

56:12-31

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2009 **CHAPTER:** 128
NJSA: 56:12-31 (Expands consumer protections under New Jersey's motor vehicle "lemon law.")
BILL NO: S454 (Substituted for A1954)
SPONSOR(S) Buono and Others
DATE INTRODUCED: January 8, 2008
COMMITTEE: **ASSEMBLY:** Consumer Affairs
 SENATE: Commerce
AMENDED DURING PASSAGE: Yes
DATE OF PASSAGE: **ASSEMBLY:** June 18, 2009
 SENATE: June 25, 2009
DATE OF APPROVAL: October 1, 2009

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (Second Reprint enacted)

S454

SPONSOR'S STATEMENT: (Begins on page 4 of original bill)	Yes
COMMITTEE STATEMENT:	ASSEMBLY: Yes
	SENATE: Yes

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, ***may possibly*** be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT:	Yes
LEGISLATIVE FISCAL ESTIMATE:	No

A1954

SPONSOR'S STATEMENT: (Begins on page 4 of original bill)	Yes
COMMITTEE STATEMENT:	ASSEMBLY: Yes
	SENATE: No
FLOOR AMENDMENT STATEMENT:	No
LEGISLATIVE FISCAL NOTE:	No

(continued)

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

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REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: No

LAW/RWH

[Second Reprint]
SENATE, No. 454

STATE OF NEW JERSEY
213th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2008 SESSION

Sponsored by:

Senator BARBARA BUONO

District 18 (Middlesex)

Senator NICHOLAS P. SCUTARI

District 22 (Middlesex, Somerset and Union)

Assemblywoman MILA M. JASEY

District 27 (Essex)

Assemblyman GORDON M. JOHNSON

District 37 (Bergen)

Assemblyman PAUL D. MORIARTY

District 4 (Camden and Gloucester)

Co-Sponsored by:

**Senators Cardinale, Singer, Gordon, Stack, Assemblywoman Oliver,
Assemblymen Coutinho, Giblin, L.Smith, Assemblywoman Quijano,
Assemblyman Ramos, Assemblywoman Greenstein and Senator Turner**

SYNOPSIS

Expands consumer protections under New Jersey's motor vehicle "lemon law."

CURRENT VERSION OF TEXT

As amended by the General Assembly on October 27, 2008.

(Sponsorship Updated As Of: 6/26/2009)

1 AN ACT concerning certain nonconforming new motor vehicles and
2 amending P.L.1988, c.123.

3

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

6

7 1. Section 3 of P.L.1988, c.123 (C.56:12-31) is amended to
8 read as follows:

9 3. If a consumer reports a nonconformity in a motor vehicle to
10 the manufacturer or its dealer during the first ~~[18,000]~~ 24,000
11 miles of operation or during the period of two years following the
12 date of original delivery to ~~[a]~~ the consumer, whichever is earlier,
13 the manufacturer shall make, or arrange with its dealer to make,
14 within a reasonable time, all repairs necessary to correct the
15 nonconformity. Such repairs if made after the first 12,000 miles of
16 operation or after the period of one year following the date of
17 original delivery to the consumer, whichever is earlier, shall be paid
18 for by the consumer, unless otherwise covered by a manufacturer's
19 warranty, and shall be recoverable as a cost under section 14 of this
20 act.

21 (cf: P.L.1988, c.123, s.3)

22

23 2. Section 5 of P.L.1988, c.123 (C.56:12-33) is amended to read
24 as follows:

25 5. a. It is presumed that a manufacturer or its dealer is unable to
26 repair or correct a nonconformity within a reasonable time if, within
27 the first ~~[18,000]~~ 24,000 miles of operation or during the period of
28 two years following the date of original delivery of the motor
29 vehicle to ~~[a]~~ the consumer, whichever is the earlier date:

30 (1) Substantially the same nonconformity has been subject to
31 repair three or more times by the manufacturer or its dealer, other
32 than a nonconformity subject to examination or repair pursuant to
33 paragraph (3) of this subsection because it is likely to cause death
34 or serious bodily injury if the vehicle is driven, and the
35 nonconformity continues to exist; ~~[or]~~

36 (2) The motor vehicle is out of service by reason of repair for
37 one or more nonconformities for a cumulative total of 20 or more
38 calendar days ¹, or in the case of a motorhome, 45 or more calendar
39 days,¹ since the original delivery of the motor vehicle and a
40 nonconformity continues to exist; or

41 (3) A nonconformity which is likely to cause death or serious
42 bodily injury if the vehicle is driven has been subject to
43 examination or repair at least ²~~[once]~~ twice¹ once² by the

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:

¹Assembly ACO committee amendments adopted June 5, 2008.

²Assembly floor amendments adopted October 27, 2008.

