

56:12-29 to 49

LEGISLATIVE HISTORY CHECKLIST

NJSA: 56:12-29 to 56:12-49

(Lemon law--  
simplify)

LAWS OF: 1988

CHAPTER: 123

Bill No: S2201

Sponsor(s): O'Connor and DiFrancesco

Date Introduced: March 3, 1988

Committee: Assembly: Appropriations;

Senate: Revenue, Finance & Appropriations; Labor, Industry &  
Professions

Amended during passage: Yes Amendments during passage  
denoted by asterisks

Date of Passage: Assembly: July 14, 1988

Senate: May 16, 1988

Date of Approval: September 15, 1988

Following statements are attached if available:

Sponsor statement: Yes

Committee Statement: Assembly: Yes

Senate: Yes 5-9-88 & 4-25-88

Fiscal Note: Yes

Veto Message: No

Message on signing: Yes

Following were printed:

Reports: No

Hearings: No

For newspaper clippings, see clipping file "N.J.-Consumer Protection-1988" in New  
Jersey Reference Department.

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SENATE, No. 2201

STATE OF NEW JERSEY

INTRODUCED MARCH 3, 1988

By Senators O'CONNOR and DiFRANCESCO

1 AN ACT concerning certain new motor vehicle warranties and  
repealing P.L. 1983, c. 215 and making an appropriation.

3

BE IT ENACTED by the Senate and General Assembly of the  
5 State of New Jersey:

1. The Legislature finds that the purchase of a new motor  
7 vehicle is a major, high cost consumer transaction and the  
inability to correct defects in these vehicles creates a major  
9 hardship and an unacceptable economic burden on the consumer.  
It is the intent of this act to require the manufacturer of a new  
11 motor vehicle to correct defects originally covered under the  
manufacturer's warranty which are identified and reported  
13 within a specified period. It is the further intent of this act to  
provide procedures to expeditiously resolve disputes between a  
15 consumer and a manufacturer when defects in a new motor  
vehicle are not corrected within a reasonable time, and to  
17 provide to award specific remedies where the uncorrected defect  
substantially impairs the use, value, or safety of the new motor  
19 vehicle.

2. As used in this act:

21 "Consumer" means a buyer or lessee, other than for purposes  
of resale or sublease, of a motor vehicle; a person to whom a  
23 motor vehicle is transferred during the duration of a warranty  
applicable to the motor vehicle; or any other person entitled by  
25 the terms of the warranty to enforce the obligations of the  
warranty.

27 "Dealer" means <sup>1</sup>[an agent, distributor or authorized dealer of  
the manufacturer of the new motor vehicle] a person who is  
29 actively engaged in the business of buying, selling or exchanging  
motor vehicles at retail and who has an established place of  
31 business<sup>1</sup>.

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in the  
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup> Senate SLI committee amendments adopted April 25, 1988.

<sup>2</sup> Senate SRF committee amendments adopted May 9, 1988.

1 "Director" means the Director of the Division of Consumer  
Affairs in the Department of Law and Public Safety, or his  
3 designee.

"Division" means the Division of Consumer Affairs in the  
5 Department of Law and Public Safety.

"Lease agreement" means a contract or other written  
7 agreement in the form of a lease for the use of a motor vehicle  
by a person for a period of time exceeding 60 days, whether or  
9 not the lessee has the option to purchase or otherwise become the  
owner of the motor vehicle at the expiration of the lease.

11 "Lessee" means a person who leases a motor vehicle pursuant  
to a lease agreement which provides that the lessee is responsible  
13 for repairs to the motor vehicle.

"Lessor" means a person who holds title to a motor vehicle  
15 leased to a lessee under a lease agreement or who holds the  
lessor's rights under such an agreement.

17 "Lien" means a security interest in a motor vehicle.

"Lienholder" means a person with a security interest in a  
19 motor vehicle pursuant to a lien.

"Manufacturer" means a person engaged in the business of  
21 manufacturing, assembling or distributing motor vehicles, who  
will, under normal business conditions during the year,  
23 manufacture, assemble or distribute to dealers at least 10 new  
motor vehicles.

25 "Manufacturer's informal dispute settlement procedure"  
means an arbitration process or procedure by which the  
27 manufacturer attempts to resolve disputes with consumers  
regarding motor vehicle nonconformities and repairs that arise  
29 during the vehicle's warranty period.

"Manufacturer's warranty" or "warranty" means any warranty,  
31 whether express or implied of the manufacturer, of a new motor  
vehicle of its condition and fitness for use, including any terms or  
33 conditions precedent to the enforcement of obligations under the  
warranty.

35 "Motor vehicle" means a passenger automobile or motorcycle  
as defined in R.S. 39:1-1 which is registered by the Division of  
37 Motor Vehicles in the Department of Law and Public Safety,  
except the living facilities of motor homes.

39 "Nonconformity" means a defect or condition which sub-

1     stantially impairs the use, value or safety of a motor vehicle.

2     "Reasonable allowance for vehicle use" means the mileage  
3     <sup>1</sup>[which is in excess of twelve thousand miles] at the time the  
4     consumer first presents the motor vehicle to the dealer or  
5     manufacturer for correction of a nonconformity<sup>1</sup> times the  
6     purchase price, or the lease price if applicable, of the vehicle,  
7     divided by one hundred thousand miles.

8     3. If a consumer reports a nonconformity in a motor vehicle to  
9     the manufacturer or its dealer during the first <sup>2</sup>[eighteen  
10     thousand] 18,000<sup>2</sup> miles of operation or during the period of two  
11     years following the date of original delivery to a consumer,  
12     whichever is <sup>2</sup>[the]<sup>2</sup> earlier <sup>2</sup>[date]<sup>2</sup>, the manufacturer shall  
13     make, or arrange with its dealer to make, within a reasonable  
14     time, all repairs necessary to correct the nonconformity <sup>1</sup>[at the  
15     expense of the manufacturer]. Such repairs if made after the  
16     first 12,000 miles of operation or <sup>2</sup>[during] after<sup>2</sup> the period of  
17     one year following the date of original delivery to the consumer,  
18     whichever is <sup>2</sup>[the]<sup>2</sup> earlier <sup>2</sup>[date]<sup>2</sup>, shall be paid for by the  
19     consumer, unless otherwise covered by a manufacturer's  
20     warranty, and shall be recoverable as a cost under section 14 of  
21     this act<sup>1</sup>.

