ARBITRATION CERTIFICATION PROGRAM
LEMON LAW

Lemon-Aid For Consumers

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State of California

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www.dca.ca.gov/acp

Lemon-Aid For Consumers

Dear Consumer,

Each year Californians scour car lots and the Internet to find cars, vans, SUVs, and pickups that fit their lifestyles. With more than 1.7 million new vehicles sold each year in this state, defective vehicles may be part of the mix. If you think you got one of them, then this information about the Lemon Law, provided by the California Department of Consumer Affairs, is just what you need.

This booklet explains California's Lemon Law in simple terms. You should take the time to read through it right now and then slip it into your new glove compartment. Hopefully, you won't have to use the Lemon Law to get satisfaction, but it's good to know it's there if you need it.

If you believe the car you purchased or leased meets the definition of a "lemon," then the California Department of Consumer Affairs, along with its Arbitration Certification Program, may be able to assist you. You can get more information by logging onto the Department's Web site at **www.dca.ca.gov** *or by calling* **(800)952-5210**.

Kathleen Hamilton
Director, California Department of Consumer Affairs

This booklet is available without charge by calling the Department of Consumer Affairs' toll-free telephone number (800) 952-5210.

This publication is also available online at the Department's Web site **www.dca.ca.gov/acp**

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Contents

Introduction 4

Lemon Law Questions and Answers 5

The Lemon Law Arbitration Process 11

- Taking the First Step 11
- Organizing Your Paperwork 12
- Gathering Information 12
- Filing an Arbitration Application 12
- Presenting Your Case 13
- If You Disagree with the Arbitration Decision 13

California's Certified Arbitration Programs 14

Vehicle Care Tips 15

If You Have Problems with Your Vehicle 16

Mileage Offset Formula 17

Where to Find Help 18

Legal Definition of a New Vehicle 20

Legal Guidelines — Lemon Law Presumption 21

Repair Record Summary 22

California's Lemon Law

Introduction

"I bought a new car so I'd have a dependable car to rely on. But I spend more time at the shop with my new car than my old one!" — Irate Consumer

You may have bought a new vehicle for a number of reasons. One of the most common reasons is dependability. A new vehicle should mean you don't have to worry about breakdowns, mechanical problems or safety. What if your new vehicle is giving you a headache, with repeated visits to the dealer for service?

California's Lemon Law protects buyers and lessees of vehicles with serious warranty defects that the dealer or manufacturer can't repair. In some cases, you may be entitled to a replacement or refund for your vehicle.

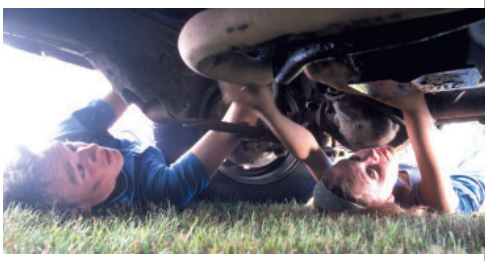
This booklet answers questions about the Lemon Law, and provides information about the arbitration process, record-keeping suggestions and sources of advice and assistance.

Lemon Law
Questions and Answers

Does California's Lemon Law apply to my vehicle?

The Lemon Law covers the following new and used vehicles that come with the manufacturer's new vehicle warranty:

- Cars, pickup trucks and the chassis, chassis cab and the drivetrain of a motor home. Vans and SUVs are covered under the Lemon Law. After-market parts, such as van conversions, are not included.
- Dealer-owned vehicles and demonstrators
- Vehicles purchased or leased for personal, family or household purposes
- Many vehicles purchased or leased primarily for business use



The Lemon Law DOES NOT apply to:

- Vehicles not registered under the *California Vehicle Code* because they are driven off-road; or
- Vehicles that have been abused

(See the Legal Definition of a New Vehicle, page 20)

What if the manufacturer or dealer can't fix my vehicle?