1 manufacturer or its dealer, and the nonconformity continues to
2 exist.

3 b. The presumption contained in subsection a. of this section
4 shall apply against a manufacturer only if the manufacturer has
5 received written notification, by or on behalf of the consumer, by
6 certified mail return receipt requested, of a potential claim pursuant
7 to the provisions of this act and has had one opportunity to repair or
8 correct the defect or condition within 10 calendar days following
9 receipt of the notification. Notification by the consumer shall take
10 place any time after the motor vehicle has had substantially the
11 same nonconformity subject to repair two or more times, or has
12 been out of service by reason of repair for a cumulative total of 20
13 or more calendar days ¹, or in the case of a motorhome, 45 or more
14 calendar days,^{1 2} or with respect to a nonconformity which is
15 likely to cause death or serious bodily injury if the vehicle is driven,
16 the nonconformity has been subject to examination or repair at least
17 ²[¹once] twice¹] ²once² by the manufacturer or its dealer, and the
18 nonconformity continues to exist.

19 c. The two-year term and the 20-day period ¹, or 45-day period
20 for motorhomes,¹ specified in this section shall be extended by any
21 period of time during which repair services are not available to the
22 consumer because of a war, invasion or strike, or a fire, flood, or
23 other natural disaster.

24 ¹d. (1) In the case of a motorhome where two or more
25 manufacturers contributed to the construction of the motorhome, it
26 shall not be considered as any examination or repair attempt if the
27 repair facility at which the consumer presented the vehicle is not
28 authorized by the manufacturer to provide service on that vehicle.

29 (2) It shall be considered as one examination or repair attempt
30 for a motorhome if the same nonconformity is addressed more than
31 once due to the consumer's decision to continue traveling and to
32 seek the repair of that same nonconformity at another authorized
33 repair facility, rather than wait for the repair to be completed at the
34 initial authorized repair facility.

35 (3) Days out of service for reason of repair for a motorhome
36 shall be cumulative total of 45 or more calendar days.¹

37 (cf: P.L.1988, c.123, s.5)

38

39 ²3. Section 6 of P.L.1988, c.123 (C.56:12-34) is amended to
40 read as follows:

41 6. a. At the time of purchase in the State of New Jersey, the
42 manufacturer through its dealer, or at the time of lease in the State
43 of New Jersey, the lessor, shall provide directly to the consumer
44 **[the following]** a written statement prescribed by the director,
45 presented in a conspicuous and understandable manner on a
46 separate piece of paper [, in 10-point bold-face type:
47 "IMPORTANT: IF THIS VEHICLE IS DEFECTIVE, YOU MAY

1 BE ENTITLED UNDER NEW JERSEY LAW TO A REFUND OF
2 THE PURCHASE PRICE OR YOUR LEASE PAYMENTS. FOR
3 COMPLETE INFORMATION REGARDING YOUR RIGHTS
4 AND REMEDIES UNDER THE RELEVANT LAW, CONTACT
5 THE NEW JERSEY DEPARTMENT OF LAW AND PUBLIC
6 SAFETY, DIVISION OF CONSUMER AFFAIRS."] and printed in
7 both the English and Spanish languages, which provides
8 information concerning a consumer's rights and remedies under
9 P.L.1988, c.123 (C.56:12-29 et seq.), and shall include, but not be
10 limited to, a summary of the provisions of:

11 (1) section 3 of P.L.1988, c.123 (C.56:12-31), concerning the
12 miles of operation of a motor vehicle and time period within which
13 the consumer may report a nonconformity and seek remedies;

14 (2) sections 4 and 5 of P.L.1988, c.123 (C.56:12-32 and 56:12-
15 33), concerning a manufacturer's obligations to a consumer based
16 upon the manufacturer's or its dealer's inability to repair or correct
17 a nonconformity; and

18 (3) any other provisions of P.L.1988, c.123 (C.56:12-29 et seq.)
19 the director deems appropriate.

20 b. Each time a consumer's motor vehicle is returned from being
21 examined or repaired during the period specified in section 3 of
22 [this act] P.L.1988, c.123 (C.56:12-31), the manufacturer through
23 its dealer shall provide to the consumer an itemized, legible
24 statement of repair which indicates any diagnosis made and all work
25 performed on the vehicle and provides information including, but
26 not limited to, the following: a general description of the problem
27 reported by the consumer or an identification of the problem
28 reported by the consumer or an identification of the defect or
29 condition; the amount charged for parts and the amount charged for
30 labor, if paid for by the consumer; the date and the odometer
31 reading when the vehicle was submitted for repair; and the date and
32 odometer reading when the vehicle was made available to the
33 consumer.

