

South Carolina Lemon Law – Relief from the new car nightmare

What happens when that brand new car you bought stops working? Most vehicles have warranty programs to cover this situation, but sometimes dealers cannot resolve the problem and repeated visits are necessary. In many cases, the defect is corrected and the problem is solved. However, in some cases the defect is not fixed and the buyer is left with a “lemon.”

South Carolina has enacted legislation to help the individual who finds they have a “lemon.” The law applies to vehicles purchased after 3 October 1989 and offers various remedies to the buyer. There are several steps for proper application of the law.

First, the law only applies to passenger vehicles, not including the living portion of RVs, trucks with a gross weight of 6000 pounds or more, or off-road vehicles. Additionally, the law applies to demonstrators if the original title has not been issued for the new car dealer.

To qualify for the law’s protection, the consumer must report the defect during the term of warranty. Once the defect has been reported to the manufacturer, there must be at least three attempts to repair the same defect within the warranty term, or the vehicle must be out of service for a cumulative total of 30 days during the term of the warranty.

If the vehicle is not satisfactorily repaired after three attempts, or the vehicle has been out of service for 30 days, the consumer must give written notification to the manufacturer of the need for repair. The manufacturer now has a final opportunity to repair the vehicle. Upon receipt of notification from the consumer, the manufacturer has 10 days to notify the consumer of an accessible repair facility. When the vehicle arrives at the facility, there must be an attempt to repair the defect within 10 days.

If all attempts to repair the defect are unsuccessful, the consumer is entitled to a comparable motor vehicle or a refund of the full purchase price less a reasonable allowance for use. The choice of remedy is made by the manufacturer. In the event the manufacturer participates in an approved informal dispute settlement procedure the consumer must comply with the terms of the procedure. The decision of this action is not binding on the consumer.

Only after all of these procedures have been exhausted can the consumer go to court to enforce any rights to replacement or refund. If the consumer ultimately prevails they are entitled to recover all reasonable expenses, including attorney’s fees.

It is important to keep in mind that not all defects are covered by this law. Only those which substantially impair the use, value or safety of the vehicle are subject to this protection. Further, the law does not apply to any defect which is the result of abuse, neglect, or modification or alteration by the consumer. The protections of the law are valuable to the new car buyer. Nevertheless, the consumer should make every attempt to resolve the problem with the manufacturer before going to court.

Anyone seeking additional information concerning new car problems may consult with an attorney from the Office of the Staff Judge Advocate.

Lemon Law Frequently Asked Questions

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Q. Does South Carolina have a lemon law? If so, when did it become effective?

A. Yes, South Carolina does have a lemon law which the General Assembly passed during the 1989 legislative season. It became effective October 3, 1989.

Q. When is a car considered a lemon under the new law?

A. The new law defines a lemon as a new motor vehicle (passenger car, van or truck) that:

1. was bought on or after October 3, 1989;
2. has a defect that impairs its use or will lower its market value substantially; and
3. which the manufacturer cannot repair within a reasonable time.

Q. What is not covered in the law?

A. Defects which do not substantially impair the vehicle's use, market value and safety. Also not covered are the defects caused by the consumer's abuser, neglect or unauthorized alteration of the car.

Q. Does the lemon law cover anything other than new motor vehicles?

A. No. It only covers passenger motor vehicles (cars, vans, small trucks)

Q. If I discover a defect what do I need to do?

A. You must notify the manufacturer (or its agent) of the defect during the term of the expressed warranty. The manufacturer must make any repair efforts at no cost to the consumer and within a reasonable amount of time. The law presumes a reasonable amount of time to be either three repair attempts for the same defect of thirty or more days out of service for repairs. The 30 days do not have to be consecutive.

Q. What happens if the manufacturer is unable to repair the defect?

A. If the defect cannot be repaired, the manufacturer has the option of whether to replace the vehicle or refund the agreement and refund the money. If the manufacturer elects to rescind the agreement and refund the money, less a reasonable allowance for the consumer's use. The full purchase price includes; 1) applicable finance charges and 2) all government fees, such as sales, tax, license fees and registration fees.

Q. Describe the steps I must take in getting a refund or replacement for my vehicle?

A. Before you request a refund or replacement you must first participate in any arbitration procedure the manufacturer may have established (the decisions are binding on the manufacturer). This type mediation is known as an "informal dispute settlement procedure." The "informal dispute settlement procedure" must:

1. set up requirements for consumer notification;
2. be free from the manufacturer's influence;
3. be free of charge to the consumer;
4. generally settle the dispute within 40 days.

Q. What can I do if I am not satisfied with the mediation decision?

A. If after arbitration, you remain unsatisfied, you can then file suit in the courts. Consumers should remember to buy cars only from reputable dealers and should read the warranty carefully and save all documentation related to the car and to any repair work for their records. If you have problems with your new car you should begin to keep the following records: a description of defects and details of contacts (including the date and name of the person to spoke with); a log of the amount of time the car was out of service and complete written records of routine service.

Q. If the lemon law does not cover the car I purchased do I have any other recourse or protection?

A. Possibly. The general law of sale, including warranty lay may still apply. In addition, you can always file a complaint with S.C. Department of Consumer Affairs.

For more information call 1-800-922-1594 (toll free in S.C.).