If the manufacturer or dealer can't repair a serious warranty defect in your vehicle after a "reasonable" number of attempts, the manufacturer must either:

- Replace the vehicle; or
- Refund its purchase price

(Whichever you prefer)

What is a "reasonable" number of repair attempts?

There is no set number. However, California's Lemon Law contains a guideline for determining when a "reasonable" number of repair attempts is presumed to have been made. This is called the "Lemon Law Presumption."

(See page 21 for an explanation of the Lemon Law presumption)

When does the Lemon Law Presumption apply?

- Your vehicle must be one that's covered as explained on page 5
- Your vehicle's problems must be covered under the manufacturer's warranty
- The problems must occur within 18 months of delivery, or within 18,000 miles on the odometer (whichever comes first)
- The problems must substantially reduce the use, value or safety of the vehicle to you; and
- The problems were not caused by abuse

If so, the Lemon Law Presumption applies if

- The manufacturer or dealer hasn't fixed the same problem after four or more attempts; or
- Your vehicle's problems could cause death or serious bodily injury if it is driven ***and*** the manufacturer or dealer has made at least two unsuccessful repair attempts; or
- The vehicle has been in the shop for more than 30 days (not necessarily in a row) for repair of any problems covered by its warranty; and

- If the warranty or owner's manual requires you, you have notified the manufacturer about the problems (It's best to do this in writing)

If your vehicle meets these criteria, the Lemon Law presumes a reasonable number of repair attempts have been made and you may be entitled to a replacement or a refund.

Does there need to be four or more repair attempts or more than 30 days out of service before I can take advantage of the Lemon Law?

No, the manufacturer is obligated to repair serious warranty problems and has a "reasonable" opportunity to do so, even without regard to the Lemon Law presumption.

If the problem is very serious, a "reasonable" number of attempts will ordinarily be fewer than four.

Do I automatically get the choice of a new vehicle or a refund if my vehicle qualifies under the Lemon Law Presumption?

No, the manufacturer can still prove in arbitration or in court that your vehicle does *not* qualify under the presumption. They can make any of these arguments:

- The manufacturer or dealer has not had a "reasonable" number of attempts to repair the problem; or

- The problem does not substantially affect the vehicle's use, value or safety to you; or
- The problem was caused by abuse; or
- The problem has been repaired; or
- The problem never existed; or
- The problem is not covered by the warranty

If the problem only happens once in awhile or is difficult to diagnose, an additional repair attempt may be considered "reasonable." However, the law places the burden of proving the need for an additional repair attempt on the manufacturer. The arbitrator or judge decides whether the manufacturer has had a "reasonable" opportunity to make the needed repairs.

Do I need to go to court for the Lemon Law to help me?

No, in many cases the manufacturer of your vehicle may offer a state-certified arbitration program (see page 14) that may assist you to resolve your dispute. If so:

- You must request arbitration in order to claim the benefits of the Lemon Law Presumption; and
- You may accept or reject the arbitrator's decision

What is arbitration?

Arbitration is a free and relatively simple way of resolving warranty disputes. Both you and the manufacturer agree to allow a neutral third party (an arbitrator) decide whether a reasonable number of repair attempts have been made and what relief will be ordered.

How will the arbitration process help me?

Decisions in the arbitration process are made on a case-by-case basis. Possible decisions include:

- An additional repair attempt
- A replacement vehicle
- Your money back (a refund of the purchase price)
- Reimbursement for incidental expenses (towing, rental car, etc.); or
- Nothing

What are some advantages of arbitration?