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

37 (cf: P.L.1988, c.123, s.6)

38
39 ¹[3. Section 6 of P.L.1988, c.123 (C.56:12-34) is amended to
40 read as follows:

41 6. a. At the time of purchase in the State of New Jersey, the
42 manufacturer through its dealer, or at the time of lease in the State
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5 THE NEW JERSEY DEPARTMENT OF LAW AND PUBLIC
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10 limited to, a summary of the provisions of:

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12 miles of operation of a motor vehicle and time period within which
13 the consumer may report a nonconformity and seek remedies;

14 (2) sections 4 and 5 of P.L.1988, c.123 (C.56:12-32 and 56:12-
15 33), concerning a manufacturer's obligations to a consumer based
16 upon the manufacturer's or its dealer's inability to repair or correct
17 a nonconformity; and

18 (3) any other provisions of P.L.1988, c.123 (C.56:12-29 et seq.)
19 the director deems appropriate.

20 b. Each time a consumer's motor vehicle is returned from being
21 examined or repaired during the period specified in section 3 of
22 **[this act]** P.L.1988, c.123 (C.56:12-31), the manufacturer through
23 its dealer shall provide to the consumer an itemized, legible
24 statement of repair which indicates any diagnosis made and all work
25 performed on the vehicle and provides information including, but
26 not limited to, the following: a general description of the problem
27 reported by the consumer or an identification of the problem
28 reported by the consumer or an identification of the defect or
29 condition; the amount charged for parts and the amount charged for
30 labor, if paid for by the consumer; the date and the odometer
31 reading when the vehicle was submitted for repair; and the date and
32 odometer reading when the vehicle was made available to the
33 consumer.

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

37 (cf: P.L.1988, c.123, s.6)]¹

38

39 '[4.]²[3.1] 4.² This act shall take effect immediately.

SENATE, No. 454

STATE OF NEW JERSEY

213th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2008 SESSION

Sponsored by:

Senator BARBARA BUONO

District 18 (Middlesex)

Senator NICHOLAS P. SCUTARI

District 22 (Middlesex, Somerset and Union)

Co-Sponsored by:

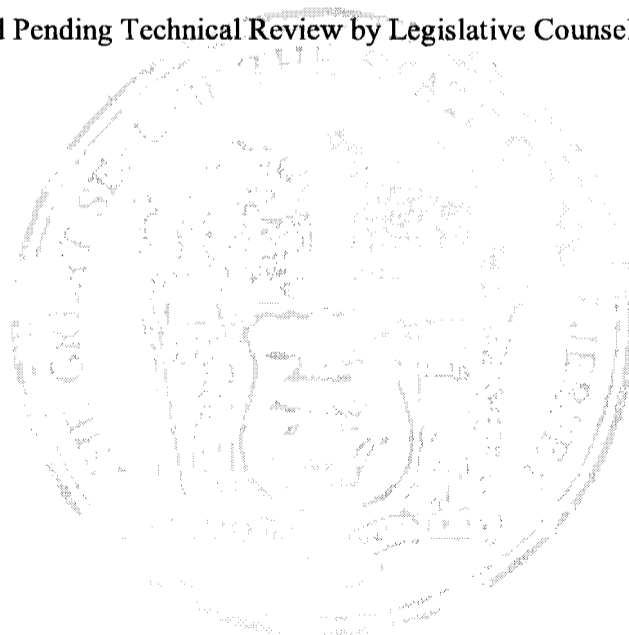
Senators Cardinale and Singer

SYNOPSIS

Expands consumer protections under New Jersey's motor vehicle "lemon law."

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



1 AN ACT concerning certain nonconforming new motor vehicles and
2 amending P.L.1988, c.123.

3

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

6

7 1. Section 3 of P.L.1988, c.123 (C.56:12-31) is amended to read
8 as follows:

9 3. If a consumer reports a nonconformity in a motor vehicle to
10 the manufacturer or its dealer during the first **[18,000]** 24,000
11 miles of operation or during the period of two years following the
12 date of original delivery to **[a]** the consumer, whichever is earlier,
13 the manufacturer shall make, or arrange with its dealer to make,
14 within a reasonable time, all repairs necessary to correct the
15 nonconformity. Such repairs if made after the first 12,000 miles of
16 operation or after the period of one year following the date of
17 original delivery to the consumer, whichever is earlier, shall be paid
18 for by the consumer, unless otherwise covered by a manufacturer's
19 warranty, and shall be recoverable as a cost under section 14 of this
20 act.