22     4. a. If, during the period specified in section 3 <sup>1</sup>of this act<sup>1</sup>,  
23     the manufacturer or its dealer is unable to repair or correct a  
24     nonconformity within a reasonable time, the manufacturer shall  
25     accept return of the motor vehicle from the consumer. The  
26     manufacturer shall provide the consumer with a full refund of the  
27     purchase price of the original motor vehicle including any stated  
28     credit or allowance for the consumer's used motor vehicle, the  
29     cost of any options or other modifications arranged, installed, or  
30     made by the manufacturer or its dealer within 30 days after the  
31     date of original delivery, and any other charges or fees including,  
32     but not limited to, sales tax, license and registration fees,  
33     finance charges, <sup>1</sup>[and]<sup>1</sup> reimbursement for towing and <sup>1</sup>[rental  
34     vehicle expenses incurred by the consumer as a result of the  
35     vehicle being out of service for warranty repair] reimbursement  
36     for actual expenses incurred by the consumer for the rental of a  
37     motor vehicle equivalent to the consumer's motor vehicle and  
38     limited to the period during which the consumer's motor vehicle  
39     was out of service due to a nonconformity<sup>1</sup>, less a reasonable  
allowance for vehicle use. Nothing herein shall be construed to

1 preclude a manufacturer from making an offer to replace the  
vehicle in lieu of a refund; except that the consumer may, in any  
3 case, reject a manufacturer's offer of replacement and demand a  
refund. Refunds shall be made to the consumer and lienholder, if  
5 any, as their interests appear on the records of ownership  
maintained by the Director of the Division of Motor Vehicles.  
7 <sup>1</sup>In the event that the consumer accepts an offer to replace the  
motor vehicle in lieu of a refund, it shall be the manufacturer's  
9 responsibility to insure that any lien on the returned motor  
vehicle is transferred to the replacement vehicle.<sup>1</sup>

11 b. A consumer who leases a new motor vehicle shall have the  
same remedies against a manufacturer under this section as a  
13 consumer who purchases a new motor vehicle. If it is determined  
that the lessee is entitled to a refund pursuant to subsection a. of  
15 this section, the consumer shall return the leased vehicle to the  
lessor or manufacturer and the consumer's lease agreement with  
17 the motor vehicle lessor shall be terminated and no penalty for  
early termination shall be assessed. The manufacturer shall  
19 provide the consumer with a full refund of the amount actually  
paid by the consumer under the lease agreement, including any  
21 additional charges as set forth in subsection a. of this section if  
actually paid by the consumer, less a reasonable allowance for  
23 vehicle use. The manufacturer shall provide the motor vehicle  
lessor with a full refund of the vehicle's original purchase price  
25 plus any unrecovered interest expense, less the amount actually  
paid by the consumer under the agreement. <sup>1</sup>Refunds shall be  
27 made to the lessor and lienholder, if any, as their interests appear  
on the records of ownership maintained by the Director of the  
29 Division of Motor Vehicles.<sup>1</sup>

5. a. It is presumed that a manufacturer or its dealer is unable  
31 to repair or correct a nonconformity within a reasonable time if,  
within the first eighteen thousand miles of operation or during  
33 the period of two years following the date of original delivery of  
the motor vehicle to a consumer, whichever is the earlier date:

35 (1) Substantially the same nonconformity has been subject to  
repair three or more times by the manufacturer or its dealer and  
37 the nonconformity continues to exist; or

(2) The motor vehicle is out of service by reason of repair for  
39 one or more nonconformities for a cumulative total of 20 or more

1 calendar days since the original delivery of the motor vehicle and  
a nonconformity continues to exist.

3 b. <sup>1</sup>[It is presumed for the purposes of this section that the  
5 manufacturer has received notification from its dealer of a  
7 potential claim pursuant to this act prior to the third repair  
9 attempt or prior to the motor vehicle being out of service by  
11 reason of repair for a cumulative total of 20 or more calendar  
13 days. It shall not be a defense to a manufacturer under this act  
15 that notification by its dealer was not received] The presumption  
17 contained in subsection a. of this section shall apply against a  
19 manufacturer only if the manufacturer has received written  
notification, by or on behalf of the consumer, by certified mail  
return receipt requested, of a potential claim pursuant to the  
provisions of this act and has had one opportunity to repair or  
correct the defect or condition within 10 calendar days following  
receipt of the notification. Notification by the consumer shall  
take place any time after the motor vehicle has had substantially  
the same nonconformity subject to repair two or more times or  
has been out of service by reason of repair for a cumulative total  
of 20 or more calendar days<sup>1</sup>.

21 c. The two-year term and the 20-day period specified in this  
23 section shall be extended by any period of time during which  
repair services are not available to the consumer because of a  
war, invasion or strike, or a fire, flood, or other natural disaster.

25 6. a. At the time of purchase <sup>1</sup>in the State of New Jersey<sup>1</sup>,  
27 the manufacturer <sup>1</sup>[or] through<sup>1</sup> its dealer, or at the time of  
lease <sup>1</sup>in the State of New Jersey<sup>1</sup>, the lessor, shall provide  
29 directly to the consumer the following written statement on a  
separate piece of paper, in 10-point bold-face type:  
31 "IMPORTANT: IF THIS VEHICLE IS DEFECTIVE, YOU MAY BE  
33 ENTITLED UNDER NEW JERSEY LAW TO A REFUND OF THE  
PURCHASE PRICE OR YOUR LEASE PAYMENTS. FOR  
COMPLETE INFORMATION REGARDING YOUR RIGHTS AND  
REMEDIES UNDER THE RELEVANT LAW, CONTACT THE NEW  
35 JERSEY DEPARTMENT OF LAW AND PUBLIC SAFETY,  
DIVISION OF CONSUMER AFFAIRS."

