CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS

Lemon-aid *for Consumers*

CALIFORNIA ARBITRATION CERTIFICATION PROGRAM

Californians are some of the savviest consumers in the world. When venturing out to purchase or lease a car, van, SUV, or pickup covered by a new vehicle warranty, they are more likely to read the reviews, check the specifications, and find the best deals. By the time a new vehicle reaches the driveway, there is an expectation that it will both look good and run well.

But what happens when your new purchase seems to be parked at the repair shop more than in your driveway? You may ask yourself: "Did I get a lemon?"

If you think you purchased a defective vehicle, then this information about the Lemon Law, provided by the California Department of Consumer Affairs, is just what you need. If you read through it now, you will see how it explains California's Lemon Law in simple terms. Then, slip it into your glove compartment so it will be close at hand should you ever have serious problems with your vehicle.

The California Department of Consumer Affairs, along with the Arbitration Certification Program, is always standing by to assist you. You can get more information by logging on to the Department's Web site at www.dca.ca.gov/acp or by calling (800) 952-5210.

Charlene Zettel

Charlene Zettel
Director, California Department of Consumer Affairs

Table of Contents

Introduction 2

Lemon Law Questions and Answers 2

Lemon Law Arbitration Process 7

- Taking the First Step 7
- Organizing Your Paperwork 8
- Gathering Information 8
- Filing an Arbitration Application 9
- Presenting Your Case 9
- If You Are Dissatisfied With the Arbitration Decision 10

California's Certified Arbitration Programs 11

Vehicle Care Tips 13

Mileage Offset Formula 14

If You Have Problems With Your Vehicle 15

Additional Resources 16

Legal Definition of a New Vehicle 18

Legal Guidelines—The Lemon Law Presumption 19

Factors That May Affect Your Case 20

Repair Record Summary 22

Introduction

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 from 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 sold in California that come with the manufacturer's new vehicle warranty:

- Cars, pickup trucks, vans, and SUVs.
- The chassis, chassis cab, and drive train of a motorhome.
- Dealer-owned vehicles and demonstrators.
- Many vehicles purchased or leased primarily for business use.

- Vehicles purchased or leased for personal, family or household purposes.

The Lemon Law DOES NOT apply to:

- After-market parts such as those found in van conversions; or
- 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 18).

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 Presumption contains these guidelines for determining when a "reasonable" number of repair attempts have been made:

- 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.

This is called the **"Lemon Law Presumption."** See page 19 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 18;
- 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;
- The problems were not caused by abuse;
- The manufacturer or dealer has not fixed the same problems after a reasonable number of attempts (see page 3); and
- The warranty or owner's manual requires you to notify the manufacturer about the problems, and you have already notified the manufacturer. (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 refund.

Is there a need to have four or more repair attempts before I can take advantage of the Lemon Law?

No. The manufacturer is obligated to repair serious warranty problems and is allowed 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, but more than one.

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 12) that may assist you in resolving 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) to decide whether a reasonable number of repair attempts has been made and how to resolve the problem.

What are the possible results of arbitration?

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

- An additional repair attempt; or
- A replacement vehicle; or
- A refund of the purchase price; or
- Reimbursement for incidental expenses (towing, rental car, etc.); or
- No award.

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 receives 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.
- You have the option 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 also accept it.
- 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.

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.
- In most cases, disputes regarding the "living" portion of a motorhome.

I bought my 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 16 for other sources of assistance.)

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.

5) Keep a log or notebook on the problems and warranty-related repair attempts. Include dates, occurrences, and other related information.
6) Contact the manufacturer 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.

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 17) and ask for any safety recall information. Find out if there has been a pattern of similar problems with your vehicle model.
- 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 12).

When filling out the application, follow these steps:

- Clearly state what the problem is and what result you want from arbitration.
- Review it 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 and present your case to the arbitrator. You also can make your presentation by telephone (but this is not as effective as making a presentation in person).
- Organize and write down the main points of your problem(s) 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.
- It may be beneficial for you to build your presentation around the factors listed on page 20 of this booklet.