21 (cf: P.L.1988, c.123, s.3)

22

23 2. Section 5 of P.L.1988, c.123 (C.56:12-33) is amended to read
24 as follows:

25 5. a. It is presumed that a manufacturer or its dealer is unable to
26 repair or correct a nonconformity within a reasonable time if, within
27 the first **[18,000]** 24,000 miles of operation or during the period of
28 two years following the date of original delivery of the motor
29 vehicle to **[a]** the consumer, whichever is the earlier date:

30 (1) Substantially the same nonconformity has been subject to
31 repair three or more times by the manufacturer or its dealer, other
32 than a nonconformity subject to examination or repair pursuant to
33 paragraph (3) of this subsection because it is likely to cause death
34 or serious bodily injury if the vehicle is driven, and the
35 nonconformity continues to exist; **[or]**

36 (2) The motor vehicle is out of service by reason of repair for
37 one or more nonconformities for a cumulative total of 20 or more
38 calendar days since the original delivery of the motor vehicle and a
39 nonconformity continues to exist; or

40 (3) A nonconformity which is likely to cause death or serious
41 bodily injury if the vehicle is driven has been subject to
42 examination or repair at least once by the manufacturer or its dealer,
43 and the nonconformity continues to exist.

44 b. The presumption contained in subsection a. of this section

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.

1 shall apply against a manufacturer only if the manufacturer has
2 received written notification, by or on behalf of the consumer, by
3 certified mail return receipt requested, of a potential claim pursuant
4 to the provisions of this act and has had one opportunity to repair or
5 correct the defect or condition within 10 calendar days following
6 receipt of the notification. Notification by the consumer shall take
7 place any time after the motor vehicle has had substantially the
8 same nonconformity subject to repair two or more times, or has
9 been out of service by reason of repair for a cumulative total of 20
10 or more calendar days, or with respect to a nonconformity which is
11 likely to cause death or serious bodily injury if the vehicle is driven,
12 the nonconformity has been subject to examination or repair at least
13 once by the manufacturer or its dealer, and the nonconformity
14 continues to exist.

15 c. The two-year term and the 20-day period specified in this
16 section shall be extended by any period of time during which repair
17 services are not available to the consumer because of a war,
18 invasion or strike, or a fire, flood, or other natural disaster.
19 (cf: P.L.1988, c.123, s.5)

20

21 3. Section 6 of P.L.1988, c.123 (C.56:12-34) is amended to read
22 as follows:

23 6. a. At the time of purchase in the State of New Jersey, the
24 manufacturer through its dealer, or at the time of lease in the State
25 of New Jersey, the lessor, shall provide directly to the consumer
26 **[the following]** a written statement prescribed by the director,
27 presented in a conspicuous and understandable manner on a
28 separate piece of paper [, in 10-point bold-face type:
29 "IMPORTANT: IF THIS VEHICLE IS DEFECTIVE, YOU MAY
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35 SAFETY, DIVISION OF CONSUMER AFFAIRS."] and printed in
36 both the English and Spanish languages, which provides
37 information concerning a consumer's rights and remedies under
38 P.L.1988, c.123 (C.56:12-29 et seq.), and shall include, but not be
39 limited to, a summary of the provisions of:

40 (1) section 3 of P.L.1988, c.123 (C.56:12-31), concerning the
41 miles of operation of a motor vehicle and time period within which
42 the consumer may report a nonconformity and seek remedies;

43 (2) sections 4 and 5 of P.L.1988, c.123 (C.56:12-32 and 56:12-
44 33), concerning a manufacturer's obligations to a consumer based
45 upon the manufacturer's or its dealer's inability to repair or correct
46 a nonconformity; and

1 (3) any other provisions of P.L.1988, c.123 (C.56:12-29 et seq.)
2 the director deems appropriate.

3 b. Each time a consumer's motor vehicle is returned from being
4 examined or repaired during the period specified in section 3 of
5 **[this act]** P.L.1988, c.123 (C.56:12-31), the manufacturer through
6 its dealer shall provide to the consumer an itemized, legible
7 statement of repair which indicates any diagnosis made and all work
8 performed on the vehicle and provides information including, but
9 not limited to, the following: a general description of the problem
10 reported by the consumer or an identification of the problem
11 reported by the consumer or an identification of the defect or
12 condition; the amount charged for parts and the amount charged for
13 labor, if paid for by the consumer; the date and the odometer
14 reading when the vehicle was submitted for repair; and the date and
15 odometer reading when the vehicle was made available to the
16 consumer.

17 c. Failure to comply with the provisions of this section
18 constitutes an unlawful practice pursuant to section 2 of P.L.1960,
19 c.39 (C.56:8-2).
20 (cf: P.L.1988, c.123, s.6)

21
22 4. This act shall take effect immediately.
23

24
25 SPONSORS STATEMENT
26

27 This bill extends the period of "lemon law" coverage for new
28 automobiles and motorcycles, so that a manufacturer shall make, or
29 arrange with its dealer to make, within a reasonable time, all repairs
30 necessary to correct a vehicle's nonconformity when reported by a
31 consumer during the first 24,000 miles of operation. Currently, the
32 law requires such action by the manufacturer or dealer when
33 reported by a consumer during the first 18,000 miles of operation;
34 or during the period of two years following the date of original
35 delivery to the consumer, which timeframe is unaltered by the
36 amended bill.