- It is free, faster and less complicated than going to court
- Decisions are made within 40 days after the program gets your application
- An arbitrator may request an inspection and written report on your vehicle's condition by an independent expert at no cost to you
- State-certified arbitration programs allow you to present your case orally. The oral presentation is open to the public, so you can bring a family member or friend for support
- You can accept or reject the decision. If you accept it, the manufacturer must accept it too
- If you reject the decision, you can still pursue your rights in court. However, before you decide to sue, you should consider consulting with an attorney

Lemon Law
Questions and Answers

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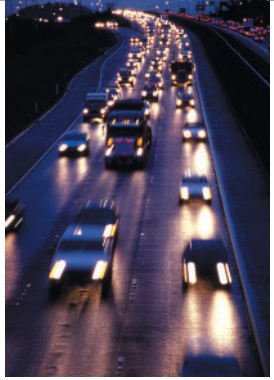


What other kinds of problems qualify for arbitration?

- The manufacturer failed to honor the terms of your new car warranty; and
- You are still within your original warranty period

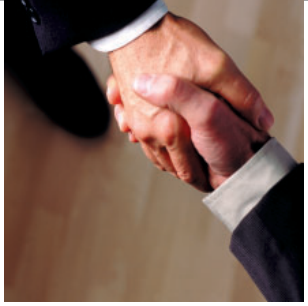
What problems do not qualify for arbitration?

- Sales disputes between consumers and dealers
- Equipment or defects not covered by the manufacturer's new vehicle warranty
- Service contract or extended warranty issues
- After-market (non-manufacturer) parts
- Certain consequential damages
- Personal injury claims
- Cases in litigation

I bought my used vehicle used with no warranty. Does California's Lemon Law still apply to my vehicle?

No, the Lemon Law applies only to disputes involving the manufacturer's new vehicle warranty.

(See page 18 for other sources of assistance)



The Lemon Law Arbitration Process

Many manufacturers offer an arbitration process that is certified by the Department of Consumer Affairs' Arbitration Certification Program. These manufacturers have agreed to comply with the arbitrator's decision, if the consumer accepts it.

Taking the First Step

Here are the first steps to take if you think you bought or leased a "lemon" vehicle:

1. Read your warranty and owner's manual.
2. Tell the dealer about the problem. Make sure it's fully described on the repair order.
3. Try to work with the dealer to resolve the problem.
4. Keep copies of all repair orders and take notes of all your conversations with dealer and any manufacturer representatives. If the problem isn't quickly resolved, keep a log or notebook on the problems and warranty-related repair attempts. Include dates, occurrences, and other related information.
5. Contact the manufacturer or its representative directly. If required by the warranty or owner's manual, send the manufacturer a letter describing the problems that need further repair. Send that letter to the address shown in your warranty or owner's manual. Send it by certified mail and keep a copy and the certified mail receipt.

The Lemon Law
Arbitration Process

continued

Organizing Your Paperwork

- ✔ Record and summarize warranty repairs in the order in which they occurred (use the form on page 22). Focus on the problem(s) that affects the use, value, or safety of the vehicle to you.
- ✔ Make copies of the purchase order and finance/lease agreement, all repair and service orders, any letters between you and the dealer or manufacturer, and any other documents, such as signed statements, that might help support your case. Do not use a highlighter pen on repair orders because it may blacken highlighted information when photocopied.

Gathering Information

- ✔ Contact the manufacturer and ask for any technical service bulletins that might relate to your vehicle's problem.
- ✔ Contact the National Highway Traffic Safety Administration (see page 19) and ask for any safety recall information. Find out if there has been a pattern of similar problems with your vehicle model.
- ✔ To help prove the problem, get signed statements from mechanics and people who have ridden in your vehicle and experienced the problem (for example, family or carpool members). This is especially important if the problem only happens once in awhile.

Filing an Arbitration Application

You may find an arbitration application in the information packet that came with the vehicle. It's usually inside the glove box. You can also get an application by calling the manufacturer's arbitration program (see page 14).

When filling the application out, follow these steps:

- ✔ Clearly state what the problem is and what result you want from arbitration.
- ✔ Review after filling it out to make sure it's readable and complete.
- ✔ Before you send it, make a copy for your records.