37 b. Each time a consumer's motor vehicle is returned from  
being examined or repaired during the period specified in section  
39 3 of this act, the manufacturer <sup>1</sup>[or] through<sup>1</sup> its dealer shall  
provide to the consumer <sup>1</sup>[a fully] an<sup>1</sup> itemized, legible

1 statement of repair which indicates any diagnosis made and all  
work performed on the vehicle and provides information  
3 including, but not limited to, the following: a general description  
of the problem reported by the consumer or an identification of  
5 the problem reported by the consumer or an identification of the  
defect or condition; the amount charged for parts and the amount  
7 charged for labor <sup>1</sup>, if paid for by the consumer<sup>1</sup>; the date and  
the odometer reading when the vehicle was submitted for repair;  
9 and the date and odometer reading when the vehicle was made  
available to the consumer.

11 c. Failure to comply with the provisions of this section  
constitutes an unlawful practice pursuant to section 2 of P.L.  
13 1960, c. 39 (C. 56:8-2).

7. If a motor vehicle is returned to the manufacturer under the  
15 provisions of this act or a similar statute of another state or as  
the result of a legal action or an informal dispute settlement  
17 procedure, it shall not be resold or re-leased in New Jersey unless:

a.<sup>1</sup>[ The manufacturer provides the same warranty it provided  
19 to the original purchaser, except that the term of the warranty  
need only last for 12,000 miles or 12 months after the date of  
21 resale, whichever is earlier; and

b.]<sup>1</sup> The manufacturer provides <sup>1</sup>to the dealer or lessor and the  
23 dealer or lessor provides to<sup>1</sup> the consumer <sup>1</sup>[with]<sup>1</sup> the following  
written statement on a separate piece of paper, in 10-point  
25 bold-face type: "IMPORTANT: THIS VEHICLE WAS  
RETURNED TO THE MANUFACTURER BECAUSE IT DID NOT  
27 CONFORM TO THE MANUFACTURER'S WARRANTY AND THE  
NONCONFORMITY WAS NOT CORRECTED WITHIN A  
29 REASONABLE TIME AS PROVIDED BY LAW."

<sup>1</sup>b. Nothing in this section shall be construed as imposing an  
31 obligation on a dealer or lessor to determine whether a  
manufacturer is in compliance with the terms of this section nor  
33 shall it be construed as imposing liability on a dealer or lessor for  
the failure of a manufacturer to comply with the terms of this  
35 section.<sup>1</sup>

c. Failure to comply with the provisions of this section  
37 constitutes an unlawful practice pursuant to section 2 of P.L.  
1960, c. 39 (C. 56:8-2).

39 8. a. If a manufacturer has established, or participates in, an

1 informal dispute settlement procedure pursuant to section 110 of  
3 Pub. L. 93-637 (15 U.S.C. §2310) and the rules promulgated  
5 thereunder, or the requirements of this section, a consumer may  
7 submit a dispute regarding motor vehicle nonconformities <sup>1</sup>[or  
9 repairs]<sup>1</sup> to the dispute settlement body provided by that  
procedure but a consumer shall not be required to first  
participate in the informal dispute settlement procedure before  
participating in the division's summary hearing procedure under  
this act.

11 b. If a consumer chooses to use a manufacturer's informal  
13 dispute settlement procedure established pursuant to this section,  
15 the findings and decisions of the dispute settlement body shall  
state in writing whether the consumer is entitled to a refund  
under the presumptions and criteria set out in this act and the  
findings and decisions shall be admissible <sup>1</sup>against the consumer  
and the manufacturer<sup>1</sup> in any legal action.

17 c. If the dispute settlement body determines that a consumer  
is entitled to relief under this act, the consumer shall be entitled  
19 to a refund as authorized by section 4 of this act.

21 d. In any informal dispute settlement procedure established  
pursuant to this section:

23 (1) Participating arbitrators shall be trained in arbitration and  
familiar with the provisions of this act.

25 (2) Documents shall not be submitted to any dispute  
settlement body unless the documents have been provided to each  
27 of the parties in the dispute at least seven days prior to  
commencement of the dispute settlement hearing. The parties  
shall be given the opportunity to comment on the documents in  
29 writing or with oral presentation.

31 (3) <sup>1</sup>[Manufacturer or dealer representatives shall not  
participate in the informal dispute settlement procedure unless  
33 the consumer is also present and given an opportunity to be  
heard, or unless the consumer consents to the manufacturer or  
dealer participation without the consumer's presence and  
35 participation] No party shall participate in the informal dispute  
settlement procedure unless all other parties are also present and  
37 given an opportunity to be heard, or unless the other parties  
consent to proceeding without their presence and participation<sup>1</sup>.

39 (4) A consumer shall be given an adequate opportunity to



1 contest a manufacturer's assertion that a nonconformity falls  
within intended specifications for the vehicle by having the basis  
3 of the manufacturer's claim appraised by a technical expert  
selected and paid for by the consumer prior to the  
5 manufacturer's informal dispute settlement procedure. If the  
dispute settlement body rules in favor of the consumer, his costs  
7 and reasonable attorney's fees shall also be awarded.

(5) A dispute shall not be heard if there has been a recent  
9 attempt by the manufacturer to repair a consumer's vehicle, but  
no response has yet been received by the dispute settlement body  
11 from the consumer as to whether the repairs were successfully  
completed. This provision shall not prejudice a consumer's right  
13 under this section.

(6) The manufacturer shall provide, and the dispute settlement  
15 body shall consider, any relevant technical service bulletins which  
have been issued by the manufacturer regarding motor vehicles of  
17 the same make and model as the vehicle that is the subject of the  
dispute.

