



Lemon Laws

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.

Lemon Law Claims

Manufacturers who know they have been selling substandard vehicles 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 to 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 pos-

sibility 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.

What Is a Lemon?

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.

Do I Have a Lemon?

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, the darn thing 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, 10 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.

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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.

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 Lawyer?

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.

Is a Used Car or a Leased Car 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.

What about Motor Homes and Motorcycles?

Most states cover the drive train portion of motor homes (the portion of the motor home not used for dwelling purposes). Motorcycles are gener-

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ally 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.

Tips to Protect your Investment

Often times, your new car isn't suspected of being a lemon until it is too late (out of warranty, over the mileage limit, etc). If you keep a record of ev-

ery repair visit, starting with the first one, you will protect your rights under consumer laws.

- Document everything. This includes notes, 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. Demand a copy if necessary and, if the dealer will not give you one, be sure to document the fact. When you pick up your car, obtain an invoice. The dealer may claim that you are not entitled to an invoice because there were no charges (you were not invoiced for any repairs). It is up to you to prove repair attempts. The final invoice shows what was or was not repaired.
- Make absolutely sure the dealer records your complaint on the

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Let's Review

Test your understanding of the Lemon Laws by marking the following statements as true or false.

1. ____ Depending on the state you're in, automobiles are covered under Lemon Laws.
2. ____ Depending on the state you're in, jet skis are covered under Lemon Laws.
3. ____ Motorcycles are never covered under Lemon Laws.
4. ____ If you suspect your car is a lemon, you should take the car to two or more different mechanics to be repaired.
5. ____ A lemon is defined as a vehicle that continues to have a defect that substantially limits or impairs its use, value, or safety.
6. ____ If you find 10 things you don't like about your new car, the car qualifies as a lemon.
7. ____ If your car has been repaired four or more times for the same defect within the warranty period and the defect is still not fixed, the car qualifies as a lemon.
8. ____ If your car makes "funny noises" when you drive but otherwise drives okay, it qualifies as a lemon.
9. ____ It doesn't matter how you describe the defect when you take the car in for repair as long as you record the date.
10. ____ You should be sure to get an invoice when you take your car in for repairs, even if the dealer says you don't need an invoice because you weren't charged for the repairs.

When You Receive Merchandise You Didn't Order

John Doe answered his door to a delivery person holding a large box of merchandise—merchandise John hadn't ordered. Inside were a set of car-repair tools and a bill for \$100. John knew nothing about fixing cars, so he would never have ordered the set of tools. Fortunately, he didn't pay for the tools, but he did take the time to take the box to the post office and paid for the postage to have it sent back to the merchant.

What John didn't know was that he didn't have to return the tools. He could have kept the tools, given them as a gift, or even donated them and got a tax deduction. Why?

The Unsolicited Goods Act of 1971 entitles a consumer to treat goods sent to him or her without prior consent as if they were his or her own as long as specified conditions are fulfilled. The Act also makes it a criminal offense for the merchant to demand payment for those goods. Certain conditions must be met by the merchant before the merchant can legitimately demand payment of a person or a company for unsolicited merchandise they sent to that person or business.

If merchandise you didn't order shows up on your doorstep with your name on the label, the law says you can keep it as a gift. No one can

force you to pay for the item or to return it. If you decide to keep the merchandise, you may want to send the merchant a letter to let them know you are keeping the gift, even though you're not legally obligated to send a letter, to prevent the merchant from sending you repeated bills, or to help clear up the mistake. It would be wise to send the letter by certified mail and keep the return receipt and a copy of the letter to help you establish that you didn't order the merchandise.

Two types of merchandise may be sent legally without your consent: 1) free samples that are clearly marked, and 2) merchandise mailed by charities asking for contributions. In both cases, you may keep the shipments. These companies know you have the right to keep any merchandise they send without paying for it.

The Best Steps to Take When You Receive Merchandise You Didn't Order

1. Although you have no legal obligation to notify the merchant, it is a good idea to write a letter to the company stating that you didn't order the item and, therefore, you have a legal right to keep it for free. This may discourage the merchant from sending you bills, and it may help to clear up an honest error. Send your letter by certified mail, and keep the return

receipt and a copy of the letter for your records. You may need it later.

