat. Ann. section 50-645 et seq.

### ***Vehicles Covered***

The Kansas lemon law covers a new motor vehicle sold or leased in Kansas, that is registered for a gross weight of 12,000 pounds or less. The lemon law does not cover the customized parts of motor vehicles that have been added or modified by second stage manufacturers, first stage converters, or second stage converters. Guidance from the Kansas Attorney General's Office indicates that the lemon law does not cover used vehicles.

### ***Consumers Covered***

The lemon law covers the original purchaser or lessee, for purposes other than resale, of a motor vehicle.

## *Vehicle Converters*

The lemon law does not apply to vehicle converters.

## *Problems Covered*

The lemon law covers any problem that does not conform to all applicable warranties. This is referred to as a nonconformity. The Kansas lemon law provides manufacturers with an affirmative defense if it can be shown that:

1. An alleged nonconformity does not substantially impair the use and value of the vehicle; or
2. A nonconformity is the result of abuse, neglect or unauthorized modifications or alterations of the motor vehicle by a consumer.

## *Manufacturer's Duty To Repair*

If a motor vehicle does not conform to all applicable warranties, and the consumer reports the nonconformity to the manufacturer, its agent or authorized dealer during the term of any warranties or

within one year following the date of the motor vehicle's original delivery to a consumer, whichever comes first, then the manufacturer, its agent or authorized dealer must make the necessary repairs to conform the motor vehicle to the warranties. The necessary repairs must be made even if the warranty term or the one year period has expired.

### ***Manufacturer's Duty To Repurchase Or Replace A Vehicle***

If the manufacturer, its agents or authorized dealers are unable to conform the motor vehicle to any applicable warranty after a reasonable number of attempts, then the manufacturer must either replace or repurchase the motor vehicle.

### ***Reasonable Number Of Repair Attempts***

The Kansas lemon law establishes a presumption that a reasonable number of attempts has been undertaken to conform a motor vehicle to the express warranty if any of the following occurs:

1. During the term of any warranty or within one year following the date of the motor vehicle's original delivery to a consumer, whichever comes first, the same nonconformity that substantially impairs the use and value of the motor vehicle to the consumer has been subject to repair four or more times by the manufacturer, its agents or authorized dealers, and the nonconformity continues to exist;
2. During the term of any warranty or within one year following the date of the motor vehicle's original delivery to a consumer, whichever comes first, the motor vehicle is out of service due to repair for a cumulative total of 30 or more calendar days; or
3. There have been ten or more attempts by the manufacturer, its agents, or authorized dealers to repair any nonconformities that substantially impair the use and value of the motor vehicle to the consumer. The term of any warranty, the one year period, and the 30 day period are extended by any period of time during which

repair services are not available to the consumer because of war, invasion, strike, fire, flood, or other natural disasters.

### ***Notice To The Manufacturer***

The presumption that a reasonable number of repair attempts has been undertaken does not apply against a manufacturer unless the manufacturer has received actual notice of the nonconformity.

### ***Dispute Resolution***

If the manufacturer has established an informal dispute settlement procedure that complies with 16 C.F.R. Part 703, the provisions requiring refund or replacement do not apply unless the consumer has first resorted to the informal dispute settlement procedure.

### ***Time Period For Filing Claims***

Not specified. Assuming that the UCC statute of limitations applies, a claim must be filed with BBB AUTO LINE within four years from the date the alleged defect is discovered.

## *Remedies Under The Kansas Lemon Law*

### *Repurchase*

The Kansas lemon law sets out the following amounts that a manufacturer must pay when it repurchases a motor vehicle under the lemon law:

1. The full purchase or lease price; and
2. All collateral charges;
3. Less a reasonable allowance for use.

Refunds must be made to the consumer and lienholder, if any, as their interests may appear.

The reasonable allowance for use is that amount directly attributable to use by the consumer and any previous consumer prior to the first report of the nonconformity to the manufacturer, agent or dealer, and during any subsequent period when the motor vehicle is not out of service by reason of repair. The reasonable allowance is calculated from the most recent edition of Your Driving Costs, published by the American Automobile Association.

## *Replacement*

When replacing a vehicle under the Kansas lemon law, the manufacturer must provide a comparable vehicle under warranty. The reasonable allowance for use appears not to apply to a replacement.



## **Kentucky Lemon Law**

The following is a brief explanation of most relevant provisions of the Kentucky lemon law. The complete text of the lemon law can be found at Kentucky Rev. Stat. 367.840 et seq.

### ***Vehicles Covered***

The Kentucky lemon law applies to a motor vehicle that:

1. Is intended primarily for use and operation on public highways;
2. Is required to be registered or licensed in Kentucky prior to such use or operation;
3. Has been finally and completely assembled and is in the possession of a manufacturer, factory branch, distributor, wholesaler, or an authorized motor vehicle dealer; and
4. Is in fact new and on which the original title has not previously been issued;

The lemon law does not cover motor homes, motorcycles, mopeds, vehicles with more than 2 axles,

farm tractors, and other farm machines, and vehicles substantially altered after the initial sale from a dealer to an individual.

A “new motor vehicle” means a motor vehicle that:

1. Has been finally and completely assembled;
2. Is in the possession of a manufacturer, factory branch, distributor, or authorized dealer; and
3. Is in fact new and on which the original title has never been issued.

### ***Consumers Covered***

The lemon law covers any resident person who buys or contracts to buy a new motor vehicle in Kentucky. The lemon law also covers any resident person who leases a new motor vehicle in Kentucky after July 15, 1998. The lemon law does not cover subsequent purchasers or lessees.

### ***Vehicle Converters***

The lemon law applies to vehicle converters.

## *Problems Covered*

The lemon law covers vehicle “nonconformities,” which it defines as the failure to conform with an express warranty in a manner that substantially impairs the use, value or safety of the motor vehicle.

The lemon law provides the manufacturer with an affirmative defense if it can be shown that the nonconformity, defect, or condition is the result of abuse, neglect, or unauthorized modification or alteration of the vehicle by the consumer.

## *Manufacturer’s Duty To Repurchase Or Replace A Vehicle*

### Notice to Manufacturer

The Kentucky lemon law requires that a consumer notify the manufacturer in writing if the manufacturer or its agents are unable to repair a vehicle nonconformity to the express warranty after a reasonable number of attempts during the first 12,000 miles of operation or during the first 12 months

following the date of delivery to the consumer, whichever is the earlier date.

**Repurchase or Replacement if Nonconformity  
Not Corrected After a Reasonable Number of  
Attempts**

If, after a reasonable number of attempts within the 12 months/12,000-mile time period specified above, the manufacturer or its agents are unable to repair or correct any nonconformity or defect that substantially impairs the use, value, or safety of the motor vehicle, then the manufacturer is required to replace or repurchase the motor vehicle.

***Reasonable Number Of Repair Attempts***

The Kentucky lemon law creates a presumption that a reasonable number of attempts have been made if, within the first 12,000 miles of operation or during the period of 12 months following the date of original delivery of the motor vehicle to the consumer buyer, whichever is earlier, either:

1. The same nonconformity, defect, or condition has been subject to repair four or more times by the manufacturer, but the nonconformity, defect, or condition continues to exist; or
2. The vehicle is out of service/use by reason of repair of the same non-conformity, defect, or condition for a cumulative total of at least 30 calendar days. (This time period is extended by a reasonable time when a vehicle cannot be repaired due to the unavailability of parts or supplies as a result of war, invasion, civil unrest, fire, flood, or natural disaster.)

### ***Dispute Resolution***

Disputes arising under the lemon law provisions requiring repurchase or replacement must be resolved through the required informal dispute resolution system, prior to seeking any judicial relief.

Each manufacturer transacting business in Kentucky must offer to consumers a comprehensive informal dispute resolution system that accepts warranty disputes occurring during the earlier of the first two years or 25,000 miles of the consumer's or

lessor's ownership of the motor vehicle. Note that this requirement is independent of the lemon law provisions, and requires arbitration of certain warranty disputes that might not be covered by the lemon law.

Guidance from the Attorney General indicates that the dispute resolution provisions apply to any new motor vehicle that would normally be used for personal, family, or household purposes, regardless of how the individual buyer uses the particular vehicle that is the subject of the dispute. Any vehicle falling within the lemon law's definition of motor vehicle is covered by the dispute resolution provisions.

### ***Time Period For Filing Claims***

An action under the lemon law must be commenced within two years after the date of the vehicle's original delivery to a consumer.

### ***Remedies Under The Kentucky Lemon Law***

#### ***Repurchase***

The Kentucky lemon law sets out the following amounts that a manufacturer must pay when it

repurchases an owned or leased vehicle under the lemon law:

1. the full purchase price paid for the motor vehicle,
2. finance charge,
3. all sales tax,
4. license fee,
5. registration fee,
6. any similar governmental charges, and
7. all collateral charges,
8. less a reasonable allowance for the consumer's use of the vehicle.

A reasonable allowance for the consumer's use means the amount directly attributable to a consumer's use of the vehicle other than those time periods when the vehicle is out of service due to the nonconformity.

### ***Replacement***

When replacing a vehicle under the Kentucky lemon law, the manufacturer must provide a comparable motor vehicle. The reasonable allowance for use does not apply to a replacement.

## **Louisiana Lemon Law**

The following is a brief explanation of most relevant provisions of the Louisiana lemon law. The complete text of the lemon law can be found at Louisiana Rev. Stat. Ann. § 51:1941 et seq.

### ***Vehicles Covered***

The Louisiana lemon law covers motor vehicles, defined as:

1. Passenger motor vehicles and passenger/commercial motor vehicles (meaning any motor-driven car, van, or truck required to be registered and that is used or designed to be used for transporting passengers or goods for public, private, commercial, or for-hire purposes) sold in Louisiana;
2. Personal watercraft and all-terrain vehicles that are used exclusively for personal and not commercial purposes and are sold in Louisiana or still under warranty on or after August 15, 1999; or



3. The chassis and drive train of motor homes sold in Louisiana or still under warranty on or after August 15, 1999.

The lemon law appears to cover used vehicles, but does not cover motor vehicles with a 10,000 GVW or above (except for motor homes) and motor vehicles used exclusively for commercial purposes.

### *Consumers Covered*

The lemon law covers the following consumers:

1. The purchaser, for purposes other than resale, of a motor vehicle normally used for personal, family or household purposes and subject to a manufacturer's express warranty;
2. A person to whom the new motor vehicle is transferred for purposes other than resale and for personal, family or household purposes during the duration of an express warranty applicable to the motor vehicle;
3. A person to whom a motor vehicle is leased; or
4. Any other person entitled to enforce the warranty.

## *Problems Covered*

The lemon law covers any nonconformity, which is defined as any specific or generic defect or malfunction, or any defect or condition that substantially impairs the use and/or market value of a motor vehicle.

## *Manufacturer's Duty To Repair A Vehicle*

If a motor vehicle does not conform to an applicable express warranty, and the consumer reports the nonconformity to the manufacturer or an authorized dealer and makes the vehicle available for repair before the expiration of the warranty or during a period of one year following the date of the motor vehicle's original delivery to a consumer, whichever is earlier, then the manufacturer, its agent or authorized dealer must make the necessary repairs to conform the motor vehicle to the warranty. The necessary repairs must be made even if the warranty or the one-year period has expired.

## ***Manufacturer's Duty To Repurchase Or Replace A Vehicle***

The manufacturer must repurchase or replace a motor vehicle (other than a motor home) if either of the following occurs:

1. The nonconformity is not repaired after four or more attempts within the warranty term or within one year of the vehicle's original delivery to the consumer, whichever is earlier, or
2. The vehicle is out of service by reason of repair for a cumulative total of 90 or more calendar days during the warranty period. The manufacturer must replace or repurchase a motor home if it is unable to repair a nonconformity as provided in the provision creating the presumption for motor homes.

The manufacturer must provide the consumer or lessor with a replacement or refund within 30 days after an offer to transfer title by the consumer or lessor, or within 30 days after a decision by the informal dispute settlement procedure.

## *Reasonable Number Of Repair Attempts*

The manufacturer must repurchase or replace a motor vehicle (other than a motor home) if either of the following occurs:

1. The nonconformity is not repaired after four or more attempts within the warranty term or within one year of the vehicle's original delivery to the consumer, whichever is earlier, or
2. The vehicle is out of service by reason of repair for a cumulative total of 90 or more calendar days during the warranty period.

The lemon law also provides for a presumption that a reasonable number of attempts has been undertaken to conform a motor vehicle (other than a motor home) to the applicable express warranties if, before the expiration of the warranty or during a period of one year following the date of the motor vehicle's original delivery to a consumer, whichever is earlier, either of the following occurs:

1. The same nonconformity is subject to repair four or more times by the manufacturer, its agent or authorized dealer; or
2. The vehicle is out of service by reason of repair for a cumulative total of 45 or more calendar days.

**Note: This presumption does not appear to alter the manufacturer's obligation to repurchase or replace a nonconforming motor vehicle as described in the previous section.**

The *presumption* applies to a motor home if the consumer provides written notification to the manufacturer of:

1. The need to repair the nonconformity;
2. Evidence of a cumulative total of at least 90 days out of service; or
3. Evidence that the same nonconformity has been subject to repair four or more times by the manufacturer, its agent or authorized dealer within the warranty term or during a period of one year following the date of the motor home's original delivery to a consumer, whichever is earlier.

Upon such notification, the manufacturer has a final attempt to repair the motor home. Within 5 business days after receipt of the notification, the manufacturer must respond to the consumer with an authorized repair facility to which the motor home may be delivered for repair. The repair facility must conform the motor home to the applicable warranty within 10 business days after the motor home is delivered to that facility.

If the manufacturer fails to respond to the consumer within 5 business days or to perform the repairs within 10 business days, the manufacturer is deemed to have waived its rights to a final attempt to cure the nonconformity.

The term of an express warranty is extended by any period during which repairs are unavailable to the consumer because of a war, invasion, strike, fire, flood or other natural disaster. The provisions in the presumption are suspended for any period of time during which repair services cannot be performed by the manufacturer, its agents or authorized dealer because of war, invasion, strike, fire, flood, or natural disaster.

## *Manufacturer's Other Duties Under The Lemon Law*

The manufacturer must reimburse the consumer up to \$20 per day for a rental vehicle for the duration of the repair period whenever the following occurs:

1. The motor vehicle is covered by a manufacturer's express warranty;
2. The consumer brings the motor vehicle to the dealer from whom the motor vehicle was purchased;
3. For repair of any defect, malfunction, or nonconformity to which the warranty is applicable; and
4. Either the repair period exceeds ten working days or the same defect, malfunction, or nonconformity has been subject to repair on two previous occasions.

This provision applies during the length of the manufacturer's express warranty or for two years, whichever expires first. The reimbursement requirement is not in effect in case of war, work

stoppages, and natural disasters beyond the control of the manufacturer that would prevent the timely repair or parts delivery to a dealer.

This provision does not apply to any personal watercraft, all-terrain vehicle, or motor home that is tendered to a manufacturer for repair.

### ***Dispute Resolution***

If the manufacturer has established an informal dispute settlement procedure that substantially complies with 16 C.F.R. Part 703, the provisions requiring refund or replacement do not apply unless the consumer has first resorted to the informal dispute settlement procedure.

### ***Time Period For Filing Claims***

An action must be commenced within the later of (1) three years from the date the consumer purchased the motor vehicle, or (2) one year from the end of the warranty period. For lessees, a claim under an informal dispute resolution program must be filed within the term of the lease.



## *Remedies Under The Louisiana Lemon Law*

### *Repurchase Of Owned Vehicle*

The Louisiana lemon law sets out the following amounts that a manufacturer must pay when it repurchases an owned motor vehicle under the lemon law:

1. The full purchase price;
2. Any amounts paid by the consumer at the point of sale, which case law indicates may include finance charges and
3. All collateral costs, defined as sales tax, license and registration fees, and any similar governmental charges;
4. Less a reasonable allowance for use to the consumer.

Refunds must be made to the consumer and lienholder, if any, as their interests may appear.

The reasonable allowance for use is that amount directly attributable to use by the consumer prior to the first notice of the nonconformity to the manufacturer,

agent, or dealer, and during any subsequent period when the vehicle is not out of service by reason of repair.

### ***Repurchase Of Leased Vehicle***

The Louisiana lemon law provides that a manufacturer repurchasing a leased motor vehicle under the lemon law must reimburse the lessee for all reasonable expenditures in connection with the lease, including any conditions of the lease in connection with early termination and related charges.

The lessee is responsible for a reasonable allowance for the lessee's use of the motor vehicle. The reasonable allowance for use is that amount directly attributable to use by the lessee prior to the first notice of the nonconformity to the manufacturer, agent or dealer, and during any subsequent period when the vehicle is not out of service by reason of repair.

### ***Replacement***

When replacing a vehicle under the Louisiana lemon law, the manufacturer must provide a comparable new motor vehicle. The reasonable allowance for use does not apply to a replacement.

## **Massachusetts Lemon Law**

The following is a brief explanation of most relevant provisions of the Massachusetts lemon law. The complete text of the lemon law can be found at General Laws Chapter 90, Section 7N ½.

### ***Vehicles Covered***

The Massachusetts lemon law covers motor vehicles and motorcycles sold, leased, or replaced by a dealer or manufacturer. The lemon law covers used vehicles sold or leased within the term of protection, but does not cover auto homes, vehicles built primarily for off-road use, or any vehicle used primarily for business purposes.

### ***Consumers Covered***

The lemon law covers the following consumers:

1. The purchaser or lessee, other than for purposes of resale, of a motor vehicle;
2. Any person to whom the motor vehicle is transferred during any express or implied warranty period; and

3. Any other person entitled by the terms of the warranty to enforce its obligations.

### ***Vehicle Converters***

The lemon law does not apply to vehicle converters.

### ***Problems Covered***

The lemon law covers vehicle nonconformities. A nonconformity is defined as any specific or generic defect or malfunction, or any concurrent combination of defects or malfunctions, that substantially impairs the use, market value, or safety of the motor vehicle. It is an affirmative defense that a nonconformity is the result of owner negligence; damage caused by accident; vandalism; attempt to repair the vehicle by a person other than the manufacturer, its agent, or an authorized dealer; or any attempt to substantially modify the vehicle that was not authorized by the manufacturer.

### ***Term Of Protection***

The lemon law defines the term of protection to be one year or 15,000 miles of use from the date of

original delivery of a new motor vehicle, whichever comes first. In the case of a replacement vehicle, the term is one year or 15,000 miles from the date of delivery to the consumer of the replacement vehicle, whichever comes first.

### ***Manufacturer's Duty To Repair***

If a motor vehicle does not conform to any applicable express or implied warranty, and the consumer reports the nonconformity to the manufacturer, its agent or an authorized dealer during the term of protection, then the manufacturer, its agent or authorized dealer must make the necessary repairs to conform the vehicle to the warranty.

### ***Manufacturer's Duty To Repurchase Or Replace A Vehicle***

If the manufacturer, its agent or authorized dealer does not correct any nonconformity after a reasonable number of attempts, the manufacturer must either repurchase or replace the vehicle.

## ***Reasonable Number Of Repair Attempts***

The Massachusetts lemon law defines “reasonable number of attempts” as the occurrence of any of the following during the term of protection:

1. The same vehicle nonconformity is subject to repair by the manufacturer, its agent or authorized dealer at least 3 times and the nonconformity continues to exist or has recurred; or
2. The vehicle is out of service by reason of repair of any nonconformity for a cumulative total of at least 15 business days.

## ***Final Repair Attempt***

After a reasonable number of repair attempts, the manufacturer is entitled to one additional opportunity to cure the nonconformity. The final opportunity to repair may not exceed seven business days, and begins on the day the manufacturer first knows or should have known that a reasonable number of repair attempts has occurred. The manufacturer, its agent, or authorized dealer may not

require written notice from the consumer of the existence of any nonconformity.

### ***Dispute Resolution***

Consumers may request arbitration through the Massachusetts New Car Arbitration program administered by the Office of Consumer Affairs and Business Regulation. Participation in any other arbitration or dispute resolution mechanism does not affect eligibility for state-certified new car arbitration.

### ***Time Period For Filing Claims***

A claim must be submitted within 18 months from the date of the vehicle's original delivery to the consumer.

### ***Remedies Under Massachusetts Lemon Law***

#### ***Repurchase Of Owned Vehicles***

The Massachusetts lemon law sets out the following amounts that a manufacturer must pay when it repurchases an owned vehicle under the lemon law:

1. The vehicle's full contract price, including all credits and allowances for any trade-in vehicle;
2. Reimbursement for incidental costs including sales taxes, registration fees, finance charges, and any cost of options added by an authorized dealer; and
3. Reimbursement for towing and reasonable rental costs that were a direct result of the nonconformity;
4. Less any cash award made by the manufacturer in an attempt to resolve the dispute that was accepted by the consumer; and
5. Less a reasonable allowance for use.

Refunds must be made to the consumer and lienholder as their interests may appear.

This reasonable allowance for use is determined in accordance with the following formula for all vehicles other than motorcycles:



Reasonable allowance for use	# miles traveled before its return to manufacturer	X	Vehicle contract price
	100,000		

### *Repurchase Of Leased Vehicles*

The Massachusetts lemon law sets out the following amounts that a manufacturer must pay when it repurchases a leased vehicle under the lemon law:

1. All payments made by the lessee under the terms of the lease agreement;
2. Reimbursement for incidental costs including sales tax, registration fee, finance charges, and any cost of options added by an authorized dealer; and
3. Reimbursement for towing and reasonable rental costs that were a direct result of the nonconformity;

4. Less any cash award made by the manufacturer in an attempt to resolve the dispute that was accepted by the consumer; and
5. Less a reasonable allowance for use.

Refunds must be made to the consumer and lienholder as their interests may appear.

This reasonable allowance for use is determined in accordance with the following formula for all vehicles other than motorcycles:

Reasonable allowance payments for use	# miles traveled before its return <b>X</b> to manufacturer	Total amount of lease made by lessee
	100,000	

## *Replacement Vehicle*

When a manufacturer replaces a motor vehicle, the Massachusetts lemon law sets out the following amounts that a manufacturer must reimburse to the consumer:

1. Reimbursement for any fees for the transfer of registration or any sales tax incurred by the consumer as a result of the replacement
2. Reimbursement for towing and reasonable rental costs that were a direct result of the nonconformity.

The reasonable allowance for use does not apply to a replacement.

If the manufacturer, its subsidiary or its agent financed the vehicle that is being replaced, the manufacturer, subsidiary or agent may not require the consumer to enter into any refinancing agreement that would create financial obligations on the consumer beyond those imposed by the original financing agreement.

If a leased vehicle is being replaced, the manufacturer must provide an identical model vehicle for the remaining term of the original lease agreement. The dealer or manufacturer may not require the lessee to enter into any lease agreement that would create any financial obligations upon the lessee beyond those implied by the original lease agreement.

## **Maryland Lemon Law**

The following is a brief explanation of most relevant provisions of the Maryland lemon law. The complete text of the lemon law can be found at Maryland Com. Law Code Ann. Sections 14-1501 et seq. and 14-2001 et seq.

### ***Vehicles Covered***

The Maryland lemon law covers vehicles registered in Maryland as a Class A passenger vehicle; Class D motorcycle; Class E truck with a 3/4 ton or less manufacturer's rated capacity; or Class M multipurpose vehicle.

The lemon law covers used vehicles, but does not cover motor homes or motor vehicles that are part of a fleet purchase or fleet lease of five or more motor vehicles.

### ***Consumers Covered***

The lemon law covers consumers who fall into any one of the following categories:

1. The purchaser, other than for purposes of resale, or the lessee of a new motor vehicle;
2. Any person to whom a new motor vehicle is transferred during the duration of the vehicle's warranty; or
3. Any other person who is entitled to enforce the warranty.

The rights available to a consumer under the lemon law inure to a subsequent transferee of a new motor vehicle for the duration of the applicable warranties. If a lessor permits the lessee to assign any interest in the lease or the motor vehicle, upon such assignment the rights available to a lessee under the lemon law inure to an assignee of the lessee's rights under the lease or a subsequent transferee of the motor vehicle.

### ***Lemon Law Coverage Period***

The "manufacturer's warranty period" and "warranty period" are defined to mean the earlier of the period of the motor vehicle's first 18,000 miles of operation, or 24 months following the date of the motor vehicle's original delivery to the consumer.

The lemon law's enforcement provisions apply only during this "warranty period."

### ***Problems Covered***

The lemon law covers any defect or condition that is covered by the warranty, presently exists, and substantially impairs the use and market value of the motor vehicle to the consumer. This is referred to as a *nonconformity*.

The lemon law provides manufacturers with an affirmative defense if it can be shown that the nonconformity is the result of abuse, neglect, or unauthorized modifications or alterations of the motor vehicle.

### ***Manufacturer's Duty To Repair***

If a motor vehicle does not conform to all applicable warranties during the "warranty period," the consumer must report the nonconformity during the "warranty period" by sending written notice to the manufacturer, factory branch, or lessor by certified mail, return receipt requested. Notice of this

procedure must be conspicuously disclosed to the consumer in writing at the time of sale or delivery of the motor vehicle.

The consumer must provide the manufacturer or factory branch, its agent or authorized dealer, or the lessor with an opportunity to cure the nonconformity. The manufacturer or factory branch, its agent or authorized dealer, or the lessor must correct the nonconformity at no charge to the consumer within 30 days of the manufacturer's receipt of the consumer's written notification, even if repairs are made after the expiration of the "warranty period."

### ***Manufacturer's Duty To Repurchase Or Replace A Vehicle***

If the manufacturer or factory branch, its agent or authorized dealer, or the lessor is unable to repair or correct any nonconformity after a reasonable number of repair attempts within the "warranty period," and the nonconformity presently continues to exist, the manufacturer must, at the option of the consumer, either replace or repurchase the motor vehicle.



The Maryland lemon law creates a presumption that a manufacturer has had a reasonable number of repair attempts if any of the following occurs within the “warranty period”:

1. The same nonconformity has been subject to repair by the manufacturer or factory branch, its agent or authorized dealer four or more times but continues to exist;
2. The vehicle was out of service by reason of repair of one or more nonconformities for a cumulative total of 30 or more days; or
3. A nonconformity resulting in a braking or steering system failure has been subject to the same repair at least once, the manufacturer has been notified and given the opportunity to cure the nonconformity, and the repair does not bring the vehicle into compliance with the motor vehicle safety inspection laws. The term of any warranty, the “warranty period”, and the 30-day out-of-service period are extended by any time during which repair services are not available to the consumer by reason of war, invasion, strike, fire, flood, or other natural disasters.

## *Notice And Opportunity To Repair*

The consumer must report the nonconformity during the “warranty period” by sending written notice to the manufacturer, factory branch, or lessor by certified mail, return receipt requested. Notice is a required element to establish the obligation to replace or repurchase the motor vehicle. This requirement must be conspicuously disclosed to the consumer in writing at the time of sale or delivery of the motor vehicle.

The consumer must provide the manufacturer or factory branch, its agent or authorized dealer, or the lessor with an opportunity to cure the nonconformity. The manufacturer or factory branch, its agent or authorized dealer, or the lessor must correct the nonconformity at no charge to the consumer within 30 days of the manufacturer’s receipt of the consumer’s written notification.

The dealer must notify the manufacturer of the existence of a nonconformity within 7 days when the motor vehicle is delivered to the same dealer for a fourth repair attempt of the same nonconformity, or

when the vehicle has been out of service for repair of one or more nonconformities for a cumulative total of 20 days. The failure of a dealer to give such notice does not affect the consumer's rights under the lemon law.

### ***Dispute Resolution***

If the manufacturer has established an informal dispute settlement procedure that complies with 16 C.F.R. Part 703, the consumer may but need not resort to that procedure before the provisions requiring refund or replacement apply. A consumer who has resorted to an informal dispute settlement procedure may not be precluded from seeking the rights or remedies available by law.

### ***Time Period For Filing Claims***

An action on an owned vehicle must be commenced within three years of the date of the vehicle's original delivery to the consumer. An action on a leased vehicle must be commenced within one year after termination of the lease.

## *Remedies Under The Maryland Lemon Law*

### *Repurchase Of An Owned Vehicle*

The Maryland lemon law provides that a manufacturer must pay the following amounts when it repurchases an owned vehicle under the lemon law:

1. The full purchase price; and
2. All license and registration fees, and any similar governmental charges;
3. Less a reasonable allowance for the consumer's use of the vehicle not to exceed 15% of the purchase price;
4. Less a reasonable allowance for damage not attributable to normal wear and not including damage resulting from a nonconformity.

Refunds must be made to the consumer and lienholder, if any, as their interests appear on the records of ownership maintained by the Motor Vehicle Administration.

The consumer may recover from the Motor Vehicle Administration the excise taxes originally paid

by the consumer for the returned vehicle. The excise taxes that the consumer is entitled to recover are calculated based on the amount of the purchase price or any portion of the purchase price of the motor vehicle that is refunded to the consumer.

### ***Repurchase Of A Leased Vehicle***

The Maryland lemon law provides that a manufacturer must pay the following amounts when it repurchases a leased vehicle under the lemon law:

*To the lessee:*

The lemon law provides that it shall be construed to provide a mechanism through which the lessor and lessee are made whole for losses incurred as a result of a motor vehicle's nonconformity, defect, or condition. The Maryland Attorney General's Office has determined that an award making the lessee whole could include lease payments made by the lessee. The lemon law also requires that the manufacturer refund to the lessee:

1. All money paid during the period in which the vehicle was not available due to the defect, condition, or nonconformity;
2. All sums paid by the lessee to repair the defect, condition or nonconformity;
3. All excise tax, license and registration fees, and similar governmental charges;
4. Less a reasonable allowance for the lessee's unimpaired use of the vehicle.

*To the lessor:*

1. All amounts due to the lessor under the terms of the lease.

The lessor may not assess the lessee for any prepayment penalty, early termination fees, or other charges resulting from the return of the vehicle.

## ***Replacement***

When replacing a vehicle under the Maryland lemon law, the manufacturer must provide a comparable motor vehicle acceptable to the consumer. The reasonable allowance for use does not apply to a replacement.

When a leased vehicle is replaced, provided that the lessee meets the lessor's then current credit criteria with respect to the lease, the lessor must transfer the title of the defective motor vehicle to the manufacturer; accept title to the comparable replacement motor vehicle; transfer possession of the comparable motor vehicle to the lessee; and execute a lease agreement with the lessee with the same time period, terms and conditions of the original lease.

The Motor Vehicle Administration will allow a credit to the consumer against the excise tax imposed for the replacement vehicle in the amount of the excise taxes originally paid by the consumer for the returned vehicle. If the excise tax on the replacement vehicle exceeds the excise tax credit for the returned vehicle, the dealer will collect only that portion of the excise tax due. If the excise tax credit on the returned vehicle exceeds the excise tax on the replacement vehicle, the consumer is entitled to recover a refund from the Motor Vehicle Administration of that excess.

## **Maine Lemon Law**

The following is a brief explanation of most relevant provisions of the Maine lemon law. The complete text of the lemon law can be found at 10 Maine Rev. Stat. Ann. Section 1161 et seq.

### ***Vehicles Covered***

The Maine lemon law covers any motor-driven vehicle sold or leased in the state that is designed for the conveyance of passengers or property on the public highways. The lemon law covers used vehicles, but does not cover motor vehicles used primarily for commercial purposes with a gross vehicle weight of 8,500 pounds or more.

### ***Consumers Covered***

The lemon law covers the following consumers:

1. The purchaser, for purposes other than resale, or the lessee of a motor vehicle;
2. Any person to whom the motor vehicle is transferred during the duration of an express warranty applicable to the motor vehicle; and



3. Any other person entitled by the terms of the warranty to enforce the obligations of the warranty.

The lemon law does not cover any government entity, or any business or commercial enterprise that registers three or more motor vehicles.

### ***Vehicle Converters***

The lemon law applies to vehicle converters.

### ***Problems Covered***

The lemon law covers any defect or condition, or combination of defects or conditions that substantially impairs the use, safety, or value of the motor vehicle. This is referred to as a nonconformity.

The lemon law provides manufacturers with an affirmative defense if it can be shown that the nonconformity is the result of abuse, neglect, or unauthorized modifications or alterations of a motor vehicle by anyone other than the manufacturer, its agents or authorized dealer after delivery to the consumer.

## ***Manufacturer's Duty To Repair A Vehicle***

If a motor vehicle does not conform to all express warranties and the consumer reports the nonconformity to the manufacturer, its agent or authorized dealer during the term of the express warranties; a period of three years following the date of the motor vehicle's original delivery to a consumer; or the vehicle's first 18,000 miles of operation – whichever occurs earliest – then the manufacturer, its agent or authorized dealer must make the necessary repairs to conform the vehicle to the express warranties. The necessary repairs must be made even after the expiration of the term of the express warranties, the three-year period, or the first 18,000 miles.

## ***Manufacturer's Duty To Repurchase Or Replace A Vehicle***

If the manufacturer, its agents, or authorized dealers are unable to conform the vehicle to any applicable express warranty by repairing or correcting any nonconformity after a reasonable number of repair attempts, the manufacturer must either replace or

repurchase the motor vehicle. The consumer may reject any offered replacement and receive a repurchase instead.

### ***Reasonable Number Of Repair Attempts***

The Maine lemon law establishes a presumption that a reasonable number of repair attempts has been undertaken to conform a motor vehicle to the applicable express warranties if, within the express warranty term, during the period of three years following the date of the motor vehicle's original delivery to a consumer, or during the vehicle's first 18,000 miles of operation, whichever occurs earliest, any of the following occurs:

1. The same nonconformity has been subject to a repair attempt three or more times by the manufacturer, its agents, or authorized dealers, and the nonconformity continues to exist;
2. The same nonconformity has resulted in a serious failure of either the braking or steering systems in the vehicle and has been subject to a repair attempt one or more times by the

manufacturer, its agents or authorized dealers; or

3. The motor vehicle is out of service by reason of a repair attempt by the manufacturer, its agents, or authorized dealers of any defect, condition, or combination of defects for a cumulative total of 15 or more business days.