37 Also, the bill distinguishes between nonconformities generally
38 that impair the use, value or safety of a motor vehicle and those
39 nonconformities that are likely to cause death or serious bodily
40 injury if the vehicle is driven. Regarding the latter, "serious
41 nonconformities," it shall be presumed that a manufacturer or its
42 dealer is unable to repair or correct such nonconformity if the
43 nonconformity has been subject to examination or repair at least
44 once; this presumption only applies to other types of
45 nonconformities if the same nonconformity has been subject to
46 repair three or more times.

47 By establishing a presumption of inability to repair or correct a
48 safety-related "serious nonconformity" after only one examination

S454 BUONO, SCUTARI

5

1 or repair attempt, the amended bill creates a more expedited
2 procedure for a consumer to pursue to return a faulty vehicle with
3 such nonconformity to the manufacturer, thereby potentially
4 reducing or eliminating the consumer's continued use of the unsafe
5 vehicle.

6 Finally, the bill establishes a new, more detailed consumer notice
7 concerning New Jersey's "lemon law." The notice shall be
8 provided by manufacturers, as prescribed by the Director of the
9 Division of Consumer Affairs, presented on a separate piece of
10 paper and printed in both the English and Spanish languages, and
11 provide information concerning a consumer's rights and remedies,
12 including: the miles of operation and time period within which a
13 consumer may report a nonconformity; the manufacturer's
14 obligations to the consumer if it or its dealer is unable to repair a
15 nonconformity; and any other "lemon law" provisions deemed
16 appropriate by the director.

SENATE COMMERCE COMMITTEE

STATEMENT TO

SENATE, No. 454

STATE OF NEW JERSEY

DATED: JANUARY 28, 2008

The Senate Commerce Committee reports favorably Senate Bill No. 454.

This bill extends the period of "lemon law" coverage for new automobiles and motorcycles, so that a manufacturer shall make, or arrange with its dealer to make, within a reasonable time, all repairs necessary to correct a vehicle's nonconformity when reported by a consumer during the first 24,000 miles of operation. Currently, the law requires such action by the manufacturer or dealer when reported by a consumer during the first 18,000 miles of operation; or during the period of two years following the date of original delivery to the consumer, which timeframe is unaltered by the bill.

Also, the bill distinguishes between nonconformities generally that impair the use, value or safety of a motor vehicle and those nonconformities that are likely to cause death or serious bodily injury if the vehicle is driven. Regarding the latter, "serious nonconformities," it shall be presumed that a manufacturer or its dealer is unable to repair or correct such nonconformity if the nonconformity has been subject to examination or repair at least once; this presumption only applies to other types of nonconformities if the same nonconformity has been subject to repair three or more times.

By establishing a presumption of inability to repair or correct a safety-related "serious nonconformity" after only one examination or repair attempt, the bill creates a more expedited procedure for a consumer to pursue to return a faulty vehicle with such nonconformity to the manufacturer, thereby potentially reducing or eliminating the consumer's continued use of the unsafe vehicle.

Finally, the bill establishes a new, more detailed consumer notice concerning New Jersey's "lemon law." The notice shall be provided by manufacturers, as prescribed by the Director of the Division of Consumer Affairs, presented on a separate piece of paper and printed in both the English and Spanish languages, and provide information concerning a consumer's rights and remedies, including: the miles of operation and time period within which a consumer may report a nonconformity; the manufacturer's obligations to the consumer if it or its dealer is unable to repair a nonconformity; and any other "lemon law" provisions deemed appropriate by the director.

This bill was pre-filed for introduction in the 2008-2009 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

ASSEMBLY CONSUMER AFFAIRS COMMITTEE

STATEMENT TO

SENATE, No. 454

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 5, 2008

The Assembly Consumer Affairs Committee reports favorably and with committee amendments Senate Bill No. 454.

As amended, Senate Bill No. 454 extends the period of "lemon law" coverage for new automobiles and motorcycles.

Under current law, a manufacturer or dealer must make all repairs necessary to correct a vehicle's nonconformity if it is reported by a consumer during the first 18,000 miles of operation or during the first two years after the vehicle's delivery to the consumer. This bill would expand the timeframe during which a consumer could report the problem to include the first 24,000 miles.

The amended bill also distinguishes between nonconformities that impair the use, value, or safety of a motor vehicle, in general, and those that are likely to cause death or serious bodily injury if the vehicle is driven. Regarding the latter, "serious nonconformities," the bill requires the owner be able to return the vehicle for reimbursement if the manufacturer or its dealer is unable to repair or correct the nonconformity after two attempts. Current law makes no such distinctions, and allows manufacturers and dealers three attempts to repair the vehicle before the owner may return it for reimbursement.

