

STANDARDS OF THE OHIO LEMON LAW

The following is a brief explanation of most relevant provisions of the Ohio lemon law. The complete text of the lemon law can be found at Ohio Rev. Code Ann. Sec. 1345.71 *et seq.*

VEHICLES COVERED

The Ohio lemon law covers (1) a passenger car, (2) a noncommercial motor vehicle, or (3) those parts of any motor home that are not part of the permanently installed facilities used for cold storage, cooking, eating and sleeping.

A “passenger car” is any motor vehicle that is designed and used for carrying not more than nine persons and includes any motor vehicle that is designed and used for carrying not more than fifteen persons in a ridesharing arrangement. Guidance from the Attorney General’s Office indicates that a pick-up truck used exclusively for business purposes is not covered by the lemon law.

A “noncommercial motor vehicle” is any motor vehicle, including a farm truck, that is designed by the manufacturer to carry a load of no more than one ton and is used exclusively for purposes other than engaging in business for profit.

CONSUMERS COVERED

The lemon law covers the following “consumers”:

1. The purchaser, other than for purposes of resale, of a motor vehicle;
2. Any lessee of a motor vehicle for 30 days or more while title remains in the name of a person other than the user;
3. Any person to whom the vehicle is transferred during the duration of the manufacturer’s written vehicle warranty; and
4. Any other person entitled by the terms of the warranty to enforce the warranty.

The lemon law appears to cover a subsequent transferee if the vehicle is acquired during the warranty period.

VEHICLE CONVERTERS

The lemon law does not apply to vehicle converters.

PROBLEMS COVERED

The lemon law covers any “nonconformity”, which it defines as a defect or condition that:

1. Substantially impairs the use, value, or safety of a motor vehicle to the consumer; and
2. Does not conform to the express written warranty of the manufacturer or distributor.

The lemon law provides the manufacturer an affirmative defense if the manufacturer can show that the nonconformity is the result of abuse, neglect, or unauthorized modification or alteration of the passenger motor vehicle by anyone other than the manufacturer, its agent or authorized dealer.

MANUFACTURER’S DUTY TO REPAIR

If a vehicle does not conform to the manufacturer’s written new vehicle warranty and the consumer reports the nonconformity to the manufacturer, its agent or authorized dealer during the period of one year following the date of original delivery or during the first 18,000 miles of operation – whichever is earlier – the manufacturer, its agent or authorized dealer must make any repairs necessary to conform the vehicle to the warranty. Repairs must be made even after the expiration of the one year or 18,000 mile period.

MANUFACTURER’S DUTY TO REPURCHASE OR REPLACE A VEHICLE

If the manufacturer or dealer is unable to conform the vehicle to the manufacturer’s written vehicle warranty by repairing or correcting any nonconformity after a *reasonable number of repair attempts*, the manufacturer must (at the consumer’s option) replace the vehicle with a new vehicle acceptable to the consumer or repurchase the vehicle.

REASONABLE NUMBER OF REPAIR ATTEMPTS

The lemon law establishes a presumption for determining whether the manufacturer had a reasonable number of attempts to repair. Case law¹ interprets the lemon law’s presumption as establishing a definition that a reasonable number of repair attempts has been made if, during the period of one year following the date of original delivery or during the first 18,000 miles of operation, whichever is earlier, any of the following occurs:

1. Substantially the same nonconformity has been subject to repair three or more times and either continues to exist or recurs;
2. The vehicle is out of service by reason of repair for a cumulative total of thirty or more calendar days;
3. There have been eight or more attempts to repair any nonconformity; or
4. There has been at least one attempt to repair a nonconformity that results in a condition that is likely to cause death or serious bodily injury if the vehicle is driven, and the nonconformity either continues to exist or recurs.