The term of an express warranty, and the one-year, two-year, and 15-day periods are extended by any period of time during which repair services are not available to the consumer because of a war, invasion, strike or fire, flood or other natural disaster.

### ***Notice And Final Repair Attempt***

If the manufacturer or its agents are unable to conform the motor vehicle to the express warranties, the consumer must notify the manufacturer or authorized dealer in writing of the consumer's desire for a refund or replacement. This notice can be given after one repair attempt to a nonconformity resulting in a serious failure of the braking or steering systems.

The notice requirement does not apply unless the manufacturer has clearly and conspicuously disclosed, in the warranty or owner's manual, that written notification of the nonconformity is required before the consumer may be eligible for a refund or replacement.

The manufacturer has seven business days following receipt by the dealer or manufacturer of the written notice from the consumer to correct or repair any nonconformities. The final repair effort must be at a repair facility reasonably accessible to the consumer.

### ***Dispute Resolution***

The provisions requiring refund or replacement do not apply unless the consumer has first resorted to the state-operated arbitration program or an informal dispute settlement procedure that complies with 16 C.F.R. Part 703. This prior resort requirement is satisfied 40 days after notification to the procedure or when the procedure's duties are completed, whichever occurs sooner.

## ***Time Period For Filing Claims***

A claim must be filed within the earlier of (1) three years from the date of the vehicle's original delivery to the consumer, or (2) the term of the express warranties.

## ***Remedies Under The Maine Lemon Law***

### ***Repurchase Of Owned Vehicle***

The Maine lemon law sets out the following amounts that a manufacturer must pay when it repurchases an owned motor vehicle under the lemon law:

1. The full purchase price of the motor vehicle, including any paid finance charges;
2. All collateral charges, including but not limited to sales tax, registration fees, and similar government charges; and
3. Reasonable costs incurred by the consumer for towing and storage of the motor vehicle and for procuring alternative transportation while the

vehicle could not be driven because it did not conform to any applicable express warranty;

4. Less a reasonable allowance for use of the motor vehicle.

Refunds must be made to the consumer and lienholder, if any, as their interests exist at the time the refund is to be made.

The reasonable allowance for use may not exceed the lesser of (1) one-third of the amount allowed per mile by the Internal Revenue Service for the use of a personal vehicle for business purposes, based on the mileage reported on the application for arbitration PLUS all mileage directly attributable to use by a consumer beyond 20,000 miles; or (2) 10% of the purchase price of the vehicle.

### ***Repurchase Of Leased Vehicles***

The Maine lemon law sets out the following amounts that a manufacturer must pay when it repurchases a leased motor vehicle under the lemon law:

1. Lease payments made to date, including any paid finance charges;

2. All collateral charges, including but not limited to sales tax, license and registration fees, and similar government charges; and
3. Reasonable costs incurred by the consumer for towing and storage of the motor vehicle and for procuring alternative transportation while the vehicle could not be driven because it did not conform to any applicable express warranty;
4. Less a reasonable allowance for use of the motor vehicle.

Refunds must be made to the lessor and lessee as their interests exist at the time the refund is to be made. The lessee's lease agreement with the lessor and all contractual obligations terminate upon a decision that the vehicle does not conform to the express warranty and the vehicle is returned. The lessee may not be liable to the manufacturer or lessor for any further costs or charges under the lease agreement. The lessor shall release the motor vehicle title to the manufacturer upon payment by the manufacturer under the lemon law.



The reasonable allowance for use may not exceed one-third of the amount allowed per mile by the Internal Revenue Service for the use of a personal vehicle for business purposes, or 10% of the purchase price of the vehicle, whichever is less.

### ***Replacement***

When replacing a vehicle under the Maine lemon law, the manufacturer must provide a comparable motor vehicle. The reasonable allowance for use does not apply to a replacement.

Any secured party must consent to the replacement of the security interest with a corresponding security interest on a replacement motor vehicle if the replacement motor vehicle is comparable in value to the original motor vehicle. If the security interest in the vehicle to be replaced is not able to be replaced with a corresponding security interest on a replacement motor vehicle, the consumer is entitled to a refund.

## **Michigan Lemon Law**

The following is a brief explanation of most relevant provisions of the Michigan lemon law. The complete text of the lemon law can be found at M.C.L. § 257.1401 et seq.

### ***Vehicles Covered***

The Michigan lemon law covers any motor vehicle designed as a passenger vehicle, sports utility vehicle, pickup truck, or van. The lemon law does not cover buses, trucks, and motor homes.

A “new motor vehicle” is a motor vehicle that is purchased or leased in Michigan or purchased or leased by a resident of Michigan, and that is covered by a manufacturer’s express warranty at the time of purchase or lease. The lemon law covers used motor vehicles transferred during the manufacturer’s express warranty.

### ***Consumers Covered***

The lemon law covers a person who:

1. Purchases or leases a new motor vehicle for personal, family, or household use and not for the purpose of selling or leasing the new motor vehicle to another person;
2. Purchases or leases less than 10 new motor vehicles a year;
3. Purchases or leases 10 or more new motor vehicles a year only if the vehicles are purchased or leased for personal, family, or household use; or
4. Is entitled to enforce the provisions of an express warranty pursuant to the terms of that warranty.

A “person” under the lemon law is a natural person, a sole proprietorship, partnership, corporation, association, unit or agency of government, trust, estate, or other legal entity.

### ***Vehicle Converters***

The lemon law applies to vehicle converters.

## ***Problems Covered***

The lemon law covers any defect or condition that impairs the use or value of the new motor vehicle to the consumer or prevents the new motor vehicle from conforming to the manufacturer's express warranty.

The lemon law does not cover any defect or condition that is the result of a modification not installed or made by or for the manufacturer, abuse or neglect of the new motor vehicle, or damage due to an accident occurring after the new motor vehicle's purchase or lease.

## ***Manufacturer's Duty To Repair***

If a new motor vehicle has any defect or condition that impairs the use or value of the new motor vehicle to the consumer or that prevents the new motor vehicle from conforming to the manufacturer's express warranty, the manufacturer or its dealer must repair the defect or condition if the consumer initially reported the defect or condition to the manufacturer or the new motor vehicle dealer within the term of the

manufacturer's express warranty or one year from the date of delivery of the new motor vehicle to the original consumer, whichever is earlier.

Any repairs required under this act must be made even if the repairs need to be performed after the expiration of the manufacturer's express warranty. The defect needing repair must be a continuation of the original attempt to repair the defect.

### ***Manufacturer's Duty To Repurchase Or Replace A Vehicle***

The Michigan lemon law requires that a manufacturer repurchase or replace a new motor vehicle if all of the following criteria are met:

1. The new motor vehicle has one or more defects or conditions that impair the use or value of the vehicle to the consumer or that prevent the vehicle from conforming to the manufacturer's express warranty;
2. The defect or condition was reported to the manufacturer or dealer within the period of the

manufacturer's express warranty or one year from the date of delivery to the original consumer, whichever is earlier; and

3. The new motor vehicle was subjected to a reasonable number of repair attempts as determined by the presumption set out below; and
4. The defect or condition continues to exist.

### ***Reasonable Number Of Repair Attempts***

The Michigan lemon law requires that the vehicle was subjected to a reasonable number of repair attempts as determined by the section describing the presumption. A reasonable number of repair attempts is established if either of the following occurs:

1. The same defect or condition that substantially impairs the use or value of the motor vehicle to the consumer has been subject to repair four or more times by the manufacturer or new motor vehicle dealer in Michigan within two years of the date of the first repair attempt, and the defect or condition continues to exist; or

2. The defect or condition continues to exist after the vehicle is out of service for 30 or more days or parts of days for repairs to the same defect or condition during the term of the manufacturer's express warranty, or within one year from the date of delivery to the original consumer, whichever is earlier.

The *presumption* is irrebuttable; once satisfied, the manufacturer is deemed to have been afforded a reasonable number of attempts to repair a nonconformity.

The term of the manufacturer's express warranty, the one-year period, and the 30-day period are extended if repair services were not available to the consumer because of war, invasion, strike, fire, or other natural disaster.

### ***Final Repair Attempt***

Prior to availing himself or herself of any remedy under the lemon law, the consumer must notify the manufacturer to allow it an opportunity to cure the nonconformity. The notice must be sent in writing by

the consumer or his or her representative, by return receipt service, and any time after the third attempt to repair the same nonconformity or after the vehicle has been out of service for at least 25 days in a repair facility.

After receiving the notice, the manufacturer must notify the consumer as soon as reasonably possible of a reasonably accessible repair facility. The manufacturer must repair the defect or condition within 5 business days after the consumer delivers the vehicle to the designated repair facility.

The 5-day period is extended if repair services were not available to the consumer because of war, invasion, strike, fire, or other natural disaster.

### ***Dispute Resolution***

The provisions of the lemon law do not apply to any consumer who has not first resorted to a manufacturer's informal dispute settlement procedure if the procedure:

1. Complies with the Magnuson-Moss Warranty Act and 16 C.F.R. Part 703, then the consumer



must first resort to the informal dispute settlement procedure;

2. Requires the manufacturer to be bound by a decision that the consumer agrees to;
3. Provides that the consumer is not obligated to accept the decision and may pursue the remedies provided by the lemon law; and
4. Requires the manufacturer to begin the process of implementing any final settlement not more than 30 days after the settlement has been reached.

### ***Time Period For Filing Claims***

Not specified. Assuming that the UCC statute of limitations applies, a claim must be filed with BBB AUTO LINE within four years from the date the alleged defect is discovered.

### ***Remedies Under The Michigan Lemon Law***

#### ***Repurchase Of Owned Vehicle***

The Michigan lemon law provides that the manufacturer must refund the following amounts when repurchasing an owned vehicle:

1. *Purchase price of the vehicle.* This is the actual vehicle sales price listed on the buyer's order including any cash payment by the consumer, and the sum equal to any allowance for any trade-in excluding debt from any other transaction as well as any manufacturer or consumer discount, rebate, or incentive appearing in the agreement or contract that the consumer received or that was applied to reduce the purchase cost.

The refund will also include any sales tax, license and registration fees, and similar government charges not elsewhere paid by the consumer; the cost of any options or other modifications installed or made by or for the manufacturer, and the amount of all other charges made by or for the manufacturer.

2. *Towing and rental costs.* If towing services and rental vehicles were not made available without cost to the consumer, the manufacturer must also reimburse the consumer for towing costs and reasonable costs for a comparable rental

vehicle that were incurred as a direct result of the defect or condition.

3. Less a reasonable allowance for the consumer's use of the vehicle.
4. Less an amount equal to any appraised damage that is not attributable to normal use or to the defect or condition. A refund is made to the consumer and the secured party, if any, as their interests exist at the time the refund is to be made.

### ***Repurchase Of A Leased Vehicle***

The Michigan lemon law provides that the manufacturer must refund the following amounts when repurchasing a leased vehicle:

1. *Lease price.* This is the actual vehicle sales price paid by the lessor including any cash payment by the consumer, and the sum equal to any allowance for any trade-in excluding debt from any other transaction as well as any manufacturer or consumer discount, rebate, or incentive appearing in the agreement or contract that the consumer received or that was applied to reduce the purchase cost.

The refund will also include any sales tax, license and registration fees, and similar government charges not included elsewhere paid by the lessor on behalf of the lessee; the cost of any options or other modifications installed or made by or for the manufacturer; and the amount of all other charges made by or for the manufacturer.

2. *Towing and rental costs.* If towing services and rental vehicles were not made available without cost to the consumer, the manufacturer shall also reimburse the consumer for towing costs and reasonable costs for a comparable rental vehicle that were incurred as a direct result of the defect or condition.
3. Less a reasonable allowance for the consumer's use of the vehicle.
4. Less an amount equal to any appraised damage that is not attributable to normal use or to the defect or condition.

A refund is made to the consumer and the secured party, if any, as their interests exist at the time

the refund is to be made. The lessor must be notified if a refund is made to a lessee, and may not assess a fee for early termination of a lease under the lemon law.

*Usage Deduction*

The Michigan lemon law provides that a reasonable allowance for the consumer’s use of the vehicle be deducted from any repurchase award. A reasonable allowance for use is defined as the following formula:

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Miles directly attributable to use by the consumer and any previous consumer before the first report of a defect or condition that substantially impairs the use or value of the vehicle, plus all miles beyond 25,000 miles	X	Full purchase price
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100,000
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If the vehicle did not provide reliable transportation for ordinary personal and household use for any period beyond the first 25,000 mileage usage period of the vehicle, the arbitrator may reduce the vehicle usage deduction for mileage beyond the first 25,000 mileage use period only for the period beyond the 25,000 mileage usage period that the arbitrator determines that the vehicle did not provide useful transportation for ordinary personal or household use. To determine if the vehicle did not provide useful transportation the arbitrator must consider all of the following:

1. The number of repairs.
2. The cost of repairs.
3. The number of days the vehicle was out of service.
4. Whether the vehicle's need for repairs significantly affected the consumer's ability to use the vehicle for personal and household functions.

## *Replacement*

When replacing a vehicle under the Michigan lemon law, the manufacturer must provide a comparable replacement motor vehicle currently in production and acceptable to the consumer. The reasonable allowance for use does not apply to a replacement.

If the replacement motor vehicle is comparable in value to the original motor vehicle, the secured party must consent to the replacement of the security interest with a corresponding security interest on the replacement motor vehicle. If a leased vehicle is replaced, the lease agreement may not be altered except with respect to the identification of the vehicle.

If for any reason the security interest in the motor vehicle having the defect or condition is not able to be replaced with a corresponding security interest on a replacement motor vehicle, the consumer must accept a refund.

## **Minnesota Lemon Law**

The following is a brief explanation of most relevant provisions of the Minnesota lemon law. The complete text of the lemon law can be found at Minn. Stat. Ann Sec. 325F.665.

### ***Vehicles Covered***

The Minnesota lemon law covers any “motor vehicle”, which it defines as any one of the following that is sold or leased to a consumer in Minnesota:

1. A passenger automobile designed and used for carrying not more than 15 persons including the driver, including a pickup truck or van;
2. The self-propelled chassis or van portion of a recreational vehicle; and
3. The self-propelled motor vehicle chassis or van portion of an ambulance.

The lemon law covers used vehicles.



## *Consumers Covered*

The lemon law covers “consumers” who fall into either of the following categories:

1. The purchaser or lessee, other than for purposes of resale or sublease, of a new motor vehicle used for personal, family, or household purposes at least 40 percent of the time;
2. A person to whom the new motor vehicle is transferred for the same purposes during the duration of the manufacturer’s written warranty; and
3. A licensed ambulance service that purchased or leased a new ambulance or a person to whom the ambulance is transferred for the same purpose during the duration of the manufacturer’s written warranty.

## *Problems Covered*

The lemon law applies to any defect or condition that does not conform to the manufacturer’s written warranty and that substantially impairs the

use or market value of the motor vehicle to the consumer. These are referred to as nonconformities.

The lemon law provides the manufacturer with an affirmative defense if it can be shown that the nonconformity (1) does not substantially impair the use or market value of the vehicle, or (2) is the result of abuse, neglect, or unauthorized modifications or alterations of the motor vehicle by anyone other than the manufacturer, its agent or authorized dealer.

### ***Manufacturer's Duty To Repair***

If a new motor vehicle does not conform to the manufacturer's written warranty, and the consumer reports the nonconformity to the manufacturer, its agent, or dealer during the term of the written warranty or during the period of two years following the date of the vehicle's original delivery to a consumer – whichever is the earlier date, the manufacturer must make the repairs necessary to conform the vehicle to the warranty. Repairs must be made even after the expiration of the warranty term or the two-year period.

## ***Manufacturer's Duty To Repurchase Or Replace Vehicle***

If the manufacturer, its agents, or authorized dealers are unable to conform a purchased motor vehicle to any applicable express warranty by repairing or correcting any nonconformity after a reasonable number of repair attempts within three years following the date of original delivery of the vehicle to a consumer, then the manufacturer must either repurchase or replace the motor vehicle. The consumer has the option of requiring the manufacturer to provide a refund rather than a replacement motor vehicle.

If the manufacturer, its agents, or authorized dealers are unable to conform a leased motor vehicle to any applicable express warranty by repairing or correcting any nonconformity after a reasonable number of repair attempts within three years following the date of original delivery of the vehicle to a consumer, then the manufacturer must repurchase the motor vehicle. The lemon law does not provide for the replacement of a leased vehicle.

## *Reasonable Number Of Repair Attempts*

The lemon law creates a presumption that there have been a reasonable number of repair attempts if, within the manufacturer's written warranty term or during the period of two years following the date of original delivery of the vehicle to a consumer, whichever is the earlier date, any of the following occurs:

1. The same nonconformity has been subject to repair four or more times by the manufacturer, its agents, or its authorized dealers, and the nonconformity continues to exist;
2. The vehicle is out of service by reason of repair for a cumulative total of 30 or more business days; or
3. A nonconformity that results in complete failure of the braking or steering system of the vehicle, and is likely to cause death or serious bodily injury if the vehicle is driven, has been subject to repair at least once by the manufacturer, its agents, or its authorized dealers, and the nonconformity continues to exist.

The term of the manufacturer's written warranty, the two-year period, and the 30-day period are extended by any period of time during which repair services are not available to the consumer because of a war, invasion, strike, or fire, flood, or other natural disaster.

Even if the presumption is not met, the consumer may still be entitled to recover under the lemon law if (1) the consumer first reported a nonconformity causing a substantial impairment to the manufacturer, its agent, or authorized dealer during the term of the manufacturer's written warranty, and (2) a reasonable number of attempts to correct the nonconformity occurs within three years following the date of original delivery of the vehicle to a consumer.

### ***Notice And Final Repair Attempt***

The presumption set out above applies against a manufacturer only if the manufacturer, its agent, or its authorized dealer has received prior written notification from or on behalf of the consumer at least once, and has had an opportunity to cure the alleged

defect. If the notification is received by the manufacturer's agent or authorized dealer, the agent or dealer must forward it to the manufacturer by certified mail.

### ***Dispute Resolution***

The lemon law requires all manufacturers selling vehicles in Minnesota to participate in an informal dispute settlement mechanism located in Minnesota. Consumers must first use this mechanism before suing in court under the lemon law.

### ***Time Period For Filing Claims***

An action must be commenced within three years of the date of the vehicle's original delivery to a consumer. If a consumer applies to an informal dispute settlement mechanism within three years of the date of the vehicle's original delivery to a consumer, and the consumer is dissatisfied with the mechanism's decision, then any action brought by the consumer must commence within six months after the date of the mechanism's final decision.

## *Remedies Under The Minnesota Lemon Law*

### *Repurchase Of Owned Vehicles*

A manufacturer repurchasing an owned vehicle under the Minnesota lemon law must pay the following amounts:

1. The full vehicle purchase price, including the cost of any options or other modifications arranged, installed or made by the manufacturer, its agent or its authorized dealer within 30 days after the date of original delivery. This includes the amount stated by the dealer as the trade-in value of a consumer's used vehicle, plus an additional amount paid by the consumer for the vehicle;
2. Sales or excise tax;
3. License fees and registration fees; and
4. Reimbursement for towing and rental vehicle expenses incurred by the consumer as a result of the vehicle being out of service for warranty repair;
5. Less a reasonable allowance for the consumer's use of the vehicle.

Refunds must be made to the consumer and lienholder, if any, as their interests appear on the records of the registrar of motor vehicles.

The amount of sales tax to be refunded to the consumer is calculated as follows:

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Tax paid by consumer at time of purchase	Tax paid by consumer at time of purchase	<b>x</b>	<u>Reasonable allowance for use</u> Vehicle's purchase price
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The reasonable allowance for use will be deducted for the use of the vehicle by the consumer and any previous consumer during any period in which the use and market value of the vehicle is not substantially impaired. This amount may not exceed ten cents per mile driven or ten percent of the purchase price, whichever is less.



## *Repurchase Of Leased Vehicles*

A manufacturer repurchasing a leased vehicle under the Minnesota lemon law must pay the following amounts:

### *To the lessor:*

1. A full refund of the vehicle's original purchase price; and
2. Any early termination costs, not to exceed 15 percent of the vehicle's original purchase price;
3. Less any amounts actually paid by the consumer on the written lease.

### *To the lessee:*

1. The amount actually paid by the consumer on the written lease;
2. Sales or excise tax;
3. License fees and registration fees; and
4. Reimbursement for towing and rental vehicle expenses incurred by the consumer as a result of the vehicle being out of service for warranty repair;

5. Less a reasonable allowance for the consumer's use of the vehicle.

The reasonable allowance for use will be deducted for the use of the vehicle by the consumer and any previous consumer during any period in which the use and market value of the vehicle is not substantially impaired. This amount may not exceed ten cents per mile driven or ten percent of the purchase price, whichever is less.

The consumer's leased vehicle must be returned to the manufacturer and the consumer's written lease with the lessor must be terminated.

### ***Replacement Of Owned Vehicles***

When replacing an owned vehicle under the Minnesota lemon law, the manufacturer must provide a comparable motor vehicle. The reasonable allowance for use does not apply to a replacement.

## Minnesota's Lemon Law

Published by the Minnesota Attorney General's Office

Popularly known as the "lemon law," Minnesota's motor vehicle warranty statute was created to help protect you when you buy or lease a car, pickup truck, or van, that is still under the original manufacturer's warranty. The law is not intended to eliminate all problems you will ever encounter with your vehicle. What it does do is require manufacturers to honor the time and mileage provisions of their written warranties. And, it provides special arbitration, refund and replacement provisions for vehicles which are considered to be real "lemons."

### Which Motor Vehicles Are Covered?

The Minnesota lemon law covers new motor vehicles purchased or leased in Minnesota. The law covers passenger automobiles, as well as pickup trucks and vans. The self-propelled motor vehicle chassis or van portion of a recreational vehicle is also covered. That means that as long as the "lemon" problem covers warranted portions of the chassis and van portion of a recreational vehicle, the entire recreational vehicle may be subject to replacement or refund. It does not cover areas other than the chassis, such as living areas or other amenities that may have been added to the chassis by the R.V. manufacturer. It also covers used vehicles that are still under the original manufacturer's warranty. The vehicles must be used at least 40 percent of the time for personal, family or household purposes (Leased vehicles are covered by the law if the lease term is longer than four months).

The first report of a defect must occur within the warranty period, or two years, whichever comes first. If you have continuing problems with the same defect, however, you still can make a claim until the end of the third year.

### The Manufacturer's Duty to Repair

The manufacturer or its authorized dealer must repair a motor vehicle in accordance with the terms of the warranty, even after the manufacturer's warranty has expired, if:

- The motor vehicle has a defect or problem which is covered by the warranty; and,
- The problem has been reported by the vehicle's owner within the warranty period, or within two years after delivery of the vehicle, whichever comes first.

### The Manufacturer's Duty to Refund or Replace

The law has special refund and replacement provisions for cars that have substantial defects or problems, commonly called "lemons." Under the law, if the manufacturer or its authorized dealer has been unable to repair a car's problem after a "reasonable number of attempts," the buyer or lessee may go through a manufacturer's arbitration program, or to court, to seek a full refund of the car's purchase price (minus a deduction for use of the vehicle). The law considers a "reasonable number of attempts" to be any one of the following:

- Four or more unsuccessful attempts to repair the same defect; or,
- One unsuccessful attempt to repair a defect which has caused the complete failure of the steering or braking system and which is likely to cause death or serious bodily injury; or,
- A car which has been out of service due to warranty repairs for 30 or more cumulative business days.

In each case the initial defect must occur within the warranty period, or two years, whichever comes first, but the manufacturer's repair attempts may extend

to the end of the third year. Even if you do not meet one of the above categories, you may still have a lemon law claim, but it will be harder to prove.

#### Situations When Refunds or Replacements Are Not Given

Be aware that the manufacturer does not have to make a refund or replace the vehicle if:

- The problem does not substantially impair the use or market value of the vehicle; or,
- The problem is the result of abuse, neglect or unauthorized modifications or alterations of the vehicle.

#### Refund and Replacement Eligibility Requirements

Just because a repair shop has made a number of unsuccessful attempts to fix your car you are not automatically eligible for a refund or replacement vehicle. You must first:

- Write to the manufacturer, zone representative or authorized dealer notifying them of the problem. Specifically state that your car is a lemon and that you want a buy-back under the lemon law. This does two things:
  1. It gives the company an opportunity to fix the defect (the manufacturer gets one more chance to fix the defect after notification); and,
  2. It lets the company know you plan to use Minnesota's lemon law if the defect is not properly repaired.
- Try to resolve the problem through the manufacturer's automobile dispute arbitration program.

The manufacturer may require you to first go through the arbitration program before filing a lawsuit under the lemon law. Check with

the manufacturer or the Minnesota Attorney General's Consumer Division if you have questions about a manufacturer's arbitration program.

#### If You Are Awarded a Refund

If you are awarded a refund under the terms of the lemon law, the manufacturer must refund:

1. The full purchase price of the vehicle, or the amount you actually paid on your lease. However, for either a purchased or leased vehicle, the manufacturer may deduct a reasonable allowance for the time that you were able to use the vehicle. This deduction cannot exceed 10 cents per mile or 10 percent of the purchase price, whichever is less;
2. The cost of certain options installed by the manufacturer or dealer;
3. Sales tax;
4. License fees;
5. Registration fees;
6. Reimbursement for towing; and,
7. Rental expenses. Note: If you are awarded a replacement vehicle, you have the option of receiving a refund instead.

#### Arbitration

Automobile manufacturers doing business in Minnesota must offer consumers an arbitration program which considers consumers' warranty related disputes.

A manufacturer's arbitration program provides consumers a fast and simple way to resolve disputes. Arbitrators can consider arguments based on the lemon law. But, an arbitrator is not a judge and is not required to apply the law the way a court would.

If the manufacturer requires it, consumers must first go through the manufacturer's arbitration program before filing a lawsuit

under the lemon law. You may not have to wait until all the lemon law criteria are met before going through arbitration, but you might have a stronger case if all the criteria are met.

In fact, you may not even want to discuss the lemon law in arbitration if your car does not meet the lemon law criteria.

The consumer has certain rights during the arbitration process:

- **Lemon law information.** You and the arbitrator(s) must receive a copy of this brochure from the manufacturer's arbitration program.
- **Lemon law arguments.** You may make any arguments to the arbitrator(s) you think necessary to support your complaint, including those based on the lemon law. The arbitrator(s) cannot be discouraged or prohibited from considering your arguments.
- **Documents.** You are entitled to copies of all documents.
- **Oral presentation.** You must be given reasonable written notice of the arbitration and an opportunity to make an oral presentation to the arbitrator(s), unless you agree to a telephone conference or to submit the case on the basis of documents alone. If the case is based on documents alone, the manufacturer or dealer representative cannot participate in discussion or resolution of the dispute. You may get better results if you make a personal oral presentation to the arbitrator(s).
- **Independent appraisal.** You must be given an adequate opportunity to get an independent appraisal, at your own cost, of any manufacturer claim that your vehicle does not have a problem or that your vehicle is operating within normal specifications.
- **Repair attempts.** You must be given a chance to inform the arbitrator(s) about the results of any recent repair attempts by the manufacturer.
- **Service bulletins.** You must be provided with, at reasonable cost, any technical service bulletin which the manufacturer knows directly applies to the specific mechanical problem being disputed.
- **Attorney.** You have the right to be represented by an attorney in the arbitration process. However, most arbitration participants appear before the arbitrator(s) without an attorney. Attorney's fees for representation in arbitration are not recoverable under the lemon law.
- **Arbitration decision.** You are not bound by the decision of the arbitrator(s), unless you agree to be bound. However, many manufacturers have agreed to be bound by the arbitration decision. If you are unhappy with an arbitration decision, you may wish to consult an attorney if you wish to file a lawsuit under the lemon law. The arbitration decision is admissible as nonbinding evidence in any subsequent legal action. If you wish to file an appeal of the arbitrator's ruling in court, you must file in court within 6 months of the decision.
- **Refund amount.** If the arbitrator(s) decides you should receive a refund or replacement vehicle under the terms of the lemon law, then you are entitled to the same refunds and reimbursements you would have received had you won in court.
- **Bad faith appeal.** If a court determines that you or the manufacturer acted in bad faith when you appealed an arbitration decision, the party that wins in court may be entitled to receive three times the actual damages, plus attorney's fees and court costs.

## How to Use the Lemon Law in Arbitration or Court

To prepare for a dispute you should:

1. Keep copies of all purchase orders, sales receipts, lease agreements, warranties, repair invoices, letters and other documents concerning your vehicle and any of its problems or potential defects.
2. If your vehicle is in the shop for repairs for more than one day at a time, make sure that the repair invoice shows the date it was brought in and the date you were notified that it was ready to be returned.
3. If you think you are eligible for a refund or replacement vehicle, remember the law requires written notice be given to the manufacturer, zone representative or authorized dealer. You should send a letter by certified mail, with a return receipt requested. If you send the letter to the dealer, send a copy to the manufacturer and keep a copy for your records. You should include the following information in your letter:
  - o Your name, address and telephone number.
  - o The date you purchased or began leasing the automobile.
  - o A list of defects and systems affected.
  - o The number of times the vehicle has been subject to repairs for the same problem, and the dates of the repairs.
  - o A statement that the defect still exists as of the date of the letter.
  - o A reference to the lemon law (Minnesota Statutes, section 325F.665) and a statement that you will pursue a replacement or refund claim under this law if the vehicle is not made to conform to the warranty.
  - o A request for information about the company's arbitration program.

Remember, the refund and replacement provisions of the lemon law are intended to provide a replacement or a refund only in the cases of the most serious defects <sup>3</sup>/<sub>4</sub> faults which seriously impair the use or market value of the vehicle, or faults which involve life-threatening failures of the braking and steering systems.

### If You Sue

If you feel you must bring a lawsuit under the lemon law for a refund or replacement vehicle, you should consult an attorney (you may be eligible to recover the attorney's fees if you win). The law allows you to file suit any time within three years of the date of the original delivery of the vehicle, if you first reported the defect within the warranty period, or two years, whichever comes first. As of April 1995, if you go through a manufacturer's arbitration program, you have six months to appeal in court. The company has only 30 days to appeal in court.

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For more information about Minnesota's Lemon Law, contact the Minnesota Attorney General's Office at:

Minnesota Attorney General's Office  
1400 Bremer Tower  
445 Minnesota Street  
St. Paul, MN 55101  
(651) 296-3353  
1-800-657-3787  
TTY: (651) 297-7206  
TTY: 1-800-366-4812

## **Missouri Lemon Law**

The following is a brief explanation of most relevant provisions of the Missouri lemon law. The complete text of the lemon law can be found at Missouri Rev. Stat. section 407.560 et seq.

### ***Vehicles Covered***

The Missouri lemon law covers any new motor vehicle being transferred for the first time from a manufacturer, distributor, or new vehicle dealer; that has not been registered or titled in the state or any other state; and that is offered for sale, barter, or exchange by a dealer franchised to sell, barter or exchange that particular make of new motor vehicle. This includes demonstrators or lease-purchase vehicles as long as a manufacturer's warranty was issued as a condition of sale.

The lemon law does not cover used vehicles, and appears not to cover leased vehicles unless acquired through a lease-purchase. The lemon law does not cover commercial motor vehicles, off-road vehicles, mopeds, motorcycles, and recreational motor

vehicles other than the chassis, engine, powertrain and component parts.

### ***Consumers Covered***

The lemon law covers the following consumers:

1. The purchaser, other than for purposes of resale, of a new motor vehicle primarily used for personal, family, or household purposes;
2. Any person to whom the new motor vehicle is transferred for the same purposes during the duration of an express warranty applicable to the new motor vehicle; and
3. Any other person entitled by the terms of the warranty to enforce its obligations.

### ***Problems Covered***

The lemon law covers any default or condition that impairs the use, market value, or safety of the new motor vehicle to the consumer. This is referred to as a nonconformity.



The lemon law provides manufacturers with an affirmative defense if it can be shown that:

1. The alleged nonconformity does not *substantially* impair the use, market value, or safety of the new motor vehicle; or
2. A nonconformity is the result of abuse, neglect, or unauthorized modifications or alterations of the new motor vehicle.

### ***Manufacturer's Duty To Repair A Vehicle***

If the consumer reports a nonconformity to the manufacturer or its agent during the term of the express warranties or during a period of one year following the date of the new motor vehicle's original delivery to the consumer, whichever comes first, then the manufacturer or its agent must make the necessary repairs to conform the new motor vehicle to the express warranties.

The necessary repairs must be made even after the expiration of the term of the express warranties or the one year period.

The terms, conditions, or limitations of the express warranty, or the period of one year following the date of the new motor vehicle's original delivery to the consumer, whichever comes first, may be extended if the new motor vehicle warranty problem has been reported but has not been repaired by the manufacturer or its agent before the expiration of the applicable time period.

### ***Manufacturer's Duty To Repurchase Or Replace A Vehicle***

If the manufacturer, its agent, or authorized dealer is unable to conform the new motor vehicle to any applicable express warranty by repairing or correcting any nonconformity after a reasonable number of attempts, the manufacturer must, at its option, either repurchase or replace the new motor vehicle.

### ***Reasonable Number Of Repair Attempts***

The Missouri lemon law establishes a presumption that a reasonable number of repair attempts has been undertaken to conform a new motor vehicle to the applicable express warranties if, within

the express warranty term or during the period of one year following the date of the new motor vehicle's original delivery to a consumer, whichever expires earlier, either of the following occurs:

1. The same nonconformity has been subject to repair four or more times by the manufacturer or its agents, and the nonconformity continues to exist; or
2. The new motor vehicle is out of service by reason of repair of the nonconformity by the manufacturer, its agents, or authorized dealer for a cumulative total of 30 or more working days, exclusive of downtime for routine maintenance as prescribed by the manufacturer.

The 30 days may be extended by a period of time during which repair services are not available to the consumer because of conditions beyond the control of the manufacturer or its agents.

The term of the express warranty or the one year period following the date of the new motor vehicle's original delivery to a consumer, whichever expires

earlier, may be extended if the nonconformity has been reported but has not been repaired by the manufacturer or its agent by the expiration of the applicable time period.

