



## What Is a Lemon Law?

There are many theories about where the term “lemon,” when used to describe something other than the fruit, came from. It appears that it was in the 1800s that the word began to be used to describe people who were unpleasant. In the early 1900s, it begins to appear as a term referring to an item that is worthless. Today, the word is often used to refer to a car that is no good, which gave rise to the term “lemon law.”

Lemon law is really a nickname for any federal or state law that provides a buyer with some form of recourse if they purchase a product that fails to live up to the standards of quality and performance promised by the manufacturer. The federal lemon law is the Magnuson-Moss Warranty Act and applies to residents in all U.S. states. State lemon laws also exist and each state has its own name for its particular version of a lemon law. Most generally, this term is used in reference to the purchase of an automobile, but so-called lemon laws also apply to other goods.

In the automotive world, a new or used vehicle that has been purchased under warranty, which keeps breaking down with the same problem and is never actually repaired, is said to be a lemon. There are laws in every state in the U.S. that protect you in this situation.

No doubt it's stressful enough that your car breaks down in the first place, especially if it's brand new. But if it is under warranty and the dealer refuses to fix it, you may be entitled to a new car, a replacement, or your money back. What's more, it's not just cars that are protected under the lemon law; many different types of vehicles are covered depending on the state you're in. For instance, many states also cover trucks, minivans, SUVs, RVs, campers, boats, motorcycles, and even jet skis. To see if your particular vehicle is covered, you can check the Federal Warranty Act in your state.

Manufacturers who know they have been selling substandard vehicles

## Knowing Your Consumer Rights Can Save You Money

You've worked hard to reduce your debt and improve your credit score with the help of your FFEF payment plan so you can finally purchase that new car you need. Then the worst happens. You just get home when the car breaks down and you have to wait weeks while the service center tries to get it working. Help!

If you've ever found yourself wondering if the car you bought is a “lemon,” read on. This newsletter contains information that will be valuable to you if you ever find yourself in the above-mentioned situation. Fortunately, there are laws in place to protect you from having to live with such a purchase.

In this newsletter, you'll also find out how to get the latest information on product recalls. The U.S. Consumer Product Safety Commission is responsible for protecting the public from unreasonable risks of serious injury or death from thousands of types of consumer products under the agency's jurisdiction. When a product is determined to be unsafe for consumers, a safety recall is often issued. See pages 3 and 4 for ways you can find out about these recalls? ■

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### Lemon Law FAQs

#### Do I Need a Lawyer?

The answer depends upon which state you purchased or registered your car in. In some states and with proper documentation, you simply file a complaint. In other states, you will need to hire an attorney.

#### Who Pays the Legal Fees?

Only about half of the states allow you to recover attorney fees. If your attorney sues under the Magnuson-Moss Warranty Act, you will be awarded attorney fees if you win. Note that an attorney's fee is based upon actual

time expended rather than being tied to any percentage of the recovery. In some states, you must pay the manufacturer's attorney fees if you lose.

#### What Vehicles Are Protected?

It depends upon which state the car was purchased or leased in. Some states include used and leased cars in their lemon law statutes. Some states have separate laws for used vehicles, while other states provide protection for new cars only. In certain states, even the Attorney General is unable to tell you if a leased vehicle

is covered due to the way the law is phrased. You will be referred to an attorney for clarification of the law.

Most states cover the drive train portion of motor homes (the portion of the motor home not used for dwelling purposes). Motorcycles are generally not covered but a few states do include them in their lemon law statutes. If you have a defective motorcycle, motor home, used car, leased car, or a car used for business purposes and your state lemon law does not cover these vehicles, you still have other recourses such as the Uniform Commercial Code and the Federal Magnuson-Moss Warranty Act (providing you were given a written warranty). Consult with an attorney that specializes in this area. ■

### How Is a Lemon Defined?

A lemon is a vehicle that continues to have a defect that substantially limits or impairs its use, value, or safety. Generally, if the car has been repaired four or more times for the same defect within the warranty period and the defect has not been fixed, the car qualifies as a lemon. All states differ so you should consult the Lemon Law Summary and the State Statutes for your particular state.