19 e. Any manufacturer who establishes, or participates in, an  
informal dispute settlement procedure, whether it meets the  
21 requirements of this section or not, shall maintain, and forward  
to the director at six month intervals, the following records:

23 (1) The number of purchase price and lease price refunds  
requested, the number awarded by the dispute settlement body,  
25 the amount of each award and the number of awards satisfied in a  
timely manner;

27 (2) The number of awards in which additional repairs or a  
warranty extension was the most prominent remedy, the amount  
29 or value of each award, and the number of awards satisfied in a  
timely manner;

31 (3) The number and total dollar amount of awards in which  
some form of reimbursement for expenses or compensation for  
33 losses was the most prominent remedy, the amount or value of  
each award and the number of awards satisfied in a timely  
35 manner; and

(4) The average number of days from the date of a consumer's  
37 initial request to <sup>1</sup>[arbitrate] use the manufacturer's informal  
dispute settlement procedure<sup>1</sup> until the date of the decision and  
39 the average number of days from the date of the decision to the

1 date on which performance of the award was satisfied.

3 9. a. A consumer shall have the option of submitting any  
5 dispute arising under section 4 of this act to the division for  
7 resolution. The director may establish a filing fee, to be paid by  
9 the consumer, fixed at a level not to exceed the cost for the  
proper administration and enforcement of this act. This fee shall  
be recoverable as a cost under section 14 of this act. Upon  
application by the consumer and payment of any filing fee, the  
manufacturer shall submit to the State hearing procedure.

11 b. The director shall review a consumer's application for  
13 dispute resolution and accept eligible disputes for referral to the  
15 Office of Administrative Law for a summary hearing to be  
17 conducted in accordance with special rules adopted pursuant to  
19 the "Administrative Procedure Act," P.L. 1968, c. 410 (C.  
21 52:14B-1 et seq.), by the Office of Administrative Law in  
23 consultation with the director. Immediately upon acceptance of  
25 a consumer's application for dispute resolution, the director shall  
27 contact the parties and arrange for a hearing date with the Clerk  
of the Office of Administrative Law. The hearing date shall, to  
the greatest extent possible, be convenient to all parties, but  
shall be no later than 20 days from the date the consumer's  
application is accepted, unless a later date is agreed upon by the  
consumer. The Office of Administrative Law shall render a  
decision, in writing, to the director within 15 days of the  
conclusion of the summary hearing. The decision shall provide a  
brief summary of the findings of fact, appropriate remedies  
pursuant to this act, and a specific date for completion of all  
awarded remedies. The director, upon a review of the proposed  
decision submitted by the administrative law judge, shall adopt,  
reject, or modify the decision no later than 10 days after receipt  
of the decision. Unless the director modifies or rejects the  
decision within the 10-day period, the decision of the  
administrative law judge shall be deemed adopted as the final  
decision of the director. If the manufacturer <sup>1</sup>unreasonably<sup>1</sup>  
fails to comply with the decision within the specified time period,  
the manufacturer shall be liable for penalties in the amount of  
\$5,000.00 for each day the manufacturer <sup>1</sup>unreasonably<sup>1</sup> fails to  
comply, commencing on the day after the specified date for  
completion of all awarded remedies.

1 c. The Office of Administrative Law is authorized to issue  
subpoenas to compel the attendance of witnesses and the  
3 production of documents, papers and records relevant to the  
dispute.

5 d. A manufacturer or consumer may appeal a final decision to  
the Appellate Division of the Superior Court. An appeal by a  
7 manufacturer shall not be heard unless the petition for the appeal  
is accompanied by a bond in a principal sum equal to the money  
9 award made by the administrative law judge plus \$2,500.00 for  
anticipated attorney's fees and other costs, secured by cash or  
11 its equivalent, payable to the consumer. The liability of the  
surety of any bond filed pursuant to this section shall be limited  
13 to the indemnification of the consumer in the action. The bond  
shall not limit or impair any right of recovery otherwise available  
15 pursuant to law, nor shall the amount of the bond be relevant in  
determining the amount of recovery to which the consumer shall  
17 be entitled. If a final decision resulting in a refund to the  
consumer is upheld by the court, recovery by the consumer shall  
19 include <sup>1</sup>[continuing damages in the amount of \$25.00 per day for  
each day, subsequent to the day the motor vehicle was returned  
21 to the manufacturer] reimbursement for actual expenses incurred  
by the consumer for the rental of a motor vehicle equivalent to  
23 the consumer's motor vehicle and limited to the period of time  
after which the consumer's motor vehicle was offered to the  
25 manufacturer for return<sup>1</sup> under this act, except in those cases in  
which the manufacturer made a comparable vehicle available to  
27 the consumer free of charge during that period. If the court finds  
that the manufacturer had no reasonable basis for its appeal or  
29 that the appeal was frivolous, the court shall award treble  
damages to the consumer. Failure of the Office of  
31 Administrative Law to render a written decision within 15 days of  
the conclusion of the summary hearing as required by subsection  
33 b. of this section shall not be a basis for appeal.

35 e. <sup>1</sup>[Notwithstanding subsections b., c. and d. of this section,  
the Attorney General may establish an alternate State settlement  
procedure if he determines that such an alternate procedure is  
37 required to effectuate the purpose] The Attorney General shall  
monitor the implementation and effectiveness of this act and  
39 report to the Legislature after three years of operation, at which

1 time a recommendation shall be made either to continue under  
2 the procedures set forth in this act or to make such modifications  
3 as may be necessary to effectuate the purposes<sup>1</sup> of this act.

4 10. The Division of Consumer Affairs shall maintain an index  
5 of all motor vehicle disputes by make and model. The division  
6 shall, at six-month intervals, compile and maintain statistics  
7 indicating the record of manufacturer compliance with any  
8 settlement procedure decisions. The statistics shall be public  
9 record.