Presenting Your Case

- ✔ It is to your advantage to attend your hearing in person or by telephone and present your case to the arbitrator.
- ✔ Organize and write down the main points of your problem and argument. Emphasize those problems that significantly impact the use, value, or safety of the vehicle to you. Minor adjustments are necessary to most new vehicles, and mentioning insignificant problems will divert attention from your main concerns. Rehearse your presentation.
- ✔ While the total number of days that a vehicle has been out of service can be important, arbitrators tend to focus on those problems that still aren't fixed. If the manufacturer has repaired some problems so that the vehicle conforms to the terms of the warranty, arbitrators generally will not order the manufacturer to replace or buy back the vehicle. Focus on the problems that the dealer or manufacturer has **not** satisfactorily repaired. State what relief you want from the arbitrators.
- ✔ Remember, arbitration programs **only** address warranty repair issues and the expenses connected to them. To get any other monetary awards, you must use the court system.

If You Disagree with the Arbitration Decision

If you aren't satisfied with the arbitrator's decision, you can reject it and either:

1. File a court action against the manufacturer; or
2. After an additional warranty repair attempt, re-file your arbitration case

California's Certified Arbitration Programs

Some manufacturers voluntarily seek certification of their arbitration programs from the California Department of Consumers Affairs' Arbitration Certification Program. These state-certified arbitration programs hear and make decisions about consumers' vehicle warranty problems.

The Arbitration Certification Program monitors these programs to make sure they meet state and federal standards. It investigates consumer complaints about their operations. It does not overturn decisions made by the state-certified programs.

Certified Arbitration Program	Manufacturers Represented
BBB Auto Line 4200 Wilson Blvd., Suite 800 Arlington, VA 22203-1838 (800) 955-5100	AM General (Hummer), General Motors (includes Buick, Cadillac, Chevrolet, GMC, Geo, Pontiac, Oldsmobile), Honda/Acura, Hyundai, Isuzu, Nissan/Infiniti, Porsche, Land Rover, Rolls Royce/Bentley, Saab, Saturn, Volkswagen/Audi, Workhorse Custom Chassis.
Customer Arbitration Board* P.O. Box 1424 Waukesha, WI 53186 (800) 279-5343	DaimlerChrysler (includes Dodge, Eagle, Jeep, and Plymouth)
Dispute Settlement Board P.O. Box 1424 Waukesha, WI 53186 (800) 688-2429	Ford (includes Lincoln, Mercury)
California Dispute Settlement Program National Center for Dispute Settlement 2777 Stemmons Freeway, Suite 1452 Dallas, TX 75207 (888) 300-6237	Toyota

* *Starting with the 2002 model year, DaimlerChrysler will not offer a certified arbitration program for California consumers.*

NOTE: *Some manufacturers do not have state-certified arbitration programs in California. They include: Alfa Romeo, BMW, Daewoo, Daihatsu, Ferrari, Jaguar, Kia, Lexus, Lotus, Mazda, Mercedes Benz, Mitsubishi, Peugeot, Subaru, Suzuki, Volvo and Yugo. Please check your owner's manual and warranty materials to determine if your vehicle's manufacturer offers an arbitration program.*

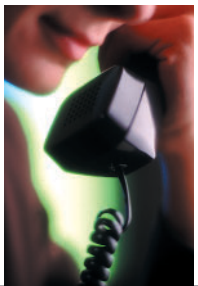
Vehicle Care Tips

Here are basic tips to keep your new vehicle running smoothly:

- Don't abuse your vehicle. Taking care of your vehicle will help it run longer. Warranty protection doesn't apply to defects caused by misuse or abuse of your vehicle.
- Service and maintain your vehicle according to the manufacturer's recommended schedule. Read and follow the warranty and owner's manual.
- Keep a service record and save all repair orders and receipts for maintenance performed on your vehicle.

