

NORTH DAKOTA'S LEMON LAW

Dear Fellow North Dakotan,

Even the most dependable car makers sometimes produce what's commonly called a "lemon" -- a car that frequently breaks down and seems to defy repairs. What happens when your \$16,000 new car begins to smell like a lemon?

The state's "lemon law," adopted in 1985, may give you some lemon aid.

The Office of Attorney General has prepared this information about what state law says must happen before your car is determined to be a true lemon and what you must do to use the law.

Sincerely,

Heidi Heitkamp
Attorney General

Introduction

North Dakota's lemon law (North Dakota Century Code Sections 51-07-16 through 51-07-22) gives owners of new vehicles the right to get a full refund or a more reliable replacement, minus a reasonable allowance for use of the new vehicle. The lemon law applies only to new vehicle purchases. It does not apply to motorcycles or motor homes.

Under North Dakota law, you have little protection against defects that surface after you buy a used car, unless you purchased an extended warranty or you can prove the seller lied about the condition of the vehicle.

Minor problems with new vehicles which require continual repairs are not covered under the lemon law. Your new car's clock that continually runs 25 minutes fast or a trunk light that repeatedly flickers out is annoying, but it does not make the car a real lemon.

Lemon Aid

North Dakota's lemon law specifically states what must happen before your car is determined to be a true lemon and what you must do to use the law.

- The defect must be something that "substantially impairs the use and market value of the passenger motor vehicle," and the dealer must be given a "reasonable

number of attempts” to fix the defect. A “reasonable number” is considered to be more than three tries, or a cumulative total of 30 business days in which the vehicle is out of service during the term of applicable warranties or a year from purchase.

- The defect must be reported to the dealer or manufacturer within one year of the purchase or during the term of the express warranty -- whichever is earlier. Because nearly all new cars have at least a 12,000 mile/12 month full-service warranty, you probably have a year to report the defect under most circumstances.
- The law states that you must first attempt to settle the dispute through the car maker’s arbitration procedures. New car makers have third-party arbitration systems set up to work out non-binding settlements. The arbitration hearing must be held in North Dakota, if you live in the state.
- If you are not satisfied with the outcome of the arbitration hearing, you may hire a private attorney and sue for a new car or a full refund. A judge will decide in civil court who is correct. The law gives you little time to sue, however. You must bring action within 18 to 24 months of the date your car was delivered to you, depending upon its warranty.
- If you do win, the manufacturer must (1) replace the vehicle with a comparable vehicle or (2) accept the return of the vehicle from you, and refund the full purchase price, including all related charges, less a reasonable charge for your use of the vehicle not to exceed 10 cents per mile driven or 10 percent of the purchase price, whichever is less.

Resale of a Lemon

A vehicle cannot be resold within the state unless it’s given a 12,000 mile/12 month full-service warranty. A statement which tells the buyer that the vehicle has been returned to the manufacturer as a “lemon” must be provided to the buyer. The statement must be signed by the manufacturer and the buyer and must read:

“IMPORTANT: THIS VEHICLE WAS RETURNED TO THE MANUFACTURER BECAUSE DEFECTS COVERED BY THE MANUFACTURER’S EXPRESS WARRANTY WERE NOT REPAIRED WITHIN A REASONABLE TIME AS PROVIDED BY NORTH DAKOTA LAW.”

Penalty

A violation of the lemon law is a class B misdemeanor, for which a maximum penalty of 30 days in jail, a fine of \$1,000, or both, may be imposed.

Questions?

If you have questions about settling any dispute with a new car dealer, you may contact the Attorney General's Consumer Protection and Antitrust Division, 600 East Boulevard Ave Dept 125, Bismarck ND 58505-0040.

Telephone: (701) 328-3404
1-800-472-2600, toll free in North Dakota
(701) 328-3409 (TDD)

You may also contact:

AUTOCAP, a consumer action program sponsored by the Automobile Dealers Association of North Dakota. Autocap's telephone number (in Fargo) is 293-1541.

BBB Auto Line, a third-party dispute resolution program for automobile manufacturers sponsored by the Council of Better Business Bureaus, Inc. The toll free number is 1-800-955-5100.