10 11. A consumer shall not be required to participate in a  
11 manufacturer's informal dispute settlement procedure or the  
12 division's summary hearing procedure before filing an action in  
13 the Superior Court <sup>1</sup>[to enforce any remedy provided by this  
14 act]<sup>1</sup>. <sup>1</sup>However, a decision rendered in a proceeding brought  
15 pursuant to the division's summary hearing procedure shall be  
16 binding on the consumer and the manufacturer, subject to the  
17 right of appeal as set forth in subsection d. of section 9 of this  
18 act, and shall preclude the institution of any other action in the  
19 Superior Court under this act.<sup>1</sup>

20 12. It shall be an affirmative defense to a claim under this act  
21 that the alleged nonconformity does not substantially impair the  
22 use, value, or safety of the new motor vehicle or that the  
23 nonconformity is the result of abuse, neglect, or unauthorized  
24 modifications or alterations of the motor vehicle by anyone other  
25 than the manufacturer or its dealer.

26 13. Any party to an action in the Superior Court of this State  
27 asserting a claim, counterclaim or defense based upon violations  
28 of this act shall mail a copy of the initial or responsive pleading  
29 containing the claim, counterclaim or defense to the Attorney  
30 General within 10 days after filing the pleading with the court.  
31 Upon application to the court in which the matter is pending, the  
32 Attorney General may intervene or appear in any status  
33 appropriate to this matter.

34 14. In any action by a consumer against a manufacturer  
35 brought in Superior Court or in the division pursuant to the  
36 provisions of this act, a prevailing consumer shall be awarded  
37 reasonable attorney's fees and costs.

38 15. All fees, penalties and costs collected by the division  
39 pursuant to this act shall be appropriated for purposes of

1 offsetting costs associated with the handling and resolution of  
consumer <sup>1</sup>automotive<sup>1</sup> complaints <sup>1</sup>[under this act]<sup>1</sup>.

3 16. A manufacturer shall certify to the division, within one  
year of discovery, the existence of any inherent design defect  
5 common to all motor vehicles of a particular model or make.  
Failure to comply with this constitutes an unlawful practice  
7 pursuant to section 2 of P.L. 1960, c. 39 (C. 56:8-2).

9 17. The director may institute proceedings against any  
manufacturer who fails to comply with any of the provisions of  
this act.

11 18. Nothing in this act shall be construed as imposing any  
liability on a dealer, or creating a cause of action by a  
13 <sup>1</sup>[consumer] manufacturer<sup>1</sup> against a dealer, <sup>1</sup>and nothing shall  
be construed as imposing any liability on a dealer, or creating a  
15 cause of action by a consumer against a dealer<sup>1</sup> under section 4  
of this act.

17 19. Nothing in this act shall in any way limit the rights or  
remedies which are otherwise available to a consumer under any  
19 other law.

21 20. Any agreement entered into by a consumer for the  
purchase or lease of a new motor vehicle which waives, limits or  
disclaims the rights set forth in this act shall be void as contrary  
23 to public policy.

25 21. Within 120 days following enactment, the director shall,  
subject to approval by the Attorney General and pursuant to the  
provisions of the "Administrative Procedure Act," P.L. 1968, c.  
27 410 (C. 52:14B-1 et seq.), adopt rules and regulations necessary  
to effectuate the purposes of this act.

29 22. P.L. 1983, c. 215 (C. 56:12-19 et seq.) is repealed.

31 23. There is appropriated \$250,000.00 from the General Fund  
to the Department of Law and Public Safety to effectuate the  
purposes of this act.

33 24. <sup>2</sup>[This] Section 21 of this act shall take effect immediately  
and the remainder of this<sup>2</sup> act shall take effect on the <sup>1</sup>[120th]  
35 180th<sup>1</sup> day following enactment and shall apply to all new motor  
vehicles purchased or leased on or after that date.

1                                   MOTOR VEHICLES  
  Consumer Affairs

3  
5       Requires manufacturer to repair defective new cars or give  
      refunds; appropriates \$250,000.

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 3       subject to approval by the Attorney General and pursuant to the  
 5       provisions of the "Administrative Procedure Act," P.L. 1968, c.  
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 to effectuate the purposes of this act.

22. P.L. 1983, c. 215 (C. 56:12-19 et seq.) is repealed.

7       23. There is appropriated \$250,000.00 from the General Fund  
 to the Department of Law and Public Safety to effectuate the  
 9       purposes of this act.

11       24. This act shall take effect on the 120th day following  
 enactment and shall apply to all new motor vehicles purchased or  
 leased on or after that date.

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### SPONSOR'S STATEMENT

17       Consumers in New Jersey purchase over one-half million new  
 19       motor vehicles annually. In the last five years approximately  
 21       10,000 consumers have purchased new motor vehicles which have  
 been found to have chronic, uncorrectable defects. These  
 defective vehicles represent a present day value in excess of \$150  
 million.

23       This bill, which repeals and replaces New Jersey's present  
 "lemon law," P.L. 1983, c. 215 (C. 52:12-19 et seq.), requires the  
 25       manufacturer to correct a defective vehicle within a specified  
 period of time or permit the buyer or lessee of the vehicle to  
 27       return it for a refund. The bill permits a consumer who does not  
 believe the manufacturer has complied to use any of three  
 29       different methods to seek a resolution to the dispute:

31       1. Use the manufacturer's informal dispute settlement  
 procedure if it conforms to the requirements of the bill or federal  
 law;

33       2. Submit the dispute to the Division of Consumer Affairs in  
 the Department of Law and Public Safety, which may refer the  
 35       dispute to the Office of Administrative Law for a summary  
 hearing; or

37       3. File an action in Superior Court.

39       Further, this bill requires creation of special rules and  
 procedures for the hearings conducted by the Office of  
 Administrative Law to provide the consumer with an effective,

1 informal and expeditious alternative for resolving disputes arising  
3 from good faith warranty complaints, and sets forth specific  
5 remedies to be applied by the Director of the Division of  
7 Consumer Affairs. The consumer is not required to use the  
9 manufacturer's informal dispute settlement procedure prior to  
submitting the dispute to the division.

7 The Division of Consumer Affairs is designated to maintain  
records of motor vehicle disputes and to periodically compile  
9 statistics on the record of manufacturer's compliance.

