

STANDARDS OF THE SOUTH CAROLINA LEMON LAW

The following is a brief explanation of most relevant provisions of the South Carolina lemon law. The complete text of the lemon law can be found at South Carolina Code Ann. §§ 56-28-10 through 56-28-110.

VEHICLES COVERED

The South Carolina lemon law covers “motor vehicle” sold and registered in the state. “Motor vehicle” means a private passenger motor vehicle that is:

1. A motor vehicle designed, used, and maintained for the transportation of ten or fewer persons; and
2. Trucks having an empty weight of 9,000 pounds or less and a gross weight of 11,000 pounds or less.

The lemon law also covers two-wheel and three-wheel motorcycles sold and registered in the state.

The lemon law does not cover the living portion of recreational vehicles and off-road vehicles, and mopeds.

“New motor vehicle” is a private passenger motor vehicle that has been sold to a new motor vehicle dealer by a manufacturer and that has not been used for other than demonstration purposes and on which the original title has not been issued from the new motor vehicle dealer.

CONSUMERS COVERED

The lemon law covers the following consumers:

1. The purchaser, including a lessor, for purposes other than resale, of a motor vehicle normally used for personal, family, or household purposes, and subject to the manufacturer’s express warranty; and
2. Any other person entitled by the warranty to enforce its obligations.

PROBLEMS COVERED

The lemon law covers any *nonconformity*, which is defined as a defect or condition that substantially impairs the use, value or safety of the motor vehicle. This does not include a defect or condition that results from an accident, modification, or alteration of the motor vehicle by persons other than the manufacturer or its authorized service agent.

MANUFACTURER’S DUTY TO REPAIR

If a new motor vehicle does not conform to all applicable express warranties within the first twelve months of purchase or the first 12,000 miles of operation, whichever comes first, and the consumer reports the nonconformity to the manufacturer or its agent during the term of the express warranties, then the manufacturer or its agent must make the necessary repairs to conform the vehicle to the express warranties. The necessary repairs must be made even after the expiration of the term of the express warranty.

MANUFACTURER'S DUTY TO REPURCHASE OR REPLACE A VEHICLE

If the manufacturer, its agents or authorized dealers are unable to conform the vehicle to the express warranty by repairing or correcting any nonconformity after a *reasonable number of attempts* within the term of the express warranties, the manufacturer, at its option, must either replace or repurchase the motor vehicle.

REASONABLE NUMBER OF REPAIR ATTEMPTS

The South Carolina 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, within the express warranty term, either of the following occurs:

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

The term of an express warranty and the 20 (sic) day period are extended by any period of time during which repair services are not available to the consumer because of a war, invasion, strike, fire, flood or other natural disaster.

NOTICE AND OPPORTUNITY TO REPAIR

Before filing a claim under the lemon law, the consumer or a representative must notify the manufacturer in writing, by registered, certified or express mail, of the need for repair of the nonconformity, in order to allow the manufacturer a final opportunity to cure the alleged defect. This notice requirement does not apply unless the manufacturer has clearly and prominently informed the consumer, at the time of sale that written notification of the nonconformity is required.

The manufacturer has ten business days to notify consumer of a reasonably accessible repair facility of a franchised new vehicle dealer to conform the motor vehicle to the express warranty. After the motor vehicle is delivered to an authorized repair facility by the consumer, the manufacturer has up to ten business days to repair the motor vehicle so that it conforms to the express warranty.

DISPUTE RESOLUTION

If the manufacturer has established an informal dispute settlement procedure that complies with 16 C.F.R. Part 703, or if the manufacturer participates in a consumer-industry appeals, arbitration or mediation panel or board whose decisions are binding on the manufacturer, then the provisions requiring refund or replacement do not apply unless the consumer has first resorted to one of these procedures.

TIME PERIOD FOR FILING CLAIMS

An action must be commenced within three years following the date of the motor vehicle's original delivery to the consumer.

REMEDIES UNDER THE SOUTH CAROLINA LEMON LAW

REPURCHASE

The South Carolina lemon law sets out the following amounts that a manufacturer must pay when it repurchases an owned or leased motor vehicle under the lemon law:

1. The full purchase price as delivered; and
2. Applicable finance charges, sales taxes, license and registration fees and similar government charges;
3. Less a reasonable allowance for the consumer's use of the motor vehicle.

Refunds must be made to the consumer and lienholder, if any, as their interests exist at the time the refund is to be made.

The reasonable allowance for use is that amount directly attributable to use by the consumer before the first report of the nonconformity to the manufacturer, its agent or dealer. The reasonable allowance must be calculated in accordance with the following formula:

$$\begin{array}{l} \text{Reasonable} \\ \text{allowance} \\ \text{for use} \end{array} = \frac{\begin{array}{l} \text{Number of miles that the motor vehicle} \\ \text{traveled before the nonconformity is first} \\ \text{reported to the manufacturer, agent, or dealer} \end{array}}{120,000} \times \begin{array}{l} \text{Purchase} \\ \text{Price} \end{array}$$

REPLACEMENT

When replacing a vehicle under the South Carolina lemon law, the manufacturer must provide a comparable motor vehicle. The reasonable allowance for use does not apply to a replacement.