### ***Notice And Final Repair Attempt***

Before availing himself or herself of the provisions of the lemon law, the consumer or the consumer's representative must give written notification to the manufacturer of the need for repair of the nonconformity, in order to allow the manufacturer an opportunity to cure the alleged nonconformity. Upon receipt of the notice, the manufacturer must immediately notify the consumer of a reasonably accessible repair facility of a franchised new vehicle dealer. After the consumer delivers the new motor vehicle to the authorized repair facility, the manufacturer has ten calendar days to conform the new motor vehicle to the express warranty.

### ***Dispute Resolution***

If the manufacturer has established an informal dispute settlement procedure that complies with 16

C.F.R. Part 703, then the provisions requiring refund or replacement do not apply unless the consumer has first resorted to the informal dispute settlement procedure.

### ***Time Period For Filing Claims***

An action must be commenced within the earlier of (1) six months following the expiration of the express warranty, or (2) 18 months following the date of the vehicle's original delivery to a consumer. If a consumer resorts to an informal dispute settlement procedure, an action must be commenced within 90 days following the procedure's final action.

### ***Remedies Under The Missouri Lemon Law***

#### ***Repurchase***

The Missouri lemon law sets out the following amounts that a manufacturer must pay when it repurchases a new motor vehicle under the lemon law:

1. The full purchase price of the new motor vehicle; and
2. All reasonably incurred collateral charges, meaning those additional charges to a

consumer not directly attributable to a manufacturer's suggested retail price label for the new motor vehicle, including all sales tax, license fees, registration fees, title fees, and motor vehicle inspections;

3. Less a reasonable allowance for the consumer's use of the vehicle.

The manufacturer may refund to the consumer any sales tax, license fees, registration fees, and title fees paid by the consumer as a result of purchasing the vehicle, and then apply to the Department of Revenue for a refund of these amounts. Alternatively, the manufacturer may direct the consumer to apply to the Department of Revenue for a refund of any sales tax, license fees, registration fees, and title fees paid by the consumer as a result of purchasing the vehicle, provided the manufacturer also gives the consumer documentation to prove the consumer paid these amounts.

Refunds must be made to the consumer and lienholder of record, if any, as their interests may appear.

## *Replacement*

The Missouri lemon law provides that a replacement new motor vehicle be an identical or reasonably equivalent new motor vehicle that is acceptable to the consumer. The consumer is responsible for a reasonable allowance for the consumer's use of the vehicle.

## **Mississippi Lemon Law**

The following is a brief explanation of most relevant provisions of the Mississippi lemon law. The complete text of the lemon law can be found at Mississippi Code Ann. § 63-17- 151 et seq.

### ***Vehicles Covered***

The Mississippi lemon law covers motor vehicles that are sold in Mississippi, operated over Mississippi's public streets and highways, and used to transport persons or property. This includes demonstrator and lease-purchase vehicles if they were sold with a manufacturer's warranty. The lemon law appears to cover used vehicles, but a leased vehicle unless acquired through a lease-purchase.

The lemon law does not cover off-road vehicles, motorcycles, mopeds, or parts and components of a motor home that were added on and/or assembled by the manufacturer of the motor home.



## ***Consumers Covered***

The lemon law covers the following consumers:

1. The purchaser, other than for purposes of resale, of a motor vehicle primarily used for personal, family, or household purposes;
2. Any person to who the motor vehicle is transferred for the same purposes during the express warranty; and
3. Any other person entitled by the terms of the warranty to enforce its obligations.

## ***Vehicle Converters***

The lemon law applies to vehicle converters.

## ***Problems Covered***

The lemon law covers any default or condition that impairs the use, market value, or safety of the motor vehicle to the consumer. The default or condition is referred to as a nonconformity. The lemon law provides manufacturers with an affirmative defense if it can be shown that the nonconformity is the

result of abuse, neglect, or unauthorized modifications or alterations of the vehicle by the consumer.

### ***Manufacturer's Duty To Repair***

If the consumer reports a nonconformity to the manufacturer or its agent within the term of the express warranty or within one year of the vehicle's original delivery to the consumer, whichever is earlier, then the manufacturer or its agent must make the necessary repairs to conform the motor vehicle to the warranty.

The necessary repairs must be made even after the expiration of the term of the express warranty or the one year period.

### ***Manufacturer's Duty To Repurchase Or Replace A Vehicle***

If the manufacturer or its agent is unable to repair or correct a nonconformity after a reasonable number of attempts, then the manufacturer must, at the consumer's option, either repurchase or replace the motor vehicle.

## *Reasonable Number Of Repair Attempts*

The Mississippi lemon law creates a presumption that a manufacturer has had a reasonable number of repair attempts if, during the term of the express warranty or within one year of the motor vehicle's original delivery to a consumer, whichever is earlier, either of the following occurs:

1. Substantially the same nonconformity has been subject to repair three or more times by the manufacturer or its agent and such nonconformity continues to exist; or
2. The vehicle is out of service by reason of repair of the nonconformity by the manufacturer or its agent for a cumulative total of fifteen or more working days since delivery of the vehicle to the consumer.

The fifteen-day period is exclusive of downtime for routine maintenance as prescribed by the owner's manual and may be extended by any period of time during which repair services are unavailable due to circumstances beyond the control of the manufacturer or its agent.

The terms of the express warranty, or the period of one year following the original delivery of the vehicle to the consumer, may be extended if the consumer reports the vehicle nonconformity but the manufacturer or its agent is unable to repair it within the applicable time period.

### ***Notice And Opportunity To Repair***

Before availing himself or herself of the provisions relating to repurchase or replacement, the consumer must give written notification to the manufacturer of the need for repair of a nonconformity, in order to allow the manufacturer an opportunity to cure the alleged defect. The manufacturer must immediately notify the consumer of a reasonably accessible repair facility. After the consumer delivers the motor vehicle to the designated repair facility, the manufacturer has ten working days to repair the alleged nonconformity.

### ***Dispute Resolution***

If the manufacturer has established an informal dispute settlement procedure that complies

with 16 C.F.R. Part 703, then the provisions requiring refund or replacement do not apply unless the consumer has first resorted to the informal dispute settlement procedure. However, this prior resort is not required if the manufacturer failed to notify the consumer of the availability of the informal dispute settlement procedure.

### ***Time Period For Filing Claims***

An action must be commenced within the earlier of (1) one year following expiration of the express warranty, or (2) 18 months following the date of the vehicle's original delivery to a consumer. If a consumer resorts to an informal dispute settlement procedure, an action must be commenced within 90 days following the procedure's final action.

### ***Remedies Under The Mississippi Lemon Law***

#### ***Repurchase***

The Mississippi lemon law provides that a manufacturer must pay the following amounts when it repurchases a vehicle under the lemon law:

1. The full vehicle purchase price, meaning the price that the consumer paid to the manufacturer to purchase the motor vehicle. In the case of a retail installment transaction, the purchase price is the price stated in the retail installment contract for which the vehicle would have been bought had the sale had been for cash instead of an installment transaction, including any taxes, registration, certificate of title, license and other fees, and charges for accessories and their installation, delivery, servicing, repairing or improving the vehicle; and
2. All reasonably incurred collateral charges, meaning those additional charges to a consumer that are not directly attributable to the manufacturer's suggested retail price label for the motor vehicle. These include but are not limited to charges for dealer preparation, undercoating, transportation, and title; and towing and replacement car rental costs;
3. Less a reasonable allowance for the consumer's use of the vehicle.

Refunds are made to the consumer and lienholder, if any, as their interests may appear.

A reasonable allowance for use is defined as 20 cents per mile multiplied by the number of miles driven by the consumer.

### ***Replacement***

When replacing a vehicle under the Mississippi lemon law, the manufacturer must replace the vehicle with a comparable motor vehicle acceptable to the consumer. "Comparable motor vehicle" means an identical or reasonably equivalent motor vehicle.

The consumer must pay a reasonable allowance for the use of a vehicle that is replaced. A reasonable allowance for use is defined as 20 cents per mile multiplied by the number of miles driven by the consumer.

## **Montana Lemon Law**

### ***New Motor Vehicle Warranty Act***

The following is a brief explanation of most relevant provisions of the Montana lemon law. The complete text of the lemon law can be found at Mont. Code Ann. 61-4-501 et seq.

#### ***Consumers Covered***

The Montana lemon law covers the purchaser or lessee, other than for purposes of resale or lease, of a passenger motor vehicle used for personal, family, or household purposes that has not been brought into nonconformity as the result of abuse, neglect, or unauthorized modifications or alterations.

This includes any person to whom the passenger motor vehicle is transferred for the same purposes during the duration of an express warranty applicable to the passenger motor vehicle and any other person entitled by the terms of the warranty to enforce the obligations of the warranty.



## ***Vehicles Covered***

The lemon law defines “motor vehicle” as a vehicle, including the nonresidential portion of a motor home, propelled by its own power, designed primarily to transport persons or property upon the public highways, and sold or registered in this state.

“Motor vehicle” excludes a truck with 15,000 pounds or more gross vehicle weight rating; or components, systems, fixtures, appliances, furnishings, accessories, and features that are designed, used, and maintained primarily for residential purposes.

## ***Problems Covered***

The lemon law covers any defect or condition that substantially impairs the use and market value or safety of the motor vehicle to the consumer. This is referred to as a *nonconformity*.

The lemon law provides manufacturers with an affirmative defense if it can be shown that:

1. The alleged nonconformity does not substantially impair the use, market value, or safety of the motor vehicle; or
2. The nonconformity is the result of abuse, neglect, or unauthorized modification or alteration of the motor vehicle by the consumer.

### ***Period Of Time Covered By Montana Lemon Law***

The lemon law defines the *warranty* period as the period ending 2 years after the date of the original delivery of a new motor vehicle to the consumer, or during the first 18,000 miles of operation, whichever is earlier.

### ***Manufacturer's Duty To Repair***

If a consumer notifies in writing the manufacturer or its agent, during the lemon law warranty period, that a new motor vehicle does not conform to all applicable express warranties, the manufacturer shall repair the motor vehicle at no cost to the consumer.

The manufacturer must clearly and conspicuously disclose to the consumer in the warranty or owner's manual that written notification of a nonconformity is required and must provide the name and address to which such notice must be sent.

### ***Manufacturer's Duty To Replace Or Repurchase A Motor Vehicle***

If the manufacturer or its agent or authorized dealer is unable to correct a nonconformity after a reasonable number of repair attempts during the lemon law warranty period, the manufacturer must replace or repurchase the new motor vehicle.

### ***Reasonable Number Of Repair Attempts***

The Montana lemon law creates a **presumption** that a manufacturer has had a reasonable number of repair attempts if, during the lemon law warranty period, either of the following occurs:

1. The same nonconformity has been subject to repair four or more times by the manufacturer,

or its agent or authorized dealer, and the nonconformity continues to exist; or

2. The vehicle is out of service because of the nonconformity for a cumulative total of 30 or more business days after notification to the manufacturer, agent, or dealer.

The lemon law warranty period is extended by any period of time during which repair services are not available due to war, invasion, strike, fire, flood, or other natural disaster.

### ***Notice And Opportunity To Repair***

The above presumption applies against a manufacturer only if the manufacturer has received prior written notification from or on behalf of the consumer and has had an opportunity to cure the defect or condition.

The manufacturer must clearly and conspicuously disclose to the consumer in the warranty or owner's manual that written notification of a nonconformity is required before the consumer is

eligible for a refund or replacement and must provide the name and address to which such notice must be sent.

### ***Dispute Resolution***

The lemon law provisions requiring the repurchase or replacement of a nonconforming motor vehicle do not apply to a consumer who has not first used an informal dispute settlement procedure if the procedure is certified by the Department of Justice to be in substantial compliance with the provisions of 16 C.F.R. Part 703.

If the manufacturer has not established an informal dispute settlement procedure that is certified by the Department of Justice, the consumer may bring a grievance before the Department of Justice's arbitration procedure.

### ***Time Period For Filing Claims***

Not specified. The Department of Justice has approved the following filing period: A claim must be filed with BBB AUTO LINE within one year after the expiration of the earlier of (1) two years after the date

of the vehicle's original delivery to a consumer, or (2) the first 18,000 miles of operation.

## ***Remedies Under The Montana Lemon Law***

### ***Repurchase***

The Montana lemon law provides that a manufacturer shall pay the following amounts when it repurchases a vehicle under the lemon law:

1. The full purchase price;
2. Reasonable collateral charges, meaning all governmental charges, including but not limited to sales tax, property tax, license and registration fees, and fees in lieu of tax; and
3. Reasonable incidental damages, meaning expenses reasonably incurred in inspection, receipt, transportation, and care and custody of goods rightfully rejected; any commercially reasonable charges, expenses, or commissions in connection with effecting cover; and any other reasonable expense incident to the breach;
4. Less a reasonable allowance for the consumer's use of the vehicle.

The refund is paid to the consumer and lienholder, if any, in proportion to their interests.

The reasonable allowance for use is an amount directly attributable to the use of the motor vehicle by the consumer and any previous consumers prior to the first written notice of the nonconformity to the manufacturer or its agent and during any subsequent period when the vehicle is not out of service for repair. The lemon law provides the following formula to compute the reasonable allowance for use:

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Reasonable allowance for use	number of miles the vehicle traveled prior to the manufacturer's acceptance of the vehicle	X	Total contract price of the vehicle
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100,000

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[Note that BBB AUTO LINE arbitrators may use the **mileage at the time of the hearing** in this formula instead of the mileage at the time of the manufacturer's acceptance of the vehicle's return.]

## *Replacement*

The Montana lemon law provides that the manufacturer replace the vehicle with a new motor vehicle of the same model, style, and value unless for reasons of lack of availability such replacement is impossible, in which case the manufacturer shall replace it with a comparable motor vehicle. The reasonable allowance for use does not apply to a replacement.



## **North Carolina Lemon Law**

The following is a brief explanation of most relevant provisions of the North Carolina lemon law. The complete text of the lemon law can be found at North Carolina Gen. Stat. section 20-351 et seq.

### ***Vehicles Covered***

The North Carolina lemon law covers any new motor vehicle or new motorcycle, sold or leased in the state. The lemon law does not cover used vehicles, mopeds, house trailers, or any motor vehicle (1) purchased or leased before October 1, 2005 that has a gross vehicle weight of 10,000 pounds or more or (2) purchased or leased on or after October 1, 2005 that weighs more than 10,000 pounds.

### ***Consumers Covered***

The lemon law covers the following consumers:

1. The purchaser, other than for purposes of resale, of a motor vehicle;
2. The lessee of a motor vehicle from a commercial lender, lessor or manufacturer, or dealer; and

3. Any other person entitled by the terms of an express warranty to enforce its obligations.

### ***Problems Covered***

The lemon law covers any defect, condition, or series of defects or conditions that substantially impairs the value of the motor vehicle to the consumer. This is referred to as a nonconformity.

The lemon law provides manufacturers with an affirmative defense if it can be shown that an alleged nonconformity or series of nonconformities is the result of abuse, neglect, odometer tampering by the consumer, or unauthorized modifications or alterations of a motor vehicle.

### ***Manufacturer's Duty To Repair A Vehicle***

If a new motor vehicle does not conform to all applicable express warranties, and the consumer reports the nonconformity to the manufacturer, its agent, or authorized dealer during the term of the express warranties or during a period of one year following the date of the motor vehicle's original

delivery to the consumer, whichever is greater, then the manufacturer must make or arrange to have made the necessary repairs to conform the vehicle to the express warranties.

The necessary repairs must be made even after the expiration of the term of the express warranties or the one year period.

Express warranties must be in effect for at least one year or 12,000 miles. The mileage limit of express warranties begins to accrue from the mileage on the odometer at the date of original delivery to the consumer.

### ***Manufacturer's Duty To Repurchase Or Replace A Vehicle***

If the manufacturer is unable to conform the motor vehicle to any applicable express warranty by repairing or correcting, or arranging for the repair or correction of, any nonconformity after a reasonable number of repair attempts, and the nonconformity occurred no later than two years or 24,000 miles following the motor vehicle's original delivery, then the manufacturer must, at the option of the consumer, either replace or repurchase the motor vehicle.

## *Reasonable Number Of Repair Attempts*

The North Carolina lemon law establishes a presumption that a reasonable number of repair attempts has been undertaken to conform a motor vehicle to the applicable express warranties if either of the following occurs:

1. The same nonconformity has been presented for repair to the manufacturer, its agent, or authorized dealer four or more times but the nonconformity continues to exist; or
2. The motor vehicle was out of service to the consumer during or while awaiting repair of the nonconformity or a series of nonconformities for a cumulative total of 20 or more business days during any one-year period of the warranty.

The express warranty term, one-year period, and 20-day period are extended by any period of time during which repair services are not available to the consumer because of war, strike, or natural disaster.

The consumer may prove that a defect or condition substantially impairs the value of the motor

vehicle to the consumer in a manner other than the terms of the presumption set out above.

### ***Notice And Final Repair Attempt***

The lemon law contains two provisions for written notice from the consumer to the manufacturer:

1. If the consumer wishes to rely on the presumption of a reasonable number of repair attempts, the consumer must notify the manufacturer directly in writing of the existence of the nonconformity or series of nonconformities, and allow the manufacturer a reasonable period no longer than 15 calendar days to correct the nonconformity or series of nonconformities. The 15 calendar day period begins upon the manufacturer's receipt of the notice of nonconformity.

This notice requirement applies if the manufacturer clearly and conspicuously discloses to the consumer in the warranty or owner's manual that written notification of a nonconformity is required before a consumer may be eligible for a refund or

replacement. The manufacturer must also include in the warranty or owner's manual the name and address where written notification may be sent.

2. A consumer bringing a civil action against the manufacturer must give the manufacturer written notice of his intent to bring the action at least 10 days prior to filing the suit.

### ***Dispute Resolution***

The manufacturer may require that the consumer first utilize the informal dispute settlement procedure before bringing an action under the lemon law if:

1. The procedure complies with 16 C.F.R. Part 703, and
2. The manufacturer has clearly and conspicuously written this requirement into the written warranty and any warranty instructions provided to the consumer.

## ***Time Period For Filing Claims***

Not specified in the lemon law. BBB AUTO LINE will accept a lemon law claim if it is filed within four years from the date the alleged defect is discovered.

## ***Remedies Under The North Carolina Lemon Law*** ***Repurchase Of An Owned Vehicle***

The North Carolina lemon law sets out the following amounts that a manufacturer must pay when it repurchases an owned motor vehicle under the lemon law:

1. The full contract price, including but not limited to charges for undercoating, dealer preparation and transportation, installed options, and the non-refundable portions of extended warranties and service contracts;
2. All collateral charges, including but not limited to sales tax, license and registration fees, and similar government charges;

3. All finance charges incurred by the consumer after the first report of the nonconformity to the manufacturer, its agent or authorized dealer; and
4. Any incidental damages and monetary consequential damages;
5. Less a reasonable allowance for the consumer's use of the vehicle.

Refunds must be made to the consumer and any lienholder as their interests may appear. For vehicles purchased before October 1, 2005, the reasonable allowance for use is that amount directly attributable to use by the consumer prior to the first report of the nonconformity to the manufacturer, its agent or authorized dealer, and during any subsequent period when the vehicle is not out of service because of repair. The reasonable allowance is presumed to be an amount calculated in accordance with the following formula:

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<u>Number of miles</u>	<b>X</b>	Cash Price
<u>attributable to the</u>		
<u>consumer</u>		

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100,000

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For vehicles purchased on or after October 1, 2005, the reasonable allowance for use is calculated in accordance with the following formula:

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Number of miles used by the consumer up to the date of the third attempt to repair the same nonconformity which is the subject of the claim, or the twentieth cumulative business day when the vehicle is out of service by reason of repair of <u>one or more nonconformities, whichever occurs first</u>	X	Vehicle purchase price
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120,000

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*Repurchase Of A Leased Vehicle*

The North Carolina lemon law sets out the following amounts that a manufacturer must pay when it repurchases a leased motor vehicle under the lemon law:

*To the lessee:*

1. All sums previously paid by the consumer under the terms of the lease;
2. All sums previously paid by the consumer in connection with entering into the lease agreement, including but not limited to any capitalized cost reduction, sales tax, license and registration fees, and similar government charges; and
3. Any incidental and monetary consequential damages;
4. Less a reasonable allowance for the consumer's use of the vehicle.

*To the lessor:*

1. 105% of the actual purchase cost of the vehicle to the lessor;
2. Less 85% of the amount actually paid by the consumer to the lessor pursuant to the lease.

Refunds must be made to the consumer and lessor as their interests may appear. The consumer's

written lease must be terminated by the lessor without any penalty to the consumer. The lessor must transfer title of the motor vehicle to the manufacturer as necessary to effectuate the consumer's rights under the lemon law.

For vehicles leased before October 1, 2005, the reasonable allowance for use is that amount directly attributable to use by the consumer prior to the first report of the nonconformity to the manufacturer, its agent or authorized dealer, and during any subsequent period when the vehicle is not out of service because of repair. The reasonable allowance is presumed to be an amount calculated in accordance with the following formula:

<u>Number of miles attributable to the consumer</u>	X	Actual price cost of the vehicle to the lessor
100,000		
120,000		

For vehicles purchased on or after October 1, 2005, the reasonable allowance for use is calculated in accordance with the following formula:

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Number of miles used by the consumer up to the date of the third attempt to repair the same nonconformity which is the subject of the claim, or the twentieth cumulative business day when the vehicle is out of service by reason of repair of <u>one or more nonconformities, whichever occurs first</u>	X	Lessor's actual lease price
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120,000
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*Replacement*

When replacing a vehicle under the North Carolina lemon law, the manufacturer must replace the motor vehicle with a comparable new motor vehicle. The reasonable allowance for use does not apply to a replacement.

In the replacement of a leased vehicle, the lessor must transfer title of the motor vehicle to the manufacturer as necessary to effectuate the consumer's rights under the lemon law.

## **North Dakota Lemon Law**

The following is a brief explanation of most relevant provisions of the North Dakota lemon law. The complete text of the lemon law can be found at North Dakota Cent. Code §§ 51-07-16 through 51-07-22.

### ***Vehicles Covered***

The North Dakota lemon law covers the following “passenger motor vehicles” sold or leased in North Dakota:

1. Motor vehicles designed principally for the transportation of persons;
2. Trucks that have a registered gross weight of 10,000 pounds or less; and
3. Vehicles that use a truck chassis but have a seating capacity of four or more passengers. The lemon law appears to cover used vehicles, but does not cover motor homes.

### ***Consumers Covered***

The lemon law covers the following “consumers”:

1. The purchaser or lessee, other than for purposes of resale or lease, of a passenger motor vehicle normally used for personal, family, or household purposes;
2. Any person to whom the passenger motor vehicle is transferred for the same purposes during the duration of the vehicle's express warranty; and
3. Any other person entitled by the terms of the warranty to enforce its obligations.

### ***Vehicle Converters***

The lemon law does not apply to vehicle converters.

### ***Problems Covered***

The lemon law covers any defect or condition that substantially impairs the use and market value of the passenger motor vehicle. This is referred to as a nonconformity.

The lemon law provides the manufacturer an affirmative defense if the manufacturer can show that:

1. The alleged nonconformity does not substantially impair the use and market value of the passenger motor vehicle; or
2. The nonconformity is the result of abuse, neglect, or unauthorized modifications or alterations of the passenger motor vehicle by a consumer.

### ***Manufacturer's Duty To Repair***

If a passenger motor vehicle does not conform to all applicable express warranties and the consumer reports the nonconformity to the manufacturer, its agent, or authorized dealer during the warranty term or during the period of one year following the date of the vehicle's original delivery to a consumer, whichever comes first, the manufacturer, its agent, or authorized dealer must make the necessary repairs to conform the vehicle to the warranties.

Repairs are required to be made even after the expiration of the warranty or one-year period.



## ***Manufacturer's Duty To Repurchase Or Replace A Vehicle***

If the manufacturer, its agent, or an authorized dealer is unable to correct any nonconformity after a reasonable number of repair attempts, the manufacturer must replace or repurchase the passenger motor vehicle.

### ***Reasonable Number Of Repair Attempts***

The North Dakota lemon law provides a presumption that a manufacturer has had a reasonable number of repair attempts if, during the warranty period or one year from the date of the vehicle's original delivery to a consumer, whichever is the earlier date, either of the following occurs:

1. The same nonconformity has been subject to repair more than three times and continues to exist; or
2. The vehicle has been out of service for repair for a cumulative total of at least 30 business days.

The warranty term, the one-year period, and the thirty-day period are extended by the period during which repair services are unavailable due to war, invasion, strike, fire, flood, or other natural disaster.

### ***Notice And Opportunity To Repair***

The above presumption does not apply unless the manufacturer has received prior direct notification from or on behalf of the consumer and an opportunity to cure the alleged defect.

### ***Dispute Resolution***

The lemon law provisions requiring the repurchase or replacement of a nonconforming motor vehicle do not apply to a consumer who has not first used an informal dispute settlement procedure that substantially complies with 16 C.F.R. Part 703 or an industry appeals, arbitration, or mediation appeals board whose decisions are binding on the manufacturer. Upon application, the Attorney General will issue a determination of whether an informal dispute resolution mechanism qualifies.

## ***Time Period For Filing Claims***

An action must be commenced within six months after the earlier of (1) expiration of the express warranty term or (2) 18 months after the date of the vehicle's original delivery to a consumer.

## ***Remedies Under The North Dakota Lemon Law*** ***Repurchase Of An Owned Vehicle***

The North Dakota lemon law states that a manufacturer must pay the following amounts when it repurchases an owned vehicle under the lemon law:

1. The full purchase price; and
2. All collateral charges;
3. Less a reasonable allowance for the consumer's use of the vehicle.

According to the North Dakota Office of the Attorney General, earned finance charges are included as collateral charges. North Dakota statutes provide for a refund of excise tax from the state to the consumer (§ 57-40.4-01.1), and a pro rata refund of registration fees from the state to the consumer (§ 39-04-39.4).

A reasonable allowance for the consumer's use is the amount directly attributable to use by the consumer before the consumer's first report of the nonconformity to the manufacturer, its agent, or dealer, and during any subsequent period when the vehicle is not out of service for repair. The reasonable allowance may not exceed ten cents per mile driven or 10% of the purchase price, whichever is less.

Refunds must be made to the consumer and the lienholder, if any, as their interests may appear.

### ***Repurchase Of A Leased Vehicle***

The North Dakota lemon law states that a manufacturer must pay the following amounts when it repurchases a leased vehicle under the lemon law:

*To the lessor:*

1. The lessor's actual purchase cost, less payments made by the lessee;
2. The freight cost, if applicable;
3. The cost for the dealer- or manufacturer-installed accessories, if applicable; and

4. An amount equal to 5% of the lessor's actual purchase cost, in lieu of any early termination costs or penalties described in the lease agreement.

*To the lessee:*

1. The sum of all payments previously paid to the lessor by the lessee, including all cash payments, security deposits, and trade-in allowance, if any;
2. Less a reasonable allowance for the consumer's use of the vehicle.

North Dakota statutes provide for a refund of excise tax from the state to the consumer (§ 57-40.4-01.1), and a pro rata refund of registration fees from the state to the consumer (§ 39-04-39.4).

A reasonable allowance for the consumer's use is the amount directly attributable to use by the consumer before the consumer's first report of the nonconformity to the manufacturer, its agent, or dealer, and during any subsequent period when the vehicle is not out of service for repair. The reasonable

allowance may not exceed ten cents per mile driven or 10% of the purchase price, whichever is less.

Upon return of the vehicle, the consumer's lease agreement with the lessor is terminated and no penalty for early termination may be assessed. Any refund to be paid to the lessor must be made to the lessor and lienholder, if any, as their interests may appear.

### ***Replacement***

When replacing a passenger motor vehicle under the North Dakota lemon law, the manufacturer must provide a comparable passenger motor vehicle. The reasonable allowance for use appears not to apply to a replacement.

## **Nebraska Lemon Law**

The following is a brief explanation of most relevant provisions of the Nebraska lemon law. The complete text of the lemon law can be found at Neb. Rev. Stat. Sec. 60-2701 to 60-2709.

### ***Vehicles Covered***

The Nebraska lemon law covers a new motor vehicle that is sold in Nebraska. A new motor vehicle is any motor vehicle that has not been sold, bargained, exchanged, or given away, or for which title has not been transferred from the person who first acquired it from the manufacturer, importer, dealer, or agent of the manufacturer or importer.

The lemon law does not cover recreational vehicles.

Guidance from the Nebraska Department of Motor Vehicles indicates that, based on the broad definition of “consumer” and language contained in the reasonable allowance for use, the lemon law applies to a motor vehicle that is transferred to a

subsequent owner while still covered by the manufacturer's new vehicle written warranty and within two years following the date of the vehicle's original delivery to a consumer.

### ***Consumers Covered***

The lemon law covers any of the following:

1. The purchaser, other than for purposes of resale, of a motor vehicle normally used for personal, family, household, or business purposes;
2. Any person to whom the motor vehicle is transferred for the same purposes during the duration of an express warranty applicable to the vehicle; and
3. Any other person entitled by the terms of the warranty to enforce its obligations.

Guidance from the Nebraska Department of Motor Vehicles indicates that a lessee would be included within the definition of "consumer."



## ***Problems Covered***

The lemon law covers any defect or condition that substantially impairs the use and market value of the motor vehicle to the consumer. These vehicle problems are called *nonconformities*.

The lemon law provides the manufacturer an affirmative defense if the manufacturer can show that the alleged nonconformity is the result of abuse, neglect, or unauthorized modifications or alterations of a vehicle by a consumer.

## ***Manufacturer's Duty To Repair The Vehicle***

If the consumer reports the nonconformity to the manufacturer, its agent, or its authorized dealer during the term of the manufacturer's written new-vehicle warranty or during the period of one year following the date of original delivery of the motor vehicle to a consumer, whichever is earlier, then the manufacturer, its agent, or its authorized dealer must make the necessary repairs to conform the motor vehicle to the written warranty.

The repairs must be made even if the term of the warranty or the one-year period after original delivery has expired.

### ***Manufacturer's Duty To Repurchase Or Replace A Vehicle***

If the manufacturer, its agents, or authorized dealers are unable to conform the motor vehicle to the manufacturer's written new-vehicle warranty by repairing or correcting any nonconformity after a reasonable number of attempts, then the manufacturer must repurchase or replace the motor vehicle.

### ***Reasonable Number Of Repair Attempts***

The Nebraska lemon law establishes a presumption that a reasonable number of repair attempts has been made if either of the following occurs within the term of the manufacturer's written new-vehicle warranty or during the period of one year following the date of original delivery of the motor vehicle to a consumer, whichever is the earlier date:

1. The same nonconformity has been subject to repair 4 or more times by the manufacturer, its agents, or authorized dealers, but the nonconformity continues to exist; or
2. The motor vehicle is out of service for repairs for a cumulative total of 40 or more days.

The manufacturer's written new-vehicle warranty term, the one-year period, and the forty-day period are extended by any period of time during which repair services are not available to the consumer because of war, invasion or strike, or fire, flood, or other natural disaster.

### ***Notice And Opportunity To Repair***

The above presumption does not apply unless the manufacturer has received prior written direct notification by certified mail from or on behalf of the consumer and an opportunity to cure the defect alleged.

### ***Dispute Resolution***

The lemon law provisions requiring repurchase or replacement of a nonconforming motor vehicle do

not apply to a consumer who has not first used an informal dispute settlement procedure that has been certified by the Director of Motor Vehicles as complying with lemon law regulations. (Consumers may check with the BBB or Nebraska Department of Motor Vehicles to determine whether the manufacturer of their vehicle offers a dispute settlement procedure that has been certified.)

### ***Time Period For Filing Claims***

An action must be commenced within the earlier of (1) one year following the expiration of the express warranty term, or (2) two years following the date of the motor vehicle's original delivery to a consumer.

### ***Remedies Under The Nebraska Lemon Law***

#### ***Repurchase***

The Nebraska lemon law provides that a manufacturer must pay the following amounts when it repurchases an owned motor vehicle under the lemon law:

1. Full purchase price of the vehicle; and

2. All sales taxes, license fees, and registration fees, and any similar government charges;
3. Less a reasonable allowance for the consumer's use of the vehicle.

Guidance from the Nebraska Department of Motor Vehicles indicates that the Department of Revenue will not refund taxes or fees to consumers.

The Nebraska lemon law provides that a reasonable allowance for the consumer's use of the vehicle is the amount directly attributable to use by the consumer and any previous owner prior to his or her first report of the nonconformity to the manufacturer, agent or dealer and during any subsequent period when the vehicle is not out of service by reason of repair.

Refunds are made to the consumer and lienholder, if any, as their interests may appear.

### ***Replacement***

The Nebraska lemon law provides that a replacement vehicle must be a comparable motor vehicle.

## **New Hampshire Lemon Law**

The following is a brief explanation of most relevant provisions of the New Hampshire lemon law. The complete text of the lemon law can be found at New Hampshire Rev. Stat. § 357-D:1 et seq.

### ***Vehicles Covered***

The New Hampshire lemon law covers the following motor vehicles purchased or leased in New Hampshire:

1. A motor vehicle of the private passenger or station wagon type with a gross weight not exceeding 11,000 pounds, that is purchased or leased by a consumer;
2. Any other four-wheel motor vehicle with a gross weight not exceeding 11,000 pounds; and
3. Motorcycles, off-highway recreational vehicles, and snowmobiles.

The lemon law does not cover tractors or mopeds.

“New motor vehicle” is a passenger motor vehicle that is still under the manufacturer’s express warranty. The lemon law covers a used vehicle if still under the manufacturer’s express warranty.

### ***Consumers Covered***

The lemon law covers the following consumers:

1. The purchaser, other than for purposes of resale, of a new motor vehicle;
2. The lessee, other than for purposes of the sublease, of a new motor vehicle;
3. Any person to whom the motor vehicle is transferred during the duration of an express warranty applicable to the motor vehicle; and
4. Any other person entitled by the terms of the warranty to enforce its obligations. The lemon law does not cover any governmental entity.

### ***Vehicle Converters***

The lemon law applies to vehicle converters.