The bill appropriates \$250,000.00.

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**MOTOR VEHICLES****Consumer Affairs**

15

17 Requires manufacturer to repair defective new cars or give  
refunds; appropriates \$250,000.



SENATE LABOR, INDUSTRY AND PROFESSIONS COMMITTEE

STATEMENT TO

SENATE, No. 2201

with Senate committee amendments

STATE OF NEW JERSEY

DATED: APRIL 25, 1988

The Senate Labor, Industry and Profession Committee reports favorably and with committee amendments Senate, No. 2201.

This bill repeals and replaces New Jersey's present lemon law, P.L. 1983, c. 215 (C. 56:12-19 et seq.).

The bill, as amended by the committee, requires a manufacturer of a new automobile or motorcycle to repair all defects which substantially impair the vehicle's use, value or safety if reported by the consumer within the first 18,000 miles of operation or within two years of the vehicle's delivery to the consumer, whichever is earlier. However, the committee provided that any repairs made after expiration of the applicable warranty period shall be paid by the consumer, subject to subsequent reimbursement in an action or administrative hearing pursuant to the provisions of this bill. If the manufacturer or its dealer is unable to repair a defect within a reasonable time, the bill requires the manufacturer to refund the full purchase price and other charges and fees specified in the bill, less an allowance for the consumer's use of the returned vehicle. The manufacturer may offer to replace the vehicle in lieu of a refund, but the consumer may reject a manufacturer's offer of replacement and demand a refund. The refund would be made to the consumer and to anyone holding a lien on the vehicle. A consumer who leases a new vehicle would have these same remedies, except that the consumer would receive a full refund of the amount actually paid by the consumer under the lease agreement and any charges and fees specified by the bill, less a reasonable allowance for vehicle use.

The bill specifies that "within a reasonable time" means when:

- a. The same defect has been subject to repair three or more times during the first 18,000 miles of operation or within two years of the vehicle's delivery date to the consumer, whichever is earlier; or

b. The vehicle has been out of service for repairs for one or more defects for a cumulative total of 20 or more calendar days during the 18,000 miles or the two-year period established under the bill. The 20-day period and the two-year period are extended if the repairs cannot be performed because of war, invasion, strike, fire, flood or other natural disaster.

The original version of the bill provided that a manufacturer was presumed to have received notification from its dealer of a potential claim prior to the third repair attempt or prior to the vehicle being out of service for 20 or more calendar days and that lack of this notification was not to be used as a defense by a manufacturer. As amended, the bill now provides that the above presumptions only apply against a manufacturer if the manufacturer has received written notification from or on behalf of the consumer and had an opportunity to repair or correct the nonconformity within 10 days of receipt of the notification. Notification by the consumer must take place any time after the motor vehicle has had substantially the same nonconformity subject to repair two or more times or has been out of service by reason of repair for a cumulative total of 20 or more calendar days.

If a dispute arises between a consumer and a manufacturer over whether a refund should be made for a vehicle which the manufacturer or dealer has failed to repair, the consumer may:

a. Use the manufacturer's informal dispute settlement procedure if it conforms with the requirements of this bill and federal law;

b. Submit the dispute to the Division of Consumer Affairs in the Department of Law and Public Safety, which may refer the dispute to the Office of Administrative Law for a summary hearing. The hearing must be held within 20 days of the consumer's application and the decision must be rendered within 15 days after the hearing, with the Director of the Division of Consumer Affairs adopting, rejecting or modifying the decision within 10 days. The decision rendered is binding and subject to a right of appeal to the Appellate Division of the Superior Court. If a manufacturer fails to comply with the decision within the specified time period, the manufacturer is liable for a penalty of \$5,000.00 for each day the manufacturer does not comply; or

c. File an action in Superior Court.

The consumer has the choice of which procedure to use to settle the dispute and does not have to use any one particular procedure before using the other.

In any action by a consumer against a manufacturer brought in Superior Court or in the division, a prevailing consumer must be awarded reasonable attorneys' fees and costs.

The bill specifies that the manufacturer has an affirmative defense in any complaint for a refund under the bill that the defect was caused by the consumer's abuse or neglect or by an unauthorized modification or alteration of the vehicle by anyone other than the manufacturer or its dealer.

If a vehicle is returned to a manufacturer under the provisions of this bill, it cannot be resold or re-leased in New Jersey unless the manufacturer, dealer or lessor provides the consumer with a written statement indicating that the vehicle was a lemon vehicle that was returned to the manufacturer. The committee deleted the provision which required the manufacturer to provide a warranty of 12,000 miles or 12 months on returned lemon vehicles.

The bill provides that it is an unlawful practice under the consumer fraud act, P.L. 1960, c. 39 (C. 56:8-1 et seq.), for a manufacturer through its dealer or the lessor to fail to give a written notice to the original purchaser or lessor that the vehicle is covered by the provisions of this bill or to fail to give a written notification to a consumer buying or leasing a vehicle returned pursuant to the provisions of this bill.

The bill also requires a manufacturer to certify to the Division of Consumer Affairs, within one year of discovery, the existence of any inherent design defect common to all motor vehicles of a particular model or make. Failure to comply with this provision will constitute an unlawful practice under the consumer fraud act.

The bill provides that a consumer cannot waive or limit his rights under the provisions of this bill and that the provisions of this bill do not limit other rights or remedies available to a consumer under any other law.

Finally, the bill appropriates \$250,000.00 to the Division of Consumer Affairs to effectuate its purposes. The provisions of the bill apply to all new automobiles and motorcycles purchased or leased on or after the 180th day after enactment of the bill.

SENATE REVENUE, FINANCE AND APPROPRIATIONS  
COMMITTEE

STATEMENT TO

[FIRST REPRINT]

**SENATE, No. 2201**

with Senate committee amendments

**STATE OF NEW JERSEY**

DATED: MAY 9, 1988

The Senate Revenue, Finance and Appropriations Committee reported Senate Bill 2201 (1R) favorably, with committee amendments.