If You Have Problems With Your Vehicle

- When you take your vehicle in for service, completely describe the problem. Make sure the repair order shows the problem(s) you've described, the mileage on the odometer at the time of repair and the dates your vehicle was in the repair shop.
- Make sure that an authorized dealer performs all warranty repairs. You must give the manufacturer or an "authorized" repair facility a "reasonable" opportunity to make needed repairs.
- Make sure that every repair attempt is documented with a repair order, even if no repairs are made. You may need that documentation later.
- Keep copies of all service records and repair orders.
- If the problem isn't being resolved, record all contacts with the dealer and any manufacturer's representatives, noting the date and to whom you talked. Keep notes about telephone calls, letters or personal conversations about your vehicle's problems. Put together all of this in a binder or notebook.
- Notify the dealer immediately if a repair attempt is not successful.
- Do not stop making vehicle payments.



Mileage Offset Formula*

If the arbitration decision awards you a replacement or refund for your vehicle, the arbitrators may deduct a mileage offset for your use of the vehicle prior to the first warranty repair attempt. When the mileage offset applies, California law requires the use of the following formula to calculate the amount of the deduction:

$$\text{Purchase Price} \times \frac{\text{Miles Driven By Buyer At First Repair}}{120{,}000} = \text{Use Deduction}$$

Here is an example:

Price paid by consumer **$19,500**

Miles driven by buyer at first repair **9,500**

$$\frac{\$19{,}500 \times 9{,}500}{120{,}000} = \$1{,}544 \text{ (mileage offset)}$$

$19,500 minus $1,544 = **$17,956**

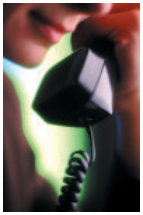
$17,956 would be the amount you get back.

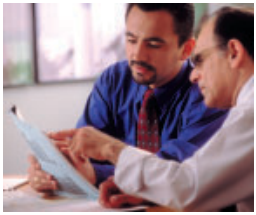
** Source: California Civil Code Section 1793.2(d)(2)(C)*

Where to Find Help

Problems/ Service Needed	Organization to Contact
• California's Lemon Law • Arbitration	**Department of Consumer Affairs**, Arbitration Certification Program 401 S Street, Suite 201, Sacramento, CA 95814 (916) 323-3406 or (800) 952-5210 www.dca.ca.gov/acp
• Manufacturer's or dealer's failure to honor the warranty • Extended warranty • Service contract underwritten by the manufacturer	**Manufacturer or dealer**, by certified mail (Check the owner's manual for the address to notify the manufacturer of warranty repair needs.) **Department of Motor Vehicles (DMV)** Bureau of Investigations www.dmv.ca.gov (check the white pages of your telephone book) **New Motor Vehicle Board** 1507 21st Street, Suite 330, Sacramento, CA 95814 (916) 445-1888 www.nmvb.ca.gov **Local county consumer affairs office** (check the white pages of your telephone book)
• Auto repair • Repair invoices	**Department of Consumer Affairs** **Bureau of Automotive Repair** (800) 952-5210 www.smogcheck.ca.gov/
• Dealer fraud • Motorcycles • Motorhomes • Sales disputes • Used cars	**New Motor Vehicle Board** (see above) **DMV Bureau of Investigations** (see above) **Local District Attorney's Office** **Office of the Attorney General**, Public Inquiry Unit 1515 K Street, Sacramento, CA 95814 (916) 322-3360 or (800) 952-5225 www.caag.state.ca.us

Problems/ Service Needed	Organization to Contact
• Safety complaint • Recall information	**National Highway Traffic Safety Administration** 400 Seventh Street, SW, Washington, D C 20590 www.nhtsa.dot.gov/ Auto Safety Hotline: (800) 424-9393 **Center for Auto Safety** 1825 Connecticut Ave., NW, Suite 330 Washington, D C 20009 (202) 328-7700 www.autosafety.org
• Lemon Law attorneys	**Check your yellow pages** at the beginning of the "attorneys" listing for lawyer referral services or call the California State Bar at (415) 538-2000 to get the name of the certified lawyer referral service nearest you. www.calbar.org
• Other Lemon Law information	**Consumers for Auto Reliability and Safety (CARS)** 926 J Street, Suite 522 Sacramento, CA 95814 (530) 759-9440 www.carconsumers.com/
• Extended service contracts	**Department of Insurance** 770 L Street, Sacramento, CA 95814 (800) 927-4357 www.insurance.ca.gov/