- 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 are Dissatisfied with the Arbitration 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 Consumer 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.

California's Certified Arbitration Programs

CERTIFIED ARBITRATION PROGRAM	MANUFACTURERS REPRESENTED
BBB Auto Line 4200 Wilson Blvd. Suite 800 Arlington, VA 22203-1838 (800) 955-5100	AM General (Hummer), Bentley, BMW (includes Mini Cooper), Ford (includes Lincoln, Mercury, Ford motorhome chassis), General Motors (includes Buick, Cadillac, Chevrolet, GMC, Geo, Oldsmobile, Pontiac), Honda/Acura, Hyundai, Isuzu, Land Rover, Lotus, Nissan/Infiniti, Saab, Saturn, Volkswagen/Audi, Workhorse Custom Chassis (some models)
**Consumer Arbitration Program for Recreational Vehicles (CAP-RV) *** P.O. Box 1424 Waukesha, WI 53187-1424 (800) 279-5343	Coachmen (includes Georgie-Boy), R-Vision, National RV (includes Country Coach), Winnebago
California Dispute Settlement Program (CDSP) 2777 Stemmons Freeway Suite 1452 Dallas, TX 75207 (888) 300-6237	Toyota (includes Scion), Porsche

Hearings are held throughout California with the exception of CDSP Documents Only cases which are held in Dallas, Texas.

* In most programs, arbitration of motor home warranty disputes are limited to the chassis, cab, and propulsion portions only.

NOTE: *Some manufacturers do not have state-certified arbitration programs in California. They include: Alfa Romeo, Daewoo, Daimler Chrysler (includes Dodge, Jeep, Eagle & Plymouth), Ferrari, Jaguar, Kia, Lexus, Mazda, Mercedes Benz, Mitsubishi, Peugeot, Subaru, Suzuki, and Volvo. 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:

- 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.
- 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.

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:

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

Here is an example:

Price paid by consumer..... $19,500
Miles driven by buyer at first repair 9,500

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

$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).*

If You Have Problems With Your Vehicle

- Take your vehicle in for service and completely describe the problem(s). Make sure the repair order shows the problem(s) you've described, the mileage on the odometer at the time of repair, the dates your vehicle was in the repair shop and when it was returned to you.
- Make sure 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 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 all of this together in a binder or notebook.
- Notify the dealer immediately if a repair attempt is not successful.
- Do not stop making vehicle payments.

Additional Resources

PROBLEMS/ SERVICE NEEDED	ORGANIZATION TO CONTACT
• California's Lemon Law Arbitration	**Department of Consumer Affairs** Arbitration Certification Program 1625 N. Market Blvd., Suite N-112 Sacramento, CA 95834 (916) 574-7350 Voice (800) 952-5210 Toll-Free (916) 574-8638 Fax 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)
• Motorhomes ineligible for arbitration • Mediation	**New Motor Vehicle Board** 1507 21st Street, Suite 330 Sacramento, CA 95814 (916) 445-1888 www.nmvb.ca.gov **Local Mediation Programs in California** www.dca.ca.gov/r_r/mediati1.htm **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/

PROBLEMS/ SERVICE NEEDED	ORGANIZATION TO CONTACT
• Dealer fraud • Motorcycles • Sales disputes • Used cars	**DMV Bureau of Investigations** (see page 16) **New Motor Vehicle Board** (see page 16) **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
• 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 Avenue 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)** 1303 J Street, Suite 270 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 propulsion portions of a motorhome.
- 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 therefore, the buyer or lessee is not entitled to a replacement vehicle or refund.