## ***Problems Covered***

The lemon law covers any nonconformity, which it defines as a defect or condition that substantially impairs the use, value, or safety of a motor vehicle, but does not include a defect or condition that results from an accident, abuse, neglect, modification, or alteration of the motor vehicle by persons other than the manufacturer or its authorized service agent.

## ***Manufacturer's Duty To Repair***

If a motor vehicle does not conform to all applicable express warranties, and the consumer reports the nonconformity to the manufacturer, its agent, or authorized dealer during the term of the warranty, then the manufacturer must make or cause to be made the necessary repairs to conform the motor vehicle to the warranties. The necessary repairs must be made even if the term of the warranty has expired.



## ***Manufacturer's Duty To Repurchase Or Replace A Vehicle***

If the manufacturer, its agent or authorized dealer, or its delegate is unable to conform the motor vehicle to any express warranty by repairing or correcting any nonconformity after a reasonable number of attempts, the manufacturer must, at the option of the consumer, either replace or repurchase the motor vehicle.

The consumer may not pursue a lemon law remedy if the consumer has discontinued finance or lease payments, provided the payments have been discontinued due to the manufacturer's breach of obligation under the lemon law or breach of warranty.

## ***Reasonable Number Of Repair Attempts***

The New Hampshire lemon law establishes a presumption that a reasonable number of attempts have been undertaken to conform a motor vehicle to the applicable warranties if, during the term of the express warranty, either of the following occurs:

1. The same nonconformity, as identified in any written examination or repair order, has been subject to repair at least three times by the manufacturer, its agent, or authorized dealer and the same nonconformity continues to exist; or
2. The motor vehicle is out of service for repair of one or more nonconformities for a cumulative total of 30 or more business days.

The attempt at repair must be evidenced by a written examination or repair order issued by the manufacturer, its agent, or authorized dealer. The three attempts at repair must be performed by the same agent or authorized dealer unless the consumer shows good cause for taking the motor vehicle to a different agent or authorized dealer. A motor vehicle is not deemed to be out of service if it is available to the consumer for a major part of the day.

The term of any warranty and the 30-day period are extended by any period of time during which repair services are not available to the consumer because of war, invasion, strike, fire, flood, or other natural

disasters. If such an extension of time is necessary for these reasons, the manufacturer must provide for the free use of a motor vehicle to the consumer.

### ***Notice And Opportunity To Repair***

After the third repair attempt to repair or correct the nonconformity, or after the motor vehicle is out of service to repair or correct one or more nonconformities for 30 cumulative business days, the consumer must notify the manufacturer and lessor in writing of the nonconformity and the consumer's claim for replacement or repurchase. The written notice must be on a form provided by the manufacturer at the time of the motor vehicle's original delivery.

On the written notice, the consumer will elect to use the dispute settlement mechanism established by the manufacturer or the state arbitration board. Arbitration must be held within 40 days after receipt by the manufacturer or the state board of the written notice.

Within this 40-day period, the manufacturer must be given a final opportunity to correct and repair the nonconformity.

## ***Dispute Resolution***

On the written notice, the consumer will elect to use the dispute settlement mechanism established by the manufacturer or the state arbitration board. The consumer's election of either the manufacturer's mechanism or the state board will preclude his or her recourse to the method not selected.

## ***Time Period For Filing Claims***

The consumer may commence a proceeding within one year following the expiration of the express warranty term.

Guidance from the Division of Motor Vehicles' New Motor Vehicle Arbitration Board indicates that, if a consumer withdraws a claim from the dispute settlement mechanism or state arbitration board after the manufacturer repaired the nonconformity that gave rise to the consumer's request for repurchase or replacement during the final repair attempt, the consumer may commence a proceeding within one year following the manufacturer's final repair attempt.

## *Remedies Under The New Hampshire Lemon Law*

### *Repurchase Of Owned Vehicles*

The New Hampshire lemon law sets out the following amounts that a manufacturer must pay when it repurchases an owned motor vehicle under the lemon law:

1. The full purchase price as indicated on the purchase contract, including all credits and allowances for any trade-in or down payment;
2. License fees, finance charges, credit charges, registration fees, and any similar charges; and
3. Incidental and consequential damages;
4. Less a reasonable allowance for use.

Refunds must be made to the consumer and lienholder, if any, as their interests may appear.

The reasonable allowance for use of motor vehicles other than motorcycles is calculated in accordance with the following formula:

# miles vehicle traveled attributable to use by the consumer up to the date of the first attempt at repairing the vehicle	X	Purchase Price
100,000		

For motorcycles and off-highway recreational vehicles, the denominator is 20,000 if the engine size is 250 cubic centimeters or smaller, or 40,000 if the engine size is greater than 250 cubic centimeters.

### ***Repurchase Of Leased Vehicles***

The New Hampshire lemon law sets out the following amounts that a manufacturer must pay when it repurchases a leased motor vehicle under the lemon law:

*To the lessor:*

1. The lessor's actual purchase cost, less payments made by the lessee;
2. The freight cost, if applicable;

3. The cost for dealer- or manufacturer-installed accessories, if applicable;
4. Any fee paid to another to obtain the lease; and
5. An additional 5% of the lessor's actual purchase cost, provided instead of any early termination costs.

*To the lessee:*

1. The aggregate deposit, including but not limited to all cash payments and trade-in allowances tendered by the lessee to the lessor under the lease agreement;
2. Rental payments previously paid to the lessor by the lessee; and
3. Incidental and consequential damages, if applicable;
4. Less a reasonable allowance for use.

Upon a decision in favor of the lessee, the lease agreement with the lessor and all contractual obligations are terminated. The lessee is not liable for any further costs or charges to the manufacturer or lessor under the lease agreement. The lessor must release the motor vehicle title to the manufacturer

upon payment by the manufacturer of the amounts set out in the lemon law.

The reasonable allowance for use of motor vehicles other than motorcycles is calculated in accordance with the following formula:

# miles vehicle traveled attributable to use by the consumer up to the date of the first attempt at repairing the vehicle	X	aggregate deposit and rental payments made by the lessee
100,000		

For motorcycles, the denominator is 20,000.

***Replacement Vehicle***

The New Hampshire lemon law provides that a replacement vehicle must be a new motor vehicle from the same manufacturer, if available, of comparable worth to the same make and model, with



all options and accessories and with appropriate adjustments being allowed for any model year differences. The reasonable allowance for use does not apply to a replacement.

## **New Jersey Lemon Law**

The following is a brief explanation of most relevant provisions of the New Jersey lemon law. The complete text of the lemon law can be found at N.J. Stat. Ann. § 56:12-29 et seq.

For more information about the lemon law, or to obtain a copy of "Consumer's Guide to the New Jersey Lemon Law," consumers may call the New Jersey Division of Consumer Affairs, Lemon Law Unit at (973) 504-6226, or visit <http://www.njconsumeraffairs.com/ocp/lemguide.htm>.

### ***Vehicles Covered***

The New Jersey lemon law covers the following types of vehicles if purchased, leased, or registered in New Jersey:

1. A passenger automobile, meaning any motor vehicle used and designed for the transportation of passengers, other than an omnibus or school bus;

2. An authorized emergency vehicle, meaning a vehicle of the fire department, police vehicle, and such ambulance and other vehicle as approved by the chief administrator when operated in response to an emergency call; and
3. A motorcycle.

The lemon law covers used vehicles, but does not cover the living facilities of motor homes. The New Jersey Attorney General's Office has indicated that the lemon law does not cover a vehicle with a commercial registration.

### *Consumers Covered*

The lemon law covers the following "consumers":

1. The buyer or lessee, other than for purposes of resale or sublease, of a motor vehicle;
2. Any person to whom a motor vehicle is transferred during the duration of a warranty applicable to the motor vehicle; and
3. Any other person entitled by the terms of the warranty to enforce its obligations.

## ***Problems Covered***

The lemon law covers any nonconformity, which it defines as a defect or condition that substantially impairs the use, value, or safety of a motor vehicle.

The lemon law provides an affirmative defense if the manufacturer can show that the alleged nonconformity does not substantially impair the use, value, or safety of the new motor vehicle, or the nonconformity is the result of abuse, neglect, or unauthorized modifications or alterations of the motor vehicle by anyone other than the manufacturer or its dealer.

## ***Manufacturer's Duty To Repair***

If a consumer reports a nonconformity to the manufacturer; an authorized emergency vehicle's manufacturer, co-manufacturer, or post-manufacturing modifier; or the dealer or distributor during the first 18,000 miles of operation or during the period of two years following the date of the motor vehicle's original

delivery to a consumer, whichever is earlier, then the manufacturer or authorized emergency vehicle's manufacturer, co-manufacturer or post-manufacturing modifier must make or arrange within a reasonable time all repairs necessary to correct the nonconformity.

For vehicles purchased or leased on or after October 1, 2009, the consumer must report the nonconformity during the first 24,000 miles of operation or during the period of two years following the date of the motor vehicle's original delivery to the consumer, whichever is earlier.

### ***Manufacturer's Duty To Repurchase Or Replace A Vehicle***

If the manufacturer; an authorized emergency vehicle's manufacturer, co-manufacturer or post-manufacturing modifier; or the dealer or distributor is unable to repair or correct a nonconformity within a reasonable time during the first 18,000 miles of operation or during the period of two years following the date of the motor vehicle's original delivery to a consumer, whichever is earlier, then the manufacturer,

co-manufacturer or post-manufacturing modifier must repurchase or replace the motor vehicle.

For vehicles purchased or leased on or after October 1, 2009, the manufacturer; an authorized emergency vehicle's manufacturer, co-manufacturer, or post-manufacturing modifier; or the dealer or distributor must repair or correct a nonconformity within a reasonable time during the first 24,000 miles of operation or during the period of two years following the date of the motor vehicle's original delivery to the consumer, whichever is earlier.

### ***Reasonable Number Of Repair Attempts***

The New Jersey lemon law establishes a presumption that a manufacturer; an authorized emergency vehicle's manufacturer, co-manufacturer, or post-manufacturing modifier; or the dealer or distributor is unable to repair or correct a nonconformity within a reasonable time if, within the first 18,000 miles of operation or during two years following the date of the motor vehicle's original delivery to a consumer, whichever is earlier, either of the following occurs:

1. Substantially the same nonconformity has been subject to repair three or more times by the manufacturer; an authorized emergency vehicle's manufacturer, co-manufacturer, or post-manufacturing modifier; or the dealer or distributor and the nonconformity continues to exist; or
2. The vehicle is out of service due to repair for one or more nonconformities for a cumulative total of 20 or more calendar days since the original delivery of the motor vehicle and a nonconformity continues to exist.

For vehicles purchased or leased on or after October 1, 2009, the manufacturer; an authorized emergency vehicle's manufacturer, co-manufacturer, or post-manufacturing modifier; or the dealer or distributor is presumed to have been unable to repair or correct a nonconformity within a reasonable time if, within the first 24,000 miles of operation or during two years following the date of the motor vehicle's original delivery to the consumer, whichever is earlier, one of the following occurs:

1. Substantially the same nonconformity (not likely to cause death or serious bodily injury if the vehicle is driven) has been subject to repair three or more times by the manufacturer; an authorized emergency vehicle's manufacturer, co-manufacturer or post-manufacturing modifier; or the dealer or distributor and the nonconformity continues to exist;
2. The vehicle is out of service due to repair for one or more nonconformities for a cumulative total of 20 or more calendar days (45 or more calendar days for a motorhome) since the original delivery of the motor vehicle and a nonconformity continues to exist; or
3. A nonconformity that is likely to cause death or serious bodily injury if the vehicle is driven has been subject to examination or repair at least once by the manufacturer; an authorized emergency vehicle's manufacturer, co-manufacturer, or post-manufacturing modifier; or the dealer or distributor and the nonconformity continues to exist.



The two-year term, 20-day period, and 45-day period specified in this section are extended by any period of time during which repair services are not available to the consumer because of war, invasion or strike, or a fire, flood, or other natural disaster.

For a motorhome or authorized emergency vehicle, if the consumer presented the vehicle to a repair facility that is not authorized by the manufacturer, co-manufacturer, or post-manufacturing modifier to provide service on that vehicle, it will not be considered an examination or repair attempt. If the consumer presents a motorhome to an authorized repair facility and, rather than wait for repairs to the nonconformity, the consumer decides to continue traveling and to seek repair of the same nonconformity at another authorized repair facility, it will be considered as one examination or repair attempt.

Each time a consumer's motor vehicle is returned from being examined or repaired during the specified time/mileage period, the manufacturer, co-manufacturer, or post-manufacturing modifier,

through its dealer or distributor, must provide to the consumer an itemized, legible statement of repair which indicates any diagnosis made and all work performed on the vehicle and provides information including but not limited to:

1. A general description or identification of the problem reported by the consumer or an identification of the defect or condition and the source of the defect;
2. The amount charged for parts and the amount charged for labor, if paid by the consumer; and
3. The date and odometer reading when the vehicle was submitted for repair and when the vehicle was made available to the consumer.

### ***Notice And Opportunity To Repair***

The above presumption applies only if (1) the consumer or someone on the consumer's behalf sends notice of a potential claim in writing by certified mail, return receipt requested, to the manufacturer or an authorized emergency vehicle's manufacturer, co-manufacturer, post-manufacturing modifier, dealer

or distributor; and (2) the manufacturer or an authorized emergency vehicle's manufacturer, co-manufacturer, post-manufacturing modifier, dealer or distributor has had one opportunity to repair or correct the defect or condition within ten calendar days following receipt of this notification.

Notification by the consumer must take place any time after (1) substantially the same nonconformity was subject to repair two or more times; (2) the vehicle has been out of service by reason of repair for a cumulative of 20 or more calendar days (45 or more calendar days for a motorhome); or (3) for vehicles purchased or leased on or after October 1, 2009, a nonconformity that is likely to cause death or serious bodily injury if the vehicle is driven was subject to examination or repair at least once by the manufacturer or its dealer and the nonconformity continues to exist.

### ***Dispute Resolution***

If the manufacturer or an authorized emergency vehicle's manufacturer, co-manufacturer, or post-manufacturing modifier has established or

participates in an informal dispute settlement procedure pursuant to 15 U.S.C. Sec. 2310 and 16 C.F.R. Part 703, or pursuant to the requirements of the lemon law, a consumer may but is not required to submit a dispute to the informal dispute settlement procedure before participating in the Division of Consumer Affairs' summary hearing procedure.

A consumer is not required to participate in either an informal dispute settlement procedure or the Division of Consumer Affairs' summary hearing procedure before filing an action in court.

### ***Time Period For Filing Claims***

Not specified. Assuming that the UCC statute of limitations applies, a claim must be filed with BBB AUTO LINE within four years from the date the alleged defect is discovered.

Please note that certain actions must be taken within specified time frames when filing a lemon law claim with BBB AUTO LINE or when seeking a hearing with the Division of Consumer Affairs' Automotive Dispute Resolution Program.

## *Remedies Under The New Jersey Lemon Law*

### *Repurchase Of An Owned Vehicle*

A manufacturer must pay the following amounts when it repurchases an owned vehicle under the lemon law:

1. Purchase price of the original motor vehicle, including any stated credit or allowance for the consumer's used vehicle;
2. The cost of any options or other modifications arranged, installed, or made by the manufacturer or its dealer within 30 days after the date of original delivery; and
3. Any other charges or fees, including but not limited to sales tax, license and registration fees, finance charges, reimbursement for towing, and reimbursement for actual expenses incurred by the consumer for the rental of a vehicle equivalent to the consumer's vehicle during the period during which the consumer's vehicle was out of service due to a nonconformity;
4. Less a reasonable allowance for vehicle use.

For an authorized emergency vehicle, the manufacturer, co-manufacturer, or post-manufacturing modifier must pay the following amounts when it repurchases an owned vehicle under the lemon law:

1. Full refund of the purchase price of the original emergency vehicle, depending on the source of the nonconformity, including any stated credit or allowance for the consumer's used emergency vehicle;
2. Any other charges or fees, including but not limited to sales tax, license and registration fees, reimbursement for towing and reimbursement for actual expenses incurred by the consumer for the rental of a substitute emergency vehicle, if applicable, for the period during which the consumer's emergency vehicle was out of service due to the nonconformity;
3. Less a reasonable allowance for vehicle use.

Refunds must be made to the consumer and lienholder, if any, as their interests appear on the records of ownership.

The reasonable allowance for use is defined to mean the mileage at the time the consumer first presents the motor vehicle to the dealer, distributor, manufacturer, co-manufacturer, or post-manufacturing modifier for correction of a nonconformity times the purchase price of the vehicle, divided by one hundred thousand miles.

### ***Repurchase Of A Leased Vehicle***

A manufacturer must pay the following amounts when it repurchases a leased vehicle under the lemon law:

*To the lessee:*

1. A full refund of the amount actually paid by the consumer under the lease agreement; and
2. Any other charges or fees actually paid by the consumer, including but not limited to sales tax, license and registration fees, finance charges, reimbursement for towing, and reimbursement for actual expenses incurred by the consumer for the rental of a vehicle equivalent to the consumer's vehicle during the period during

which the consumer's vehicle was out of service due to a nonconformity;

3. Less a reasonable use allowance for vehicle use.

*To the lessor:*

1. A full refund of the vehicle's original purchase price plus any unrecovered interest expense;
2. Less the amount actually paid by the consumer under the lease agreement.

Refunds shall be made to the lessor and lienholder, if any, as their interests appear on the records of ownership. The consumer's lease agreement with the motor vehicle lessor is terminated and no penalty for early termination is assessed.

The reasonable allowance for use is the mileage at the time the consumer first presents the motor vehicle to the dealer, distributor, manufacturer, co-manufacturer, or post-manufacturing modifier for correction of a nonconformity times the lease price of the vehicle, divided by one hundred thousand miles.



## *Replacement*

When replacing a vehicle under the New Jersey lemon law, the manufacturer must ensure that any lien on the returned motor vehicle is transferred to the replacement vehicle. The reasonable allowance for use does not apply to a replacement.

## **New Mexico Lemon Law**

### ***Motor Vehicle Quality Assurance Act***

The following is a brief explanation of most relevant provisions of the New Mexico lemon law. The complete text of the lemon law can be found at New Mexico Stat. Ann. § 57-16A-1 et seq.

#### ***Vehicles Covered***

The New Mexico lemon law covers passenger motor vehicles, including automobiles, pickup trucks, motorcycles, and vans, that are sold and registered in the state; are normally used for personal, family, or household purposes; and have a gross vehicle weight of less than 10,000 pounds.

#### ***Consumers Covered***

The lemon law covers the following “consumers”:

1. The purchaser, for the purposes other than resale, of a new or used motor vehicle normally used for personal, family, or household purposes;

2. Any person to whom the motor vehicle is transferred during the duration of an express warranty applicable to the motor vehicle; and
3. Any other person entitled by the terms of the warranty to enforce its obligations. The lemon law appears not to cover a lessee.

### ***Vehicle Converters***

The lemon law applies to vehicle converters.

### ***Problems Covered***

The New Mexico lemon law covers any defect or condition that substantially impairs the use and market value of the motor vehicle to the consumer. This is referred to as a nonconformity.

The lemon law provides manufacturers with an affirmative defense if it can be shown that a nonconformity is the result of abuse, neglect, or unauthorized modifications or alterations of the motor vehicle.

## ***Manufacturer's Duty To Repair A Vehicle***

If a new motor vehicle does not conform to all applicable express warranties, and the consumer reports the nonconformity to the manufacturer, its agent, or authorized dealer during the term of the express warranties or a period of one year following the date of the motor vehicle's original delivery to a consumer, whichever comes first, then the manufacturer, its agent or authorized dealer must make the necessary repairs to conform the vehicle to the express warranties.

## ***Manufacturer's Duty To Repurchase Or Replace A Vehicle***

If the manufacturer, its agent, or authorized dealer is unable to conform the new motor vehicle to any applicable express warranty by repairing or correcting any nonconformity after a reasonable number of repair attempts, the manufacturer must either replace or repurchase the motor vehicle.

## ***Reasonable Number Of Repair Attempts***

The New Mexico lemon law establishes a presumption that a reasonable number of repair

attempts has been undertaken to conform a motor vehicle to the applicable express warranties if, during the express warranty term or a period of one year following the date of the motor vehicle's original delivery to a consumer, whichever is the earlier date, either of the following occurs:

1. The same uncorrected nonconformity has been subject to repair four or more times by the manufacturer, its agents, or authorized dealers, but the nonconformity continues to exist; or
2. The motor vehicle is in the possession of the manufacturer, its agent, or authorized dealer for repair for a cumulative total of 30 or more business days, excluding down time for routine maintenance as prescribed by the manufacturer.

The term of an express warranty, the one-year period and 30-day period are extended by any period of time during which repair services are not available to the consumer because of a war, invasion, strike or fire, flood or other natural disaster.

## ***Notice And Opportunity To Repair***

The presumption that a reasonable number of repair attempts has been undertaken does not apply against a manufacturer unless the manufacturer has received prior direct written notification from or on behalf of the consumer, and has an opportunity to cure the defect alleged. The manufacturer must provide, either in the warranty or a separate notice, written notice, and instruction to the consumer regarding this notification requirement.

## ***Dispute Resolution***

The lemon law provisions requiring repurchase or replacement of a nonconforming motor vehicle do not apply to a consumer who has not first used an informal dispute settlement procedure that complies with 16 C.F.R. Part 703. The Attorney General may investigate and determine whether the informal dispute settlement procedure is fair and impartial and conforms to the requirements of 16 C.F.R. Part 703.

## ***Time Period For Filing Claims***

An action must be commenced within the later of (1) 18 months following the date of the vehicle's original delivery to a consumer, or (2) if the consumer resorts to an informal dispute settlement procedure, 90 days following the procedure's final action.

## ***Used Motor Vehicles***

The lemon law prohibits a used motor vehicle dealer from excluding, modifying, or disclaiming the implied warranty of merchantability, or limiting remedies for breach of the implied warranty of merchantability before the earlier of 15 days or 500 miles after the vehicle's delivery. A used motor vehicle dealer who limits the implied warranty of merchantability of a used motor vehicle renders the purchase agreement voidable. The maximum liability of a seller is limited to the purchase price paid for the used motor vehicle, to be refunded to the consumer or lender, as applicable, in exchange for return of the vehicle, unless the seller knew or should have known of the defect given the circumstances in which the

vehicle was acquired or sold and the seller did not disclose that defect. A consumer or seller aggrieved by a used motor vehicle transaction must pursue a remedy under the Uniform Commercial Code.

### ***Remedies Under The New Mexico Lemon Law***

#### ***Repurchase***

The New Mexico lemon law sets out the following amounts that a manufacturer must pay when it repurchases a new motor vehicle under the lemon law:

1. The full purchase price; and
2. All collateral charges, defined as those additional charges to a consumer not directly attributed to a manufacturer's suggested retail price label for a new motor vehicle, including all taxes, license, title and registration fees, and other governmental charges related to the purchase of the motor vehicle;
3. Less a reasonable allowance for the consumer's use of the vehicle.



Refunds must be made to the consumer and lienholder, if any, as their interests may appear.

The reasonable allowance for use is that amount directly attributable to use by the consumer prior to the first report of the nonconformity to the manufacturer, agent, or dealer, and any subsequent period when the motor vehicle is not out of service by reason of repair.

### ***Replacement***

When replacing a new motor vehicle under the New Mexico lemon law, the manufacturer must replace with an identical or reasonably equivalent motor vehicle.

The consumer is responsible for a reasonable allowance for use. The reasonable allowance for use is that amount directly attributable to use by the consumer prior to the first report of the nonconformity to the manufacturer, agent, or dealer, and any subsequent period when the motor vehicle is not out of service by reason of repair.

## **Nevada Lemon Law**

The following is a brief explanation of most relevant provisions of the Nevada lemon law. The complete text of the lemon law can be found at Nevada Rev. Stat. section 597.600 et seq.

### ***Vehicles Covered***

The Nevada lemon law covers motor vehicles, defined as self-propelled vehicles in, upon, or by which any person or property is or may be transported upon a public highway. The lemon law appears to cover used vehicles, but does not cover motor homes or off-road vehicles.

### ***Consumers Covered***

The lemon law covers the “buyer”, defined as:

1. A person who purchases or contracts to purchase, for purposes other than resale, a motor vehicle normally used for personal, family, or household purposes;
2. Any person to whom the motor vehicle is transferred during the time a manufacturer’s

express warranty applicable to the motor vehicle is in effect; and

3. Any other person entitled by the terms of the warranty to enforce its obligations. The lemon law appears not to cover a lessee.

### ***Vehicle Converters***

The lemon law does not apply to vehicle converters.

### ***Problems Covered***

The lemon law covers any defect or condition that substantially impairs the use and value of the motor vehicle to the buyer. This is referred to as a nonconformity. The lemon law does not cover a defect or condition that is the result of abuse, neglect, or unauthorized modifications or alterations of the motor vehicle.

### ***Manufacturer's Duty To Repair***

If a motor vehicle does not conform to all of the manufacturer's applicable express warranties, and the buyer reports the nonconformity in writing to the manufacturer before the expiration of the

manufacturer's express warranties or one year after the date of the motor vehicle's delivery to the original buyer – whichever is earlier – then the manufacturer, its agent or authorized dealer must make the necessary repairs to conform the motor vehicle to the express warranty.

The necessary repairs must be made even if the term of the warranty or the one year period has expired.

### ***Manufacturer's Duty To Repurchase Or Replace A Vehicle***

If the manufacturer, its agent, or authorized dealer is unable to conform the motor vehicle to any applicable express warranty by repairing or correcting a nonconformity after a reasonable number of attempts, the manufacturer must either replace or repurchase the motor vehicle.

### ***Reasonable Number Of Repair Attempts***

The Nevada lemon law establishes a presumption that a reasonable number of attempts have been undertaken to conform a motor vehicle to the applicable express warranties if, within the time

the express warranty is in effect or within one year following the date of the motor vehicle's delivery to the original buyer, whichever occurs first, either of the following occurs:

1. The same nonconformity has been subject to repair four or more times by the manufacturer, its agent, or authorized dealer but the nonconformity continues to exist, or
2. The motor vehicle is out of service for repairs for a cumulative total of 30 or more calendar days.

The 30-day period is extended by any period of time in which the necessary repairs cannot be made for reasons that are beyond the control of the manufacturer, its agent, or authorized dealer. The time the express warranty is in effect and the one-year period are extended by any period of time during which repair services are not reasonably available to the buyer because of war, invasion, strike, fire, flood, or other natural disasters.

## ***Dispute Resolution***

If the manufacturer has established or designated an informal dispute settlement procedure that complies with 16 C.F.R. Part 703, then the buyer may not bring an action under the provisions requiring refund or replacement unless the buyer has first resorted to the informal dispute settlement procedure.

## ***Time Period For Filing Claims***

An action must be commenced within 18 months after the date of the vehicle's original delivery to the buyer.

## ***Remedies Under The Nevada Lemon Law***

### ***Repurchase Of Owned Vehicle***

The Nevada lemon law sets out the following amounts that a manufacturer must pay when it repurchases a motor vehicle under the lemon law:

1. The full purchase price, and
2. All sales taxes, license fees, registration fees, and other similar governmental charges;

3. Less a reasonable allowance for the buyer's use of the vehicle.

Refunds must be made to the buyer and lienholder, if any, as their interests may appear.

The reasonable allowance for use is that amount directly attributable to use by the buyer before the first report of the nonconformity to the manufacturer, agent or dealer, and during any subsequent period when the vehicle is not out of service for repairs.

### ***Replacement Vehicle***

The Nevada lemon law provides that a replacement vehicle must be a comparable motor vehicle of the same model and having the same features as the replaced vehicle or, if such a vehicle cannot be delivered to the buyer within a reasonable time, then a comparable motor vehicle substantially similar to the replaced vehicle. The reasonable allowance for use does not apply to a replacement.

## **New York Lemon Law**

New Car Lemon Law The following is a brief explanation of most relevant provisions of the New York lemon law. The complete text of the lemon law can be found at N.Y. Gen. Bus. Law Section 198-a.

### ***Vehicles Covered***

The New York lemon law applies to motor vehicles that are subject to a manufacturer's express warranty at the time of original delivery and are either:

1. Purchased, leased, or transferred in New York within the first 18,000 miles of operation or two years from date of original delivery, whichever is earlier; or
2. Registered in New York. The lemon law does not cover motorcycles or off-road vehicles, and does not apply to the living facilities of motor homes.

### ***Consumers Covered***

The lemon law covers the following "consumers":



1. The purchaser, lessee, or transferee, other than for purposes of resale, of a motor vehicle used primarily for personal, family, or household purposes; or
2. Any other person entitled by the terms of the manufacturer's warranty to enforce its obligations, provided the person uses the motor vehicle primarily for personal, family, or household purposes.

The lemon law also covers the subsequent transferee.

### ***Problems Covered***

The lemon law covers any defect or condition that substantially impairs the value of the motor vehicle to the consumer. This is referred to as a nonconformity. The lemon law does not cover a defect or condition that is the result of abuse, neglect, or unauthorized modifications or alterations of the motor vehicle.

## *Coverage Period Of The New York Lemon Law*

The lemon law covers vehicles during the first 18,000 miles of operation or during the period of 2 years following the date of original delivery of the motor vehicle, whichever is the earlier date.

## *Manufacturer's Duty To Repair A Vehicle*

The manufacturer's obligation to repair and remedies for refusal to repair are limited to a motor vehicle that was sold in New York and is registered in New York.

If a motor vehicle that is sold and registered in New York does not conform to all express warranties, the consumer must report the nonconformity to the manufacturer, its agent or its authorized dealer during the first 18,000 miles of operation or during the period of two years following the date of the motor vehicle's original delivery to a consumer, whichever is earlier. The manufacturer, its agent, or its authorized dealer must correct the nonconformity at no charge to the consumer, even if the 18,000 miles/two years period has expired.

If the notification is received by the manufacturer's agent or authorized dealer, the agent or dealer must forward the written notice within 7 days to the manufacturer by certified mail, return receipt requested, and must include in the notice a statement indicating whether repairs have been undertaken.

If the manufacturer's agent or authorized dealer refuses to undertake repairs within 7 days of receipt of the consumer's notice, the consumer may send written notice of this refusal to the manufacturer by certified mail, return receipt requested. The manufacturer has 20 days from receipt of this notice to commence the repairs. If within the 20-day period, the manufacturer or its agent fails to commence repairs, then the manufacturer must, at the consumer's option either replace or repurchase the motor vehicle.

If an agent or authorized dealer of a motor home manufacturer, or a repair shop to which the manufacturer referred a consumer, refuses to undertake repairs within 7 days of receipt of notice by

a consumer of a nonconformity within the first 18,000 miles of operation or during the period of two years following the date of the motor home's original delivery to the consumer, whichever is earlier, the consumer may send written notice of this refusal to the motor home manufacturer by certified mail, return receipt requested. The motor home manufacturer, its dealer, or the referred repair shop has 20 days from receipt of this notice to commence the repairs. If within the 20-day period the motor home manufacturer, its dealer, or the referred repair shop fails to commence repairs, then the motor home manufacturer must, at the consumer's option either replace or repurchase the motor vehicle.

### ***Manufacturer's Duty To Repurchase Or Replace A Vehicle***

If the manufacturer or its authorized dealers are unable to repair or correct any nonconformity after a reasonable number of attempts during the first 18,000 miles of operation or during the period of two years following the date of the motor vehicle's original delivery to a consumer, whichever is earlier, the

manufacturer must, at the consumer's option, either replace or repurchase the motor vehicle.

The consumer has the option of returning the motor vehicle to the dealer or other authorized agent of the manufacturer who sold the vehicle to the consumer, or to the dealer or other authorized agent who attempted to repair or correct the nonconformity that necessitated the return. The consumer cannot be subject to any further shipping charges.

If the motor vehicle is a motor home, and the motor home manufacturer, its agent or authorized dealer, or a repair shop to which the manufacturer referred a consumer is unable to repair or correct any covered nonconformity after a reasonable number of attempts within the first 18,000 miles of operation or during the period of two years following the date of the motor vehicle's original delivery to a consumer, whichever is earlier, the motor home manufacturer must, at the consumer's option, either replace or repurchase the motor vehicle.

For motor homes, a repair attempt will not be counted if the repair facility is not authorized by the

applicable motor home manufacturer to perform warranty work on the identified nonconformity. It will count as only one repair attempt for a motor home if the same nonconformity is addressed a second time due to the consumer's decision to continue traveling and to seek repair of the same nonconformity at another repair facility rather than wait for the initial repair to be completed.

### ***Reasonable Number Of Repair Attempts***

In determining whether the manufacturer has had a reasonable number of attempts to repair or correct a nonconformity, the New York lemon law creates a presumption that a reasonable number of attempts have been made if, during the first 18,000 miles of operation or during the period of two years following the date of the motor vehicle's original delivery to a consumer, whichever is earlier, either of the following occurs:

1. The same nonconformity has been subject to repair four or more times by the manufacturer or its agents or authorized dealers, but the nonconformity, defect, or condition continues

to exist. The consumer does not have to establish that the defect continued to exist until the hearing date. Rather, the presumption obligates a consumer to establish that the vehicle was subject to repair at least four times and that the same defective condition remained unresolved after the fourth attempt; or

2. The vehicle is out of service by reason of repair of one or more nonconformities for a cumulative total of thirty or more calendar days.

### ***Additional Notice Provisions Applying To A Motor Home***

If, during the first 18,000 miles of operation or during the period of two years following the date of the motor vehicle's original delivery to a consumer, whichever is earlier, the same covered nonconformity has been subject to repair two times or the motor home has been out of service by reason of repair for 21 days, the consumer must report this to the motor home manufacturer or its authorized dealer by certified mail, return receipt requested. After the motor home has been out of service by reason of three

repair attempts or for at least 36 days, the consumer may institute any proceeding or other action pursuant to the lemon law.

This special notification requirement will apply only if the manufacturer or its authorized dealer provides a copy of this requirement to the consumer and the consumer acknowledges receipt in writing. If the consumer has received the notice and fails to comply with the special notification requirements, then additional repair attempts or days out of service will not be taken into account in determining whether the consumer is entitled to replacement or repurchase. But any additional repair attempts or days out of service that occur after the consumer complies with the special notification requirements will be taken into account.