By allowing fewer attempts to repair or correct a safety-related "serious nonconformity," the bill creates a more expedited procedure for consumers, thereby potentially reducing or eliminating their continued use of unsafe vehicles.

The amended bill also makes a distinction between motorhomes and other vehicles. Under the amended bill, manufacturers and dealers have 45 days, as compared with 20, to attempt to repair a motorhome. In addition, the bill specifies that, in the case of motor homes, the following circumstances may not be counted as a repair attempt:

- if the repair facility at which the motorhome is presented is not authorized by the manufacturer to provide the necessary service on a motorhome constructed by two or more manufacturers; or
- if the consumer decides to continue traveling and seek the repair of the nonconformity at another authorized repair

facility, rather than wait for the repair to be completed at the initial authorized repair facility.

COMMITTEE AMENDMENTS

At the sponsor's request, the committee amended the bill to:

- Allow a manufacturer or dealer two attempts, rather than one, to repair a nonconformity which is likely to cause death or serious bodily injury if the vehicle is driven;
- Remove language requiring a new, more detailed form of notice concerning New Jersey's motor vehicle "lemon law;"
- Allow manufacturers and dealers 45 days, as compared with 20, to attempt to repair a motorhome; and
- Clarify that certain circumstances may not be counted as a repair attempt on a motorhome.

STATEMENT TO

[First Reprint]

SENATE, No. 454

Assembly Floor Amendments
(Proposed By Assemblywoman JASEY)

ADOPTED: OCTOBER 27, 2008

Senate Bill No. 454 [1R] expands consumer protections under New Jersey's motor vehicle "lemon law."

These Assembly amendments reverse some previous changes to the bill by returning to the bill's original provisions. Under these amendments, a manufacturer or dealer would only have one attempt, rather than two, to repair a nonconformity which is likely to cause death or serious bodily injury if the vehicle is driven. These amendments also reinstate language requiring a new, more detailed form of notice concerning New Jersey's motor vehicle "lemon law."

ASSEMBLY, No. 1954

STATE OF NEW JERSEY
213th LEGISLATURE

INTRODUCED JANUARY 28, 2008

Sponsored by:

Assemblyman NEIL M. COHEN

District 20 (Union)

Assemblywoman MILA M. JASEY

District 27 (Essex)

Co-Sponsored by:

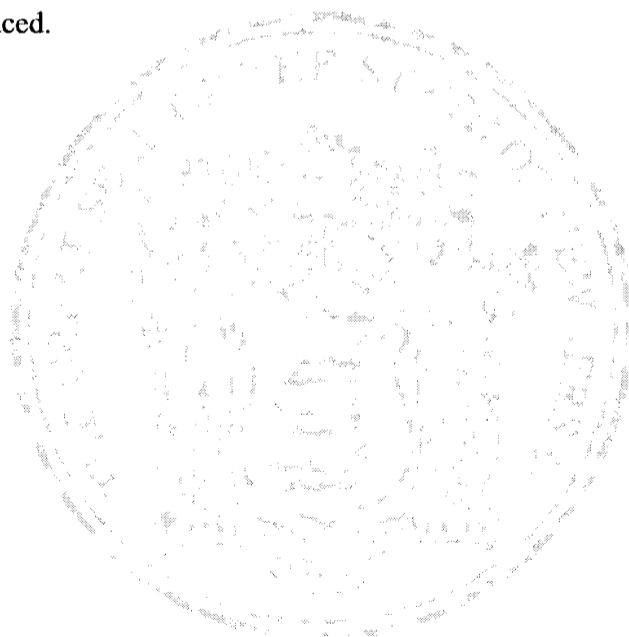
Assemblywoman Oliver, Assemblymen Coutinho and Giblin

SYNOPSIS

Expands consumer protections under New Jersey's motor vehicle "lemon law."

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 2/29/2008)

A1954 COHEN, JASEY

2

1 AN ACT concerning certain nonconforming new motor vehicles and
2 amending P.L.1988, c.123.

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4 **BE IT ENACTED** by the Senate and General Assembly of the State
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8 as follows:

9 3. If a consumer reports a nonconformity in a motor vehicle to
10 the manufacturer or its dealer during the first ~~18,000~~ 24,000
11 miles of operation or during the period of two years following the
12 date of original delivery to ~~the~~ **[a]** the consumer, whichever is earlier,
13 the manufacturer shall make, or arrange with its dealer to make,
14 within a reasonable time, all repairs necessary to correct the
15 nonconformity. Such repairs if made after the first 12,000 miles of
16 operation or after the period of one year following the date of
17 original delivery to the consumer, whichever is earlier, shall be paid
18 for by the consumer, unless otherwise covered by a manufacturer's
19 warranty, and shall be recoverable as a cost under section 14 of this
20 act.

