

AUTOMOBILE LEMON LAW (1125)

Chapter 681 Florida Statutes, provides remedies for persons who purchase or lease in Florida, new or demonstrator motor vehicles which have defects that cannot be corrected. This law applies to any defect or condition that substantially impairs the use, value or safety of the vehicle reported during the first 24 months of ownership. Such defects can include, but are not limited to, faulty paint, leaks and mechanical problems.

If the manufacturer is not successful in repairing the same defect after three attempts, then the vehicle owner or lessee must notify the manufacturer of the defect in writing by registered or express mail to give the manufacturer a final opportunity to repair the defect. The manufacturer has 10 days from receipt of the notification to direct the vehicle owner or lessee to a reasonably accessible repair facility. After the vehicle is delivered to the repair facility, the manufacturer has no more than 10 days to fix the defect.

If the vehicle is out of service for repair of various defects for a cumulative total of 15 or more days, the vehicle owner or lessee must send written notification of this fact to the manufacturer by registered or express mail to give the manufacturer or authorized service agent an opportunity to inspect or repair the vehicle.

If the defect continues to exist after the final attempt by the manufacturer, or if the vehicle is out of service for repair for 30 or more cumulative days and the manufacturer had at least one opportunity to inspect or repair the vehicle after receiving the notice from the owner or lessee, the manufacturer will replace the vehicle or refund the purchase money to the vehicle owner, or lessee, depending upon the wishes of the vehicle owner within 40 days, plus pay collateral and incidental charges such as window tinting, retail costs, postage and phone tolls. The manufacturer will be allowed a reasonable offset for the vehicle owner's use of the vehicle.

In order to force compliance with the law, there are certain steps which must be taken by the vehicle owner or lessee.

If the manufacturer has in effect a state-certified informal dispute settlement program, and the owner or lessee has been informed in writing how and where to file a claim with the program, then the owner or lessee must first attempt the certified informal dispute settlement program. This information should be found in the vehicle's warranty booklet.

If the manufacturer's certified informal dispute settlement program does not decide the dispute within 40 days of the date the dispute is filed, or if the owner or lessee is not satisfied with the decision, or if the manufacturer does not have a certified information dispute settlement program, the vehicle owner or lessee must apply to the Division of Consumer Services to have the dispute arbitrated by the Florida New Motor Vehicle Arbitration Board, before filing a civil motion in court under the Lemon Law.

Vehicle owners or lessees can obtain a Request for Arbitration form from the Division of Consumer Services by calling the Lemon Law Hotline at 1-800-321-5366. Once the request is approved for arbitration by the Florida New Motor Vehicle Arbitration Board, the Board will hear the dispute within 40 days. If the Board decides the case in favor of the vehicle owner or lessee, the manufacturer must comply with the decision within 40 days of its receipt.

Adverse decisions of the Arbitration Board can be appealed to the circuit court. A petition to appeal must be filed within 30 days of the receipt of the decision. If a decision of the Board in favor of the owner or lessee is upheld by the circuit court, the owner or lessee can recover against the

manufacturer the amount awarded by the Board, plus attorneys' fees, court costs and \$25 per day for each day beyond the 40-day period following the manufacturer's receipt of the Board's decision.

The Lemon Law also provides that an owner or lessee can file an action in court to recover damages caused by a violation of the Lemon Law but any dispute must first be submitted to the Division of Consumer Services. If the owner or lessee wins such an action, recovery will include the amount of any pecuniary losses, litigation costs, reasonable attorney's fees, and other relief the judge decides is fair and just.

The statutory procedure for getting relief under the Lemon Law is technical and there are strict time limits and other requirements. The time frames differ if the motor vehicle is a recreational vehicle. Vehicle owners or lessees should either be able to follow detailed guidelines, or seek the assistance of an attorney. Vehicle owners or lessees can also call the Lemon Law Hotline at 1-800-321-5366 or (850/488-2221 if out of state) for assistance.

If you believe you need legal advice, call your attorney. If you do not have an attorney, call The Florida Bar Lawyer Referral Service at 1-800-342-8011 or the local lawyer referral service or legal aid office listed in the yellow pages of your telephone book.