A repair attempt will not be counted if the repair facility is not authorized by the applicable motor home manufacturer to perform warranty work on the identified nonconformity. It will count as only one repair attempt for a motor home if the same nonconformity is addressed a second time due



to the consumer's decision to continue traveling and to seek repair of the same nonconformity at another repair facility rather than wait for the initial repair to be completed.

### ***Dispute Resolution***

If a manufacturer has established an informal dispute settlement mechanism, the mechanism must comply with the provisions of the lemon law. The lemon law provisions requiring repurchase or replacement after an inability to repair do not apply to a consumer who has not first resorted to the mechanism.

The consumer has the option of submitting any dispute under the lemon law to an alternate arbitration mechanism administered by the New York Attorney General's Office.

### ***Time Period For Filing Claims***

An action must be commenced within 4 years of the date of the motor vehicle's original delivery to the consumer.

## *Remedies Under The New York Lemon Law*

### *Repurchase Of Owned Vehicles*

The New York lemon law sets out the following amounts that a manufacturer must pay when it repurchases an owned vehicle under the lemon law:

1. The full purchase price (cash plus any trade-in allowance); and
2. Fees and charges, including all license fees, registration fees, and any similar governmental charges;
3. Less an allowance for the consumer's use of the vehicle in excess of the first 12,000 miles of operation;
4. Less a reasonable allowance for any damage not attributable to normal wear and tear or improvements.

The manufacturer is not required to refund any sales tax paid by the consumer. The lemon law provides that the consumer may receive a refund of such sales tax by applying to the Commissioner of Taxation and Finance. In addition, the information

provided by the Attorney General's Office indicates the refund will not include other expenses or charges, such as loss of use, insurance premiums, and finance charges.

The allowance for the consumer's use of the vehicle is to be determined in accordance with the "mileage deduction formula", defined as:

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$$\text{Deduction} = \frac{\text{Mileage in excess of 12,000 miles} \times \text{purchase price}}{100,000}$$

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Refunds are made to the consumer and lienholder, if any, as their interests may appear on the records of ownership kept by the Department of Motor Vehicles.

## *Repurchase Of Leased Vehicles*

The New York lemon law sets out the following amounts that a manufacturer must pay when it repurchases a leased vehicle under the lemon law:

*To the lessor –*

1. The lease price, consisting of (a) the lessor's actual purchase cost, (b) the freight cost (if applicable), (c) the cost for accessories (if applicable), (d) any fee paid to obtain the lease, and (d) an amount equal to 5% of the actual purchase cost;
2. Less the aggregate deposit and rental payments paid to the lessor for the leased vehicle.

*To the lessee –*

1. The aggregate deposit and rental payments paid to the lessor;
2. Any trade-in allowance; and
3. Fees and charges, including but not limited to all license fees, registration fees, and any similar governmental charges;

4. Less “service fees” (defined below);
5. Less an allowance for the consumer’s use of the vehicle in excess of the first 12,000 miles of operation;
6. Less a reasonable allowance for any damage not attributable to normal wear and tear or improvements.

“Service fees” are defined as that portion of the lease payments attributable to:

1. Interest on the rental payments previously paid at an annual rate equal to two points above the prime rate in effect on the date of the lease execution; and
2. Any insurance or other costs paid by the lessor for the benefit of the lessee.

The allowance for the consumer’s use of the vehicle is to be determined in accordance with the “mileage deduction formula”, defined as:

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Deduction =	Mileage in excess of 12,000 miles	X	lease price
	<hr/>		
	100,000		

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## ***Replacement***

When replacing a vehicle under the New York lemon law, the manufacturer must replace the vehicle with a comparable motor vehicle, meaning a vehicle of comparable mileage, model year, and value of the vehicle being returned. The reasonable allowance for use does not apply to a replacement.

The following notices must be given to consumers and arbitrators by informal dispute settlement mechanisms in New York:

### ***New Car Lemon Law Bill Of Rights***

1. In addition to any warranties offered by the manufacturer, your new car, if purchased and registered in New York State, is warranted

against all material defects for eighteen thousand miles or two years, whichever comes first.

2. You must report any problems to the manufacturer, its agent, or authorized dealer.
3. Upon notification, the problem must be corrected free of charge.
4. If the same problem cannot be repaired after four or more attempts; or if your car is out of service to repair a problem for a total of thirty days during the warranty period; or if the manufacturer or its agent refuses to repair a substantial defect or condition within twenty days of receipt of notice sent by you to the manufacturer by certified mail, return receipt requested; then you may be entitled to either a comparable car or a refund of your purchase price, plus license and registration fees, minus a mileage allowance only if the vehicle has been driven more than 12,000 miles. Special notification requirements may apply to motor homes.
5. A manufacturer may deny liability if the problem is caused by abuse, neglect, or unauthorized modifications of the car.

6. A manufacturer may refuse to exchange a comparable car or refund your purchase price if the problem does not substantially impair the value of your car.
7. If a manufacturer has established an arbitration procedure, the manufacturer may refuse to exchange a comparable car or refund your purchase price until you first resort to the procedure.
8. If the manufacturer does not have an arbitration procedure, you may resort to any remedy by law and may be entitled to your attorney's fees if you prevail.
9. No contract or agreement can void any of these rights.

(10) as an alternative to the arbitration procedure made available through the manufacturer, you may instead choose to submit your claim to an independent arbitrator, approved by the attorney general. You may have to pay a fee for such an arbitration. Contact your local consumer office or attorney general's office to find out how to arrange for independent arbitration.



## *New Motor Home Lemon Law Bill Of Rights*

1. In addition to any warranties offered by the manufacturer, your new motor home, if purchased and registered in New York State, is warranted against all material defects for eighteen thousand miles or two years, whichever comes first. However, this additional warranty does not apply to the living facilities of motor homes, which are the portions thereof designed, used, or maintained primarily as living quarters and shall include, but not be limited to the flooring, plumbing system and fixtures, roof air conditioner, furnace, generator, electrical systems other than automotive circuits, the side entrance door, exterior compartments, and windows other than the windshield and driver and front passenger windows.
2. You must report any problems to the manufacturer, its agent, or authorized dealer.
3. Upon notification, the problem must be corrected free of charge.

4. If, within the first eighteen thousand miles of operation or during the period of two years following the date of original delivery of the motor vehicle to such consumer, whichever is the earlier date the manufacturer of a motor home or its agents or its authorized dealers or repair shops to which they refer a consumer are unable to repair or correct any covered defect or condition which substantially impairs the value of the motor home to the consumer after a reasonable number of attempts, the motor home manufacturer, at the option of the consumer, shall replace the motor home with a comparable motor home, or accept return of the motor home from the consumer and refund to the consumer the full purchase price or, if applicable, the lease price and any trade-in allowance, plus fees and charges, as well as the other fees and charges, including but not limited to all license fees, registration fees, and any similar governmental charges, less an allowance for the consumer's use of the vehicle in excess of twelve thousand miles times the purchase price, or the lease price if applicable, of the vehicle divided by one

hundred thousand miles, and a reasonable allowance for any damage not attributable to normal wear or improvements.

5. Special notice provision: if within eighteen thousand miles or two years, whichever comes first, the same covered nonconformity, defect, or condition in your motor home has been subject to repair two times or your motor home has been out of service by reason of repair for twenty-one days, whichever comes first, you must have reported this to the motor home manufacturer or its authorized dealer by certified mail, return receipt requested, and you may institute any proceeding or other action pursuant to the lemon law if the motor home has been out of service by reason of three repair attempts or for at least thirty-six days. This special notice requirement shall only apply if the manufacturer or its authorized dealer provides a written copy of the requirements of this paragraph to you and receipt of the notice is acknowledged by you in writing. If you fail to comply with the special notification

requirements of this paragraph, additional repair attempts or days out of service by reason of repair shall not be taken into account in determining whether you are entitled to a remedy provided in paragraph four. However, additional repair attempts or days out of service by reason of repair that occur after you comply with such special notification requirements shall be taken into account in making that determination. Notice to the manufacturer should be sent to the following: notice to the dealer should be sent to the following:

6. A manufacturer may deny liability if the problem is caused by abuse, neglect, or unauthorized modifications of the motor home.
7. A manufacturer may refuse to exchange a comparable motor home or refund your purchase price if the problem is not covered by the lemon law or does not substantially impair the value of your motor home.
8. If a manufacturer has established an arbitration procedure, the manufacturer may

refuse to exchange a comparable motor home or refund your purchase price until you first resort to the procedure.

9. If the manufacturer does not have an arbitration procedure, you may resort to any remedy by law and may be entitled to your attorney's fees if you prevail.
10. No contract or agreement can void any of these rights.
11. As an alternative to the arbitration procedure made available through the manufacturer, you may instead choose to submit your claim to an independent arbitrator, approved by the attorney general. You may have to pay a fee for such arbitration. Contact your local consumer office or attorney general's office to find out how to arrange for independent arbitration.

## Ohio Lemon Law

The following is a brief explanation of most relevant provisions of the Ohio lemon law. The complete text of the lemon law can be found at Ohio Rev. Code Ann. Sec. 1345-71 et seq.

### *Vehicles Covered*

The Ohio lemon law covers (1) a passenger car. (2) a noncommercial motor vehicle. or (3) those parts of any motor home that are not part of the permanently installed facilities used for cold storage, cooking, eating and sleeping.

A "passenger car" is any motor vehicle that is designed and used for carrying not more than nine persons and includes any motor vehicle that is designed and used for carrying not more than fifteen persons in a ridesharing arrangement. Guidance from the Attorney General's Office indicates that a pick-up truck used exclusively for business purposes is not covered by the lemon law.

A "noncommercial motor vehicle" is any motor vehicle, including a farm truck, that is designed by the manufacturer to carry a load of no more than one ton and is used exclusively for purposes other than engaging in business for profit.

### *Consumers Covered*

The lemon law covers the following "consumers":

1. The purchaser, other than for purposes of resale, of a motor vehicle;
2. Any lessee of a motor vehicle for 30 days or more while the title remains in the name of a person other than the user;
3. Any person to whom the vehicle is transferred during the duration of the manufacturer's written vehicle warranty; and
4. Any other person entitled by the terms of the warranty to enforce the warranty.

The lemon law appears to cover a subsequent transferee if the vehicle is acquired during the warranty period.

## *Vehicle Converters*

The lemon law does not apply to vehicle converters.

## *Problems Covered*

The lemon law covers any "nonconformity", which it defines as a defect or condition that:

1. Substantially impairs the use, value, or safety of a motor vehicle to the consumer; and
2. Does not conform to the express written warranty of the manufacturer or distributor.

The lemon law provides the manufacturer an affirmative defense if the manufacturer can show that the nonconformity is the result of abuse, neglect, or unauthorized modification or alteration of the passenger motor vehicle by anyone other than the manufacturer, its agent, or an authorized dealer.

## *Manufacturer's Duty To Repair*

If a vehicle does not conform to the manufacturer's written new vehicle warranty and the



consumer reports the nonconformity to the manufacturer its agent or authorized dealer during the period of one year following the date of original delivery or during the first 18,000 miles of operation — whichever is earlier — the manufacturer, its agent or authorized dealer must make any repairs necessary to conform the vehicle to the warranty. Repairs must be made even after the expiration of the one-year or 18,000-mile period.

### ***Manufacturer's Duty To Repurchase Or Replace A Vehicle***

If the manufacturer or dealer is unable to conform the vehicle to the manufacturer's written vehicle warranty by repairing or correcting any nonconformity after a reasonable number of repair attempts, the manufacturer must (at the consumer's option) replace the vehicle with a new vehicle acceptable to the consumer or repurchase the vehicle.

### ***Reasonable Number Of Repair Attempts***

The lemon law establishes a presumption for determining whether the manufacturer had a

reasonable number of attempts to repair. Case law interprets the lemon law's presumption as establishing a definition that a reasonable number of repair attempts has been made if, during the period of one year following the date of original delivery or during the first 18,000 miles of operation, whichever is earlier, any of the following occurs:

1. Substantially the same nonconformity has been subject to repair three or more times and either continues to exist or recurs;
2. The vehicle is out of service by reason of repair for a cumulative total of thirty or more calendar days;
3. There have been eight or more attempts to repair any nonconformity; or
4. There has been at least one attempt to repair a nonconformity that results in a condition that is likely to cause death or serious bodily injury if the vehicle is driven, and the nonconformity either continues to exist or recurs.

The lemon law provides that any time period described above shall be extended by any period of

time during which the vehicle could not be reasonably repaired due to war, invasion, civil unrest, strike, fire, flood, or natural disaster. It further provides that, if an extension of time is necessitated due to these conditions, the manufacturer shall arrange for the use of a vehicle for the consumer whose vehicle is out of service at no cost to the consumer.

### ***Dispute Resolution***

The lemon law provisions authorizing a civil action under the lemon law do not apply to a consumer who has not first used an informal dispute settlement mechanism if:

1. The mechanism qualifies under rules promulgated by the Attorney General; and
2. The consumer receives timely notification, in writing, of the availability of the mechanism, along with a description of its operation and effect.

If a qualified mechanism does not exist, if the consumer is dissatisfied with the decision produced by a qualified mechanism, or if the manufacturer, its agent, or authorized dealer fails to promptly fulfill

the decision, the consumer may bring a civil action in court.

### ***Time Period For Filing Claims***

An action must be commenced within five years of the date of the vehicle's original delivery (to the consumer). The statute of limitations does not run for the period beginning on the date that a complaint is filed with an informal dispute settlement mechanism and ending on the date of the mechanism's decision.

### ***Remedies Under The Ohio Lemon Law***

#### ***Repurchase Of Owned Vehicle***

The Ohio lemon law sets out the following amounts that a manufacturer must pay when it repurchases an owned vehicle under the lemon law:

1. The contract price for the motor vehicle, including charges for transportation, undercoating, dealer-installed options and accessories, dealer services, dealer preparation, and delivery charges;

2. All finance, credit insurance, warranty, and service contract charges incurred by the consumer;
3. All sales tax, license and registration fees, and similar government charges;
4. All incidental damages, including but not limited to
  - any reasonable fees charged by the lender for making or canceling the loan; and
  - any expenses incurred by the consumer as a result of the nonconformity, such as charges for towing, vehicle rental, meals, and lodging.

Refunds must be made to the consumer, or jointly to the consumer and any lienholder that appears on the face of the certificate of title. The lienholder may deduct the balance owing to it, including any fees charged for canceling the loan, and must immediately remit the balance, if any, to the consumer and cancel the loan.

## *Repurchase Of Leased Vehicles*

The Ohio lemon law sets out the following amounts that a manufacturer must pay when it repurchases a leased vehicle under the lemon law:

1. Capitalized cost reduction, security deposit, taxes, title fees, all monthly lease payments, the residual value of the vehicle, and all finance, credit insurance, warranty, and service contract charges incurred by the consumer; and
2. All incidental damages, including but not limited to
  - any reasonable fees charged by the lessor for making or canceling the lease; and
  - any expenses incurred by the consumer as a result of the nonconformity, such as charges for towing, vehicle rental, meals, and lodging.

Refunds must be made jointly to the consumer and lessor. The lessor may deduct the balance owing to it, including any fees charged for canceling the loan, and must immediately remit the balance, if any, to the consumer and cancel the lease.

## *Replacement*

When replacing a vehicle under the Ohio lemon law, the manufacturer must replace the vehicle with a new vehicle acceptable to the consumer.

The manufacturer must notify any lienholder noted on the certificate of title or the lessor. If both the lienholder or lessor and the consumer consent to finance or lease the replacement motor vehicle, the lienholder or lessor must release the lien on or surrender title to the motor vehicle being replaced after it has obtained a lien on or title to the replacement motor vehicle. If the existing lienholder or lessor does not finance or lease the replacement motor vehicle, it has no obligation to discharge the note or cancel the lien on or surrender the title to the motor vehicle being replaced until the original indebtedness or the lease terms are satisfied.

## **Oklahoma Lemon Law**

The following is a brief explanation of most relevant provisions of the Oklahoma lemon law. The complete text of the lemon law can be found at Oklahoma Stat. Ann. Title 15, § 901.

### ***Vehicles Covered***

The Oklahoma lemon law covers any motor vehicle required to be registered in the state. The lemon law does not cover vehicles above 10,000 pounds gross vehicle weight and the living facilities of motor homes.

### ***Consumers Covered***

The lemon law covers the following “consumers”:

1. The purchaser, other than for purposes of resale, of a motor vehicle;
2. Any person to whom the motor vehicle is transferred during the duration of an express warranty applicable to the motor vehicle; and



3. Any other person entitled by the terms of the warranty to enforce its obligations. The lemon law appears to cover a lessee.

### ***Problems Covered***

The lemon law covers any defect or condition that substantially impairs the use and value of the motor vehicle to the consumer. This is referred to as a nonconformity.

The lemon law provides manufacturers with an affirmative defense if it can be shown that the alleged nonconformity does not substantially impair the use and value, or the nonconformity is the result of abuse, neglect, or unauthorized modifications or alterations of a motor vehicle.

### ***Manufacturer's Duty To Repair***

If a motor vehicle does not conform to all applicable express warranties, and the consumer reports the nonconformity directly and in writing to the manufacturer, its agent or authorized dealer during the term of the express warranties or a period

of one year following the date of the motor vehicle's original delivery to a consumer, whichever is earlier, then the manufacturer, its agent or authorized dealer must make the necessary repairs to conform the vehicle to the express warranties.

The necessary repairs must be made even after the expiration of the term of the express warranties or the one-year period.

### ***Manufacturer's Duty To Repurchase Or Replace A Vehicle***

If the manufacturer, its agents or authorized dealers are unable to conform the motor vehicle to any applicable express warranty by repairing or correcting any nonconformity after a reasonable number of repair attempts, the manufacturer must either replace or repurchase the motor vehicle.

### ***Reasonable Number Of Repair Attempts***

The Oklahoma lemon law establishes a presumption that a reasonable number of repair attempts has been undertaken to conform a motor vehicle to the applicable express warranties if, within

the express warranty term or during the period of one year following the date of the motor vehicle's original delivery to a consumer, whichever is earlier, either of the following occurs:

1. The same nonconformity has been subject to repair four or more times by the manufacturer, its agents or authorized dealers, but the nonconformity continues to exist; or
2. The motor vehicle is out of service by reason of repair for a cumulative total of 30 or more business days.

The term of an express warranty, the one-year period, and the 30-day period are extended by any period of time during which repair services are not available to the consumer because of a war, invasion, strike, fire, flood or other natural disaster.

### ***Notice And Opportunity To Repair***

The presumption that a reasonable number of repair attempts has been undertaken does not apply against a manufacturer unless the manufacturer has received prior direct written notification from or on

behalf of the consumer, and has had an opportunity to cure the defect alleged.

### ***Dispute Resolution***

If the manufacturer has established or participates in an informal dispute settlement procedure that complies with 16 C.F.R. Part 703, then the provisions requiring refund or replacement do not apply unless the consumer has first resorted to the informal dispute settlement procedure.

### ***Time Period For Filing Claims***

Not specified. Assuming that the UCC statute of limitations applies, a claim must be filed with BBB AUTO LINE within four years from the date the alleged defect is discovered.

### ***Remedies Under The Oklahoma Lemon Law***

#### ***Repurchase***

The Oklahoma lemon law sets out the following amounts that a manufacturer must pay when it repurchases a motor vehicle under the lemon law:

1. The full purchase price; and
2. All taxes, license, registration fees, and all similar governmental fees, but excluding interest;
3. Less a reasonable allowance for the consumer's use of the vehicle.

Refunds must be made to the consumer and lienholder, if any, as their interests may appear.

The reasonable allowance for use is determined by the following formula:

Miles directly attributable to use by the consumer beyond 15,000 miles	<b>X</b>	Purchase or lease price of the new motor vehicle
120,000		

## *Replacement*

The manufacturer must replace the motor vehicle with a comparable new model acceptable to the

consumer. If the manufacturer and consumer cannot agree on a comparable model vehicle, the manufacturer must repurchase the vehicle as described above.

The reasonable allowance for use does not apply to a replacement.

## **Oregon Lemon Law**

The following is a brief explanation of most relevant provisions of the Oregon lemon law. The complete text of the lemon law can be found at Oregon Rev. Stat. §§ 646A.400 to 646A.418.

### ***Vehicles Covered***

The Oregon lemon law covers any passenger motor vehicle that is purchased or leased in Oregon or is purchased or leased outside of Oregon but registered in Oregon.

### ***Consumers Covered***

The lemon law covers any of the following “consumers”:

1. The purchaser or lessee, other than for purposes of resale, of a new motor vehicle normally used for personal, family, or household purposes;
2. Any person to whom a new motor vehicle used for personal, family, or household purposes is transferred for the same purposes during the

duration of an express warranty applicable to the motor vehicle; or

3. Any other person entitled by the terms of the express warranty to enforce its obligations.

### ***Problems Covered***

The lemon law covers any defect or condition that (1) does not conform to the applicable manufacturer's express warranty and (2) substantially impairs the use, market value, or safety of the vehicle to the consumer. This is referred to as a nonconformity.

The lemon law provides manufacturers with an affirmative defense if it can be shown that the alleged nonconformity does not substantially impair the use, market value, or safety; or the nonconformity is the result of abuse, neglect, or unauthorized modifications or alterations of the vehicle by the consumer.

### ***Manufacturer's Duty To Repurchase Or Replace A Vehicle***

If a vehicle purchased/leased does not conform to the applicable manufacturer's express warranty, the consumer must report the nonconformity for the



purpose of repair or correction to the manufacturer, its agent or its authorized dealer, during the two-year period following the date of the motor vehicle's original delivery to the consumer or during the period ending when the motor vehicle mileage reaches 24,000 miles, whichever period ends first.

If the manufacturer or its agents or authorized dealers are unable to conform the vehicle to the applicable manufacturer's express warranty by repairing or correcting any nonconformity after a reasonable number of attempts, the manufacturer must replace or repurchase the vehicle.

### ***Reasonable Number Of Repair Attempts***

The presumption is met if any of the following events has occurred during the two-year period following the date of the motor vehicle's original delivery to the consumer or during the period ending when the vehicle mileage reaches 24,000 miles, whichever period ends first:

1. The manufacturer, its agent, or authorized dealer has subjected the nonconformity to repair or correction three or more times and has had an opportunity to cure the nonconformity, but the nonconformity continues to exist; or
2. The motor vehicle is out of service by reason of repair or correction for a cumulative total of 30 or more calendar days or 60 or more calendar days for a motor home; or
3. The manufacturer, its agent, or authorized dealer has subjected a nonconformity that is likely to cause death or serious bodily injury to repair or correction at least one time and has made a final attempt to repair or correct the nonconformity, but the nonconformity continues to exist.

The two-year/24,000 miles period and the 30-day period are extended by any period of time during which repair services are not available to the consumer because of a war, invasion, strike, fire, flood, or other natural disaster.

The presumption shall not apply against a manufacturer unless the manufacturer has received

prior written notification from or on behalf of the consumer and has had an opportunity to cure the alleged defect.

### ***Notice And Opportunity To Repair***

The remedies provided by the lemon law are not available to a consumer unless the manufacturer has received direct written notification from or on behalf of the consumer and an opportunity to correct the alleged defect. The oral notice does not satisfy the statutory requirement. A request by the consumer to an informal dispute settlement procedure such as BBB AUTO LINE satisfies this notice requirement.

### ***Dispute Resolution***

If the manufacturer has participated in an informal dispute settlement procedure that complies with 16 C.F.R. Part 703 and settles disputes that arise under the lemon law, and the manufacturer causes the consumer to be notified of the procedure, then the provisions requiring refund or replacement do not apply unless the consumer has first resorted to the

informal dispute settlement procedure. A decision issued by the procedure must be binding on the manufacturer but not on the consumer.

### ***Time Period For Filing Claims***

An action must be commenced within one year following the earlier of:

1. The period ending on the date on which the mileage on the vehicle reaches 24,000 miles;
2. The two-year period following the date of the motor vehicle's original delivery to the consumer; or
3. Any extension of these periods by any period of time during which repair services are not available to the consumer because of a war, invasion, strike, fire, flood, or other natural disaster.

### ***Remedies Under The Oregon Lemon Law***

#### ***Repurchase Of Owned Vehicles***

The manufacturer must pay the following amounts when it repurchases a vehicle: The full purchase or lease price paid; and

1. Collateral charges paid, defined as a charge fee or cost to the consumer related to the sale or lease of the motor vehicle, such as
  - a) A sales, property or use tax;
  - b) A license, registration, or title fee;
  - c) A finance charge;
  - d) A prepayment penalty;
  - e) A charge for undercoating, rustproofing, or factory or dealer installed options; and
  - f) The cost of an aftermarket item purchased within 20 days after delivery of the motor vehicle. In lieu of refunding the cost of such an aftermarket item, the manufacturer may remove the aftermarket item from the motor vehicle if it can be removed without damage, and return the aftermarket item to the consumer;
2. Less a reasonable allowance for the consumer's use of the vehicle.

Refunds must be made to the consumer and lienholder, if any, as the interests of the consumer and lienholder may appear.

The reasonable allowance is the amount of money determined by the following formula:

the vehicle’s mileage at the time the manufacturer accepts return of the vehicle, less 10 miles for mileage that the vehicle traveled during any period in which the consumer did not have use of the vehicle because the manufacturer, its agent or authorized dealer was repairing the vehicle	X	combined amount of the vehicle’s cash price or lease price plus any collateral charges paid by the consumer
<hr/>		
120,000		
<hr/>		

For a motorcycle, the formula is divided by 25,000. For a motor home, the formula is divided by 90,000.

*Replacement*

When replacing a motor vehicle under the Oregon lemon law, the manufacturer must provide a new motor vehicle. The reasonable allowance for use does not apply to a replacement.

## **Pennsylvania Lemon Law**

The following is a brief explanation of most relevant provisions of the Pennsylvania lemon law. The complete text of the lemon law can be found at 73 Pa. Cons. Stat. section 1951 et seq.

### ***Vehicles Covered***

The Pennsylvania lemon law covers a “new motor vehicle”, defined as a new and unused self-propelled motorized vehicle that:

1. Is driven upon public roads, streets, or highways;
2. Is designed to transport not more than 15 persons;
3. (a) Was purchased or leased and is registered in Pennsylvania, or (b) was purchased or leased in another state and registered for the first time in Pennsylvania; and
4. Is utilized, leased, or bought for use primarily for personal, family, or household purposes.

This includes a demonstrator or dealer car, but does not include a motorcycle, motor home, or off-road vehicle.

### *Consumers Covered*

The lemon law covers the “purchaser”, defined as a person who has obtained ownership of a new motor vehicle by transfer or purchase, or who has entered into an agreement or contract for the purchase of a new motor vehicle, that is used or bought for use primarily for personal, family or household purposes. To qualify as a “purchaser”, the person must maintain continued ownership and possession of the vehicle, and must never have relinquished title.

Beginning February 11, 2002, “purchaser” also includes a person who has obtained possession of a new motor vehicle by lease, or who has entered into an agreement or contract for the lease of a new motor vehicle, that is used, leased, or bought for use primarily for personal, family or household purposes.



## ***Problems Covered***

The lemon law covers any vehicle “nonconformity”, defined as a defect or condition that substantially impairs the use, value, or safety of a new motor vehicle and does not conform to the manufacturer’s express warranty.

A consumer is not entitled to lemon law repurchase or replacement if the nonconformity does not substantially impair the use, value, or safety of the motor vehicle, or the nonconformity is the result of abuse, neglect or modification or alteration of the motor vehicle by the purchaser.

## ***Manufacturer’s Duty To Repair***

A manufacturer must repair or correct a nonconformity that occurs within whichever of the following periods ends first:

1. One year following the actual delivery of the vehicle to the purchaser;
2. The first 12,000 miles of use; or

3. The term of the manufacturer's warranty. The purchaser must deliver the vehicle for repair to the manufacturer's authorized service and repair facility in Pennsylvania, unless the vehicle cannot reasonably be delivered because of the nature of the nonconformity. If the purchaser cannot deliver the vehicle for repair, the purchaser must notify the manufacturer or its authorized service and repair facility in writing. Such written notice shall constitute delivery of the vehicle; however, the manufacturer may service or repair the vehicle at the vehicle's location, or the manufacturer may, at its own expense, transport the vehicle to its authorized service and repair facility.

### ***Manufacturer's Duty To Repurchase Or Replace A Vehicle***

If the manufacturer fails to repair or correct the nonconformity (which occurred within the earlier of one year, 12,000 miles, or the term of the warranty) after a reasonable number of attempts, the manufacturer must, at the purchaser's option, either replace or repurchase the motor vehicle.

## *Reasonable Number Of Repair Attempts*

The lemon law creates a presumption that a manufacturer has had a reasonable number of repair attempts if either of the following occurs:

1. The same nonconformity has been subject to repair three times by the manufacturer, its agents, or authorized dealers and the nonconformity still exists; or
2. The vehicle is out-of-service by reason of any nonconformity for a cumulative total of 30 calendar days or more. (This time period is extended by not more than 30 additional calendar days if the repair cannot be completed by the manufacturer, its agent, or authorized dealer by reason of war, act of terrorism, civil unrest, fire, flood, or natural disaster. This time period is extended by not more than 90 additional calendar days if the manufacturer files an affidavit with the Office of the Attorney General. These extensions apply only if the manufacturer, its agent, or authorized dealer lends a motor vehicle to the purchaser at no

charge during the extended time period while the vehicle is with the manufacturer, its agent, or authorized dealer for repair.)

### ***Dispute Resolution***

If the manufacturer has established an informal dispute settlement procedure that complies with 16 C.F.R. Part 703, the consumer must first resort to the informal dispute settlement procedure before bringing a civil action.

### ***Time Period For Filing Claims***

Not specified. Assuming that the UCC statute of limitations applies, a claim must be filed with BBB AUTO LINE within four years from the date the alleged defect is discovered.

### ***Remedies Under The Pennsylvania Lemon Law*** ***Repurchase***

The Pennsylvania lemon law sets out the following amounts that a manufacturer must pay when it repurchases a motor vehicle under the lemon law:

1. The full purchase or lease price; and
2. All collateral charges, which courts have found to mean all possible charges associated with the purchase of a vehicle, including tags, lien fees, sales tax, document fees, and finance charges ;
3. Less a reasonable allowance for the purchaser's use of the vehicle.

The reasonable allowance for use is that amount directly attributable to use by the purchaser prior to the purchaser's first report of the nonconformity to the manufacturer. The reasonable allowance for use may not exceed the lesser of 10 cents per mile driven prior to the first report or 10% of the vehicle's purchase or lease price.

### ***Replacement***

When replacing a vehicle under the Pennsylvania lemon law, the manufacturer must provide a comparable motor vehicle of equal value. The reasonable allowance for use appears not to apply to a replacement.

## **Rhode Island Lemon Law**

The following is a brief explanation of most relevant provisions of the Rhode Island lemon law. The complete text of the lemon law can be found at Rhode Island Gen. Laws § 31-5.2-1 et seq.

### ***Vehicles Covered***

The Rhode Island lemon law covers any “motor vehicle”, defined as (1) an automobile, truck, motorcycle, or van with a registered gross vehicle weight of less than 10,000 pounds, that is sold, leased or replaced by a dealer or manufacturer; and (2) a municipality, municipal agency or fire district owned or leased fire department motorized apparatus which has not been significantly altered in such a manner to cause a breach of the manufacturer's warranty.

The lemon law covers used vehicles but does not cover motorized campers.

### ***Consumers Covered***

The lemon law covers the following consumers:

1. The buyer, other than for purposes of resale, of a motor vehicle;
2. Any person to whom the motor vehicle is transferred for the same purposes during the duration of any express or implied warranty applicable to the motor vehicle;
3. Any other person entitled by the terms of the warranty to enforce its obligations; and
4. The lessee of a motor vehicle for one year or more pursuant to a written lease agreement that makes the lessee responsible for repairs to the vehicle or the lessee of a motor vehicle pursuant to a lease-purchase agreement.

### ***Problems Covered***

The lemon law covers any nonconformity, which is defined as any specific or generic defect or malfunction, or any concurrent combination of defects or malfunctions, that substantially impairs the use, market value, or safety of the motor vehicle. The lemon law provides manufacturers with an affirmative defense if it can be shown that the alleged nonconformity does not substantially impair the use,

market value, or safety of the motor vehicle, or the nonconformity is the result of abuse, neglect, or unauthorized substantial modification or alteration of a motor vehicle by the consumer.

### ***Lemon Law Coverage Period***

The Rhode Island lemon law establishes a term of protection ending one year or 15,000 miles after the date of the motor vehicle's original delivery to the consumer, whichever comes first.

### ***Manufacturer's Duty To Repair A Vehicle***

If a motor vehicle does not conform to any applicable express or implied warranties, including the implied warranty of merchantability and the implied warranty of fitness for a particular purpose, and the consumer reports the nonconformity to the manufacturer, its agent, or authorized dealer during the term of protection, then the manufacturer, its agent or authorized dealer must make the necessary repairs to conform the vehicle to the warranty. The necessary repairs must be made even after the expiration of the term of protection.



## ***Manufacturer's Duty To Repurchase Or Replace A Vehicle***

If the manufacturer, its agent or authorized dealer, or lessor does not conform the motor vehicle to any applicable express or implied warranty by curing any nonconformity after a reasonable number of repair attempts, the manufacturer must, at the consumer's option, either replace or repurchase the motor vehicle.

### ***Reasonable Number Of Repair Attempts***

The Rhode Island lemon law establishes a presumption that a reasonable number of repair attempts has been undertaken to conform a motor vehicle to the applicable express warranties if, during the term of protection, either of the following occurs:

1. The same nonconformity has been subject to repair four or more times by the manufacturer, its agents or authorized dealers or lessors, but the nonconformity continues to exist or the nonconformity recurs; or

2. The motor vehicle is out of service by reason of repair of any nonconformity for a cumulative total of 30 or more calendar days.

The term of protection and the 30-day period are extended by any period of time during which repair services are not available to the consumer because of a war, invasion, strike, fire, flood, or other natural disasters. For the period of time that repair services are not available because of a strike, the manufacturer must provide the consumer with the free use of a comparable motor vehicle.