2. If the unordered merchandise was the result of an honest shipping error, write the merchant and offer to return the merchandise, provided the merchant pays for postage and handling. Give the merchant a specific and reasonable amount of time (say 30 days) to pick up the merchandise or to arrange to have it returned at no expense to you. Tell the merchant that you reserve the right to keep the merchandise if the merchant has not had the merchandise picked up or made arrangements to have it shipped before the specified time has passed.

3. When you participate in sweepstakes or order goods advertised as "free," "trial," or "unusually low priced," be cautious. Read all the fine print to determine if you are joining a "club" with regular purchasing or notification obligations. Keep a copy of the advertisement or catalog that led you to place the order. This may make it easier to contact the company if a problem arises.

4. For help in dealing with unordered merchandise problems, always start by trying to resolve your dispute with the company. If this doesn't work, contact your state or local consumer protection office, local U.S. Postal Inspector, or the Better Business Bureau in your area for help. The Direct Marketing Association, 6 East 43rd Street, New York, New York 10017, also may be able to help you. ■

Understanding Warranties

Chances are the last time you made a major purchase such as a car, washing machine, television, or other product designed to last a while, the salesperson discussed with you any accompanying product warranties, and perhaps even the opportunity to sign up for an extended warranty. It's safe to say that there are many different types of warranties, and not all of them are created equal.

When you make a major purchase, the manufacturer or seller in turn makes an important promise to stand behind the product. It's called a warranty. As explained by the Federal Trade Commission (www.ftc.gov), federal law requires that warranties be available for you to read before you buy, even when you're shopping by catalog or on the Internet.

What is specifically covered by a warranty varies from one warranty to another, so you should compare the extent of warranty coverage just as you compare the style, price, and other characteristics of products.

For more information on the 4 types of warranties and how to recognize them as well as information on reviewing warranty terms or disputing a warranty visit www.accesseducation.org/

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ARTICLES

TIPS & TRICKS

Understanding Warranties *(Continued from page 3)*

bookseries and check out the Understanding Warranties chapter in Book 8.

When Buying a Car, Beware of the Extended Warranty Add-on

Perhaps you've experienced it yourself when shopping around for a car. You crisscross the county, subjecting yourself to hours of comparison shopping and price haggling. Ultimately you land on the right car at the right price. Then when you finally sit down with the finance manager to sign the dotted line, the hard sell truly begins—the extended service warranty.

Writing for Bankrate.com, Lucy Lazarony explains that an extended warranty is actually an extended service contract, which covers the cost of certain repairs and problems after a car's factory warranty expires. Extended warranties are huge moneymakers for auto dealers, with a markup of at least 100% or more. If you're not careful, signing up for one could cost you hundreds, even thousands of dollars.

Whatever you do, don't allow the dealer to pressure you into purchasing an extended service contract or warranty at an inflated price. First off, says Lazarony, you may not need an extended warranty. And even if you do, you'll get a much better deal later by shopping around. People who buy and trade cars frequently should pass on an extended warranty. There's no need to purchase one if you only plan to keep the car for three or four years since repairs are covered under the car's original warranty. Plus, many auto manufacturers now offer warranties above and beyond the once

standard three-year or 36,000 miles protection. Before you consider an extended warranty, take a close look at your car's original warranty. It may be all you need.

To Buy or Not to Buy

If you plan on keeping a car long after its original warranty expires, answering the following questions may help you decide whether to purchase an extended service contract or not:

1. Do you hate surprise expenses, especially costly auto repairs?
2. Will the cost of replacing an expensive electrical part or air conditioner or transmission break your monthly budget? Or do you have a few thousand dollars tucked away in an emergency fund for just these kinds of expenses?
3. How long do you plan to keep the car after the original warranty expires?
4. Would you sleep better at night knowing that certain major repairs will be covered under an extended service contract? Or would you rather risk it and pay for repairs when and if they are needed?

If you come to the conclusion that an extended service contract is the right idea, remember to shop the price down. And also keep in mind that you don't need to buy it at the same time you buy your car. You can purchase an extended warranty a week, a month, even years after you buy a new car. ■

This article is a portion of the Fair Debt Collection Practices Act chapter in the Family Financial Training Course Book 8. To read the full article visit www.accesseducation.org/bookseries.htm

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repair order exactly as you describe it. You must make sure to describe the defect exactly the same on each repair visit or you may forfeit your rights under the "reasonable attempts to repair for the same defect" clause.

- Be sure that the date, time in, and odometer reading are recorded as well as the date and time you picked up the car. 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 in the middle of the desert or in rush hour freeway traffic, record the date and time, 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. ■



Business Hours!

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