Legal Definition of a New Vehicle**

The Lemon Law covers new motor vehicles including:

- A new vehicle bought or used primarily for personal, family, or household purposes
- A new vehicle with a gross vehicle weight under 10,000 pounds bought or used primarily for business purposes (provided the owner or business has no more than five vehicles registered in California)
- The chassis, cab, and the propulsion portions of a motor home
- A dealer-owned vehicle, a "demonstrator" or other motor vehicle sold with a manufacturer's new car warranty (such as a used vehicle)
- Purchased and leased vehicles

"New Motor Vehicle" does not include:

- Any portion of the motor home designed, used or maintained primarily for human habitation, or
- A motorcycle or a motor vehicle which is not registered under the Vehicle Code because it is to be operated or used exclusively as an off-road vehicle

*** Source: California Civil Code Section 1793.22(e)*

Legal Guidelines

The Lemon Law Presumption***

The Lemon Law presumes that a vehicle is a "lemon" if the following criteria are met within 18 months of delivery to the buyer or lessee or 18,000 miles on the vehicle's odometer, whichever comes first:

1. The manufacturer or its agents have made four or more attempts to repair the same warranty problem, or the vehicle has been out of service for more than 30 days (not necessarily all at the same time) while being repaired for any number of warranty problems; or
2. The manufacturer or its agents have made two or more attempts to repair a warranty problem that results in a condition that is likely to cause death or serious bodily injury if the vehicle is driven; and
3. The problems are covered by the warranty, substantially reduce the vehicle's use, value or safety to the consumer, and are not caused by abuse of the vehicle; and
4. If required by the warranty materials or by the owner's manual, the consumer has directly notified the manufacturer about the problem(s), preferably in writing. The notice must be sent to the address shown in the warranty or owner's manual.

If these criteria are met, the Lemon Law *presumes* the buyer or lessee is entitled to a replacement vehicle or a refund of the purchase price. However, the manufacturer may show that the criteria have not been met (for example, because the problems are minor) and that the buyer or lessee is therefore *not* entitled to a replacement vehicle or refund.

*** *Source: California Civil Code Section 1793.22(b)*

Repair Record Summary

Date	Mileage	Repair Order No.	Days Out of Sevice

ARBITRATION CERTIFICATION PROGRAM
LEMON LAW

Recording the information from your service repair orders in chronological order on a chart like this will help you organize your information.

Problem	Repairs Made

It Only Takes a Little Energy to Save a Lot…

Even when you're away from home in your car, there's a lot you can do to save energy, money and Flex Your Power:

❧ Set your heater lower in the winter and air conditioner higher in the summer

- In the winter, keep your house at 68ø or lower when you're home, and set your thermostat to 55∞ when away or asleep.
- In the summer, keep your house at 78∞ or higher when you're home, and set your thermostat to 85∞ or off when you're away. And, try cooling off with fans instead of air conditioning

❧ Use appliances after 7 P.M.

- Help prevent rolling blackouts by using large appliances, such as washing machines and dishwashers after 7 P.M..

❧ One fridge is enough

- You can save $150 or more a year by unplugging your second refrigerator

❧ Don't light an empty room

- Compact fluorescent bulbs save a lot. Turning out lights saves even more. Don't forget to turn off computers and other electronic equipment when you're not using them.

❧ Use appliances wisely

- Do laundry on the cold water setting. Line dry clothes whenever you can. Run your dishwasher only when it's full, and air-dry the dishes.

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California Department of Consumer Affairs
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