If the paint is peeling, the light switch came out when you pulled on it, the car makes "funny noises" but otherwise drives just fine, or you found 10 things you don't like about your new car but none of them prevent you from driving it, then you don't have a lemon.

If on the other hand the brakes don't work, the car won't go into reverse gear, it won't start on cold mornings or hot afternoons, the rear door opens all by itself, the driver's seat wobbles, or the car chugs along at 30 mph when it should be going 50 mph, then indeed you may have a lemon provided you've given the manufacturer an opportunity to repair the defect. In most states, up to ten different defects during the warranty period do not brand the car as a lemon. In some states, a single defect that might cause serious injury makes your car a lemon if the manufacturer cannot fix the problem within one attempt.

You may have a lemon, but if you do nothing to protect your consumer rights, such as documenting your repairs and allowing the manufacturer a chance to fix the problem(s), you lose all rights under the various state warranty acts.

- Document who you talk to, what is said, dates and times. Put your complaints in writing and keep a copy for yourself. Be sure to obtain a copy of any warranty repair orders. It is up to you to prove repair attempts.
- Make absolutely sure the dealer records your complaint on the repair order exactly as you describe it.
- In most states you are covered by the lemon law if the vehicle has been in the repair shop for an accumulative number of days during the coverage period.
- If your car fails record the date and time, location, the amount of time you had to wait for assistance, whether or not you had to rent a car, and your general overall feelings. The emotional trauma dealing with a defective vehicle has a lot of bearing on your case should you need to go to arbitration or court. ■

# Product Recall FAQs

The Consumer Product Safety Commission (CPSC) has provided the following answers to common product recall questions:

## **Why is a consumer product recalled?**

CPSC announces recalls of products that present a significant risk to consumers either because the product may be defective or violates a mandatory standard issued by CPSC.

## **If a product I have is recalled, does that mean I should stop using it?**

Usually yes, but you should follow the specific guidance in CPSC's recall announcement on that product.

## **Suppose I have a product that's been recalled but I don't hear about the recall until a week, a month, or a year or more later. How long is a recall in effect?**

There is usually no end date to a product recall. Even if you don't learn of the recall for a year or more, you should follow the guidance in the recall notice the CPSC issues. Call the company at the toll-free number given in CPSC's news release announcing the recall to secure the remedy. If you are unsuccessful with the company, contact CPSC's toll-free hotline (800-638-2772).

## **If a product (such as a toy) made by a particular company is recalled, does that mean the company's other toys and other products are unsafe?**

Each recall CPSC announces applies only to the specific brand and model identified in the recall announcement. In many cases, the recall applies only to products manufactured and date coded for specific time periods (e.g. brand "X," model "Y" manufactured between September 1 and October 17, 2008). Details of each recall are described in CPSC's recall announcements.

## **If a product I have is recalled, will I get my money back?**

Not necessarily. There is no one-size-fits-all remedy for recalled products. The remedy for consumers is described in each recall announcement.

## **If I or someone in my family was harmed by a consumer product, or if I believe a product is unsafe, can I report it to CPSC?**

Yes, the CPSC welcomes your report about an unsafe product. You can do that by e-mail ([hazard@cpsc.gov](mailto:hazard@cpsc.gov)), phone (800-638-2772, ext. 650), fax (800-809-0924) or by letter (U.S. Consumer Product Safety Commission, Injury Report, Washington, DC 20207).

## **Does CPSC have jurisdiction over all consumer products?**

No. CPSC has jurisdiction over more than 15,000 kinds of consumer products used in and around the home, in sports, recreation, and schools. But CPSC doesn't have jurisdiction over some categories of products. They include automobiles and other on-road vehicles, tires, boats, alcohol, tobacco, firearms, food, drugs, cosmetics, pesticides, and medical devices. The CPSC website has links

to the sites of the federal agencies that do have jurisdiction over these products.

## **Does CPSC test or certify products for safety before they can be sold to consumers?**

No. CPSC doesn't have the legal authority to do that. However, responsible companies test their products before putting them on the market.