Senate Bill 2201 (1R), as amended, repeals and replaces New Jersey's present lemon law, P.L.1983, c.215 (C.56:12-19 et seq.). In addition, the bill appropriates \$250,000 to the Department of Law and Public Safety to effectuate the purposes of the act.

The bill requires a manufacturer of a new automobile or motorcycle to repair all defects which substantially impair the vehicle's use, value or safety if reported by the consumer within the first 18,000 miles of operation or within two years of the vehicle's delivery to the consumer, whichever is earlier. However, the bill provides that any repairs made after the expiration of the applicable warranty period shall be paid by the consumer, subject to subsequent reimbursement in an action or administrative hearing pursuant to the provisions of this bill. If the manufacturer or its dealer is unable to repair a defect within a reasonable time, the bill requires the manufacturer to refund the full purchase price and other charges and fees specified in the bill, less an allowance for the consumer's use of the returned vehicle. The manufacturer may offer to replace the vehicle in lieu of a refund, but the consumer may reject a manufacturer's offer of replacement and demand a refund. The refund would be made to the consumer and to anyone holding a lien on the vehicle. A consumer who leases a new vehicle would have these same remedies, except that the consumer would receive a full refund of the amount actually paid by the consumer under the lease agreement and any charges and fees specified by the bill, less a reasonable allowance for vehicle use.

If a dispute arises between a consumer and a manufacturer over whether or not a refund should be made for a vehicle which the manufacturer or dealer has failed to repair, the consumer may: use the manufacturer's informal dispute settlement procedure if it conforms with the requirements of this bill and federal law; submit the dispute to the Division of Consumer Affairs in the Department of Law and Public Safety, which may refer the dispute to the Office of Administrative Law for a summary hearing; or file an action in Superior Court. The consumer has the choice of which procedure to use to settle the dispute and does not have to use any one particular procedure before using the other.

If a vehicle is returned to a manufacturer under the provisions of this bill, it cannot be resold or re-leased in New Jersey unless the manufacturer, dealer or lessor provides the consumer with a written statement indicating that the vehicle was a lemon vehicle that was returned to the manufacturer.

The bill provides that it is unlawful practice under the consumer fraud act, P.L. 1960, c. 39 (C. 56:8-1 et seq.), for a manufacturer through its dealer or the lessor to fail to give a written notice to the original purchaser or lessor that the vehicle is covered by the provisions of this bill or to fail to give a written notification to a consumer buying or leasing a vehicle returned pursuant to the provisions of this bill.

The bill also requires a manufacturer to certify to the Division of Consumers Affairs, within one year of discovery, the existence of any inherent design defect common to all motor vehicles of a particular model or make. Failure to comply with this provision will constitute an unlawful practice under the consumer fraud act.

The bill provides that a consumer cannot waive or limit his rights under the provisions of this bill and that the provisions of this bill do not limit other rights or remedies available to a consumer under any other law.

The provisions of the bill apply to all new automobiles and motorcycles purchased or leased on or after the 180th day after enactment of the bill.

#### **COMMITTEE AMENDMENTS**

At the request of the Attorney General, the committee amendment clarifies the time period after which a consumer must pay for repairs. In addition, other amendments are technical in nature and correct the effective date.

**FISCAL IMPACT**

This bill appropriates \$250,000 from the General Fund to the Department of Law and Public Safety to effectuate the purposes of this act. The department estimates that this amount is sufficient to operate the program for a full year and does not anticipate the receipt of any revenues from fees and penalties during the first year.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[CORRECTED COPY]  
[SECOND REPRINT]

SENATE, No. 2201

STATE OF NEW JERSEY

DATED: JUNE 9, 1988

The Assembly Appropriations Committee favorably reports Senate Bill No. 2201 (2R) (CC).

Senate Bill No. 2201 (2R) (CC) repeals and replaces New Jersey's present lemon law, P.L.1983, c.215 (C.56:12-19 et seq.). In addition, the bill appropriates \$250,000 to the Department of Law and Public Safety to effectuate the purposes of the act.

The bill requires a manufacturer of a new automobile or motorcycle to repair all defects which substantially impair the vehicle's use, value or safety if reported by the consumer within the first 18,000 miles of operation or within two years of the vehicle's delivery to the consumer, whichever is earlier. However, the bill provides that any repairs made after the expiration of the applicable warranty period shall be paid by the consumer, subject to subsequent reimbursement in an action or administrative hearing pursuant to the provisions of this bill. If the manufacturer or its dealer is unable to repair a defect within a reasonable time, the bill requires the manufacturer to refund the full purchase price and other charges and fees specified in the bill, less an allowance for the consumer's use of the returned vehicle. The manufacturer may offer to replace the vehicle in lieu of a refund, but the consumer may reject a manufacturer's offer of replacement and demand a refund. The refund would be made to the consumer and to anyone holding a lien on the vehicle. A consumer who leases a new vehicle would have these same remedies, except that the consumer would receive a full refund of the amount actually paid by the consumer under the lease agreement and any charges and fees specified by the bill, less a reasonable allowance for vehicle use.

If a dispute arises between a consumer and a manufacturer, the consumer may: use the manufacturer's informal dispute settlement procedure; submit the dispute to the Division of Consumer Affairs in the Department of Law and Public Safety; or file an action in Superior Court. The consumer does not have to use any one particular procedure before using the other.

If a vehicle is returned to a manufacturer under the provisions of this bill, it cannot be resold or re-leased in New Jersey unless the manufacturer, dealer or lessor provides the consumer with a written statement indicating that the vehicle was a lemon vehicle that was returned to the manufacturer.

The bill provides that it is unlawful practice under the consumer fraud act, P.L. 1960, c. 39 (C. 56:8-1 et seq.), for a manufacturer to fail to give a written notice to the original purchaser or lessor that the vehicle is covered by the provisions of this bill or to fail to give a written notification to a consumer buying or leasing a vehicle returned pursuant to the provisions of this bill.

