

## **STANDARDS OF THE NORTH DAKOTA LEMON LAW**

The following is a brief explanation of most relevant provisions of the North Dakota lemon law. The complete text of the lemon law can be found at North Dakota Cent. Code §§ 51-07-16 through 51-07-22.

### **VEHICLES COVERED**

The North Dakota lemon law covers the following “passenger motor vehicles” sold or leased in North Dakota:

1. Motor vehicles designed principally for the transportation of persons;
2. Trucks that have a registered gross weight of 10,000 pounds or less; and
3. Vehicles that use a truck chassis but have a seating capacity of four or more passengers.

The lemon law appears to cover used vehicles, but does not cover motor homes.

### **CONSUMERS COVERED**

The lemon law covers the following “consumers”:

1. The purchaser or lessee, other than for purposes of resale or lease, of a passenger motor vehicle normally used for personal, family or household purposes;
2. Any person to whom the passenger motor vehicle is transferred for the same purposes during the duration of the vehicle’s express warranty; 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 any defect or condition that substantially impairs the use and market value of the passenger motor vehicle. This is referred to as a *nonconformity*.

The lemon law provides the manufacturer an affirmative defense if the manufacturer can show that:

1. The alleged nonconformity does not substantially impair the use and market value of the passenger motor vehicle; or
2. The nonconformity is the result of abuse, neglect, or unauthorized modifications or alterations of the passenger motor vehicle by a consumer.

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

If a passenger 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 warranty term or during the period of one year following the date of the vehicle's original delivery to a consumer, whichever comes first, the manufacturer, its agent, or authorized dealer must make the necessary repairs to conform the vehicle to the warranties.

Repairs are required to be made even after the expiration of the warranty or one-year period.

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

If the manufacturer, its agent, or authorized dealer is unable to correct any nonconformity after a *reasonable number of repair attempts*, the manufacturer must replace or repurchase the passenger motor vehicle.

## **REASONABLE NUMBER OF REPAIR ATTEMPTS**

The North Dakota lemon law provides a *presumption* that a manufacturer has had a reasonable number of repair attempts if, during the warranty period or one year from the date of the vehicle's original delivery to a consumer, whichever is the earlier date, either of the following occurs:

1. The same nonconformity has been subject to repair more than three times and continues to exist; or
2. The vehicle has been out of service for repair for a cumulative total of at least 30 business days.

The warranty term, the one-year period, and the thirty-day period are extended by the period during which repair services are unavailable due to war, invasion, strike, fire, flood, or other natural disaster.

## **NOTICE AND OPPORTUNITY TO REPAIR**

The above presumption does not apply unless the manufacturer has received prior direct notification from or on behalf of the consumer and an opportunity to cure the alleged defect.

## **DISPUTE RESOLUTION**

The lemon law provisions requiring repurchase or replacement of a nonconforming motor vehicle do not apply to a consumer who has not first used an informal dispute settlement procedure that substantially complies with 16 C.F.R. Part 703 or an industry appeals, arbitration or mediation appeals board whose decisions are binding on the manufacturer. Upon application, the Attorney General will issue a determination of whether an informal dispute resolution mechanism qualifies.

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## **TIME PERIOD FOR FILING CLAIMS**

An action must be commenced within six months after the earlier of (1) expiration of the express warranty term or (2) 18 months after the date of the vehicle's original delivery to a consumer.

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## **REMEDIES UNDER THE NORTH DAKOTA LEMON LAW**

### **REPURCHASE OF AN OWNED VEHICLE**

The North Dakota lemon law states that a manufacturer must pay the following amounts when it repurchases an owned vehicle under the lemon law:

1. The full purchase price; and
2. All collateral charges;
3. Less a reasonable allowance for the consumer's use of the vehicle.

According to the North Dakota Office of the Attorney General, earned finance charges are included as collateral charges. North Dakota statutes provide for a refund of excise tax from the state to the consumer (§ 57-40.4-01.1), and a pro rata refund of registration fees from the state to the consumer (§ 39-04-39.4).

A reasonable allowance for the consumer's use is the amount directly attributable to use by the consumer before the consumer's first report of the nonconformity to the manufacturer, its agent, or dealer, and during any subsequent period when the vehicle is not out of service for repair. The reasonable allowance may not exceed ten cents per mile driven or 10% of the purchase price, whichever is less.

Refunds must be made to the consumer and the lienholder, if any, as their interests may appear.

### **REPURCHASE OF A LEASED VEHICLE**

The North Dakota lemon law states that a manufacturer must pay the following amounts when it repurchases a leased vehicle under the lemon law:

*To the lessor:*

1. The lessor's actual purchase cost, less payments made by the lessee;
2. The freight cost, if applicable;
3. The cost for dealer- or manufacturer-installed accessories, if applicable; and
4. An amount equal to 5% of the lessor's actual purchase cost, in lieu of any early termination costs or penalties described in the lease agreement.

*To the lessee:*

1. The sum of all payments previously paid to the lessor by the lessee, including all cash payments, security deposits, and trade-in allowance, if any;
2. Less a reasonable allowance for the consumer's use of the vehicle.

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North Dakota statutes provide for a refund of excise tax from the state to the consumer (§ 57-40.4-01.1), and a pro rata refund of registration fees from the state to the consumer (§ 39-04-39.4).

A reasonable allowance for the consumer's use is the amount directly attributable to use by the consumer before the consumer's first report of the nonconformity to the manufacturer, its agent, or dealer, and during any subsequent period when the vehicle is not out of service for repair. The reasonable allowance may not exceed ten cents per mile driven or 10% of the purchase price, whichever is less.

Upon return of the vehicle, the consumer's lease agreement with the lessor is terminated and no penalty for early termination may be assessed. Any refund to be paid to the lessor must be made to the lessor and lienholder, if any, as their interests may appear.

## **REPLACEMENT**

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