### *Opportunity To Repair*

The presumption that a reasonable number of repair attempts has been undertaken does not apply unless the manufacturer is afforded one additional opportunity to cure any nonconformity arising during the term of protection, even if the additional opportunity occurs after the term of protection expires.

The additional opportunity to cure the nonconformity may not exceed seven calendar days

and begins on the day the manufacturer first knows or should have known that the terms of the presumption have been met. This seven-day period is extended by any period of time during which repair services are not available to the consumer for the reasons listed above.

### ***Dispute Resolution***

If the manufacturer has established an informal dispute settlement procedure that complies with 16 C.F.R. Part 703, or that has been approved by the Rhode Island Attorney General, then the provisions requiring refund or replacement do not apply unless the consumer has first resorted to the informal dispute settlement procedure. This requirement does not apply unless the manufacturer, its agents or authorized dealer, or lessor has provided the consumer with clear and conspicuous written notice of the procedure at the time of the motor vehicle's delivery.

The consumer has the option of initiating a request for arbitration with the independent procedure provided by the Attorney General.

## ***Time Period For Filing Claims***

An action must be commenced within the earlier of (1) three years of the date of the vehicle's original delivery to the consumer, or (2) two years of the date on which the mileage on the vehicle reached 15,000 miles. The statute of limitations does not run during the period from the initiation of an informal dispute settlement procedure until 30 days following the procedure's final decision.

## ***Remedies Under The Rhode Island Lemon Law Repurchase Of Owned Vehicles***

The Rhode Island lemon law sets out the following amounts that a manufacturer must pay when it repurchases an owned motor vehicle under the lemon law:

1. The full contract price of the motor vehicle, including all credits and allowances for any trade-in vehicle;
2. Reimbursement to the consumer for any "incidental costs" including sales tax,

registration fee, finance charges, and any cost of non-removable options added by an authorized dealer; and

3. Towing and reasonable rental costs that were a direct result of the nonconformity when towing services and rental vehicles of comparable year and size were not made available at no cost to the consumer;
4. Less a reasonable allowance for use.

Refunds must be made to the consumer and lienholder, if any, as their interests may appear.

The consumer has the option of retaining the use of any repurchased motor vehicle until the consumer receives the full refund. The continued use of the motor vehicle will be reflected in the reasonable allowance for use.

The reasonable allowance for use is calculated in accordance with the following formula:

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Reasonable allowance for use =	Number of miles that the motor vehicle traveled prior to the consumer's first report of the nonconformity to the manufacturer, its agent or authorized dealer, and during any subsequent period when the motor vehicle was not out of service by reason of repair	X	Total contract price of the motor vehicle
	<hr/>		
	100,000		

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### *Repurchase Of Leased Vehicles*

The Rhode Island lemon law sets out the following amounts that a manufacturer must pay when it repurchases a leased motor vehicle under the lemon law:

*To the lessor:*

1. 105% of the lessor's actual purchase costs;
2. Collateral charges, if applicable;
3. Any fee paid to another to obtain the lease;

4. Any insurance or other costs expended by the lessor for the benefit of the lessee; and
5. An amount equal to state and local sales taxes not otherwise included as collateral charges, that were paid by the lessor when the vehicle was initially purchased;
6. Less the aggregate deposit and rental payments previously paid to the lessor for the leased vehicle.

*To the lessee:*

1. Aggregate deposit and rental payments previously paid to the lessor for the leased vehicle;
2. All credits and allowances for any trade-in vehicle;
3. All “incidental” costs including sales tax, registration fee, finance charges, and any cost of nonremovable options added by an authorized dealer or lessor; and
4. Towing and reasonable rental costs that were a direct result of the nonconformity when towing services and rental vehicles of comparable year

and size were not made available at no cost to the consumer;

5. Less a reasonable allowance for use.

Refunds must be made to the lessor and lessee as their interests may appear. The lessee's lease agreement with the lessor is terminated upon payment of the refund, and no penalty for early termination may be assessed.

The consumer has the option of retaining the use of any repurchased motor vehicle until the consumer receives the full refund. The continued use of the motor vehicle will be reflected in the reasonable allowance for use.

The reasonable allowance for use is calculated in accordance with the following formula:





1. Reimbursement to the consumer for any fees for the transfer of registration or any sales tax incurred by the consumer as a result of the replacement; and
2. Towing and reasonable rental costs that were a direct result of the nonconformity when towing services and rental vehicles of comparable year and size were not made available at no cost to the consumer.

If the motor vehicle to be replaced was financed or leased by the manufacturer, its subsidiary, or agent, the manufacturer, subsidiary or agent may not require the consumer to enter into any refinancing or lease agreement with an interest rate or other financial terms that are less favorable to the consumer than those stated in the original financing agreement or lease.

The consumer has the option of retaining the use of the motor vehicle to be replaced until the consumer receives a replacement motor vehicle acceptable to the consumer.

The manufacturer has 30 calendar days from the date of the motor vehicle's return to deliver a comparable motor vehicle. If within that 30 days, no comparable motor vehicle has been delivered, the manufacturer must provide a refund as set out above.

## **South Carolina Lemon Law**

The following is a brief explanation of most relevant provisions of the South Carolina lemon law. The complete text of the lemon law can be found at South Carolina Code Ann. §§ 56-28-10 through 56-28-110.

### ***Vehicles Covered***

The South Carolina lemon law covers “motor vehicle” sold and registered in the state. “Motor vehicle” means a private passenger motor vehicle that is:

1. A motor vehicle designed, used, and maintained for the transportation of ten or fewer persons; and
2. Trucks having an empty weight of 9,000 pounds or less and a gross weight of 11,000 pounds or less.

The lemon law also covers two-wheel and three-wheel motorcycles sold and registered in the state.

The lemon law does not cover the living portion of recreational vehicles and off-road vehicles, and mopeds.

“New motor vehicle” is a private passenger motor vehicle that has been sold to a new motor vehicle dealer by a manufacturer and that has not been used for other than demonstration purposes and on which the original title has not been issued from the new motor vehicle dealer.

### ***Consumers Covered***

The lemon law covers the following consumers:

1. The purchaser, including a lessor, for purposes other than resale, of a motor vehicle normally used for personal, family, or household purposes, and subject to the manufacturer’s express warranty; and
2. Any other person entitled by the warranty to enforce its obligations.

### ***Problems Covered***

The lemon law covers any nonconformity, which is defined as a defect or condition that substantially impairs the use, value, or safety of the motor vehicle. This does not include a defect or

condition that results from an accident, modification, or alteration of the motor vehicle by persons other than the manufacturer or its authorized service agent.

### ***Manufacturer's Duty To Repair***

If a new motor vehicle does not conform to all applicable express warranties within the first twelve months of purchase or the first 12,000 miles of operation, whichever comes first, and the consumer reports the nonconformity to the manufacturer or its agent during the term of the express warranties, then the manufacturer or its agent must make the necessary repairs to conform the vehicle to the express warranties. The necessary repairs must be made even after the expiration of the term of the express warranty.

### ***Manufacturer's Duty To Repurchase Or Replace A Vehicle***

If the manufacturer, its agents, or authorized dealers are unable to conform the vehicle to the express warranty by repairing or correcting any nonconformity after a reasonable number of attempts within the term of

the express warranties, the manufacturer, at its option, must either replace or repurchase the motor vehicle.

### ***Reasonable Number Of Repair Attempts***

The South Carolina lemon law establishes a presumption that a reasonable number of attempts has been undertaken to conform a motor vehicle to the applicable express warranties if, within the express warranty term, either of the following occurs:

1. The same nonconformity has been subject to repair three or more times by the manufacturer or its agents, but the nonconformity continues to exist; or
2. The motor vehicle is out of service by reason of repair for a cumulative total of 30 or more calendar days.

The term of an express warranty and the 20 (sic) day period are extended by any period of time during which repair services are not available to the consumer because of a war, invasion, strike, fire, flood, or other natural disasters.

## ***Notice And Opportunity To Repair***

Before filing a claim under the lemon law, the consumer or a representative must notify the manufacturer in writing, by registered, certified, or express mail, of the need for repair of the nonconformity, in order to allow the manufacturer a final opportunity to cure the alleged defect. This notice requirement does not apply unless the manufacturer has clearly and prominently informed the consumer, at the time of sale that written notification of the nonconformity is required.

The manufacturer has ten business days to notify consumer of a reasonably accessible repair facility of a franchised new vehicle dealer to conform the motor vehicle to the express warranty. After the motor vehicle is delivered to an authorized repair facility by the consumer, the manufacturer has up to ten business days to repair the motor vehicle so that it conforms to the express warranty.

## ***Dispute Resolution***

If the manufacturer has established an informal dispute settlement procedure that complies with 16



C.F.R. Part 703, or if the manufacturer participates in a consumer-industry appeals, arbitration, or mediation panel or board whose decisions are binding on the manufacturer, then the provisions requiring refund or replacement do not apply unless the consumer has first resorted to one of these procedures.

### ***Time Period For Filing Claims***

An action must be commenced within three years following the date of the motor vehicle's original delivery to the consumer.

### ***Remedies Under The South Carolina Lemon Law Repurchase***

The South Carolina lemon law sets out the following amounts that a manufacturer must pay when it repurchases an owned or leased motor vehicle under the lemon law:

1. The full purchase price as delivered; and
2. Applicable finance charges, sales taxes, license and registration fees, and similar government charges;

3. Less a reasonable allowance for the consumer's use of the motor vehicle.

Refunds must be made to the consumer and lienholder, if any, as their interests exist at the time the refund is to be made. The reasonable allowance for use is that amount directly attributable to use by the consumer before the first report of the nonconformity to the manufacturer, its agent, or dealer. The reasonable allowance must be calculated in accordance with the following formula:

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Reasonable allowance for use =	Number of miles that the motor vehicle traveled before the nonconformity is first reported to the manufacturer, agent, or dealer	X	Purchase Price
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120,000

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## *Replacement*

When replacing a vehicle under the South Carolina lemon law, the manufacturer must provide a comparable motor vehicle. The reasonable allowance for use does not apply to a replacement.

## **South Dakota Lemon Law**

The following is a brief explanation of most relevant provisions of the South Dakota lemon law. The complete text of the lemon law can be found at S.D. Codified Laws Ann. § 32-6D-1 et seq.

### ***Vehicles Covered***

The South Dakota lemon law covers any motor vehicle intended primarily for use and operation on the public highways.

The lemon law appears to cover used vehicles, but does not cover motor homes or vehicles with a manufacturer's gross vehicle weight rating of 10,000 pounds or more.

### ***Consumers Covered***

The lemon law covers the following "consumers":

1. The purchaser, for purposes other than resale, of a new or previously untitled motor vehicle used in substantial part for personal, family, or household purposes; and

2. Any other person entitled by the terms of the warranty to enforce its obligations.

The lemon law appears not to cover a lessee.

### ***Vehicle Converters***

The lemon law does not apply to vehicle converters.

### ***Problems Covered***

The lemon law covers any “nonconforming condition”, which it defines as any condition of a motor vehicle that:

1. Is not in conformity with the terms of an express warranty issued by the manufacturer to a consumer;
2. Significantly impairs the use, value, or safety of the motor vehicle; and
3. Occurs or arises solely in the course of the ordinary use of the motor vehicle.

The lemon law does not cover any condition that arises or occurs as a result of abuse, neglect,

modification, or alteration of the motor vehicle not authorized by the manufacturer, or from any accident or other damage to the motor vehicle that occurs or arises after the motor vehicle was delivered by an authorized dealer to the consumer.

### ***Lemon Law Rights Period***

The lemon law establishes a “lemon law rights period”, which it defines as the period ending one year after the date of the motor vehicle’s original delivery to a consumer, or the first 12,000 miles of operation, whichever occurs first.

### ***Manufacturer’s Duty To Repair***

If a motor vehicle does not conform to any applicable express warranty, and the consumer delivers the motor vehicle to the manufacturer or its authorized dealer and reports the nonconforming condition during the lemon law rights period, then the manufacturer must make the necessary repairs to remedy the nonconforming condition.

If notice of the nonconforming condition was first given during the lemon law rights period, the necessary repairs must be made even if the lemon law rights period has expired. However, the manufacturer's duty to repair the nonconforming condition does not extend beyond two years after the vehicle's delivery or 24,000 miles, whichever occurs first.

### ***Manufacturer's Duty To Repurchase Or Replace A Vehicle***

If the manufacturer or its authorized dealer is unable after a reasonable number of attempts to conform the motor vehicle to any express warranty by repairing or correcting a nonconforming condition that first occurred during the lemon law rights period, the manufacturer must, at the consumer's option, either replace or repurchase the motor vehicle.

### ***Reasonable Number Of Repair Attempts***

The South Dakota lemon law establishes a presumption that a reasonable number of attempts has been undertaken to conform a motor vehicle to the applicable express warranties if, during the period of

two years following the motor vehicle's delivery or 24,000 miles, whichever is earlier, either of the following occurs:

1. The same nonconforming condition was subject to repair attempts four or more times by the manufacturer or its authorized dealers, at least one attempt occurred during the lemon law rights period, plus the manufacturer had a final repair attempt, and the nonconforming condition continues to exist; or
2. The motor vehicle was out of service and in the custody of the manufacturer or an authorized dealer due to repair attempts for a cumulative total of 30 or more calendar days, including the final repair attempt, and at least one repair attempt occurred during the lemon law rights period.

The 30-day period is extended by any period of time during which repair could not be performed because of conditions beyond the control of the manufacturer or authorized dealers, such as war, invasion, strike, fire, flood, or other natural disaster.



## *Notice And Opportunity To Repair*

Before commencing any civil action, the consumer must notify the manufacturer by certified mail of a nonconforming condition and demand correction or repair. The notice must describe the motor vehicle, nonconforming condition, and all previous attempts to correct the nonconforming condition, including the identities of persons who made the attempts and the times the attempts were made.

If the number of repair attempts that have been undertaken meets the above presumption at the time notice is given, the consumer must give the manufacturer a final opportunity to cure the nonconforming condition. Within seven days of receiving the written notice of a nonconforming condition, the manufacturer must notify the consumer of a reasonably accessible repair facility. After the consumer delivers the vehicle to the repair facility, the manufacturer has fourteen days to correct the nonconforming condition and conform the vehicle to the express warranty.

## ***Dispute Resolution***

If the manufacturer has established an informal dispute settlement procedure conducted within South Dakota that complies with 16 C.F.R. Part 703, then the consumer must first exhaust any remedy afforded by the procedure before instituting a cause of action under the lemon law.

## ***Time Period For Filing Claims***

An action must be commenced within three years following the date of the vehicle's original delivery to the consumer.

## ***Remedies Under The South Dakota Lemon Law***

### ***Repurchase***

The South Dakota lemon law sets out the following amounts that a manufacturer must pay when it repurchases a motor vehicle under the lemon law:

1. The full contract price, including charges for undercoating, dealer preparation and

transportation charges, installed options, and the nonrefundable portions of extended warranties and service contracts;

2. All collateral charges, including excise tax, license and registration fees, and similar government charges;
3. All finance charges incurred by the consumer after the first report of the nonconformity to the manufacturer and its authorized dealer; and
4. Incidental damages, including the reasonable cost of alternative transportation during the period that the consumer is without the use of the motor vehicle because of the nonconforming condition;
5. Less a reasonable allowance for the consumer's use of the motor vehicle.

Refunds must be made to the consumer and lienholder, if any, as their interests may appear.

The reasonable allowance for use is that amount directly attributable to use by the consumer before the first report of the nonconformity to the manufacturer or authorized dealer. The reasonable

allowance must be calculated in accordance with the following formula:

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Reasonable allowance for use =	$\frac{\begin{array}{c} \text{\# miles traveled prior} \\ \text{to before the 1st report} \\ \text{of nonconformity} \end{array}}{120,000}$	X	Full purchase price
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*Replacement*

When replacing a vehicle under the South Dakota lemon law, the manufacturer must provide a comparable new motor vehicle. The replacement must be accompanied by a refund of all collateral charges, including excise tax, license and registration fees, and similar government charges.

The reasonable allowance for use does not apply to a replacement.

## **Tennessee Lemon Law**

The following is a brief explanation of most relevant provisions of the Tennessee lemon law. The complete text of the lemon law can be found at Tenn. Code Ann. 55-24-101 through 55-24-112.

### ***Vehicles Covered***

The Tennessee lemon law covers a passenger motor vehicle and a motorcycle that is sold in Tennessee and is subject to registration and title in Tennessee or any other state. The Tennessee lemon law does not cover motor homes used as a dwelling place, living abode, or sleeping place; garden tractors; recreational vehicles or off-road vehicles; and vehicles over 10,000 pounds gross vehicle weight.

### ***Consumers Covered***

The lemon law covers the following “consumers”:

1. The purchaser (other than for purposes of resale) or the lessee of a motor vehicle;

2. Any person to whom the motor vehicle is transferred during the duration of an express warranty for that vehicle; or
3. Any other person entitled by the terms of the warranty to enforce its obligations.

The lemon law covers a subsequent transferee but does not cover any governmental entity or any business or commercial entity that registers three or more vehicles.

### ***Problems Covered***

The lemon law covers any nonconformity to the warranty, defect, or condition that substantially impairs the motor vehicle. This is referred to as a nonconformity.

“Substantially impair” is defined to mean to render a vehicle unreliable or unsafe for normal operation or to reduce its resale market value below the average resale value for comparable vehicles.

It is an affirmative defense if the manufacturer can show that the alleged nonconformity does not

substantially impair the motor vehicle, or the nonconformity is the result of abuse, neglect, or unauthorized modifications or alterations of the vehicle by a consumer.

### ***Term Of Protection***

The lemon law defines “term of protection” to mean the term of applicable express warranties or the period of one year following the date of the motor vehicle’s original delivery to a consumer, whichever comes first.

### ***Manufacturer’s Duty To Repair***

If a new motor vehicle does not conform to all applicable express warranties, and the consumer reports the nonconformity to the manufacturer, its agent, or authorized dealer during the term of protection, then the manufacturer, its agent, or authorized dealer must correct the nonconformity. Repairs must be made even if the term of protection has expired.

## ***Manufacturer's Duty To Repurchase Or Replace A Vehicle***

If the manufacturer, its agent, or authorized dealer is unable to conform the motor vehicle to any applicable express warranty by correcting a nonconformity after a reasonable number of attempts, then the manufacturer must replace or repurchase the motor vehicle.

### ***Reasonable Number Of Repair Attempts***

The Tennessee lemon law establishes a presumption that a reasonable number of repair attempts has been undertaken to conform the motor vehicle to the applicable express warranties if either of the following occurs:

1. The same nonconformity has been subject to repair three or more times by the manufacturer, its agents, or authorized dealers during the term of protection, but the nonconformity continues to exist; or



2. The motor vehicle is out of service by reason of repair for a cumulative total of 30 or more calendar days during the term of protection.

The term of protection and the 30-day period are extended by any period during which repair services are not available because of war, invasion, strike or fire, flood or other natural disasters.

### ***Opportunity To Repair***

The consumer or a representative must give written notification by certified mail directly to the manufacturer of the need for correction or repair of the nonconformity. If the manufacturer's address is not readily available in the owner's manual or manufacturer's warranty received by the consumer at the time of purchase, the consumer can mail the notification to an authorized dealer who will forward it to the manufacturer.

If the presumption of a reasonable number of repair attempts has been met at the time of the notice, the manufacturer must be given an additional

opportunity, not to exceed 10 days, to correct or repair the nonconformity.

### ***Dispute Resolution***

If the manufacturer has established or participates in an informal dispute settlement procedure that complies with 16 C.F.R. Part 703 and with the provisions of the lemon law, and the manufacturer causes the consumer to be notified of the procedure, then the provisions requiring refund or replacement do not apply unless the consumer has first resorted to the informal dispute settlement procedure. The Tennessee Attorney General must, upon application, issue a determination whether the informal dispute settlement procedure qualifies under the lemon law.

### ***Time Period For Filing Claims***

An action must be commenced within six months following the later of (1) expiration of the express warranty term, or (2) one year following the date of the vehicle's original delivery to a consumer. The statute of limitations does not run for the period beginning on the date when the consumer submits a

dispute to an informal dispute settlement procedure and ending on the date of the procedure's decision or the date before which the manufacturer is required by the decision to fulfill its terms, whichever is later.

## ***Remedies Under The Tennessee Lemon Law***

### ***Repurchase Of Owned Vehicles***

The Tennessee lemon law provides that a manufacturer must pay the following amounts when it repurchases an owned vehicle under the lemon law:

1. Full purchase price, meaning the actual cost paid by the consumer; and
2. All collateral charges, meaning manufacturer-installed or agent-installed items or service charges, credit life and disability insurance charges, sales taxes, title charges, license fees, registration fees, any similar governmental charges, and other reasonable expenses incurred for the purchase of the motor vehicle;
3. Less a reasonable allowance for use.

Refunds must be made to the consumer and lienholder, if any, as their interests appear.

The reasonable allowance for use means that amount directly attributable to use by a consumer prior to the first report of the nonconformity to the manufacturer, agent, or dealer, and during any subsequent period when the vehicle is not out of service by reason of repair; plus a reasonable amount for any damage not attributable to normal wear.

A reasonable allowance for use cannot exceed one-half the amount allowed per mile by the Internal Revenue Service (Section 162 of the Internal Revenue Code), for use of a personal vehicle for business purposes, plus an amount to account for any loss to the fair market value of the vehicle resulting from damage beyond normal wear and tear unless the damage resulted from nonconformity to an express warranty.

### ***Repurchase Of Leased Vehicles***

The Tennessee lemon law states that a manufacturer must pay the following amounts when it repurchases a leased vehicle under the lemon law:

*To the lessee:*

1. Aggregate deposit and rental payments previously paid to the lessor for the leased vehicle;
2. Less "service fees".

"Service fees" are the portion of any lease payment attributable to a) an amount for earned interest calculated on the rental payments previously paid to the lessor for the leased vehicle at an annual rate equal to two points above the prime rate in effect on the date the lease was executed; and b) any insurance or other costs expended by the lessor for the benefit of the lessee.

*To the lessor:*

1. Actual purchase cost of the vehicle;
2. Freight (if applicable);
3. Accessories (if applicable);
4. Any fee paid to another to obtain the lease; and
5. 5% of the lease price;

6. Less the aggregate deposit and rental payments previously paid to the lessor for the leased vehicle.

### ***Replacement***

When replacing a vehicle under the Tennessee lemon law, the manufacturer must provide a “comparable motor vehicle”, meaning a new motor vehicle of comparable worth to the same make and model with all options and accessories, with appropriate adjustments being allowed for any model year differences. The reasonable allowance for use appears not to apply to a replacement.

The provisions relating to replacement do not affect the interests of a lienholder. Unless the lienholder consents to the replacement of the lien with a corresponding lien on the replacement vehicle, the lienholder must be paid in full the amount due on the lien, including interest and other charges, before an exchange of motor vehicles or a refund to the consumer is made.

If the nonconforming motor vehicle was financed by the manufacturer or its subsidiary or agent, the manufacturer, subsidiary or agent must not require the consumer to enter into any refinancing agreement that would create any financial obligations beyond those imposed by the original financing agreement.

## **Texas Lemon Law**

The following is a brief explanation of most relevant provisions of the Texas lemon law. The complete text of the lemon law can be found at Tex. Occ. Code Ann. §§ 2301.001 et seq.

### ***Vehicles Covered***

The Texas lemon law covers a motor vehicle, defined as:

1. Every fully self-propelled vehicle that has two or more wheels and has as its primary purpose the transport of persons or property on a public highway;
2. Every fully self-propelled, titled vehicle that has two or more wheels and has as its primary purpose the off-road transportation of persons or property;
3. An engine, transmission, or rear axle whether or not attached to a vehicle chassis, that is manufactured for installation in a vehicle having as its primary purpose the transport of persons or property on a public highway and



having a gross vehicle weight rating of more than 16,000 pounds; or

4. A towable recreational vehicle.

### *Consumers Covered*

The lemon law covers a “consumer,” defined as a person who is entitled to enforce a manufacturer’s warranty with respect to a motor vehicle, and is one of the following:

1. A person who purchases a motor vehicle at retail from a Texas dealer;
2. The lessor or lessee (other than a sublessee) who purchased or leased a motor vehicle from a Texas dealer or lessor;
3. A person who is a resident of Texas and has registered the vehicle in Texas;
4. A person who purchased or leased the vehicle at retail and is an active member of the U.S. armed forces stationed in Texas at the time the claim is filed; or
5. The transferee or assignee of a retail purchaser, lessor, or lessee as described above, as long as

the transferee or assignee is a resident of Texas and registered the vehicle in Texas.

### *Problems Covered*

The lemon law covers any defect or condition that creates a serious safety hazard or substantially impairs the use or market value of the motor vehicle. This is referred to as a nonconformity.

“Serious safety hazard” is defined as a life-threatening malfunction or nonconformity that substantially impedes a person’s ability to control or operate a motor vehicle for ordinary use or intended purposes or that creates a substantial risk of fire or explosion.

“Impairment of market value” is defined as a substantial loss in market value caused by a defect specific to the motor vehicle.

The lemon law provides manufacturers with an affirmative defense if it can be shown that the nonconformity is the result of abuse, neglect, or unauthorized modifications or alterations of the motor

vehicle, or the nonconformity does not substantially impair the use or market value of the motor vehicle.

### ***Manufacturer's Duty To Repair***

If a new motor vehicle does not conform to the manufacturer's, converter's, or distributor's express warranty, then the manufacturer, converter, or distributor must make the necessary repairs.

The necessary repairs must be made after the applicable warranty period has expired if:

1. The consumer or the consumer's agent reports the nonconformity to the manufacturer, converter, or distributor, or any of their agents or franchised dealers during the term of the express warranty; or
2. The terms of the presumption relating to the vehicle (see below) have been met.

### ***Manufacturer's Duty To Repurchase Or Replace A Vehicle***

If the manufacturer, converter, or distributor is unable to conform the motor vehicle to the applicable

express warranty by repairing or correcting a nonconformity after a reasonable number of attempts, the manufacturer, converter, or distributor must either replace or repurchase the motor vehicle.

### ***Reasonable Number Of Repair Attempts***

The Texas lemon law establishes a presumption that a reasonable number of attempts have been undertaken to conform a motor vehicle to the applicable express warranties if:

For a new motor vehicle that is sold or leased before September 1, 2017:

1. The same nonconformity continues to exist after being subject to repair four or more times by the manufacturer, converter, or distributor, or any of their agents or franchised dealers. Two of the repair attempts must be made within 12 months or 12,000 miles, whichever occurs first, following the date of original delivery to a consumer. The two other repair attempts must be made within 12 months or 12,000 miles,

whichever occurs first, immediately following the date of the second repair attempt;

2. The same nonconformity creates a serious safety hazard and continues to exist after being subject to repair two or more times by the manufacturer, converter, or distributor, or any of their agents or franchised dealers. At least one attempt to repair must be made within 12 months or 12,000 miles, whichever occurs first, following the date of original delivery to a consumer. At least one other attempt must be made within 12 months or 12,000 miles, whichever occurs first, after the first repair attempt; or
3. A nonconformity that substantially impairs the vehicle's use or market value still exists and the vehicle is out of service for repair for a cumulative total of 30 or more days within the 24 months or 24,000 miles, whichever occurs first, following the date of original delivery to a consumer. At least two repair attempts must be made within the first 12 months or 12,000 miles following the date of original delivery to a consumer.

The initial 12-month or 12,000-mile periods, the subsequent 12-month or 12,000-mile periods, and the 30-day period are extended by any period during which repair services are not available because of war, invasion, strike, fire, flood, or other natural disasters.

The 30-day period does not include any period during which the manufacturer or distributor lends a comparable motor vehicle to the consumer during the time of repairs by a franchised dealer.

For a new motor vehicle that is sold or leased on or after September 1, 2017:

1. The same nonconformity continues to exist after being subject to repair four or more times by the manufacturer, converter, or distributor, or any of their agents or franchised dealers, and the repair attempts were made before the earlier of: (a) the date the express warranty expires; or (b) 24 months or 24,000 miles, whichever occurs first, following the date of original delivery to a consumer;

2. The same nonconformity creates a serious safety hazard and continues to exist after being subject to repair two or more times by the manufacturer, converter, or distributor, or any of their agents or franchised dealers, and the repair attempts were made before the earlier of: (a) the date the express warranty expires; or (b) 24 months or 24,000 miles, whichever occurs first, following the date of original delivery to a consumer; or
3. A nonconformity that substantially impairs the vehicle's use or market value still exists and the vehicle is out of service for repair for a cumulative total of 30 or more days, and the repair attempts were made before the earlier of: (a) the date the express warranty expires; or (b) 24 months or 24,000 miles, whichever occurs first, following the date of original delivery to a consumer.

The 24 months or 24,000 miles, and the 30-day period are extended for any period that repair services

are not available to the consumer because of war, invasion, strike, fire, flood, or other natural disaster.

The 30-day period does not include any period during which the manufacturer or distributor lends a comparable motor vehicle to the consumer during the time of repairs by a franchised dealer.

### ***Notice And Opportunity To Repair***

The manufacturer, converter, or distributor will not be required to replace or repurchase a vehicle unless:

1. The consumer, a person on behalf of the consumer, or the Texas Department of Motor Vehicles provided written notice of the alleged nonconformity or defect to the manufacturer, converter, or distributor; and
2. The manufacturer, converter, or distributor has been given an opportunity to cure the alleged defect or nonconformity.

### ***Dispute Resolution***

A consumer may not file an action seeking refund or replacement unless the consumer has first



exhausted the administrative remedies through the state-operated arbitration program.

### ***Time Period For Filing Claims***

A proceeding must be commenced within six months following the earlier of (1) expiration of the express warranty term, or (2) 24 months or 24,000 miles following the date of the vehicle's original delivery to a consumer.

### ***Remedies Under The Texas Lemon Law***

#### ***Repurchase Of Owned Vehicles***

The Texas lemon law provides that a manufacturer must pay the following amounts when it repurchases an owned vehicle under the lemon law:

1. The full purchase price. The Texas Department of Motor Vehicles indicates this means the amount of the total purchase price of the vehicle, including sales taxes and title, registration, and documentary fees, but not including the amount of any interest or finance charge or insurance premiums; and

2. Reasonable incidental costs resulting from loss of use of the motor vehicle because of the nonconformity or defect. The Texas Department of Motor Vehicles has defined reimbursable incidental expenses as including but not limited to:

- a) alternate transportation;
- b) towing;
- c) telephone calls or mail charges directly attributable to contacting the manufacturer, distributor, converter, or dealer regarding the vehicle;
- d) meals and lodging necessitated by the vehicle's failure during out-of-town trips;
- e) loss or damage to personal property;
- f) attorney fees if the complainant retains counsel after notification that the respondent is represented by counsel; and
- g) items or accessories added to the vehicle at or after purchase, taking into consideration the permanent nature, functionality, and value added by the

items or accessories and whether the items or accessories are original equipment manufacturer (OEM) parts or non-OEM parts;

3. Less a reasonable allowance for the consumer's use of the vehicle.

Refunds must be made to the consumer and lienholder, if any, as their interests may appear.

The reasonable allowance for use must be that amount directly attributable to the use of the motor vehicle when the vehicle is not out of service for repair. The Texas Department of Motor Vehicles has established a presumption that a motor vehicle has a useful life of 120,000 miles, and has defined reasonable allowance for use to be the following except in cases where the preponderance of the evidence shows that the vehicle has a longer or shorter expected useful life than 120,000 miles:

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(a)	# miles vehicle traveled from delivery to consumer until first report of defect or condition leading to repurchase	X	Purchase Price
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120,000

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**Plus**

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(b)	# miles vehicle traveled after date of first report of defect or condition leading to repurchase through date of the hearing	X	Purchase Price	X	50%
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120,000

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If the motor vehicle is substantially damaged or if there is an adverse change in the motor vehicle's condition beyond ordinary wear and tear, from the date of the hearing to the date of repurchase, and the parties are unable to agree on an amount allowed for such damage or condition, either party may request

reconsideration by the final order authority (e.g., the arbitrator) of the repurchase price contained in the final order (e.g., the decision).

### ***Repurchase Of Leased Vehicles***

The Texas Department of Motor Vehicles has set out the following amounts that a manufacturer must pay when it repurchases a leased vehicle under the lemon law:

*To the lessee:*

1. All lease payments previously paid by the lessee to the lessor under the terms of the lease;
2. All sums previously paid to the lessor in connection with entering into the lease agreement, including but not limited to any capitalized cost reduction, down payment, trade-in, or similar cost; and
3. Sales tax, license and registration fees, and other documentary fees, if applicable; and
4. Reasonable incidental costs resulting from loss of use of the motor vehicle because of the

nonconformity or defect. The Texas Department of Motor Vehicles has defined reimbursable incidental expenses as including but not limited to:

- a) alternate transportation;
- b) towing;
- c) telephone calls or mail charges directly attributable to contacting the manufacturer, distributor, converter, or dealer regarding the vehicle;
- d) meals and lodging necessitated by the vehicle's failure during out-of-town trips;
- e) loss or damage to personal property;
- f) attorney fees if the complainant retains counsel after notification that the respondent is represented by counsel; and
- g) items or accessories added to the vehicle at or after purchase, taking into consideration the permanent nature, functionality, and value added by the items or accessories and whether the items or accessories are original

equipment manufacturer parts or non-OEM parts;

5. Less a reasonable allowance for the consumer's use of the vehicle.

*To the lessor:*

1. 105% of the actual price paid by the lessor for the vehicle
2. Any tax, title, license, and documentary fees paid by the lessor and as evidenced in a bill of sale, bank draft demand, tax collector's receipt, or similar instrument;
3. Any amount or fee, if any, paid by the lessor to secure the lease or interest in the lease; This information is not intended as legal advice.
4. Less all payments made by the lessee.

Refunds must be made to the lessee, lessor, and any lienholder as their interests may appear. The motor vehicle must be returned to the manufacturer, converter, or distributor with a clear title upon payment of these amounts. The lessor must transfer title of the motor vehicle to the manufacturer,

converter or distributor as necessary to effectuate the lessee’s rights under the lemon law. The lease must be terminated without any penalty to the lessee.