21 (cf: P.L.1988, c.123, s.3)

22
23 2. Section 5 of P.L.1988, c.123 (C.56:12-33) is amended to read
24 as follows:

25 5. a. It is presumed that a manufacturer or its dealer is unable to
26 repair or correct a nonconformity within a reasonable time if, within
27 the first ~~18,000~~ 24,000 miles of operation or during the period of
28 two years following the date of original delivery of the motor
29 vehicle to ~~the~~ **[a]** the consumer, whichever is the earlier date:

30 (1) Substantially the same nonconformity has been subject to
31 repair three or more times by the manufacturer or its dealer, other
32 than a nonconformity subject to examination or repair pursuant to
33 paragraph (3) of this subsection because it is likely to cause death
34 or serious bodily injury if the vehicle is driven, and the
35 nonconformity continues to exist; ~~or~~ **[or]**

36 (2) The motor vehicle is out of service by reason of repair for
37 one or more nonconformities for a cumulative total of 20 or more
38 calendar days since the original delivery of the motor vehicle and a
39 nonconformity continues to exist; ~~or~~

40 (3) A nonconformity which is likely to cause death or serious
41 bodily injury if the vehicle is driven has been subject to
42 examination or repair at least once by the manufacturer or its dealer,
43 and the nonconformity continues to exist.

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.

1 b. The presumption contained in subsection a. of this section
2 shall apply against a manufacturer only if the manufacturer has
3 received written notification, by or on behalf of the consumer, by
4 certified mail return receipt requested, of a potential claim pursuant
5 to the provisions of this act and has had one opportunity to repair or
6 correct the defect or condition within 10 calendar days following
7 receipt of the notification. Notification by the consumer shall take
8 place any time after the motor vehicle has had substantially the
9 same nonconformity subject to repair two or more times, or has
10 been out of service by reason of repair for a cumulative total of 20
11 or more calendar days, or with respect to a nonconformity which is
12 likely to cause death or serious bodily injury if the vehicle is driven,
13 the nonconformity has been subject to examination or repair at least
14 once by the manufacturer or its dealer, and the nonconformity
15 continues to exist.

16 c. The two-year term and the 20-day period specified in this
17 section shall be extended by any period of time during which repair
18 services are not available to the consumer because of a war,
19 invasion or strike, or a fire, flood, or other natural disaster.
20 (cf: P.L.1988, c.123, s.5)

21
22 3. Section 6 of P.L.1988, c.123 (C.56:12-34) is amended to read
23 as follows:

24 6. a. At the time of purchase in the State of New Jersey, the
25 manufacturer through its dealer, or at the time of lease in the State
26 of New Jersey, the lessor, shall provide directly to the consumer
27 **[the following]** a written statement prescribed by the director,
28 presented in a conspicuous and understandable manner on a
29 separate piece of paper **[**, in 10-point bold-face type:
30 "IMPORTANT: IF THIS VEHICLE IS DEFECTIVE, YOU MAY
31 BE ENTITLED UNDER NEW JERSEY LAW TO A REFUND OF
32 THE PURCHASE PRICE OR YOUR LEASE PAYMENTS. FOR
33 COMPLETE INFORMATION REGARDING YOUR RIGHTS
34 AND REMEDIES UNDER THE RELEVANT LAW, CONTACT
35 THE NEW JERSEY DEPARTMENT OF LAW AND PUBLIC
36 SAFETY, DIVISION OF CONSUMER AFFAIRS."**]** and printed in
37 both the English and Spanish languages, which provides
38 information concerning a consumer's rights and remedies under
39 P.L.1988, c.123 (C.56:12-29 et seq.), and shall include, but not be
40 limited to, a summary of the provisions of:

41 (1) section 3 of P.L.1988, c.123 (C.56:12-31), concerning the
42 miles of operation of a motor vehicle and time period within which
43 the consumer may report a nonconformity and seek remedies;

44 (2) sections 4 and 5 of P.L.1988, c.123 (C.56:12-32 and 56:12-
45 33), concerning a manufacturer's obligations to a consumer based
46 upon the manufacturer's or its dealer's inability to repair or correct
47 a nonconformity; and

1 (3) any other provisions of P.L.1988, c.123 (C.56:12-29 et seq.)
2 the director deems appropriate.

