

MONTANA LEMON LAW SUMMARY

EXECUTIVE SUMMARY	
TIME PERIOD FOR FILING CLAIMS	Not specified. Montana Department of Justice has approved a filing period of one year after the earlier of (1) two years after original delivery to a consumer, or (2) the first 18,000 miles of operation.
ELIGIBLE VEHICLE	<p>A self-propelled vehicle sold or registered in Montana and designed primarily to transport persons or property upon public highways, including the nonresidential portions of a motor home.</p> <p>Includes motorcycles but excludes trucks of 10,000 GVW or more, and vehicles with problems caused by abuse, neglect, or unauthorized modification or alteration by the purchaser.</p>
ELIGIBLE CONSUMER	<p>(1) 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 the vehicle's express warranty; and (3) any other person entitled by the terms of the express warranty to enforce the warranty.</p> <p>Montana Department of Justice advises that lessee is also covered.</p>
TIME PERIOD FOR FIRST OCCURRENCE OR NOTICE	During the "Warranty Period" (earlier of two years after original delivery to the consumer or during the first 18,000 miles of operation).
TIME PERIOD FOR REASONABLE NUMBER OF ATTEMPTS TO REPAIR	During the "Warranty Period" (earlier of two years after original delivery to the consumer or during the first 18,000 miles of operation).
PRESUMPTION OR DEFINITION	Presumption: during the lemon law <i>warranty period</i> , either (1) four or more repair attempts or (2) out of service for 30 or more business days.
NOTICE TO MANUFACTURER	Written notice; for presumption to apply.
FINAL OPPORTUNITY TO REPAIR	For presumption to apply.
REASONABLE ALLOWANCE	Refund only: miles before vehicle's return divided by 100,000, multiplied by contract price.
DISPUTE RESOLUTION	Before obtaining lemon law remedies, must resort to manufacturer's program if certified. Consumer may file with state-operated program if no certified manufacturer program or if certified program does not conform to required procedures.
DISCLOSURE TO SUBSEQUENT PURCHASER	Yes.
TITLE BRANDING	No.

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1. Citation	Montana Code Ann. §§ 61-4-501 through 61-4-533; Admin. Rules §§ 2.61.401 through 2.61.420.
2. Motor vehicle covered	Covers a self-propelled vehicle that is sold or registered in Montana and designed primarily to transport persons or property upon the public highways, including the nonresidential portions of a motor home. Includes a motorcycle but excludes a truck with a G.V.W. of 10,000 pounds or more, and a vehicle with problems that are caused by the abuse, neglect, or unauthorized modification or alteration by the purchaser.
3. Consumer covered	(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 the vehicle's express warranty; and (3) Any other person entitled by the terms of the express warranty to enforce the warranty. The Montana Department of Justice, which administers the New Motor Vehicle Warranty Act, interprets this provision to cover the lessee of a motor vehicle.
4. Nonconformity defined	Not defined. Any defect or condition that substantially impairs the use and market value or safety of the motor vehicle to the consumer is referred to as a <i>nonconformity</i> . Note that one of the affirmative defenses is that the alleged nonconformity does not substantially impair the <i>use, market value or safety</i> of the motor vehicle.
5. Warranty defined	Not defined.
6. Lemon law rights period	"Warranty period" means the period ending two years after the date of the new motor vehicle's original delivery to the consumer or during the first 18,000 miles of operation, whichever is earlier.
7. Manufacturer's obligation to repair	If a consumer notifies in writing the manufacturer or its agent, during the lemon law <i>warranty period</i> , 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.
8. Manufacturer's obligation to repurchase or replace	If the manufacturer or its agent or authorized dealer is unable to correct a nonconformity after a <i>reasonable number of repair attempts</i> during the lemon law <i>warranty period</i> , the manufacturer must replace or repurchase the new motor vehicle.
9. Criteria for reasonable number of repair attempts	Presumed if, during the lemon law <i>warranty period</i> , 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.
10. Notice of nonconformity and final opportunity to repair	The 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.

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11. Affirmative defenses	It is an affirmative defense 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.
12. Refund	Refund consists of: (1) The full purchase price; (2) Reasonable <i>collateral charges</i> , 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 <i>incidental damages</i> , 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.
13. Replacement	Replacement is 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 replacement is a comparable motor vehicle.
14. Reasonable allowance	Applies to a refund but not to a replacement. The reasonable allowance for use is an amount directly attributable to 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 reasonable allowance for use is computed with the following formula: $\frac{\text{number of miles the vehicle traveled prior to the manufacturer's acceptance of the vehicle}}{100,000} \times \frac{\text{total contract price of the vehicle}}{\text{price of the vehicle}}$
15. Refund of sales tax	Manufacturer refunds sales tax to the consumer. No provision for the manufacturer to obtain a refund of sales tax from the state.
16. Enhanced damages	Not specified, although a violation of the lemon law is an unfair and deceptive trade practice, and the associated penalties apply.
17. Attorney's fees	If a party appeals a decision by the state-operated arbitration program, and the court determines that the appellant acted without good cause, the court may grant to the respondent his costs and reasonable attorney fees.
18. Statute of limitations	Not specified. The Montana Department of Justice has approved the following filing period: A claim must be filed 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.
19. Manufacturer-sponsored arbitration	The provisions requiring repurchase or replacement do not apply unless the consumer has first resorted to an informal dispute settlement procedure certified by the Department of Justice to comply with 16 C.F.R. Part 703 and the lemon law.
20. State-sponsored arbitration	Consumer may file a claim with the Department of Justice's arbitration procedure if the manufacturer has not established a certified program or if the consumer was "injured" by the operation of a certified program that does not conform to required procedures.
21. Dealer liability	Nothing in the lemon law imposes any liability on a dealer or creates a cause of action by a consumer against a dealer. A dealer is not liable to a manufacturer for any refunds or vehicle replacements in the absence of evidence indicating that repairs made by the dealer were carried out in a manner inconsistent with the manufacturer's instructions.
22. Restrictions on resale of	A motor vehicle returned to the manufacturer for repurchase or replacement may not be sold in Montana without a clear and conspicuous written disclosure of the fact that the vehicle was

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returned vehicles	<p>returned. The Department of Justice may prescribe the form and content of the disclosure statement and a procedure by which the disclosure may be removed upon a determination that the vehicle is no longer defective.</p> <p>The seller must give the ultimate consumer an opportunity to review the disclosure form in its entirety and must obtain on the form the ultimate consumer's signature.</p>
23. Point of sale notice of lemon law rights	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.
24. Limitation on waiver	Not specified.

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