The reasonable allowance for use must be that amount directly attributable to the use of the motor vehicle when the vehicle is not out of service for repair. The Texas Department of Motor Vehicles has established a presumption that a motor vehicle has a useful life of 120,000 miles, and has defined reasonable allowance for use to be the following except in cases where the preponderance of the evidence shows that the vehicle has a longer or shorter expected useful life than 120,000 miles:

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<b>(a)</b>	# miles vehicle traveled from delivery to consumer until first report of defect or condition leading to repurchase	<b>X</b>	Actual price paid by the lessor for the vehicle
	Purchase		

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|  | 120,000 |  |  |



Plus

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<b>(b)</b> # miles vehicle traveled after date of first report of defect or condition leading to repurchase through date of the hearing	<b>X</b>	Actual price paid by the lessor for the vehicle	<b>X</b> 50%
<hr/>			
120,000			

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If the motor vehicle is substantially damaged or if there is an adverse change in the motor vehicle's condition beyond ordinary wear and tear, from the date of the hearing to the date of repurchase, and the parties are unable to agree on an amount allowed for such damage or condition, either party may request reconsideration by the final order authority (e.g., the arbitrator) of the repurchase price contained in the final order (e.g., the decision).

## *Replacement*

When replacing a vehicle under the Texas lemon law, the manufacturer must replace the motor vehicle with a comparable motor vehicle. The manufacturer, converter, or distributor shall:

1. Promptly authorize the exchange of the consumer's motor vehicle with the consumer's choice of any comparable motor vehicle; and
2. Instruct the dealer to contract the sale of the selected comparable motor vehicle with the consumer as follows:
  - a) The sales price of the comparable motor vehicle shall be the vehicle's Manufacturer's Suggested Retail Price (MSRP/DSRP, as applicable);
  - b) The trade-in value of the consumer's motor vehicle shall be the MSRP/DRSP, as applicable, at the time of the original transaction, less a reasonable allowance for the consumer's use of the consumer's motor vehicle; and
  - c) The use allowance for replacement relief shall be calculated as follows:

The reasonable allowance for use must be that amount directly attributable to the use of the motor vehicle when the vehicle is not out of service for repair. The Texas Department of Motor Vehicles has established a presumption that a motor vehicle has a useful life of 120,000 miles, and has defined reasonable allowance for use to be the following except in cases where the preponderance of the evidence shows that the vehicle has a longer or shorter expected useful life than 120,000 miles:

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(i)	# miles vehicle traveled from delivery to consumer until first report of defect or condition leading to repurchase through the date of the hearing	X	Purchase Price
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120,000

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Plus

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(ii) # miles vehicle traveled after date of first report of defect or condition leading to repurchase through date of the hearing	X	Purchase Price	X	50%
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3. Reimburse the consumer for reasonable incidental costs resulting from loss of use of the motor vehicle because of the nonconformity or defect. The Texas Department of Motor Vehicles has defined reimbursable incidental expenses as including but not limited to:

- a) alternate transportation;
- b) towing;
- c) telephone calls or mail charges directly attributable to contacting the manufacturer, distributor, converter, or dealer regarding the vehicle;
- d) meals and lodging necessitated by the vehicle's failure during out-of-town trips;

- e) loss or damage to personal property;
  - f) attorney fees if the complainant retains counsel after notification that the respondent is represented by counsel; and
  - g) items or accessories added to the vehicle at or after purchase, taking into consideration the permanent nature, functionality, and value added by the items or accessories and whether the items or accessories are original equipment manufacturer parts or non-OEM parts.
4. Upon any replacement of a consumer's motor vehicle, the consumer shall be responsible for payment or financing of the usage allowance of the consumer's vehicle, any outstanding liens on the consumer's vehicle, and applicable taxes and fees associated with the new sale, excluding documentary fees.
- A. If the comparable motor vehicle has a higher MSRP/DSRP, as applicable, than the complainant's vehicle, the complainant shall be responsible at the time of sale to pay or finance

the difference in the two vehicles' MSRPs/DSRPs, as applicable, to the manufacturer, converter or distributor.

- B. If the comparable motor vehicle has a lower MSRP/DSRP, as applicable, than the complainant's vehicle, the complainant will be credited the difference in the MSRP/DSRP, as applicable, between the two motor vehicles. The difference credited shall not exceed the amount of the calculated usage allowance for the complainant's vehicle.
- 5. The consumer is responsible for obtaining financing, if necessary, to complete the replacement.

## **Utah Lemon Law**

The following is a brief explanation of most relevant provisions of the Utah lemon law. The complete text of the lemon law can be found at Utah Code Ann. section 13-20-1 et seq.

### ***Vehicles Covered***

The Utah lemon law covers any motor vehicle sold in the state and intended primarily for use and operation on the highways. This includes a motorcycle and the self-propelled vehicle and chassis of a motor home sold in the state.

The lemon law does not cover those portions of a motor home designated, used, or maintained primarily as a mobile dwelling, office, or commercial space; farm tractors; motorcycles designed primarily for use on unimproved terrain; road tractors or truck tractors; mobile homes; or any motor vehicle with a gross laden weight of over 12,000 pounds.

The Division of Consumer Protection defines “new motor vehicle” as a motor vehicle that has never

been titled or registered and has been driven fewer than 7,500 miles.

### ***Consumers Covered***

The lemon law covers the “consumer”, defined as an individual who, within the express warranty term or during the period of one year following the date of the motor vehicle’s original delivery to a consumer, whichever is earlier, has entered into an agreement or contract for the transfer, lease, or purchase of a new motor vehicle for purposes other than resale or sublease. The lemon law does not cover the purchaser, lessee, or transferee of a used motor vehicle.

### ***Vehicle Converters***

The lemon law applies to vehicle converters.

### ***Problems Covered***

The lemon law covers any defect or condition that substantially impairs the use, market value, or safety of the motor vehicle. This is referred to as a nonconformity.



The lemon law provides manufacturers with an affirmative defense if it can be shown that the alleged nonconformity does not substantially impair the consumer's use of the motor vehicle and does not substantially impair the market value or safety of the motor vehicle; or the nonconformity is the result of abuse, neglect, or unauthorized modifications or alterations of a motor vehicle by a consumer.

### ***Manufacturer's Duty To Repair***

If a motor vehicle does not conform to all applicable express warranties, and the consumer reports the nonconformity to the manufacturer, its agent, or authorized dealer within the express warranty term or during the period of one year following the date of the motor vehicle's original delivery to a consumer, whichever is earlier, then the manufacturer, its agent or authorized dealer must make the necessary repairs to conform the motor vehicle to the express warranties.

The necessary repairs must be made even after the expiration of the express warranty term or the one-year period.

## ***Manufacturer's Duty To Repurchase Or Replace A Vehicle***

If the manufacturer, its agent, or an authorized dealer is unable to conform the motor vehicle to any applicable express warranty by repairing or correcting any nonconformity after a reasonable number of attempts, the manufacturer must either replace or repurchase the motor vehicle.

The Division of Consumer Protection has issued regulations defining "attempt" to repair to mean that the vehicle is or has been presented to the manufacturer or its agent for the same nonconformity.

### ***Reasonable Number Of Repair Attempts***

The Utah lemon law establishes a presumption that a reasonable number of repair attempts has been undertaken to conform a motor vehicle to the applicable express warranties if, within the express warranty term or during the period of one year following the date of the motor vehicle's original delivery to a consumer, whichever is earlier, either of the following occurs:

1. The same nonconformity has been subject to repair four or more times by the manufacturer, its agent, or authorized dealer, but the nonconformity continues to exist; or
2. The motor vehicle is out of service to the consumer because of repair for a cumulative total of 30 or more business days. The term of an express warranty, the one-year period, and the 30-day period are extended by any period of time during which repair services are not available to the consumer because of a war, invasion, strike or fire, flood, or other natural disasters.

### ***Dispute Resolution***

If the manufacturer has established or participates in an informal dispute settlement procedure that complies with 16 C.F.R. Part 703, then the provisions requiring refund or replacement do not apply unless the consumer has first resorted to the informal dispute settlement procedure.

### ***Time Period For Filing Claims***

Not specified. Assuming that the UCC statute of limitations applies, a claim must be filed with BBB

AUTO LINE within four years from the date the alleged defect is discovered.

## ***Remedies Under The Utah Lemon Law***

### ***Repurchase Of An Owned Vehicle***

The Utah lemon law sets out the following amounts that a manufacturer must pay when it repurchases an owned motor vehicle under the lemon law:

1. The full purchase price, defined by the Division of Consumer Protection to mean the actual amount paid for the motor vehicle, including taxes, licensing fees, and additional warranty fees, but not including collateral charges; and
2. All collateral charges, defined by the Division of Consumer Protection as including but not limited to sales taxes, document preparation fees, and the cost of additional warranties or extended warranties if included in the purchase price;
3. Less a reasonable allowance for the consumer's use of the vehicle.

Refunds must be made to the consumer and any lienholder as their interests may appear. Upon receipt of the refund, the consumer or lienholder must furnish to the manufacturer clear title to and possession of the motor vehicle.

The reasonable allowance for use is that amount directly attributable to use by the consumer prior to the first report of the nonconformity to the manufacturer, its agent, or authorized dealer, and any subsequent period when the vehicle is not out of service because of repair. The Division of Consumer Protection has defined “reasonable allowance” to mean the dollar value based on the prescribed deduction per mile. The reasonable allowance may not be less than 10¢ per mile and may not exceed 21¢ per mile. The consumer is not liable for mileage on the vehicle at the time of delivery or during the time the vehicle was being repaired.

### ***Repurchase Of A Leased Vehicle***

In addition to the amounts specified for the refund of an owned vehicle, the Division of Consumer

Protection has set out the following provisions that apply to the refund of a leased vehicle:

1. All payments made under the lease;
2. Any trade-in value, inception payment, and security deposit; and
3. All payments on behalf of the lessee as necessary to obtain clear title to the motor vehicle;
4. Less a reasonable allowance for the consumer's use of the vehicle.

The excess from the payments made to the lessor must be paid to the lessee. Upon the lessor's and/or lienholder's receipt of the refund, the consumer, lessor, or lienholder must furnish to the manufacturer clear title to and possession of the motor vehicle, and the consumer is relieved of any further obligation to the lessor and/or lienholder.

The reasonable allowance for use is that amount directly attributable to use by the consumer prior to the first report of the nonconformity to the manufacturer, its agent, or authorized dealer, and any subsequent period when the vehicle is not out of service because of

repair. The Division of Consumer Protection has defined “reasonable allowance” to mean the dollar value based on the prescribed deduction per mile. The reasonable allowance may not be less than 10¢ per mile and may not exceed 21¢ per mile. The consumer is not liable for mileage on the vehicle at the time of delivery or during the time the vehicle was being repaired.

### ***Replacement***

When replacing a vehicle under the Utah lemon law, the manufacturer must provide a comparable new motor vehicle. The Division of Consumer Protection has defined “comparable new motor vehicle” to mean either of the following:

1. A motor vehicle that is determined by the Division to be identical to, or reasonably equivalent to, the nonconforming motor vehicle had it conformed to all applicable express warranties. A comparable new motor vehicle includes any service contracts, contract options, and factory or dealer-installed options that were originally included in the sale of the nonconforming motor vehicle; or

2. A vehicle with an equivalent retail value including any service contracts, and factory or dealer installed options that were originally included with the nonconforming motor vehicle, if the consumer consents to a different make or model.

The Division of Consumer Protection has further provided that, if a manufacturer is unable to provide a comparable new motor vehicle, it may provide, upon the consent of the consumer, a replacement vehicle of comparable quality. The consumer must not incur additional expense with respect to the replacement vehicle except as a reasonable allowance for the use of the nonconforming motor vehicle.

Upon receipt of the replacement, the consumer, lienholder or lessor must furnish to the manufacturer clear title to and possession of the motor vehicle.

The reasonable allowance for use is that amount directly attributable to use by the consumer prior to the first report of the nonconformity to the manufacturer, its agent, or authorized dealer, and any subsequent



period when the vehicle is not out of service because of repair. The Division of Consumer Protection has defined "reasonable allowance" to mean the dollar value based on the prescribed deduction per mile. The reasonable allowance may not be less than 10¢ per mile and may not exceed 21¢ per mile. The consumer is not liable for mileage on the vehicle at the time of delivery or during the time the vehicle was being repaired.

## **Virginia Lemon Law**

The following is a brief explanation of most relevant provisions of the Virginia lemon law. The complete text of the lemon law can be found at Code of Virginia §§ 59.1-207.9 et seq.

### ***Vehicles Covered***

The Virginia lemon law covers “motor vehicles”, defined as:

1. Passenger cars designed and used primarily for the transportation of no more than 10 persons including the driver;
2. Pickup or panel trucks (i) designed for the transportation of property and having a registered gross weight of 7,500 pounds or less or (ii) every motor vehicle registered for personal use, designed to transport property on its own structure independent of any other vehicle, and having a registered gross weight in excess of 7,500 pounds but not in excess of 10,000 pounds.

3. Motorcycles, mopeds, and the self-propelled motorized chassis of motor homes; and
4. Demonstrators and leased vehicles with which a warranty was issued. The lemon law appears to cover used vehicles.

### ***Consumers Covered***

The lemon law covers the following “consumers”:

1. The purchaser, other than for purposes of resale, or the lessee of a motor vehicle used in substantial part for personal, family, or household purposes;
2. Any person to whom the motor vehicle is transferred for the same purposes during the duration of any warranty applicable to the motor vehicle; and
3. Any other person entitled by the terms of the warranty to enforce its obligations.

### ***Problems Covered***

The lemon law covers any nonconformity, which is defined as a failure to conform with a

warranty, a defect or a condition, including those that do not affect the driveability of the vehicle, that significantly impairs the use, market value or safety of the motor vehicle. “Significant impairment” means to render the motor vehicle unfit, unreliable or unsafe for ordinary use or reasonable intended purposes.

The lemon law provides manufacturers with an affirmative defense if it can be shown that the alleged nonconformity does not significantly impair the use, market value, or safety of the motor vehicle, or the nonconformity is the result of abuse, neglect, or unauthorized modification or alteration of the motor vehicle by a consumer.

### ***Lemon Law Coverage Period***

The lemon law establishes a lemon law rights period ending 18 months after the date of the vehicle’s original delivery to the consumer. The lemon law rights period is extended if the manufacturer has been notified of the existence of a nonconformity but the nonconformity has not been effectively repaired by the manufacturer, its agent, or authorized dealer before the expiration of the lemon law rights period.

## ***Manufacturer's Duty To Repair***

If a new motor vehicle does not conform to all warranties, and the consumer reports the nonconformity to the manufacturer, its agent, or authorized dealer during the manufacturer's warranty period, then the manufacturer, its agent, or authorized dealer must make the necessary repairs to conform the motor vehicle to the warranties. The necessary repairs must be made even after the expiration of the manufacturer's warranty period.

## ***Manufacturer's Duty To Repurchase Or Replace A Vehicle***

If the manufacturer, its agents, or authorized dealers do not conform the motor vehicle to any applicable warranty by repairing or correcting any nonconformity after a reasonable number of attempts during the lemon law rights period, the manufacturer must either replace or repurchase the motor vehicle. The consumer has an unconditional right to choose a refund rather than a replacement motor vehicle, and to drive the nonconforming motor vehicle until the replacement or repurchase is provided.

## *Reasonable Number Of Repair Attempts*

The Virginia lemon law establishes a presumption that a reasonable number of repair attempts has been undertaken to conform a motor vehicle to any warranty if, within 18 months following the date of the motor vehicle's original delivery, any of the following occurs:

1. The same nonconformity has been subject to repair three or more times by the manufacturer, its agents, or authorized dealers, and the same nonconformity continues to exist;
2. A nonconformity that is a serious safety defect (a life-threatening malfunction that impedes the consumer's ability to control or operate the motor vehicle for ordinary use or reasonable intended purposes, or creates a risk of fire or explosion) has been subject to repair one or more times by the manufacturer, its agents or authorized dealers, and the same nonconformity continues to exist; or

3. The motor vehicle is out of service due to repair for a cumulative total of 30 calendar days, unless repairs could not be performed because of conditions beyond the control of the manufacturer, its agents, or authorized dealers, including war, invasion, strike, fire, flood or other natural disasters.

### ***Notice And Opportunity To Repair***

The consumer or consumer's representative must notify the manufacturer of the need for correction or repair of the nonconformity. The manufacturer is deemed to have been notified if:

1. A written complaint of the defect or defects has been mailed to it; or
2. The manufacturer has responded to the consumer in writing regarding a complaint; or
3. A factory representative has either inspected the motor vehicle or met with the consumer or an authorized dealer regarding the nonconformity.

The manufacturer must clearly and conspicuously disclose to the consumer, in the

warranty or owner's manual, that written notification of the nonconformity to the manufacturer is required.

If the conditions of the presumption exist, and the manufacturer has not been notified that the conditions exist, then the manufacturer is given an additional opportunity to correct or repair the nonconformity, not to exceed 15 days.

### ***Dispute Resolution***

If the manufacturer has established or participates in an informal dispute settlement procedure, it is the consumer's choice whether or not to use it prior to asserting lemon law rights.

### ***Time Period For Filing Claims***

An action must be commenced within 18 months following the date of the motor vehicle's original delivery to the consumer. A consumer whose good faith attempts to settle the dispute in an informal dispute settlement procedure have not resulted in the satisfactory resolution of the matter, may commence a court action within the longer of (1) one year from the



date of the manufacturer's final action in the procedure, as long as the procedure was initiated within 18 months following the vehicle's delivery; or (2) the original 18-month period.

## ***Remedies Under The Virginia Lemon Law***

### ***Repurchase***

The Virginia lemon law sets out the following amounts that a manufacturer must pay when it repurchases a motor vehicle under the lemon law:

1. The full contract price;
2. All collateral charges, meaning any sales-related or lease-related charges including but not limited to sales tax, license fees, registration fees, title fees, finance charges and interest, transportation charges, dealer preparation charges, or any other charges for service contracts, undercoating, rust proofing, or installed options, not recoverable from a third party. In addition, "collateral charges" for leased vehicles means capitalized cost reductions, credits and allowances for any

trade-in vehicles, fees to another to obtain the lease, and insurance or other costs expended by the lessor for the benefit of the lessee;

3. Incidental damages, including expenses reasonably incurred in inspection, receipt, transportation, and care and custody of the motor vehicle rightfully rejected, any commercially reasonable charges, expenses, or commissions in connection with effecting cover, and any other reasonable expense incident to the breach of warranty; and
4. An amount for mileage, expenses, and reasonable loss of use necessitated by attempts to conform the motor vehicle to the express warranty;
5. Less a reasonable allowance for the consumer's use of the vehicle up to the date of the first notice of nonconformity that is given to the manufacturer, its agents or authorized dealer.

Refunds must be made to the consumer, lessor, and lienholder, if any, as their interests may appear.

The reasonable allowance for use may not exceed  $\frac{1}{2}$  of the amount allowed per mile by the

Internal Revenue Service for use of a personal vehicle for business purposes, plus an amount to account for any loss to the fair market value of the motor vehicle resulting from damage beyond normal wear and tear, unless the damage resulted from a nonconformity.

A leased vehicle must be returned to the manufacturer and the consumer's lease must be terminated by the lessor without penalty to the consumer. The lessor must transfer title to the manufacturer as necessary to effectuate the consumer's rights.

### *Replacement*

The Virginia lemon law provides that a replacement motor vehicle be comparable and acceptable to the consumer.

The manufacturer must also pay to the consumer an amount for mileage, expenses, and reasonable loss of use necessitated by attempts to conform the motor vehicle to the express warranty.

The consumer is responsible for a reasonable allowance for the consumer's use of the motor vehicle

up to the date of the first notice of a nonconformity to the manufacturer, its agents, or authorized dealer. The reasonable allowance for use may not exceed  $\frac{1}{2}$  of the amount allowed per mile by the Internal Revenue Service for the use of a personal vehicle for business purposes, plus an amount to account for any loss to the fair market value of the motor vehicle resulting from damage beyond normal wear and tear, unless the damage resulted from a nonconformity.

A leased vehicle must be returned to the manufacturer and the consumer's lease must be terminated by the lessor without penalty to the consumer. The lessor must transfer title to the manufacturer as necessary to effectuate the consumer's rights.

## **Vermont Lemon Law**

The following is a brief explanation of most relevant provisions of the Vermont lemon law. The complete text of the lemon law can be found at 9 V.S.A. Vermont Statutes Annotated §§ 4170 et seq.

### ***Vehicles Covered***

The Vermont lemon law covers a passenger motor vehicle purchased, leased or registered in the state.

The lemon law does not cover tractors, motorized highway building equipment, road-making appliances, snowmobiles, motorcycles, motor-driven cycles, the living portion of recreational vehicles, or trucks with a gross vehicle weight rating over 12,000 pounds.

### ***Consumers Covered***

The lemon law covers the following “consumers”:

1. The purchaser, other than for purposes of resale, of a motor vehicle still under the manufacturer's express warranty;
2. The lessee, other than for purposes of sub-lease, of a motor vehicle still under the manufacturer's express warranty and that has not been previously leased by another person;
3. Any person to whom the motor vehicle is transferred during the duration of an express warranty applicable to the motor vehicle; and
4. Any other person entitled by the terms of the warranty to enforce its obligations. The lemon law does not cover any government entity, or any business or commercial enterprise that registers or leases three or more motor vehicles.

### ***Vehicle Converters***

The lemon law applies to vehicle converters.

### ***Problems Covered***

The lemon law covers any defect or condition covered by the manufacturer's express warranty that

substantially impairs the use, market value, or safety of the motor vehicle to the consumer. This is referred to as a nonconformity.

The lemon law provides manufacturers with an affirmative defense if it can be shown that the alleged nonconformity does not substantially impair the use, market value, or safety, or that the nonconformity is the result of abuse, neglect, or unauthorized modifications or alterations of a motor vehicle by a consumer.

### ***Manufacturer's Duty To Repair***

If a motor vehicle does not conform to all applicable express warranties, and the consumer reports the nonconformity to the manufacturer, its agent, or authorized dealer during the term of the warranty, the manufacturer must cause to be made the necessary repairs to conform the motor vehicle to the express warranties, even after expiration of the warranty term.

## ***Manufacturer's Duty To Repurchase Or Replace A Vehicle***

If the manufacturer, its agents or authorized dealer, or its delegate is unable to conform the motor vehicle to any express warranty by repairing or correcting any nonconformity after a reasonable number of attempts, the manufacturer shall, at the option of the consumer, either replace or repurchase the motor vehicle. A consumer cannot pursue a remedy under the lemon law if he or she has discontinued financing or lease payments.

### ***Reasonable Number Of Repair Attempts***

The Vermont lemon law establishes a presumption that a reasonable number of repair attempts have been undertaken to conform a motor vehicle to the applicable warranties if either of the following occurs:

1. The same nonconformity, as identified in any written examination or repair order, has been subject to repair at least three times by the manufacturer, its agent, or authorized dealer, at



least the first repair attempt occurs within the express warranty term, and the same nonconformity continues to exist; or

2. The motor vehicle is out of service by reason of repair of one or more nonconformities for a cumulative total of 30 or more calendar days during the express warranty term. A motor vehicle is not out of service if it is available to the consumer for a major part of the day.

For purposes of the presumption, repair attempts must be evidenced by a written examination or repair order issued by the manufacturer, its agent, or authorized dealer. The repair attempts must be undertaken by the same agent or authorized dealer unless the consumer shows good cause for taking the vehicle to a different agent or authorized dealer.

The term of an express warranty and the 30-day period are extended by any period of time during which repair services are not available to the consumer because of a war, invasion, strike fire, flood, or other natural disaster. If an extension is required because of

any of these conditions, the manufacturer shall provide for the free use of a motor vehicle to the consumer whose vehicle is out of service.

### ***Notice And Opportunity To Repair***

After a reasonable attempt at repair or correction of the nonconformity, defect, or condition, or after the motor vehicle is out of service by reason of repair of one or more nonconformities for 30 or more calendar days, the consumer shall notify the manufacturer (and lessor, if applicable) in writing of the nonconformity and the consumer's claim for replacement or repurchase. The written notice must be on a form prescribed by the Arbitration Board provided by the manufacturer at the time of the motor vehicle's original delivery. The Demand for Arbitration is also available from [www.lemonlaw.vermont.gov](http://www.lemonlaw.vermont.gov) or by contacting the Board at 802-828-2943.

Within the written notice, the consumer will elect to use the dispute settlement mechanism or arbitration provisions established by the manufacturer or the state arbitration board.

Arbitration must be held within 45 days after the manufacturer's or dispute resolution mechanism's receipt of the written notice, unless the consumer or manufacturer has good cause for an extension of time not to exceed 30 days. Receipt is defined as when supporting documentation from the consumer is complete. Within the 45-day period, the manufacturer shall have a final opportunity to correct and repair the nonconformity. Any right to a final repair attempt is waived if the manufacturer does not complete it at least five days prior to a hearing.

### ***Dispute Resolution***

On the written notice provided to the manufacturer, the consumer must elect to use the dispute settlement mechanism or arbitration provisions established by the manufacturer or the state arbitration board. The election to proceed before the manufacturer's mechanism or the state arbitration board precludes the consumer's recourse to the method not selected.

### ***Time Period For Filing Claims***

An action must be commenced within one year following the expiration of the express warranty term, either by time or mileage, whichever occurs first.

## ***Remedies Under The Vermont Lemon Law***

### ***Repurchase Of An Owned Vehicle***

The Vermont lemon law sets out the following amounts that a manufacturer must pay when it repurchases an owned motor vehicle under the lemon law:

1. The full purchase price as indicated in the purchase contract, including all credits and allowances for any trade-in or down payment;
2. Finance charges, credit charges, registration fees, and any similar charges; and
3. Incidental and consequential damages;
4. Less a reasonable allowance for the consumer's use of the vehicle. Refunds must be made to the consumer and lienholder, if any, as their interests may appear.

Any Vermont motor vehicle purchase and use tax paid by the consumer will be refunded in the

proportionate amount by the State to the consumer. To receive a refund, the consumer must file a claim with the Department of Motor Vehicles within 90 days of the effective date of the arbitration decision.

The reasonable allowance for use is that amount directly attributable to use by the consumer prior to the first repair attempt, and is calculated in accordance with the following formula:

# miles prior to 1 <sup>st</sup> repair attempt	X	Purchase Price
100,000		

*Repurchase Of A Leased Vehicle*

The Vermont lemon law sets out the following amounts that a manufacturer must pay when it repurchases a leased motor vehicle under the lemon law:

*To the lessee:*

1. Aggregate deposit previously paid to the lessor by the lessee, including but not limited to all cash payments and trade-in allowances tendered by the lessee to the lessor under the lease agreement;
2. Rental payments previously paid to the lessor by the lessee; and
3. Incidental and consequential damages, if applicable;
4. Less a reasonable allowance for the consumer's use of the vehicle (including adding mileage over the lease allowance to first repair mileage when applicable); and
5. Less allocated payments for purchase and use tax.

*To the lessor:*

1. The lessor's actual purchase cost, less payments made by the lessee;
2. The freight cost, if applicable;
3. The cost for dealer- or manufacturer-installed accessories, if applicable;
4. Any fee paid to another to obtain the lease; and

5. An additional 5% of the lessor's actual purchase cost, provided instead of any early termination costs.

Any Vermont motor vehicle purchase and use tax will be refunded in the proportionate amount by the state to whomever paid the tax. To receive a refund, the consumer must file a claim with the Department of Motor Vehicles within 90 days of the effective date of the arbitration decision.

The lessee's lease agreement with the lessor and all contractual obligations are terminated, and the lessee is not liable for any further costs or charges to the manufacturer or lessor under the lease agreement as of the order's effective date. The lessor must release the motor vehicle title to the manufacturer upon payment by the manufacturer of the amounts set out in the lemon law and identified within the arbitration decision.

The reasonable allowance for use is that amount directly attributable to use by the consumer prior to the first repair attempt, and is calculated in accordance with the following formula:

# miles prior to 1 <sup>st</sup> repair attempt	X	Aggregate deposit and rental payments made by lessee
# miles allowed in the lease contract		

## *Replacement*

The Vermont lemon law provides that a replacement vehicle be a new motor vehicle from the same manufacturer, if available, of comparable worth to the same make and model, with all options and accessories and with appropriate adjustments being allowed for any model year differences. The reasonable allowance for use does not apply to a replacement.

In the replacement of a leased vehicle, the lease agreement shall be amended to incorporate a collateral change with appropriate adjustments for any model year difference or excess mileage as applicable.



## **The Washington Lemon Law**

The following is a brief explanation of most relevant provisions of the Washington lemon law. The complete text of the lemon law can be found at Rev. Code of Washington §§ 19.118.005 et seq.

### ***Vehicles Covered***

The Washington lemon law covers a new motor vehicle that:

1. Is self-propelled, including a new motorcycle, primarily designed for the transportation of persons or property over the public highways;
2. Motor homes except for portions of the vehicle designated, used, or maintained primarily as a mobile dwelling, office, or commercial space.
3. Demonstrator or lease-purchase vehicles as long as manufacturer's warranty was issued as a condition of sale.
4. Was originally purchased or leased at retail from a new motor vehicle dealer or leasing company in Washington; or

5. Was purchased or leased with a manufacturer-written warranty by a member of the armed forces regardless of in which state the vehicle was purchased or leased, if the vehicles otherwise meets the definition of a new motor vehicle and the consumers is a member of the armed forces stationed or residing in this state at the time the consumer submits a request for arbitration to the attorney general.

New motor vehicle includes a motorcycle with an engine displacement of at least 750 cubic centimeters, a truck with a gross vehicle weight rating of less than 19,000 pounds, the self-propelled vehicle and chassis of a motor home, and a demonstrator or lease-purchase vehicle sold with a manufacturer's warranty.

The lemon law does not cover a new motor vehicle purchased or leased by a business as part of a fleet of ten or more vehicles at one time or under a single purchase or lease agreement.

## *Consumers Covered*

The lemon law covers a consumer, defined as any person who, during the duration of the eligibility period (defined below), has entered into an agreement or contract for the transfer, lease, or purchase of a new motor vehicle, other than for purposes of resale or sublease. The lemon law also covers a subsequent transferee, defined as a consumer who, within the eligibility period, acquires a motor vehicle with an applicable manufacturer's written warranty and where the vehicle otherwise met the definition of a new motor vehicle at the time of original retail sale or lease.

## *Eligibility Period*

The lemon law defines the eligibility period as two years after the date of a new motor vehicle's original delivery to the consumer or the first 24,000 miles of operation, whichever occurs first.

The eligibility period is extended by any time that repair services are not available to the consumer as a direct result of a strike, war, invasion, fire, flood, or other natural disaster.

## *Problems Covered*

The lemon law covers any nonconformity, defined as a defect, serious safety defect, or condition that does not conform to the warranty and substantially impairs the use, value, or safety of the new motor vehicle.

Nonconformity does not include a defect or condition that is the result of abuse, neglect, or unauthorized modification or alteration of the new motor vehicle.

A serious safety defect is defined as a life-threatening malfunction or nonconformity that impedes the consumer's ability to control or operate the new motor vehicle for ordinary use or reasonable intended purposes or creates a risk of fire or explosion.

A condition is defined as a general problem that results from a defect or malfunction of one or more parts, or their improper installation by the manufacturer, its agents, or the new motor vehicle dealer.

Substantially impair means to render the new motor vehicle unreliable, or unsafe for ordinary use, or to diminish the resale value of the new motor vehicle below the average resale value for comparable vehicles.

Warranty means any implied warranty, any written warranty of the manufacturer, or any affirmation of fact or promise made by the manufacturer in connection with the sale of a new motor vehicle that becomes the basis of the bargain – to the extent that the warranty pertains to the obligations of the manufacturer in relation to (1) materials, (2) workmanship, (3) a modification by a dealer installing the manufacturer’s authorized parts or their equivalent for the specific motor vehicle pursuant to the manufacturer-approved specifications, and (4) fitness of the motor vehicle for ordinary use or reasonably intended purposes throughout the duration of the eligibility period. For purposes of the lemon law, the manufacturer’s written warranty must be at least one year after original delivery to the consumer or the first 12,000 miles of operation, whichever comes first.

## *Manufacturer's Duty To Repair*

If the new motor vehicle does not conform to the warranty and the consumer reports the nonconformity during either the eligibility period or the coverage period of the applicable manufacturer's written warranty, whichever is less, to the manufacturer, its agent, or the new motor vehicle dealer that sold the new motor vehicle, then the manufacturer, its agent or dealer must make the necessary repairs to conform the new motor vehicle to the warranty, regardless of whether such repairs are made after the expiration of the eligibility period.

Upon the consumer's request, the manufacturer or dealer must provide a copy of any report or computer reading compiled by the manufacturer's field or zone representative regarding inspection, diagnosis, or test-drive of the consumer's vehicle, or must provide a copy of any technical service bulletin issued by the manufacturer regarding the year and model of the consumer's vehicle as it pertains to any material, feature, component or the performance thereof.

The dealer must provide to the consumer, after each time the consumer's vehicle is returned from being diagnosed or repaired under the warranty, a fully itemized, legible statement or repair order indicating the diagnosis made and all work performed on the vehicle, including but not limited to a general description of the problem reported by the consumer or an identification of the defect or condition, parts, and labor, the date and odometer reading when the vehicle was submitted for repair, and the date when the vehicle was made available to the consumer.

### ***Manufacturer's Duty To Repurchase Or Replace A Vehicle***

If the manufacturer, its agent, or the new motor vehicle dealer is unable to conform the new motor vehicle to the warranty by repairing or correcting any nonconformity after a reasonable number of attempts, then the manufacturer must replace or repurchase the new motor vehicle at the option of the consumer, and within 40 days after the consumer's written request to the manufacturer's corporate, dispute resolution, zone or regional office.