## **Does CPSC recommend specific brands or models of products that are safest for consumers to buy?**

No. CPSC doesn't endorse or recommend specific brands of products. Instead, CPSC provides information to consumers on what safety features to look for in products. In cooperation with manufacturers, CPSC also announces recalls of products that are believed to pose potential risk for serious injury or death.

## **Does CPSC's jurisdiction include false advertising, fraud, or poor product quality not related to safety?**

No. CPSC's jurisdiction applies only to consumer product safety. The Federal Trade Commission is responsible for handling complaints of false advertising, fraud, and product quality. ■

## **How Can I Find Out Which Products Have Been Recalled?**

### **Here are three easy ways:**

- Check CPSC's website at [www.cpsc.gov](http://www.cpsc.gov) frequently, especially the home page, where CPSC posts new recalls as soon as they are issued, and the Recalls section, where you can search by product type or description, company, and date of recall.
- Use "Search" on the website to search by product type (e.g., toys) or product name.
- Join the recalls e-mail subscription list to get CPSC's recall notices automatically the same day they issue them. You can sign up for the e-mail list at <https://www.cpsc.gov/cpsclist.aspx>. ■

# TIPS & TRICKS

## Who Is the Consumer Product Safety Commission and How Do They Help Me?

The Consumer Product Safety Commission (CPSC) is an Independent Federal Regulatory Agency that does not report to nor is part of any other department or agency in the federal government. It was created in 1972 by Congress under the Consumer Product Safety Act and began operating in 1973. In the Consumer Product Safety Act, Congress directed CPSC to protect the public “against unreasonable risks of injuries associated with consumer products.” The Commission, therefore, is committed to protecting consumers and families from products that pose a fire, electrical, chemical, or mechanical hazard or can injure children. The Commission’s work to ensure the safety of consumer products—such as toys, cribs, power tools, cigarette lighters, and household chemicals—has contributed significantly to the 30% decline in the rate of deaths and injuries

associated with consumer products over the past 30 years. They do this by:

- developing voluntary standards with industry
- issuing and enforcing mandatory standards or banning consumer products if no feasible standard would adequately protect the public
- obtaining the recall of products or arranging for their repair
- conducting research on potential product hazards
- informing and educating consumers through the media, state and local governments, private organizations, and by responding to consumer inquiries ■

### Stay Informed

- The CPSC publishes a free monthly e-newsletter called The Safety Review that offers an in-depth look at the latest hazards associated with home and recreational products. <http://www.cpsc.gov/cpsc/pub/pubs/tsr.html>
- You can find information on over 4,000 product recalls and recall alerts using the various searches on [www.cpsc.gov/cpsc/pub](http://www.cpsc.gov/cpsc/pub)
- Six federal agencies have joined together to create [www.recalls.gov](http://www.recalls.gov), a one-stop shop for U.S. Government recalls. The six agencies posting information on this site are:

CPSC Consumer Product Safety Commission (Consumer Products)

FDA Food and Drug Administration (Foods, Medicines, Cosmetics)

USDA US Department of Agriculture (Meat and Poultry Products)

NHTSA (National Highway Traffic Safety Administration (Motor Vehicles, Car Seats)

EPA Environmental Protection Agency (Environmental Products)

USCG United States Coast Guard (Boats and Boating Safety) ■

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have been known to drag their feet when someone complains for fear of massive recalls. On the other hand, some manufacturers may settle fairly quickly if you have a lemon in order to avoid unwanted bad publicity.

One thing you should never do if you suspect you have a lemon is take the car elsewhere to be repaired thinking that someone else may do a better job. If you suspect you have a lemon, the manufacturer will want to examine your car before making any decisions, and you may even void your warranty by going elsewhere. If your new or used vehicle was bought with a warranty and it keeps breaking down on you, or has had a serious defect with the braking system, then speak to an attorney about the possibility of invoking a lemon law lawsuit. Don’t feel you are being a pain by continually coming back with your complaint; keep at it and don’t give in. ■

## We have new business hours!

**Monday-Friday:**  
7:00 a.m.-9:00 p.m.  
**Saturday:**  
7:00 a.m.-4:00 p.m.

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