

STANDARDS OF THE TENNESSEE LEMON LAW

The following is a brief explanation of most relevant provisions of the Tennessee lemon law. The complete text of the lemon law can be found at Tenn. Code Ann. 55-24-101 through 55-24-112.

VEHICLES COVERED

The Tennessee lemon law covers a passenger motor vehicle and a motorcycle that is sold in Tennessee and is subject to registration and title in Tennessee or any other state.

The Tennessee lemon law does not cover motor homes used as a dwelling place, living abode or sleeping place; garden tractors; recreational vehicles or off-road vehicles; and vehicles over 10,000 pounds gross vehicle weight.

CONSUMERS COVERED

The lemon law covers the following “consumers”:

1. The purchaser (other than for purposes of resale) or the lessee of a motor vehicle;
2. Any person to whom the motor vehicle is transferred during the duration of an express warranty for that vehicle; or
3. Any other person entitled by the terms of the warranty to enforce its obligations.

The lemon law covers a subsequent transferee, but does not cover any governmental entity or any business or commercial entity that registers three or more vehicles.

PROBLEMS COVERED

The lemon law covers any nonconformity to the warranty, defect or condition that substantially impairs the motor vehicle. This is referred to as a *nonconformity*.

“Substantially impair” is defined to mean to render a vehicle unreliable or unsafe for normal operation or to reduce its resale market value below the average resale value for comparable vehicles.

It is an affirmative defense if the manufacturer can show that the alleged nonconformity does not substantially impair the motor vehicle, or the nonconformity is the result of abuse, neglect or unauthorized modifications or alterations of the vehicle by a consumer.

TERM OF PROTECTION

The lemon law defines “term of protection” to mean the term of applicable express warranties or the period of one year following the date of the motor vehicle’s original delivery to a consumer, whichever comes first.

MANUFACTURER'S DUTY 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 during the term of protection, then the manufacturer, its agent or authorized dealer must correct the nonconformity. Repairs must be made even if the term of protection 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 correcting a nonconformity after a *reasonable number of attempts*, then the manufacturer must replace or repurchase the motor vehicle.

REASONABLE NUMBER OF REPAIR ATTEMPTS

The Tennessee lemon law establishes a *presumption* that a reasonable number of repair attempts has been undertaken to conform the motor vehicle to the applicable express warranties if either 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 during the term of protection, 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 during the term of protection.

The term of protection and the 30 day period are extended by any period during which repair services are not available because of war, invasion, strike or fire, flood or other natural disaster.

OPPORTUNITY TO REPAIR

The consumer or a representative must give written notification by certified mail directly to the manufacturer of the need for correction or repair of the nonconformity. If the manufacturer's address is not readily available in the owner's manual or manufacturer's warranty received by the consumer at the time of purchase, the consumer can mail the notification to an authorized dealer who will forward it to the manufacturer.

If the presumption of a reasonable number of repair attempts has been met at the time of the notice, the manufacturer must be given an additional opportunity, not to exceed 10 days, to correct or repair the nonconformity.

DISPUTE RESOLUTION

If the manufacturer has established or participates in an informal dispute settlement procedure that complies with 16 C.F.R. Part 703 and with the provisions of the lemon

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law, and the manufacturer causes the consumer to be notified of the procedure, then the provisions requiring refund or replacement do not apply unless the consumer has first resorted to the informal dispute settlement procedure. The Tennessee Attorney General must, upon application, issue a determination whether the informal dispute settlement procedure qualifies under the lemon law.

TIME PERIOD FOR FILING CLAIMS

An action must be commenced within six months following the *later* of (1) expiration of the express warranty term, or (2) one year following the date of the vehicle's original delivery to a consumer. The statute of limitations does not run for the period beginning on the date when the consumer submits a dispute to an informal dispute settlement procedure and ending on the date of the procedure's decision or the date before which the manufacturer is required by the decision to fulfill its terms, whichever is later.

REMEDIES UNDER THE TENNESSEE LEMON LAW

REPURCHASE OF OWNED VEHICLES

The Tennessee lemon law provides that a manufacturer must pay the following amounts when it repurchases an owned vehicle under the lemon law:

1. *Full purchase price*, meaning the actual cost paid by the consumer; and
2. All *collateral charges*, meaning manufacturer-installed or agent-installed items or service charges, credit life and disability insurance charges, sales taxes, title charges, license fees, registration fees, any similar governmental charges and other reasonable expenses incurred for the purchase of the motor vehicle;
3. Less a reasonable allowance for use.

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

The *reasonable allowance for use* means that amount directly attributable to use by a consumer prior to the first report of the nonconformity to the manufacturer, agent or dealer, and during any subsequent period when the vehicle is not out of service by reason of repair; plus a reasonable amount for any damage not attributable to normal wear.

A reasonable allowance for use cannot exceed one-half the amount allowed per mile by the Internal Revenue Service (Section 162 of the Internal Revenue Code), for use of a personal vehicle for business purposes, plus an amount to account for any loss to the fair market value of the vehicle resulting from damage beyond normal wear and tear unless the damage resulted from nonconformity to an express warranty.

REPURCHASE OF LEASED VEHICLES

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

To the lessee

1. Aggregate deposit and rental payments previously paid to the lessor for the leased vehicle;
2. Less “service fees”.

“Service fees” are the portion of any lease payment attributable to a) an amount for earned interest calculated on the rental payments previously paid to the lessor for the leased vehicle at an annual rate equal to two points above the prime rate in effect on the date the lease was executed; and b) any insurance or other costs expended by the lessor for the benefit of the lessee.

To the lessor

1. Actual purchase cost of the vehicle;
2. Freight (if applicable);
3. Accessories (if applicable);
4. Any fee paid to another to obtain the lease; and
5. 5% of the lease price;
6. Less the aggregate deposit and rental payments previously paid to the lessor for the leased vehicle.

REPLACEMENT

When replacing a vehicle under the Tennessee lemon law, the manufacturer must provide a “comparable motor vehicle”, meaning a new motor vehicle of comparable worth to the same make and model with all options and accessories, with appropriate adjustments being allowed for any model year differences. The reasonable allowance for use appears not to apply to a replacement.

The provisions relating to replacement do not affect the interests of a lienholder. Unless the lienholder consents to the replacement of the lien with a corresponding lien on the replacement vehicle, the lienholder must be paid in full the amount due on the lien, including interest and other charges, before an exchange of motor vehicles or a refund to the consumer is made.

If the nonconforming motor vehicle was financed by the manufacturer or its subsidiary or agent, the manufacturer, subsidiary or agent must not require the consumer to enter into any refinancing agreement that would create any financial obligations beyond those imposed by the original financing agreement.