

## **STANDARDS OF THE ARIZONA LEMON LAW**

The following is a brief explanation of most relevant provisions of the Arizona lemon law. The complete text of the lemon law can be found at Ariz. Rev. Stat. section 44-1261 *et seq.*

### **VEHICLES COVERED**

The Arizona lemon law covers motor vehicles, defined as self-propelled vehicles designated primarily for the transportation of persons or property over public highways, including the self-propelled vehicle and chassis of motor homes. The lemon law appears to cover used vehicles.

The lemon law does not cover the portions of a motor home designed, used or maintained primarily as a mobile dwelling, office or commercial space, or vehicles with a declared gross weight over 10,000 pounds.

### **CONSUMERS COVERED**

The lemon law covers the following consumers:

1. The purchaser of a motor vehicle for purposes other than resale;
2. Any person to whom the motor vehicle is transferred 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.

The lemon law does not cover lessees unless the lease language contains a provision stating that the Lemon Law applies and not the UCC, in which case the lessee shall be deemed the consumer of the motor vehicle.<sup>1</sup>

### **PROBLEMS COVERED**

The lemon law covers any defect or condition that substantially impairs the use and value of the motor 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 nonconformity is the result of abuse, neglect, or unauthorized modifications or alterations of the motor vehicle.

### **MANUFACTURER'S DUTY TO REPAIR**

If a motor vehicle does not conform to all applicable express warranties, and the consumer reports the nonconformity to the manufacturer, its agent or authorized dealer during the shorter of the following:

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<sup>1</sup> *Parrot v. DaimlerChrysler Corp.*, 130 P.3d 530 (Ariz. 2006); *Mago v. Mercedes-Benz, U.S.A., Inc.*, 142 P.3d 712 (Ariz. Ct. App. 2006); A.R.S. § 47-2A517(F).

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1. the term of the express warranty, or
2. the period of two years or 24,000 miles following the date of the motor vehicle's original delivery to the consumer, whichever is earlier;

then the manufacturer, its agent, an authorized dealer or the issuer of the warranty must make the necessary repairs to conform the motor vehicle to the express warranty.

The necessary repairs must be made even if the term of the warranty, the two year period, or the 24,000 mile period has expired.

### **MANUFACTURER'S DUTY TO REPURCHASE OR REPLACE A VEHICLE**

If the manufacturer, its agent or authorized dealer is unable to conform the motor vehicle to any applicable express warranty by repairing or correcting a nonconformity after a *reasonable number of attempts*, the manufacturer must either replace the motor vehicle with a new motor vehicle or repurchase the motor vehicle.

### **REASONABLE NUMBER OF REPAIR ATTEMPTS**

The Arizona lemon law establishes a *presumption* that a reasonable number of attempts has been undertaken to conform a motor vehicle to the applicable express warranties if, during the shorter of the term of the express warranty, or the period of two years or 24,000 miles following the date of the motor vehicle's original delivery to the consumer, whichever is earlier, either of the following occurs:

1. The same nonconformity has been subject to repair four or more times by the manufacturer, its agents or authorized dealers but the nonconformity continues to exist.
2. The motor vehicle is out of service for repair for a cumulative total of 30 or more calendar days.

The term of an express warranty, the two year 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 war, invasion, strike, fire, flood, or other natural disaster.

### **NOTICE AND OPPORTUNITY TO REPAIR**

The presumption that a reasonable number of repair attempts has occurred does not apply against a manufacturer unless the manufacturer has received prior direct written notification of the alleged defect from or on behalf of the consumer and has had an opportunity to cure the alleged defect.

### **DISPUTE RESOLUTION**

If the manufacturer has established or participates in an informal dispute settlement procedure that complies with 16 C.F.R. Part 703, then the provisions requiring refund or

replacement do not apply unless the consumer has first resorted to the informal dispute settlement procedure.

### **TIME PERIOD FOR FILING CLAIMS**

An action must be commenced within six months following the earlier of (1) expiration of the express warranty term; (2) two years following the date of the vehicle's original delivery to the consumer; or (3) 24,000 miles following the date of the vehicle's original delivery to the consumer.

## **REMEDIES UNDER THE ARIZONA LEMON LAW**

### **REPURCHASE OF OWNED VEHICLE**

The Arizona lemon law sets out the following amounts that a manufacturer must pay when it repurchases a motor vehicle under the lemon law:

1. The motor vehicle's full purchase price; and
2. All collateral charges associated with the purchase, including taxes attributed to the sale of the vehicle;
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 their interests may appear.

The reasonable allowance for use is that amount directly attributable to use by the consumer before the first written report of the nonconformity to the manufacturer, its agent or dealer, and during any subsequent period when the vehicle is not out of service by reason of repair.

### **REPLACEMENT**

When replacing a vehicle under the Arizona lemon law, the manufacturer must provide a new motor vehicle. The reasonable allowance for use appears not to apply to a replacement.

If the replacement vehicle is of lesser value than the vehicle to be replaced, the manufacturer must refund to the consumer the difference between the original amount of tax attributed to the sale of the vehicle to be replaced and the amount of tax attributed to the sale of the replacement vehicle.

If the replacement vehicle is of greater value than the vehicle to be replaced, the manufacturer must calculate the gross proceeds of sales by subtracting the value of the vehicle to be replaced from the value of the replacement vehicle [and presumably collecting tax on the difference].