

## **STANDARDS OF THE PENNSYLVANIA LEMON LAW**

The following is a brief explanation of most relevant provisions of the Pennsylvania lemon law. The complete text of the lemon law can be found at 73 Pa. Cons. Stat. section 1951 *et seq.*

### **VEHICLES COVERED**

The Pennsylvania lemon law covers a “new motor vehicle”, defined as a new and unused self-propelled motorized vehicle that:

1. Is driven upon public roads, streets or highways;
2. Is designed to transport not more than 15 persons;
3. (a) Was purchased or leased and is registered in Pennsylvania, or (b) was purchased or leased in another state and registered for the first time in Pennsylvania; and
4. Is utilized, leased or bought for use primarily for personal, family or household purposes.

This includes a demonstrator or dealer car, but does not include a motorcycle, motor home or off-road vehicle.

### **CONSUMERS COVERED**

The lemon law covers the “purchaser”, defined as a person who has obtained ownership of a new motor vehicle by transfer or purchase, or who has entered into an agreement or contract for the purchase of a new motor vehicle, that is used or bought for use primarily for personal, family or household purposes. To qualify as a “purchaser”, the person must maintain continued ownership and possession of the vehicle, and must never have relinquished title.<sup>1</sup>

Beginning February 11, 2002, “purchaser” also includes a person who has obtained possession of a new motor vehicle by lease, or who has entered into an agreement or contract for the lease of a new motor vehicle, that is used, leased, or bought for use primarily for personal, family or household purposes.

### **PROBLEMS COVERED**

The lemon law covers any vehicle “nonconformity”, defined as a defect or condition that substantially impairs the use, value or safety of a new motor vehicle and does not conform to the manufacturer’s express warranty.

A consumer is not entitled to lemon law repurchase or replacement if the nonconformity does not substantially impair the use, value or safety of the motor vehicle, or the

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<sup>1</sup> *Reeves v. Morelli-Hoskins Ford, Inc.*, 415 Pa. Super. 431, 609 A.2d 828 (Pa. Super. Ct. 1992); *Sinnerard v. Ford Motor Company*, 1996 U.S. Dist. LEXIS 8735 (E.D. Pa. 1996).

nonconformity is the result of abuse, neglect or modification or alteration of the motor vehicle by the purchaser.

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

A manufacturer must repair or correct a nonconformity that occurs within whichever of the following periods ends first:

1. One year following the actual delivery of the vehicle to the purchaser;
2. The first 12,000 miles of use; or
3. The term of the manufacturer's warranty.

The purchaser must deliver the vehicle for repair to the manufacturer's authorized service and repair facility in Pennsylvania, unless the vehicle cannot reasonably be delivered because of the nature of the nonconformity. If the purchaser cannot deliver the vehicle for repair, the purchaser must notify the manufacturer or its authorized service and repair facility in writing. Such written notice shall constitute delivery of the vehicle; however, the manufacturer may service or repair the vehicle at the vehicle's location, or the manufacturer may, at its own expense, transport the vehicle to its authorized service and repair facility.

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

If the manufacturer fails to repair or correct the nonconformity (which occurred within the earlier of one year, 12,000 miles, or the term of the warranty<sup>2</sup>) after a *reasonable number of attempts*, the manufacturer must, at the purchaser's option, either replace or repurchase the motor vehicle.

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

The lemon law creates a *presumption* that a manufacturer has had a reasonable number of repair attempts if either of the following occurs:

1. The same nonconformity has been subject to repair three times by the manufacturer, its agents or authorized dealers and the nonconformity still exists; or
2. The vehicle is out-of-service by reason of any nonconformity for a cumulative total of 30 calendar days or more. (This time period is extended by not more than 30 additional calendar days if the repair cannot be completed by the manufacturer, its agent, or authorized dealer by reason of war, act of terrorism, civil unrest, fire, flood, or natural disaster. This time period is extended by not more than 90 additional calendar days if the manufacturer files an affidavit with the Office of the Attorney General. These extensions apply only if the manufacturer, its agent, or authorized

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<sup>2</sup> *Mikula v. Ford Motor Co.*, 26 Pa. D. & C.4th 116 (1995); *Zellhart v. General Motors Corp.*, 50 Pa. D. & C.3d 511 (1988); *Green v. Ford Motor Co.*, 1996 U.S. Dist. Lexis 4102 (E.D. Pa. 1996); *Mesko v. Ford Motor Co.*, 1994 U.S. Dist. Lexis 8979 (E.D. Pa. 1994).

dealer lends a motor vehicle to the purchaser at no charge during the extended time period while the vehicle is with the manufacturer, its agent, or authorized dealer for repair.)

## **DISPUTE RESOLUTION**

If the manufacturer has established an informal dispute settlement procedure that complies with 16 C.F.R. Part 703, the consumer must first resort to the informal dispute settlement procedure before bringing a civil action.

## **TIME PERIOD FOR FILING CLAIMS**

Not specified. Assuming that the UCC statute of limitations applies, a claim must be filed with BBB AUTO LINE within four years from the date the alleged defect is discovered.<sup>3</sup>

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<sup>3</sup> *Gabriel v. O'Hara*, 368 Pa. Super. 383, 534 A.2d 488, n.20 (1987); *Lowe v. Volkswagen Of America, Inc.*, 879 F. Supp. 28 (E.D. Pa. 1995).

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## REMEDIES UNDER THE PENNSYLVANIA LEMON LAW

### REPURCHASE

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

1. The full purchase or lease price; and
2. All collateral charges, which courts have found to mean all possible charges associated with the purchase of a vehicle, including tags, lien fees, sales tax, document fees, and finance charges<sup>4</sup>;
3. Less a reasonable allowance for the purchaser's use of the vehicle.

The reasonable allowance for use is that amount directly attributable to use by the purchaser prior to the purchaser's first report of the nonconformity to the manufacturer. The reasonable allowance for use may not exceed the lesser of 10 cents per mile driven prior to the first report or 10% of the vehicle's purchase or lease price.

### REPLACEMENT

When replacing a vehicle under the Pennsylvania lemon law, the manufacturer must provide a comparable motor vehicle of equal value. The reasonable allowance for use appears not to apply to a replacement.

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<sup>4</sup> *Baker v. Chrysler Corporation*, 1993 U.S. Dist. LEXIS 727 (E.D. Pa. 1993); *Giacinto v. General Motors Corporation*, 1989 U.S. Dist. LEXIS 1459 (E.D. Pa. 1989); *Gambrill v. Alfa Romeo, Inc.*, 696 F. Supp. 1047 (E.D. Pa. 1988); *Robinson v. Hyundai Motor America*, 683 F.Supp. 515 (E.D. Pa. 1988).

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