



North Dakota's "Lemon" Law

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Even the most dependable car manufacturers sometimes make what's commonly called a "lemon" ~ a car that frequently breaks down and seems to defy repair.

This information will help you understand what must happen before your new car is determined to be a true "lemon", and how to use the law.

The Lemon Law North Dakota's "lemon law" (North Dakota Century Code Sections 51-07-16 through 51-07-22) applies only to new vehicles. It does not apply to motorcycles, motor homes, **or used cars.**

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 car.

Your Rights: The lemon law gives owners of **new vehicles** the right to:

- Receive a comparable, reliable, vehicle in exchange for the lemon; or
- Return the "lemon" for a full refund of the purchase price, less a reasonable deduction for use.

Only problems which "*substantially impair the use and market value*" of a vehicle are covered under the lemon law. In other words, if the car's clock does not keep good time, that is annoying but it does not make the car a lemon.

When is a Car a Lemon? North Dakota's "lemon law" spells out what must happen before your new car is determined to be a true lemon:

- The problem 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 it.
- The defect or problem 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.

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.

Because 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.

What Should You Do?

You are required first to try and settle the dispute through the manufacturer's arbitration procedures. Car manufacturers have third-party arbitration systems set up to work out non-binding settlements. If you are a North Dakota resident, the arbitration hearing must be held in North Dakota.

- Many auto manufacturers have their own dispute settlement boards. Check your owners manual for specific information.

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 six months of the expiration of the warranty or 18 months from the date your car was delivered to you, whichever occurs first.

If you 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.

If You Leased A Lemon:

If you leased a car that has been determined to be a lemon, you are entitled to receive a refund of all lease payments, cash payments, and security deposits, less a reasonable deduction for use of the vehicle.

Your lease agreement will be cancelled when you return the car, and you cannot be charged any penalty for early termination.

If You Bought a Lemon:

Under the law, a car may be resold or leased again even though it is a lemon, as long as the manufacturer provides a warranty for 12 months or 12,000 miles from the date of resale and provides a statement to the buyer to the effect that the car had been returned to the manufacturer as a lemon.

Questions?

If you have questions about settling any dispute with a new car dealer, contact:

- AUTOCAP, a consumer action program sponsored by the Automobile Dealers Association of North Dakota. Autocap's telephone number (in Fargo) is (701) 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.

You may also contact the Consumer Protection Division at (701) 328-3404, toll free (800) 472-2600 or (TTY) 800-366-6888.

This fact sheet is not intended to cover every situation. The Office of Attorney General is prohibited by law from providing legal advice or legal services to members of the public. For legal advice or assistance please contact an attorney in private practice.