

WEST VIRGINIA LEMON LAW SUMMARY

EXECUTIVE SUMMARY	
TIME PERIOD FOR FILING CLAIMS	One year following expiration of the express warranty term. To file in court, time does not run while consumer participates in informal dispute resolution procedure.
ELIGIBLE VEHICLE	Passenger automobile purchased in West Virginia or registered and titled in West Virginia, including pickup trucks and vans with a gross weight not more than ten thousand pounds; and any self-propelled chassis of a motor home.
ELIGIBLE CONSUMER	(1) 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. Appears not to cover a lessee.
TIME PERIOD FOR FIRST OCCURRENCE OR NOTICE	Later of the term of the express warranties or one year following original delivery to a consumer.
TIME PERIOD FOR REASONABLE NUMBER OF ATTEMPTS TO REPAIR	Not specified.
PRESUMPTION OR DEFINITION	Presumption: during earlier of term of the express warranties or one year following original delivery, (1) three or more attempts; (2) one or more attempts to nonconformity likely to cause death or serious bodily injury; or (2) out of service for 30 or more calendar days.
NOTICE TO MANUFACTURER	For presumption to apply, prior written notification.
FINAL OPPORTUNITY TO REPAIR	For presumption to apply, an opportunity to cure.
REASONABLE ALLOWANCE	No reasonable allowance for use.
DISPUTE RESOLUTION	Before obtaining lemon law remedies, must resort to manufacturer's program if certified and consumer receives notification of its availability.
DISCLOSURE TO SUBSEQUENT PURCHASER	Yes.
TITLE BRANDING	No.

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1. Citation	West Virginia Code §§ 46A-6A-1 through 46A-6A-9; West Virginia Admin. Regs. §§ 142-3-1 through 142-7-8.
2. Motor vehicle covered	Covers a “motor vehicle”, meaning a passenger automobile purchased in West Virginia or registered and titled in West Virginia. This includes pickup trucks and vans with a gross weight not more than ten thousand pounds; and any self-propelled chassis of a motor home.
3. Consumer covered	(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. Appears not to cover a lessee.
4. Nonconformity defined	Not defined. A defect or condition that substantially impairs the use or market value of the motor vehicle to the consumer is referred to as a “nonconformity”.
5. Warranty defined	“Manufacturer’s express warranty” and “warranty” mean the written warranty of the manufacturer of a new motor vehicle of its condition and fitness for use, including any terms or conditions precedent to the enforcement of obligations under that warranty.
6. Lemon law rights period	Not defined.
7. Manufacturer’s obligation 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 one year following the date of the motor vehicle’s original delivery to a consumer, <i>whichever is later</i> , 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.
8. Manufacturer’s obligation to repurchase or replace	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 <i>reasonable number of attempts</i> , 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.
9. Criteria for reasonable number of repair attempts	Presumed 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, <i>whichever is earlier</i> , 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.
10. Notice of nonconformity and final opportunity to repair	The <i>presumption</i> 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.
11. Affirmative defenses	It is an affirmative defense that: (1) The alleged nonconformity does not substantially impair the use or market value of the vehicle, or (2) The nonconformity is the result of abuse, neglect, or unauthorized modifications or alterations by anyone other than the manufacturer, its agent, or authorized dealers.

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12. Refund	Refund consists of: (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.
13. Replacement	Replacement is a comparable new motor vehicle.
14. Reasonable allowance	No reasonable allowance for use.
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.
17. Attorney's fees	In an action under the lemon law, the consumer may be awarded reasonable attorney fees.
18. Statute of limitations	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.
19. Manufacturer-sponsored arbitration	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.
20. State-sponsored arbitration	Not specified.
21. Dealer liability	The cause of action provided by the lemon law is available only against the manufacturer.
22. Restrictions on resale of returned vehicles	If a new motor vehicle has been returned under any state's lemon law, it may not be resold in West Virginia unless the manufacturer corrects the nonconformity and provides the consumer with a written statement on a separate piece of paper in ten point all capital type, in substantially the following form: IMPORTANT: THIS VEHICLE WAS RETURNED TO THE MANUFACTURER BECAUSE IT DID NOT CONFORM TO THE MANUFACTURER'S EXPRESS WARRANTY AND THE NONCONFORMITY WAS NOT CURED WITHIN A REASONABLE TIME AS PROVIDED BY WEST VIRGINIA LAW. No manufacturer may require by agreement or otherwise, either directly or indirectly, that any of its authorized dealers in West Virginia accept such a motor vehicle for resale.
23. Point of sale notice of lemon law rights	At the time of purchase, the manufacturer either directly or through its agent or its authorized dealer must provide the consumer a written statement on a separate piece of paper, in ten point all capital type, in substantially the following form: IMPORTANT: IF THIS VEHICLE IS DEFECTIVE, YOU MAY BE ENTITLED UNDER STATE LAW TO REPLACEMENT OR TO COMPENSATION. HOWEVER, TO BE ENTITLED TO REPLACEMENT OR TO COMPENSATION, YOU MUST FIRST NOTIFY THE MANUFACTURER OF THE PROBLEM IN WRITING AND PROVIDE THE MANUFACTURER AN OPPORTUNITY TO REPAIR THE VEHICLE.
24. Limitation on waiver	Not specified.

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