

STANDARDS OF THE 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. Passenger cars;
2. Motor vehicles with a vehicle weight of under 8,000 pounds that are 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. Specified recreational vehicles.

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, and 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

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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, downpayments, 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.

* The lemon law indicates that the retailer may claim a credit from the state for these taxes, suggesting that the retailer should refund taxes to the purchaser.

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.