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

Factors That May Affect Your Case

Here are some factors the arbitrators may consider when reviewing your case:

- Whether the arbitration program has jurisdiction to decide your dispute;
- Whether your vehicle has a problem that substantially affects its use, value, and/or safety to you;
- Whether the problem is determined to be a substantial one by the arbitrator;
- Whether the problem was caused by an unreasonable use of your vehicle;
- Whether the manufacturer has had a reasonable opportunity to repair your vehicle including:
  - the number of repair attempts
  - the number of days your vehicle was in the shop for repair

  - other factors that affect how many repair attempts were made, and the reasonableness of those factors
  - whether your warranty dispute falls under the Lemon Law Presumption (see page 19)
- Whether a further repair attempt is likely to remedy the problem;
- The existence and amount of any incidental damages including, but not limited to, sales taxes, license fees, registration fees, other official fees, prepayment penalties, early termination charges, earned finance charges, and repair, towing and rental costs actually paid, incurred or to be incurred by you;
- Whether a mileage deduction should apply (see page 14);
- Any other issue that is relevant to the particular dispute.

Repair Record Summary

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

DATE	MILEAGE	REPAIR ORDER #	DAYS OUT OF SERVICE

LIST TYPE OF PROBLEM AND REPAIRS MADE

DATE	MILEAGE	REPAIR ORDER #	DAYS OUT OF SERVICE

LIST TYPE OF PROBLEM AND REPAIRS MADE

DATE	MILEAGE	REPAIR ORDER #	DAYS OUT OF SERVICE

LIST TYPE OF PROBLEM AND REPAIRS MADE

DATE	MILEAGE	REPAIR ORDER #	DAYS OUT OF SERVICE

LIST TYPE OF PROBLEM AND REPAIRS MADE

DATE	MILEAGE	REPAIR ORDER #	DAYS OUT OF SERVICE

LIST TYPE OF PROBLEM AND REPAIRS MADE

DATE	MILEAGE	REPAIR ORDER #	DAYS OUT OF SERVICE

LIST TYPE OF PROBLEM AND REPAIRS MADE

DATE	MILEAGE	REPAIR ORDER #	DAYS OUT OF SERVICE

LIST TYPE OF PROBLEM AND REPAIRS MADE

DATE	MILEAGE	REPAIR ORDER #	DAYS OUT OF SERVICE

LIST TYPE OF PROBLEM AND REPAIRS MADE

DATE	MILEAGE	REPAIR ORDER #	DAYS OUT OF SERVICE

LIST TYPE OF PROBLEM AND REPAIRS MADE

DATE	MILEAGE	REPAIR ORDER #	DAYS OUT OF SERVICE

LIST TYPE OF PROBLEM AND REPAIRS MADE

DATE	MILEAGE	REPAIR ORDER #	DAYS OUT OF SERVICE

LIST TYPE OF PROBLEM AND REPAIRS MADE

DATE	MILEAGE	REPAIR ORDER #	DAYS OUT OF SERVICE

LIST TYPE OF PROBLEM AND REPAIRS MADE

DATE	MILEAGE	REPAIR ORDER #	DAYS OUT OF SERVICE

LIST TYPE OF PROBLEM AND REPAIRS MADE

DATE	MILEAGE	REPAIR ORDER #	DAYS OUT OF SERVICE

LIST TYPE OF PROBLEM AND REPAIRS MADE

California Department of Consumer Affairs
1625 N. Market Blvd.
Sacramento, CA 95834

1.800.952.5210

Arnold Schwarzenegger, Governor
State of California

Rosario Marin, Secretary
State and Consumer Services Agency

Charlene Zettel, Director
Department of Consumer Affairs

This booklet is available without charge by calling the Department of Consumer Affairs' toll-free telephone number at 800.952.5210. This publication is also available online through the Department's Web site at www.dca.ca.gov/acp.

For the most recent information regarding state-certified arbitration programs and Lemon Law regulations, please see the Department's Web site at www.dca.ca.gov/acp.

05-048 (05/06)

California Department of Consumer Affairs
Arbitration Certification Program
1625 N. Market Blvd., Suite N-112
Sacramento, CA 95834