## *Reasonable Number Of Repair Attempts*

For a vehicle other than a motor home, a reasonable number of attempts is deemed to have been undertaken by the manufacturer, its agent, or the new motor vehicle dealer if, during the eligibility period, any of the following occurs:

1. The same serious safety defect has been subject to diagnosis or repair two or more times, at least one of which is during the coverage period of the applicable manufacturer's written warranty, and the serious safety defect continues to exist;
2. The same nonconformity has been subject to diagnosis or repair four or more times, at least one of which is during the coverage period of the applicable manufacturer's written warranty, and the nonconformity continues to exist;
3. The new motor vehicle is out-of-service by reason of diagnosis or repair of one or more nonconformities for a cumulative total of 30 calendar days, at least 15 of them during the period of the applicable manufacturer's written warranty; or



4. Within a 12-month period, two or more different serious safety defects have each been subject to diagnosis or repair one or more times, where at least one attempt for each serious safety defect occurs during the coverage period of the applicable manufacturer's written warranty and within the eligibility period.

A vehicle is "subject to diagnosis or repair" when a consumer presents the vehicle for warranty service at a service and repair facility authorized by the manufacturer or to which the manufacturer or authorized facility has directed the consumer to obtain warranty service. A vehicle has not been "subject to diagnosis or repair" if the consumer refuses to allow the facility to attempt or complete a recommended warranty repair, or demands return of the vehicle before an attempt to diagnose or repair can be completed.

The eligibility period and the 30-day out-of-service period are extended by any time that repair services are not available to the consumer as a direct result of a strike, war, invasion, fire, flood or other natural disaster.

## *Reasonable Number Of Repair Attempts For A Motor Home*

A reasonable number of attempts for a motor home is deemed to have been undertaken by the motor home manufacturers, their respective agents, or respective new motor vehicle dealers if, during the eligibility period, any of the following occurs:

1. The same serious safety defect has been subject to diagnosis or repair one or more times during the period of coverage of the applicable motor home manufacturer's written warranty, plus a final repair attempt as described below, and the serious safety defect continues to exist;
2. The same nonconformity has been subject to repair three or more times, at least one of which is during the period of coverage of the applicable motor home manufacturer's written warranty, plus a final repair attempt as described below and the nonconformity continues to exist
3. The motor home is out-of-service by reason of diagnosis or repair of one or more

nonconformities, including a safety evaluation, for a cumulative total of 60 calendar days, aggregating all motor home manufacturer days out of service, and the motor home manufacturers have had at least one opportunity to coordinate and complete an inspection and any repairs of the vehicle's nonconformities after receipt of notification from the consumer as described below; or

4. Within a 12-month period, two or more different serious safety defects covered by the same manufacturer warranty have each been subject to diagnosis or repair one or more times, where at least one attempt for each serious safety defect occurs during the coverage period of the applicable manufacturer's written warranty and within the eligibility period.

The eligibility period and the 60-day out-of-service period are extended by any time that repair services are not available to the consumer as a direct result of a strike, war, invasion, fire, flood, or other natural disasters.

## *Notice And Opportunity To Repair*

The consumer must send a written request for replacement or repurchase to the manufacturer's corporate, dispute resolution, zone, or regional office. For a motor home:

1. Notice of manifestation of one or more serious safety defects to a manufacturer must be provided in writing by the consumer to the motor home manufacturer whose warranty covers the defect or to all manufacturers of the motor home.
2. The consumer must send notices to the manufacturers in writing at their respective corporate, zone, or regional office addresses to allow the manufacturers, agents, or dealers an opportunity to coordinate and complete a comprehensive safety evaluation of the motor home. Notice of the manifestation of one or more serious safety defects should be made by the consumer as a unique notice to the manufacturers. The notice may be met by any

written notification of a need to repair a defect or condition identified by the consumer as relating to the safety of the motor home with or without a consumer's specific reference to whether the defect is a serious safety defect. Any notice of the manifestation of one or more serious safety defects shall be considered by a manufacturer as a consumer's request for a safety evaluation of the motor home. If the manufacturer, at its option, performs a safety evaluation, the manufacturer must provide a written report to the consumer of the evaluation of the motor home's safety in a timely manner.

3. After one attempt to repair a serious safety defect, or after three attempts to repair the same nonconformity, the consumer must give written notification of the need to repair the nonconformity to each of the motor home manufacturers at their respective corporate, zone, or regional office addresses to allow the manufacturers to coordinate and complete a final attempt to cure the nonconformity. Upon

receipt of this notice, each of the manufacturers has 15 days to respond and inform the consumer of the location of the facility where the vehicle will be repaired or evaluated. (If a serious safety defect makes the vehicle unsafe to drive, or to the extent the repair facility is more than 100 miles from the motor home location, the motor home manufacturers are responsible for the cost of transporting the vehicle to and from the facility.) After the consumer delivers the motor home to the designated repair facility, the manufacturers have a cumulative total of 30 days to conform the vehicle to the applicable motor home manufacturer's written warranty. This 30-day period may be extended if the consumer agrees in writing. If a motor home manufacturer fails to respond to the consumer or perform repairs within the prescribed time period, that manufacturer is not entitled to a final attempt to cure the nonconformity.

4. If the vehicle is out of service by reason of diagnosis or repair of one or more nonconformities, including a safety evaluation,

by the motor home manufacturers, their respective agents, or their respective new motor vehicle dealers for a cumulative total of 30 or more days, aggregating all motor home manufacturer days out of service, the consumer must notify each motor home manufacturer in writing at their respective corporate, zone, or regional office addresses to allow the manufacturers, agents or dealers an opportunity to coordinate and complete an inspection and any repairs. Upon receipt of this notice, the manufacturers have 15 days to respond and inform the consumer of the location of the facility where the vehicle will be repaired or evaluated. (If a serious safety defect makes the vehicle unsafe to drive, or to the extent the repair facility is more than 100 miles from the motor home location, the motor home manufacturers are responsible for the cost of transporting the vehicle to and from the facility.) After the consumer delivers the motor home to the designated repair facility, the manufacturers must complete inspection and repairs either within 10 days or before the vehicle is out of

service by reason of diagnosis or repair of one or more nonconformities for 60 days, whichever time period is longer. This time period may be extended if the consumer agrees in writing. If a motor home manufacturer fails to respond to the consumer or perform repairs within the prescribed time period, that manufacturer is not entitled to at least one opportunity to inspect and repair the vehicle's nonconformities after receipt of notification from the consumer.

### ***Dispute Resolution***

The Washington Attorney General must establish a new motor vehicle arbitration board to settle lemon law disputes between consumers and manufacturers. If a manufacturer has established an informal dispute resolution settlement procedure that complies with 16 C.F.R. Part 703, the consumer may choose to first submit a dispute to that procedure.

Before filing an action in court, the consumer must first exhaust the remedy afforded by the Attorney General's new motor vehicle arbitration board or the manufacturer's informal dispute settlement procedure.



## ***Time Period For Filing Claims***

A claim must be filed within 30 months from the date of the new motor vehicle's original delivery to a consumer at retail. If the claim involves a motor home, the 30-month period is extended by the amount of time it takes the motor home manufacturers to complete the final repair attempt at the designated repair facility.

## ***Remedies Under The Washington Lemon Law Repurchase Of An Owned Vehicle***

The Washington lemon law provides that the manufacturer must pay the following amounts when it repurchases an owned vehicle:

1. Purchase Price. This is the cash price of the motor vehicle appearing in the sales agreement or contract, including any allowance for a trade-in-vehicle, less the amount of any manufacturer-to-consumer rebate appearing in the agreement or contract that the consumer received or that was applied to reduce the purchase cost. Where the consumer is a

subsequent transferee, “purchase price” means the consumer’s subsequent purchase price;

2. Collateral Charges. These are any sales related charges including but not limited to sales tax, use tax, arbitration service fees, unused license fees, unused registration fees, unused title fees, finance charges, prepayment penalties, credit disability, and credit life insurance costs not otherwise refundable, any other insurance costs prorated for time out of service, transportation charges, dealer preparation charges, or any other charges for service contracts, undercoating, rustproofing, or factory or dealer installed options; and
3. Incidental Costs. These are reasonable expenses incurred by the consumer in connection with the repair of the motor vehicle, including any towing charges and the costs of obtaining alternative transportation;
4. Less a reasonable offset for use.

The reasonable offset for use is computed by the following formula:

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number of miles traveled directly attributable to use by the consumer between the purchase/lease/in-service date and the date of first attempt to diagnose or repair the nonconformity that results in repurchase/replacement	X	Purchase Price
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120,000

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Where a manufacturer repurchases a vehicle solely due to days out of service, “the number of miles that the vehicle traveled directly attributable to use by the consumer” is limited to the period between the original purchase/in-service date and the date of the 15th cumulative calendar day out of service.

Where the consumer is a second or subsequent purchaser or transferee of the motor vehicle and the manufacturer repurchases the vehicle, “the number of miles that the vehicle traveled directly attributable to use by the consumer” is limited to the period between the date of purchase by or transfer to that consumer and the date of the consumer’s initial attempt to

obtain diagnose or repair the nonconformity that results in repurchase.

“Purchase price” for a subsequent purchaser or transferee receiving a repurchase means the consumer’s subsequent purchase price.

If the new motor vehicle is a motorcycle, the denominator is 25,000.

If the new motor vehicle is a motor home, the denominator is 90,000, and “the number of miles that the vehicle traveled directly attributable to use by the consumer” is limited to the period between the original purchase/in-service date and the date of the 30th cumulative calendar day out of service. If the wear and tear on those portions of a motor home designated, used, or maintained primarily as a mobile dwelling, office, or commercial space are significantly greater or significantly less than that which could be reasonably expected based on the mileage attributable to the consumer’s use of the motor home, the reasonable offset for use calculation total may be increased or decreased up to a maximum of one-third of the offset total.

## ***Repurchase Of A Leased Vehicle***

The Washington lemon law provides that the manufacturer must pay the following amounts when it repurchases a leased vehicle:

### *To the Lessor:*

Pay-off amount. The manufacturer shall make such payment to the lessor as necessary to obtain clear title to the motor vehicle. The pay-off amount does not include any late payment charges, which are the responsibility of the consumer.

### *To the Lessee:*

1. Lease Payments. This means all payments made by the consumer under the lease, including but not limited to all lease payments, trade-in value or inception payment, and security deposit;
2. Collateral Charges. These are any sales related charges including but not limited to sales tax, use tax, arbitration service fees, unused license fees, unused registration fees, unused title fees, finance charges, prepayment penalties, credit disability,

and credit life insurance costs not otherwise refundable, any other insurance costs prorated for time out of service, transportation charges, dealer preparation charges, or any other charges for service contracts, undercoating, rustproofing, or factory or dealer installed options; and

3. Incidental Costs. These are reasonable expenses incurred by the consumer in connection with the repair of the motor vehicle, including any towing charges and the costs of obtaining alternative transportation;
4. Less a reasonable offset for use.

The reasonable offset for use is computed by the following formula:

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<p>number of miles traveled directly attributable to use by the consumer between the purchase/lease/in-service date and the date of first attempt to diagnose or repair the nonconformity that results in repurchase/replacement</p>	<p><b>X</b></p>	<p>Purchase Price</p>
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120,000

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Where a manufacturer repurchases a vehicle solely due to days out of service, “the number of miles that the vehicle traveled directly attributable to use by the consumer” is limited to the period between the original lease date and the date of the 15th cumulative calendar day out of service.

Where the consumer is a second or subsequent lessee of the motor vehicle and the manufacturer repurchases the vehicle, “the number of miles that the vehicle traveled directly attributable to use by the consumer” is limited to the period between the date of lease by that consumer and the date of the consumer’s initial attempt to obtain diagnose or repair the nonconformity that results in repurchase.

The “purchase price” for a leased vehicle means the actual written capitalized cost disclosed to the consumer as contained in the lease agreement. If there is no disclosed capitalized cost in the lease agreement, the “purchase price” is the

manufacturer's suggested retail price including manufacturer-installed accessories or items of optional equipment displayed on the manufacturer label. Purchase price excludes any manufacturer-to-consumer rebate appearing in the agreement or contract that the consumer received or that was applied to reduce the purchase cost.

If the new motor vehicle is a motorcycle, the denominator is 25,000.

If the new motor vehicle is a motor home, the denominator is 90,000 and "the number of miles that the vehicle traveled directly attributable to use by the consumer" is limited to the period between the original lease date and the date of the 30th cumulative calendar day out of service. If the wear and tear on those portions of a motor home designated, used or maintained primarily as a mobile dwelling, office, or commercial space are significantly greater or significantly less than that which could be reasonably expected based on the mileage attributable to the consumer's use of the motor home, the reasonable offset for use calculation



total may be increased or decreased up to a maximum of one-third of the offset total.

## ***Replacement***

The Washington lemon law provides that a replacement motor vehicle must be identical or reasonably equivalent to the vehicle being replaced as the vehicle to be replaced existed at the time of original purchase or lease, including any service contract, undercoating, rustproofing, and factory or dealer installed options.

The manufacturer is responsible for sales tax, license and registration fees for the replacement vehicle. The manufacturer must also refund any incidental costs, as defined above.

If the consumer accepts a replacement motor vehicle, the consumer must compensate the manufacturer for a reasonable offset for use. The reasonable offset for use is computed by the following formula:

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number of miles traveled directly attributable to use by the consumer between the purchase/lease/in-service date and the date of first attempt to diagnose or repair the nonconformity that results in repurchase/replacement	X	Purchase Price
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120,000

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Where a manufacturer replaces a vehicle solely due to days out of service, “the number of miles that the vehicle traveled directly attributable to use by the consumer” is limited to the period between the original purchase/lease/in-service date and the date of the 15th cumulative calendar day out of service.

Where the consumer is a second or subsequent purchaser, lessee, or transferee of the motor vehicle and the manufacturer replaces the vehicle, “the number of miles that the vehicle traveled directly attributable to use by the consumer” is calculated from the date of the original purchase, lease, or in-service date and the date of the first attempt to diagnose or repair the nonconformity that results in replacement.

Where a manufacturer replaces a vehicle solely due to days out of service and the consumer is a second or subsequent purchaser, lessee, or transferee, “the number of miles that the vehicle traveled directly attributable to use by the consumer” is calculated from the date of the original purchase/lease/in-service date and the date of the 15th cumulative calendar day out of service.

The “purchase price” for a leased vehicle means the actual written capitalized cost disclosed to the consumer as contained in the lease agreement. If there is no disclosed capitalized cost in the lease agreement, the “purchase price” is the manufacturer’s suggested retail price including manufacturer-installed accessories or items of optional equipment displayed on the manufacturer label. Purchase price excludes any manufacturer-to-consumer rebate appearing in the agreement or contract that the consumer received or that was applied to reduce the purchase cost.

“Purchase price” for a subsequent purchaser or transferee receiving a replacement means the original purchase price.

If the new motor vehicle is a motorcycle, the denominator is 25,000.

If the new motor vehicle is a motor home, the denominator is 90,000, and “the number of miles that the vehicle traveled directly attributable to use by the consumer” is limited to the period between the original purchase/lease/in-service date and the date of the 30th cumulative calendar day out of service. If the wear and tear on those portions of a motor home designated, used, or maintained primarily as a mobile dwelling, office, or commercial space are significantly greater or significantly less than that which could be reasonably expected based on the mileage attributable to the consumer’s use of the motor home, the reasonable offset for use calculation total may be increased or decreased up to a maximum of one-third of the offset total.

## **Wisconsin Lemon Law**

The following is a brief explanation of most relevant provisions of the Wisconsin lemon law. The complete text of the lemon law can be found at Wisconsin Statutes 218.0171.

### ***Vehicles Covered***

The Wisconsin lemon law covers any motor driven vehicle that (1) is required to be registered or is exempt from registration as a nonresident or foreign-registered vehicle, demonstrator, or executive vehicle that is not titled or is titled by a manufacturer or a motor vehicle dealer but does not include mopeds, semitrailers, or trailers designed for use in combination with a truck or truck tractor.

The lemon law does not cover previously-owned vehicles.

### ***Consumers Covered***

The lemon law covers any of the following “consumers”:

1. The purchaser of a new motor vehicle, if the vehicle was purchased from a dealer for purposes other than resale;
2. A person to whom the motor vehicle is transferred during the express warranty period unless the vehicle is transferred for purposes of resale;
3. A person who may enforce the vehicle's warranty; and
4. A person who leases a motor vehicle from a motor vehicle lessor under a written lease.

The lemon law does not cover a former lessee who purchases the vehicle at the expiration of the lease term.

### ***Problems Covered***

The lemon law covers vehicle "nonconformities." A nonconformity is defined as a condition or defect that (1) is covered by an express warranty of the manufacturer applicable to the motor vehicle or to a component of the motor vehicle and (2) substantially impairs the use, value or safety of a motor

vehicle. A nonconformity does not include a condition or defect that is the result of abuse, neglect, or unauthorized modification or alteration of a motor vehicle by a consumer.

### ***Manufacturer's Duty To Repair***

A nonconformity must be repaired if, before the expiration of the warranty or one year after the vehicle's first delivery to the consumer — whichever is sooner, the consumer reports the nonconformity to the manufacturer, lessor, or the any of manufacturer's authorized dealers and makes the vehicle available for repair. The consumer must report Transportation (DOT) for this purpose.

### ***Manufacturer's Duty To Repurchase Or Replace A Vehicle***

If after a reasonable attempt to repair the nonconformity is not repaired and if the consumer provides the manufacturer with the form issued by the Wisconsin DOT electing repurchase or replacement, the manufacturer must either repurchase the vehicle or, if the vehicle is owned, replace the vehicle. [The

Wisconsin lemon law does not provide for replacement of a leased vehicle.]

If a consumer elects a comparable new vehicle on the form required by the Wisconsin DOT, no later than 30 days after receiving the form, the manufacturer shall agree in writing to provide a comparable new vehicle or a refund. Upon the consumer's receipt of this writing, the manufacturer shall have until the 45th day after receiving the form from the consumer to either provide the comparable new vehicle or the refund. During this period, the manufacturer shall exercise due diligence in locating and providing a comparable new vehicle.

If a comparable new motor vehicle does not exist or cannot be delivered within this 45-day period, the manufacturer may provide a refund. For heavy-duty vehicles, which are any motor vehicles having a gross vehicle weight rating or actual gross weight of more than 10,000 pounds, the time period is 120 days.



## *Reasonable Number Of Repair Attempts*

The Wisconsin lemon law defines “reasonable attempt to repair” as the occurrence of any of the following within the term the new vehicle’s express warranty or within one year after the vehicle’s first delivery to a consumer, whichever is sooner:

1. The same nonconformity is subject to repair through presentation of the vehicle to the dealership for repair at least four times and the nonconformity continues; or
2. The vehicle is out of service for an aggregate of at least 30 days because of warranty nonconformities. A vehicle is out of service if (a) the vehicle is unable to be used by the consumer for the vehicle’s intended purpose as a result of the vehicle being in the possession of the manufacturer, lessor, or dealer for the purpose of performing or attempting to repairs to correct a nonconformity; or (b) nonconformity that substantially affects the use or safety of the vehicle and that has been subject to an attempt to repair on at least 2 occasions. The consumer must make the vehicle available for

repair before the expiration of the warranty or one year after the first delivery of the motor vehicle to a consumer, whichever is sooner. The 30-day period does not include time during which repair services are not available to the consumer because of flood or other natural disaster, war, invasion, fire, or strike.

### ***Notice***

To receive a replacement or refund, a consumer must notify the manufacturer to request replacement or repurchase using the form issued by the Wisconsin DOT, and must offer to transfer title of the motor vehicle to the manufacturer.

### ***Dispute Resolution***

If a manufacturer participates in an informal dispute settlement procedure and that procedure has been certified by the Department of Transportation as complying with applicable regulations, a consumer may not bring an action in court under the lemon law unless the consumer first resorts to that informal dispute settlement procedure.

## ***Time Period For Filing Claims***

A consumer may bring an action under the lemon law within 36 months after first delivery of the vehicle to a consumer.

## ***Remedies Under Wisconsin Lemon Law***

### ***Repurchase Of An Owned Vehicle***

The Wisconsin lemon law sets out the following amounts that a manufacturer must pay when it repurchases an owned vehicle under the lemon law:

1. The full purchase price (not including any cash rebate). Wisconsin Department of Transportation has advised that “full purchase price” is the purchase price as set out on the contract, without any adjustment for negative equity or trade-in over-allowance;
2. Sales taxes paid by the consumer, as well as any other amounts paid by the consumer at the point of sale;
3. Finance charges incurred by the consumer; and

4. Collateral costs, which are defined as expenses incurred by a consumer in connection with the repair of a nonconformity, including the costs of obtaining alternative transportation;
5. Less a reasonable allowance for the vehicle's use.

Refunds must be made to the vehicle owner and to any holder of a perfected security interest in the vehicle, as their interests may appear. When the manufacturer provides the refund, the consumer must return the nonconforming motor vehicle to the manufacturer and provide the manufacturer with the certificate of title and all endorsements necessary to transfer title to the manufacturer.

The Wisconsin lemon law provides that a reasonable allowance for a vehicle's use is subtracted from the amounts that a manufacturer must pay when it repurchases a vehicle under the lemon law. This reasonable allowance for use may not exceed the amount set out in the following formula for an owned motor vehicle:

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Reasonable allowance for use =	# miles vehicle driven before nonconformity first reported to motor vehicle dealer	X	Vehicle purchase price
	<hr/>		
	100,000		

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In computing the reasonable allowance for use of a motorcycle, the denominator should be changed from 100,000 to 20,000.

### ***Repurchase Of A Leased Vehicle***

The Wisconsin lemon law sets out the following amounts that a manufacturer must pay when it repurchases a leased vehicle under the lemon law:

*To the lessor:*

The current value of the written lease. This is defined as —

1. The total amount for which the lease obligates the consumer during the period of the lease remaining after its early termination;

2. The motor vehicle dealer's early termination costs [any expenses or obligation the lessor incurs as a result of early termination]; and
3. The value of the motor vehicle at the lease expiration date if the lease sets forth that value;
4. Less the motor vehicle lessor's early termination savings [any expenses or obligation the lessor avoids as a result of early termination of the lease and the vehicle's return]. This includes any interest charges the lessor would have paid to finance the motor vehicle. If the lessor does not finance the vehicle, the early termination savings includes the difference between the total amount for which the lease obligates the consumer during the period of the lease term remaining after the early termination and the present value of that amount at the date of the early termination.

*To the lessee:*

1. The amount the consumer paid under the written lease; and

2. Any sales tax and collateral costs [expenses incurred by a consumer in connection with the repair of a nonconformity, including the costs of obtaining alternative transportation];
3. Less a reasonable allowance for the vehicle's use.

When the manufacturer provides the refund, the consumer must return the nonconforming motor vehicle to the manufacturer. The lessor must provide to the manufacturer the certificate of title and all endorsements necessary to transfer title to the manufacturer.

The Wisconsin lemon law provides that a reasonable allowance for a vehicle's use is subtracted from the amounts that a manufacturer must pay when it repurchases a vehicle under the lemon law. This reasonable allowance for use may not exceed the amount set out in the following formula for a leased motor vehicle:

---

Reasonable allowance for use =	# miles vehicle driven before nonconformity first reported to manufacturer, dealer, or lessor	X	Total amount for which the lease obligates consumer
	<hr/>		
	100,000		

---

In computing the reasonable allowance for use of a motorcycle, the denominator should be changed from 100,000 to 20,000.

### *Replacement Of An Owned Vehicle*

The Wisconsin lemon law provides that a replacement vehicle must be a comparable new vehicle. A demonstrator may be a comparable replacement if the returned vehicle was also a demonstrator. The reasonable allowance for use does not apply to a replacement.

When the manufacturer provides the replacement motor vehicle, the consumer must return the nonconforming motor vehicle to the manufacturer and provide the manufacturer with the certificate of title and all endorsements necessary to transfer title to the manufacturer.



## **West Virginia Lemon Law**

The following is a brief explanation of most relevant provisions of the West Virginia lemon law. The complete text of the lemon law can be found at West Virginia Code 46A-6A-1 et seq.

### ***Vehicles Covered***

The West Virginia lemon law covers a “motor vehicle,” meaning a passenger automobile purchased in West Virginia or registered and titled in West Virginia. This includes a pickup truck or van registered as a Class A motor vehicle, and any self-propelled chassis of a motor home registered as a Class A or Class B motor vehicle.

Class A registration applies to motor vehicles of passenger type and trucks with a gross weight of not more than ten thousand pounds. Class B registration applies to motor vehicles designated as trucks with a gross weight of more than ten thousand pounds, truck tractors, or road tractors.

## *Consumers Covered*

The lemon law covers the following consumers:

1. The purchaser, other than for purposes of resale, of a new motor vehicle that is used primarily for personal, family, or household purposes;
2. A person to whom the new motor vehicle is transferred for the same purposes during the duration of an express warranty applicable to the motor vehicle; and
3. Any other person entitled by the terms of the warranty to enforce its obligations.

## *Problems Covered*

The lemon law covers a defect or condition that substantially impairs the use or market value of the motor vehicle to the consumer. This is referred to as a nonconformity.

The lemon law provides an affirmative defense if it can be shown that the alleged nonconformity does not substantially impair the use or market value of the vehicle, or the nonconformity is the result of abuse,

neglect, or unauthorized modifications or alterations by anyone other than the manufacturer, its agent, or authorized dealers.

### ***Manufacturer's Duty To Repair***

If a new motor vehicle does not conform to all applicable express warranties and the consumer reports the nonconformity to the manufacturer, its agent, or authorized dealer within the term of the express warranties or within a period of one year following the date of the motor vehicle's original delivery to a consumer, whichever is the longer period, then the manufacturer, its agent or dealer must make the necessary repairs to conform the motor vehicle to the express warranties. The necessary repairs must be made even if the warranty term has expired.

All authorized dealers must provide to any consumer a written disclosure of any repairs to a new motor vehicle that have a retail value of 5% of the manufacturer's suggested retail price and were performed after shipment from the manufacturer to the dealer, including damage to the new motor vehicle

while in transit. This does not apply to identical replacement of stolen or damaged accessories or their components, tires, or antennae.

### ***Manufacturer's Duty To Repurchase Or Replace A Vehicle***

If the manufacturer, its agent, or authorized dealer is unable to conform the new motor vehicle to any applicable express warranty by repairing or correcting a nonconformity after a reasonable number of attempts, then the manufacturer must replace the new motor vehicle. If the manufacturer does not replace the vehicle, the consumer may sue the manufacturer for repurchase of the vehicle.

### ***Reasonable Number Of Repair Attempts***

The West Virginia lemon law establishes a presumption that a reasonable number of attempts have been undertaken to conform the new motor vehicle to the applicable express warranties if, within the term of the express warranties or within one year following the date of the motor vehicle's original delivery to a consumer, whichever is earlier, any of the following occurs:

1. The same nonconformity has been subject to repair three or more times by the manufacturer, its agents, or authorized dealers, and the nonconformity continues to exist;
2. A nonconformity that results in a condition that is likely to cause death or serious bodily injury if the vehicle is driven, has been subject to repair at least once by the manufacturer and the nonconformity continues to exist; or
3. The motor vehicle is out of service by reason of repair for a cumulative total of 30 or more calendar days. The term of an express warranty, the one-year period, and the thirty-day period are extended by any period during which repairs are unavailable because of a war, invasion, strike or fire, flood, or other natural disasters.

### ***Notice And Opportunity To Repair***

The presumption that a reasonable number of attempts has been undertaken applies against a manufacturer only if the manufacturer has received prior written notification from or on behalf of the consumer, and has had at least one opportunity to cure the defect alleged.

## ***Dispute Resolution***

A consumer may not assert a cause of action under the lemon law unless the consumer initially resorts to a third-party dispute resolution process if:

1. The West Virginia Attorney General has certified that the third-party dispute resolution process complies with 16 C.F.R. Part 703 and with the lemon law and regulations; and
2. The consumer received timely notification in writing of the availability of the third-party dispute resolution process with a description of its operation and effect.

## ***Time Period For Filing Claims***

An action must be commenced within one year of the expiration of the express warranty term. This period of limitation does not run for the period between the date the consumer files a complaint with a third-party dispute resolution process and the date of its decision or the date by which the manufacturer is required by the decision to fulfill its terms, whichever occurs later.

## *Remedies Under The West Virginia Lemon Law*

### *Repurchase*

The West Virginia lemon law sets out the following amounts that a manufacturer must pay when it repurchases a vehicle under the lemon law:

1. The purchase price, including but not limited to sales tax, license fees, registration fees, and other reasonable expenses incurred for the purchase of the vehicle;
2. Damages for the cost of repairs reasonably required to conform the vehicle to the express warranty; and
3. Damages for loss of use, annoyance, or inconvenience resulting from the nonconformity, including reasonable expenses incurred for replacement transportation during any period when the vehicle is out of service by reason of the nonconformity or by reason of repair.

## *Replacement*

When replacing a vehicle under the West Virginia lemon law, the manufacturer must provide a comparable new motor vehicle.



## **Wyoming Lemon Law**

The following is a brief explanation of most relevant provisions of the Wyoming lemon law. The complete text of the lemon law can be found at Wyoming Stat. § 40-17-101.

### ***Vehicles Covered***

The Wyoming lemon law covers any motor vehicle sold or registered in the state, with an unladen weight of under 10,000 pounds.

### ***Consumers Covered***

The lemon law covers the following “consumers”:

1. Any person who purchases, other than for purposes of resale, a motor vehicle to which an express warranty applies;
2. Any person to whom a motor vehicle is transferred during the term of an express warranty applicable to the motor vehicle; and
3. Any person entitled by the terms of an express warranty applicable to a motor vehicle to

enforce the warranty. The lemon law appears not to cover a lessee.

### ***Vehicle Converters***

The lemon law does not apply to vehicle converters.

### ***Problems Covered***

The lemon law covers any defect or condition that substantially impairs the use and fair market value of the motor vehicle to the consumer. This is referred to as a nonconformity.

The Wyoming lemon law provides manufacturers with an affirmative defense if it can be shown that the alleged nonconformity does not substantially impair the use and fair market value of the motor vehicle, or the nonconformity is the result of abuse, neglect or unauthorized modification or alteration of the motor vehicle by a consumer.

### ***Manufacturer's Duty To Repair***

If a motor vehicle does not conform to all applicable express warranties, and the consumer

reports the nonconformity to the manufacturer, its agent, or authorized dealer within one year following the motor vehicle's original delivery to the consumer, then the manufacturer, its agent or authorized dealer must make the necessary repairs to conform the motor vehicle to the express warranties. The necessary repairs must be made even if the one-year period has expired.

### ***Manufacturer's Duty To Repurchase Or Replace A Vehicle***

If the manufacturer, its agents, or authorized dealers are unable to conform the motor vehicle to any express warranty by repairing or correcting a nonconformity after a reasonable number of attempts, then the manufacturer must either replace or repurchase the motor vehicle.

### ***Reasonable Number Of Repair Attempts***

The Wyoming lemon law establishes a presumption that a reasonable number of attempts has been undertaken to conform a motor vehicle to the express warranty if, within one year following the

motor vehicle's original delivery to the consumer, either of the following occurs:

1. The same nonconformity has been subject to repair more than three times by the manufacturer, its agents, or authorized dealers, and the nonconformity continues to exist; or
2. The motor vehicle is out of service due to repair for a cumulative total of 30 business days.

### ***Notice And Opportunity To Repair***

The presumption that a reasonable number of repair attempts has been undertaken does not apply against a manufacturer unless the manufacturer has received prior direct written notification from or on behalf of the consumer, and has had a reasonable opportunity to cure the alleged defect.

### ***Dispute Resolution***

If the manufacturer has established an informal dispute settlement procedure that complies with 16 C.F.R. Part 703, then the provisions requiring refund or replacement do not apply unless the consumer has first resorted to the informal dispute settlement procedure.

## ***Time Period For Filing Claims***

Not specified. Assuming that the UCC statute of limitations applies, a claim must be filed with BBB AUTO LINE within four years from the date the alleged defect is discovered.

## ***Remedies Under The Wyoming Lemon Law***

### ***Repurchase***

The Wyoming lemon law sets out the following amounts that a manufacturer must pay when it repurchases a motor vehicle under the lemon law:

1. The motor vehicle's full purchase price; and
2. All collateral charges;
3. Less a reasonable allowance for the consumer's use.

Refunds must be made to the consumer and any lienholder as their interests may appear.

The reasonable allowance for use is defined as an amount directly attributable to use of the motor vehicle prior to the first report of the nonconformity to the manufacturer, its agent, or dealer, and during

any subsequent period when the motor vehicle is not out of service due to repair.

### ***Replacement***

When replacing a vehicle under the Wyoming lemon law, the manufacturer must provide a new or comparable motor vehicle of the same type and similarly equipped. The reasonable allowance for use does not apply to a replacement.

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# NOTES





# IS YOUR CAR A 'LEMON'?

## Steps To Take When Your New Car Goes Sour

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### ALEX SIMANOVSKY, ESQ.

Mr. Simanovsky received his college degree (B.A.) in Mathematics, cum laude, from the University of Georgia in 1992. He received his legal training at the University of Georgia School of Law, graduating in 1995 with honors. Mr. Simanovsky has devoted his entire legal career to helping consumers. He is a member of the Georgia Trial Lawyers Association, the

American Bar Association, and the National Consumer Law Center. Mr. Simanovsky is the former chairman and former vice-chairman of the State Bar of Georgia's Consumer Law Section.

*"Great representation! – Alex went to bat for us as an ordinary individual auto purchaser/owner who was experiencing over a year of recurrent/ongoing troubles. He was very easy to talk to and truly cared about our circumstances and went back to the manufacturer, again and again, to obtain the fairest recompense for all the aggravation and loss of usage we encountered. Thank you, Alex!"*

**– Gary**

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*"Lemon law case – I contact Mr. Simanovsky's law firm for a lemon law case, of a brand new 2019 Chevrolet Silverado that the transmission came out defective and of course, he got me a money settlement with GM for my hassle and my time expended in the shop. Thank you all sincerely."*

**– Luis**

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*"King of getting the work done – Mr. Alex Simanovsky you are the best lawyer ever. You stand by your words and defend your clients to the fullest. Thank you for all your hard work Nadege Raymond"*

**– Nadege**

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