The bill also requires a manufacturer to certify to the Division of Consumers Affairs, within one year of discovery, the existense of any inherent design defect common to all motor vehicles of a particular model or make.

The bill provides that a consumer cannot waive or limit his rights under the provisions of this bill and that the provisions of this bill do not limit other rights or remedies available to a consumer under any other law.

The provisions of the bill apply to all new automobiles and motorcycles purchased or leased on or after the 180th day after enactment of the bill.

Senate Bill No. 2201 (2R) (CC) is identical to Assembly Bill No. 2673 (1R), as amended.

#### **FISCAL IMPACT**

This bill appropriates \$250,000 from the General Fund to the Department of Law and Public Safety to effectuate the purposes of the bill. The department estimates that this amount is sufficient to operate the program for a full year and does not anticipate the receipt of any revenues from fees and penalties during the first year.



LEGISLATIVE FISCAL ESTIMATE TO

[FIRST REPRINT]

SENATE, No. 2201

STATE OF NEW JERSEY

DATED: May 31, 1988

Senate Bill No. 2201 (1R) of 1988 requires the manufacturer of a new automobile or motorcycle to repair defects which substantially impair the vehicle's use, value or safety if reported by the owner within the first 18,000 miles of operation or first two years, whichever is earlier. If the manufacturer or his dealer is unable to repair the defect within a reasonable time, the bill requires the manufacturer to refund the purchase price of the vehicle. This bill repeals and replaces New Jersey's present "lemon law," P.L. 1983, c. 215 (C. 56:12-19).

Enactment of S-2201 (1R) will have a fiscal impact on the State in situations when a dispute arises between a dissatisfied consumer and a manufacturer. In this instance, the bill provides that the consumer may refer the dispute to the Division of Consumer Affairs in the Department of Law and Public Safety. The director of the division is required to review the consumer's application for dispute resolution and may then refer the dispute to the Office of Administrative Law (OAL) for a summary hearing. The director is further required to review and adopt, modify or reject the decision of an administrative law judge. The division also is required to maintain and make public records regarding disputes and settlements.

The Department of Law and Public Safety estimates that the division will require \$298,000 to administer the law in the first year after enactment and \$249,000 and \$254,000 in the second and third years, respectively. These amounts would provide salaries and benefits for six employees (\$156,000 in the first year) and related administrative costs. The figure for the first year includes a one time expenditure of \$30,000 for computers and \$10,000 for other equipment. First-year training costs of \$35,000 also are included.

The department states that it is unable to estimate the number of disputes which would be filed with the division under the terms of this bill.

Although the number of disputes which will be filed is difficult to predict, the Office of Legislative Services observes that the department's estimate of costs may be somewhat high. Six personnel, for whom full-year salaries are requested, probably will not be required in the first year after enactment. The estimated

costs for computer equipment (\$30,000) and training (\$35,000) also appear to be overstated.

Additional funding would be required by the OAL. Based on the experience of states with similar laws, the OAL estimates that it would be required to hear 750 to 800 cases a year under the terms of the bill. The OAL states that it might be able to handle some of these cases using existing resources. At "worst case," this volume of cases would require three to four full-time judges and related support services at a cost of about \$300,000 a year, according to the OAL.

The Office of Legislative Services notes that the volume of dispute cases heard by the OAL may be higher than the office's estimate. This estimate is reportedly based on a projection that 1 percent of the passenger vehicles and motorcycles covered by the bill may be the subject of "lemon" disputes. Registration data indicate that 496,000 such vehicles were registered in the State in 1987. One percent of this number would result in approximately 5000 disputes.

This bill also provides a source of State revenues. The director of the Division of Consumer Affairs is permitted to establish a filing fee for consumer disputes at a level not to exceed the cost of administering the act. The bill also provides a penalty of \$5,000 a day for manufacturers who unreasonably fail to comply with dispute decisions. Penalties are appropriated by the bill to carry out its purposes.

This language would allow the lemon law program to be self-supporting, after start-up, through the imposition of a sufficient filing fee. For example, if 800 disputes a year are filed, a fee of \$750 would be enough to cover the combined costs of the Division of Consumer Affairs and Office of Administrative Law. However, a fee of this magnitude may not be practical or within the intent of the Legislature.

The bill appropriates \$250,000 to carry out its purposes. Since the law would not take effect until 180 days following its enactment, this amount should be sufficient to cover implementation during the law's first fiscal year.

It also should be noted that the Governor's recommended FY 1989 budget contains a new appropriation of \$346,000 for an auto fraud and lemon law program in the Division of Consumer Affairs.

This fiscal estimate has been prepared pursuant to P.L. 1980, c. 87.



OFFICE OF THE GOVERNOR

**NEWS RELEASE**

Governor Thomas H. Kean  
TRENTON, N.J. 08625  
Release:

CN-001  
Contact:

CARL GOLDEN  
609-292-8956 OR 292-6000 EXT. 207

THURS. SEPT. 15, 1988

A substantially strengthened "lemon law" which will permit a car buyer to demand a manufacturer's refund for a vehicle determined to be defective was signed into law today by Governor Thomas H. Kean.

The bill, S-2201, was sponsored by Senator Edward O'Connor, D-Hudson, in the Senate, and by Assemblymen Thomas Shusted, R-Camden, and Joseph Doria, D-Hudson, in the Assembly.

"While New Jersey has had a so-called lemon law for a number of years, it has been generally conceded that it has not fulfilled its original promise of providing adequate protection to the consumer," Kean said. "Under the former law, a consumer was subjected to time-consuming, frustrating and oft-times pointless demands in order to prove the vehicle was defective."

The Governor said the new law "not only clears away the bureaucratic red tape and obstacles, but greatly enhances the consumers' position in obtaining relief."

The new law offers consumers the option of demanding a refund while rejecting the offer of a new replacement vehicle.

The new law also offers a new avenue of relief for consumers by removing the requirement that the informal dispute resolution process be followed before a legal action could be instituted.

- more -