

STANDARDS OF THE NEBRASKA LEMON LAW

The following is a brief explanation of most relevant provisions of the Nebraska lemon law. The complete text of the lemon law can be found at Neb. Rev. Stat. Sec. 60-2701 to 60-2709.

VEHICLES COVERED

The Nebraska lemon law covers a new motor vehicle that is sold in Nebraska. A new motor vehicle is any motor vehicle that has not been sold, bargained, exchanged, or given away, or for which title has not been transferred from the person who first acquired it from the manufacturer, importer, dealer, or agent of the manufacturer or importer.

The lemon law does not cover recreational vehicles.

Guidance from the Nebraska Department of Motor Vehicles indicates that, based on the broad definition of “consumer” and language contained in the reasonable allowance for use, the lemon law applies to a motor vehicle that is transferred to a subsequent owner while still covered by the manufacturer’s new vehicle written warranty and within two years following the date of the vehicle’s original delivery to a consumer.

CONSUMERS COVERED

The lemon law covers any of the following:

1. The purchaser, other than for purposes of resale, of a motor vehicle normally used for personal, family, household, or business purposes;
2. Any person to whom the motor vehicle is transferred for the same purposes during the duration of an express warranty applicable to the vehicle; and
3. Any other person entitled by the terms of the warranty to enforce its obligations.

Guidance from the Nebraska Department of Motor Vehicles indicates that a lessee would be included within the definition of “consumer.”

PROBLEMS COVERED

The lemon law covers any defect or condition that substantially impairs the use and market value of the motor vehicle to the consumer. These vehicle problems are called *nonconformities*.

The lemon law provides the manufacturer an affirmative defense if the manufacturer can show that the alleged nonconformity is the result of abuse, neglect, or unauthorized modifications or alterations of a vehicle by a consumer.

MANUFACTURER'S DUTY TO REPAIR THE VEHICLE

If the consumer reports the nonconformity to the manufacturer, its agent, or its authorized dealer during the term of the manufacturer's written new-vehicle warranty or during the period of one year following the date of original delivery of the motor vehicle to a consumer, whichever is earlier, then the manufacturer, its agent, or its authorized dealer must make the necessary repairs to conform the motor vehicle to the written warranty.

The repairs must be made even if the term of the warranty or the one year period after original delivery has expired.

MANUFACTURER'S DUTY TO REPURCHASE OR REPLACE A VEHICLE

If the manufacturer, its agents, or authorized dealers are unable to conform the motor vehicle to the manufacturer's written new-vehicle warranty by repairing or correcting any nonconformity after a *reasonable number of attempts*, then the manufacturer must repurchase or replace the motor vehicle.

REASONABLE NUMBER OF REPAIR ATTEMPTS

The Nebraska lemon law establishes a *presumption* that a reasonable number of repair attempts has been made if either of the following occurs within the term of manufacturer's written new-vehicle warranty or during the period of one year following the date of original delivery of the motor vehicle to a consumer, whichever is the earlier date:

1. The same nonconformity has been subject to repair 4 or more times by the manufacturer, its agents, or authorized dealers, but the nonconformity continues to exist; or
2. The motor vehicle is out of service for repairs for a cumulative total of 40 or more days.

The manufacturer's written new-vehicle warranty term, the one year period and the forty day period are extended by any period of time during which repair services are not available to the consumer because of war, invasion or strike, or fire, flood or other natural disaster.

NOTICE AND OPPORTUNITY TO REPAIR

The above presumption does not apply unless the manufacturer has received prior written direct notification by certified mail from or on behalf of the consumer and an opportunity to cure the defect alleged.

DISPUTE RESOLUTION

The lemon law provisions requiring repurchase or replacement of a nonconforming motor vehicle do not apply to a consumer who has not first used an informal dispute settlement procedure that has been certified by the Director of Motor Vehicles as

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complying with lemon law regulations. (Consumers may check with the BBB or Nebraska Department of Motor Vehicles to determine whether the manufacturer of their vehicle offers a dispute settlement procedure that has been certified.)

TIME PERIOD FOR FILING CLAIMS

An action must be commenced within the earlier of (1) one year following the expiration of the express warranty term, or (2) two years following the date of the motor vehicle's original delivery to a consumer.

REMEDIES UNDER THE NEBRASKA LEMON LAW

REPURCHASE

The Nebraska lemon law provides that a manufacturer must pay the following amounts when it repurchases an owned motor vehicle under the lemon law:

1. Full purchase price of the vehicle; and
2. All sales taxes, license fees and registration fees, and any similar government charges;
3. Less a reasonable allowance for the consumer's use of the vehicle.

Guidance from the Nebraska Department of Motor Vehicles indicates that the Department of Revenue will not refund taxes or fees to consumers.

The Nebraska lemon law provides that a reasonable allowance for the consumer's use of the vehicle is the amount directly attributable to use by the consumer and any previous owner prior to his or her first report of the nonconformity to the manufacturer, agent or dealer and during any subsequent period when the vehicle is not out of service by reason of repair.

Refunds are made to the consumer and lienholder, if any, as their interests may appear.

REPLACEMENT

The Nebraska lemon law provides that a replacement vehicle must be a comparable motor vehicle.