

STANDARDS OF THE 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^{1/2}.

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 other than 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 of 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.

This information is not intended as legal advice. Please direct specific questions to your legal counsel.

© 2004, Council of Better Business Bureaus, Inc.

Massachusetts

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:

$$\begin{array}{l} \text{Reasonable} \\ \text{allowance} \\ \text{for use} \end{array} = \frac{\begin{array}{l} \# \text{ miles vehicle traveled before} \\ \text{its return to the manufacturer} \end{array}}{100,000} \times \begin{array}{l} \text{vehicle contract} \\ \text{price} \end{array}$$

For motorcycles, the reasonable allowance for use should be computed by changing the denominator in the above formula from 100,000 to 25,000.

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

This information is not intended as legal advice. Please direct specific questions to your legal counsel.

© 2004, Council of Better Business Bureaus, Inc.

Massachusetts

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:

$$\begin{array}{rcl} \text{reasonable} & \# \text{ miles vehicle traveled before} & \text{total amount} \\ \text{allowance} & = \text{ its return to the manufacturer } & \text{of lease} \\ \text{payments} & & \\ \text{for use} & 100,000 & \text{made by} \\ \text{lessee} & & \end{array} \quad \times$$

For motorcycles, the reasonable allowance for use should be computed by changing the denominator in the above formula from 100,000 to 25,000.

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.