

STANDARDS OF THE 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. §§ 646.315 to 646.375.

VEHICLES COVERED

The Oregon lemon law covers any passenger motor vehicle, including used vehicles. Motor vehicles purchased or leased **on or after September 21, 2009** must be purchased/leased or 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 **before September 21, 2009** 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 period of one year following the date of the motor vehicle’s original delivery to the consumer or during the period ending when the motor vehicle mileage reaches 12,000 miles, whichever period ends first.

If a vehicle purchased/leased **on or after September 21, 2009** 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

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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

For vehicles purchased/leased **before September 21, 2009**, the Oregon lemon law establishes a *presumption* that a reasonable number of repair attempts have been undertaken if either of the following events has occurred during the period of one year following the date of the motor vehicle's original delivery to the consumer or during the period ending when the vehicle mileage reaches 12,000 miles, whichever period ends first:

1. The same nonconformity has been subject to repair or correction four or more times by the manufacturer or its agent or authorized dealer, 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 business days.

For vehicles purchased/leased **on or after September 21, 2009**, the *presumption* is met if either 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 one-year/12,000 miles period, 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 followed by an opportunity to correct the alleged defect. Oral notice does not satisfy the statutory requirement.¹ 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 participates 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

For vehicles purchased/leased **before September 21, 2009**, 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 12,000 miles; or
2. The period of one year following the date of the motor vehicle's original delivery to the consumer.

For vehicles purchased/leased **on or after September 21, 2009**, 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.

¹ *Liles v. Damon Corp.*, 210 Ore. App. 303 (Or. Ct. App. 2006).

REMEDIES UNDER THE OREGON LEMON LAW

REPURCHASE OF OWNED VEHICLES

The manufacturer must pay the following amounts when it repurchases a vehicle purchased/leased **before September 21, 2009**:

1. The full purchase or lease price paid; and
2. Taxes, license fees, registration fees, and any similar collateral charges, excluding interest;
3. Less a reasonable allowance for the consumer's use of the vehicle.

The manufacturer must pay the following amounts when it repurchases a vehicle purchased/leased **on or after September 21, 2009**:

1. The full purchase or lease price paid; and
2. 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;
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 the interests of the consumer and lienholder may appear.

For vehicles purchased/leased **before September 21, 2009**, the reasonable allowance 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 during any subsequent period when the vehicle is not out of service by reason of repair.

For vehicles purchased/leased **on or after September 21, 2009**, 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

120,000

X

combined amount of the vehicle's cash price or lease price plus any collateral charges paid by the consumer

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.