The lemon law provides that any time period described above shall be extended by any period of time during which the vehicle could not be reasonably repaired due to war, invasion, civil unrest, strike, fire, flood or natural disaster. It further provides that, if an extension of time is necessitated due to these conditions, the manufacturer shall arrange

¹ *Royster v. Toyota Motor Sales, U.S.A., Inc.*, 92 Ohio St. 327, 750 N.E.2d 531 (2001); *Temple v. Fleetwood Enterprises, Inc.*, 133 Fed. Appx. 254, 2005 U.S. App. LEXIS 9992 (6th Cir. 2005).

for the use of a vehicle for the consumer whose vehicle is out of service at no cost to the consumer.

DISPUTE RESOLUTION

The lemon law provisions authorizing a civil action under the lemon law do not apply to a consumer who has not first used an informal dispute settlement mechanism if:

1. The mechanism qualifies under rules promulgated by the Attorney General; and
2. The consumer receives timely notification, in writing, of the availability of the mechanism, along with a description of its operation and effect.

If a qualified mechanism does not exist, if the consumer is dissatisfied with the decision produced by a qualified mechanism, or if the manufacturer, its agent or authorized dealer fails to promptly fulfill the decision, the consumer may bring a civil action in court.

TIME PERIOD FOR FILING CLAIMS

An action must be commenced within five years of the date of the vehicle's original delivery (to the consumer²). The statute of limitations does not run for the period beginning on the date that a complaint is filed with an informal dispute settlement mechanism and ending on the date of the mechanism's decision.

² *Curl v. Volkswagen of America, Inc.*, 2005 Ohio 6420 (Ohio Ct. App. 2005).

REMEDIES UNDER THE OHIO LEMON LAW

REPURCHASE OF OWNED VEHICLE

The Ohio lemon law sets out the following amounts that a manufacturer must pay when it repurchases an owned vehicle under the lemon law:

1. The contract price for the motor vehicle, including charges for transportation, undercoating, dealer-installed options and accessories, dealer services, dealer preparation and delivery charges;
2. All finance, credit insurance, warranty and service contract charges incurred by the consumer;
3. All sales tax, license and registration fees, and similar government charges;
4. All incidental damages, including but not limited to
 - any reasonable fees charged by the lender for making or canceling the loan; and
 - any expenses incurred by the consumer as a result of the nonconformity, such as charges for towing, vehicle rental, meals, and lodging.

Refunds must be made to the consumer, or jointly to the consumer and any lienholder that appears on the face of the certificate of title. The lienholder may deduct the balance owing to it, including any fees charged for canceling the loan, and must immediately remit the balance, if any, to the consumer and cancel the loan.

REPURCHASE OF LEASED VEHICLES

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

1. Capitalized cost reduction, security deposit, taxes, title fees, all monthly lease payments, the residual value of the vehicle, and all finance, credit insurance, warranty, and service contract charges incurred by the consumer; and
2. All incidental damages, including but not limited to
 - any reasonable fees charged by the lessor for making or canceling the lease; and
 - any expenses incurred by the consumer as a result of the nonconformity, such as charges for towing, vehicle rental, meals, and lodging.

Refunds must be made jointly to the consumer and lessor. The lessor may deduct the balance owing to it, including any fees charged for canceling the loan, and must immediately remit the balance, if any, to the consumer and cancel the lease.

REPLACEMENT

When replacing a vehicle under the Ohio lemon law, the manufacturer must replace the vehicle with a new vehicle acceptable to the consumer.

The manufacturer must notify any lienholder noted on the certificate of title or the lessor. If both the lienholder or lessor and the consumer consent to finance or lease the replacement motor vehicle, the lienholder or lessor must release the lien on or surrender title to the motor vehicle being replaced after it has obtained a lien on or title to the replacement motor vehicle. If the existing lienholder or lessor does not finance or lease the replacement motor vehicle, it has no obligation to discharge the note or cancel the lien on or surrender the title to the motor vehicle being replaced until the original indebtedness or the lease terms are satisfied.