

Florida's Automobile Lemon Law

DISCLAIMER: The information contained in this fact sheet is of a general nature and is provided for your assistance. It is not intended as legal advice and is not a substitute for legal counsel. If you have any questions as to how the law affects you or your legal rights, contact your civilian attorney or the Eglin AFB Legal Office at (850) 882-4611 for an appointment with a licensed attorney.

THIS APPLIES TO THE PURCHASE OF A NEW VEHICAL ONLY

Automobile "lemon laws" are state laws that govern the purchase of new motor vehicles which do not run properly and have to repeatedly be returned to the dealership or taken to a mechanic for repairs. They provide a way for purchasers of these defective vehicles to obtain a refund of the purchase price if they follow certain prescribed steps and give the dealer opportunities to correct the defect or defects.

Florida has enacted a motor vehicle "lemon law" entitled the Motor Vehicle Sales Warranties Act at Fla. Stat § 681. Florida's lemon law applies to purchasers of new vehicles that have a condition or defect that substantially impairs the use, value, or safety of the vehicle. Such conditions or defects include defective paint, leaks, and mechanical problems, and do not include defects resulting from accidents, neglect, or modification by people other than the manufacturer or its authorized service agent. The condition or defect must be reported during the first 24 months after the vehicle's purchase. If a car is resold within the first 24 months after its original purchase, the rights under the lemon law will be transferred to the new purchaser until the end of the lemon law period. It covers cars, vans, recreational vehicles (not including the living facilities thereof), sports utility vehicles, and trucks less than 10,000 pounds that are primarily used for personal, family, or household purchases. It does not cover motorcycles or off road vehicles, nor does it cover vehicles purchased primarily for use in a business.

Repairing the Defect

The lemon law gives the manufacturer three chances to repair the same defect. If the defect still exists after three repair attempts, then the vehicle owner must submit a Motor Vehicle Defect Notification to the manufacturer by registered or express mail return receipt requested, and give the manufacturer one final chance to fix the defect. The vehicle manufacturer then has 10 days from receipt of this notification to notify the vehicle owner of a reasonably accessible location for repair. Once the vehicle is taken in for repair, the mechanic has 10 days to fix the defect. If the manufacturer does not respond within 10 days after receiving the notification, the owner may proceed with his or her lemon law rights. Alternatively, if the vehicle is not operable due to being in the shop for repairs for 15 or more days because of various defects, the vehicle owner may resort to the written notification process and final repair attempt without first undergoing three previous attempts to repair the vehicle.

If the defect is not repaired after the manufacturer's final repair attempt, or if the vehicle is out of service for repair for 30 or more days and the manufacturer had at least one opportunity to inspect or repair the vehicle after receiving notice of the defect from the owner, then the manufacturer is required to replace the vehicle or refund the purchase money to the vehicle owner. It is the vehicle owner's option to decide whether he or she wants a refund or a replacement vehicle. The manufacturer has 40 days to accomplish the replacement or refund, plus pay collateral and incidental charges such as rental car costs. The manufacturer is entitled to a reasonable offset to compensate for the value of the owner's use of the vehicle while the vehicle was in his or her possession.

Be sure to keep all documentation of all repairs performed on the vehicle!

Resolving Lemon Law Disputes

In order to get the lemon law's benefits, certain procedures must be followed to resolve these types of disputes:

1. Check to see whether the vehicle's manufacturer has set up a state-certified informal dispute resolution process. If a manufacturer has such a program in place and informs the vehicle buyer of it in writing, the buyer is required to attempt to settle the dispute through this process. Often, information concerning a manufacturer's informal dispute resolution process is included with the warranty information. The Florida Attorney General also maintains a website at www.myfloridalegal.com/lemonlaw which lists the Manufacturers who use such programs. Consumers may also call the Lemon Law Hotline (listed below) to for a list of participating manufactures. The Florida DMV Online guide also provides an overview of Florida Lemon Laws at: <http://www.dmvflorida.org/florida-lemon-laws.shtml>.

2. If no process exists, there is no resolution in 40 days, or the vehicle owner is dissatisfied with the result of the process, then the vehicle owner's next step is to file for arbitration before the Florida New Motor Vehicle Arbitration Board with the Division of Consumer Services. The owner must file for arbitration within 60 days of the expiration of the Lemon Law rights period by calling the Lemon Law Hotline to obtain a Request for Arbitration form. After the Request for Arbitration form is submitted to the Division of Consumer Services, a hearing will be scheduled within 40 days. At the end of the hearing, the Arbitration Board will issue a decision. Consumers who are successful in arbitration often receive either replacement vehicles or refunds, but may be charged an offset for use of the vehicle. If the Arbitration Board finds in favor of the manufacturer, the case is dismissed.

3. Adverse decisions can be appealed to the circuit court by either side within 30 days of the decision. However, if the manufacturer appeals and the arbitration board's decision is upheld, the vehicle owner can recover the original amount awarded plus reasonable attorney fees, court costs, and other relief deemed fair and just by the judge.

Florida's lemon law is complicated, and specific steps must be taken within specified time frames in order for a vehicle owner to qualify for relief under this law. The Lemon Law Hotline, 1-800-321-5366 in Florida or 850-414-3500 out-of-state, provides guidance to vehicle owners seeking to take advantage of the lemon law's protections. You can also find more information at <http://myfloridalegal.com/lemonlaw>.