3 b. Each time a consumer's motor vehicle is returned from being
4 examined or repaired during the period specified in section 3 of
5 [this act] P.L.1988, c.123 (C.56:12-31), the manufacturer through
6 its dealer shall provide to the consumer an itemized, legible
7 statement of repair which indicates any diagnosis made and all work
8 performed on the vehicle and provides information including, but
9 not limited to, the following: a general description of the problem
10 reported by the consumer or an identification of the problem
11 reported by the consumer or an identification of the defect or
12 condition; the amount charged for parts and the amount charged for
13 labor, if paid for by the consumer; the date and the odometer
14 reading when the vehicle was submitted for repair; and the date and
15 odometer reading when the vehicle was made available to the
16 consumer.

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

20 (cf: P.L.1988, c.123, s.6)

21
22 4. This act shall take effect immediately.

23
24
25 SPONSOR'S STATEMENT

26
27 This bill extends the period of "lemon law" coverage for new
28 automobiles and motorcycles, so that a manufacturer shall make, or
29 arrange with its dealer to make, within a reasonable time, all repairs
30 necessary to correct a vehicle's nonconformity when reported by a
31 consumer during the first 24,000 miles of operation. Currently, the
32 law requires such action by the manufacturer or dealer when
33 reported by a consumer during the first 18,000 miles of operation;
34 or during the period of two years following the date of original
35 delivery to the consumer, which timeframe is unaltered by the bill.

36 Also, the bill distinguishes between nonconformities generally
37 that impair the use, value or safety of a motor vehicle and those
38 nonconformities that are likely to cause death or serious bodily
39 injury if the vehicle is driven. Regarding the latter, "serious
40 nonconformities," it shall be presumed that a manufacturer or its
41 dealer is unable to repair or correct such nonconformity if the
42 nonconformity has been subject to examination or repair at least
43 once; this presumption only applies to other types of
44 nonconformities if the same nonconformity has been subject to
45 repair three or more times.

46 By establishing a presumption of inability to repair or correct a
47 safety-related "serious nonconformity" after only one examination
48 or repair attempt, the bill creates a more expedited procedure for a

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1 consumer to pursue to return a faulty vehicle with such
2 nonconformity to the manufacturer, thereby potentially reducing or
3 eliminating the consumer's continued use of the unsafe vehicle.

4 Finally, the bill establishes a new, more detailed consumer notice
5 concerning New Jersey's "lemon law." The notice shall be
6 provided by manufacturers, as prescribed by the Director of the
7 Division of Consumer Affairs, presented on a separate piece of
8 paper and printed in both the English and Spanish languages, and
9 provide information concerning a consumer's rights and remedies,
10 including: the miles of operation and time period within which a
11 consumer may report a nonconformity; the manufacturer's
12 obligations to the consumer if it or its dealer is unable to repair a
13 nonconformity; and any other "lemon law" provisions deemed
14 appropriate by the Director.

ASSEMBLY CONSUMER AFFAIRS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1954

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 5, 2008

The Assembly Consumer Affairs Committee reports favorably and with committee amendments Assembly Bill No. 1954.

As amended, Assembly Bill No. 1954 extends the period of "lemon law" coverage for new automobiles and motorcycles.

Under current law, a manufacturer or dealer must make all repairs necessary to correct a vehicle's nonconformity if it is reported by a consumer during the first 18,000 miles of operation or during the first two years after the vehicle's delivery to the consumer. This bill would expand the timeframe during which a consumer could report the problem to include the first 24,000 miles.

The amended bill also distinguishes between nonconformities that impair the use, value, or safety of a motor vehicle, in general, and those that are likely to cause death or serious bodily injury if the vehicle is driven. Regarding the latter, "serious nonconformities," the bill requires the owner be able to return the vehicle for reimbursement if the manufacturer or its dealer is unable to repair or correct the nonconformity after two attempts. Current law makes no such distinctions, and allows manufacturers and dealers three attempts to repair the vehicle before the owner may return it for reimbursement.

By allowing fewer attempts to repair or correct a safety-related "serious nonconformity," the bill creates a more expedited procedure for consumers, thereby potentially reducing or eliminating their continued use of unsafe vehicles.

The amended bill also makes a distinction between motorhomes and other vehicles. Under the amended bill, manufacturers and dealers have 45 days, as compared with 20, to attempt to repair a motorhome. In addition, the bill specifies that, in the case of motor homes, the following circumstances may not be counted as a repair attempt:

- if the repair facility at which the motorhome is presented is not authorized by the manufacturer to provide the necessary service on a motorhome constructed by two or more manufacturers; or
- if the consumer decides to continue traveling and seek the repair of the nonconformity at another authorized repair

facility, rather than wait for the repair to be completed at the initial authorized repair facility.

COMMITTEE AMENDMENTS

At the sponsor's request, the committee amended the bill to:

- Allow a manufacturer or dealer two attempts, rather than one, to repair a nonconformity which is likely to cause death or serious bodily injury if the vehicle is driven;
- Remove language requiring a new, more detailed form of notice concerning New Jersey's motor vehicle "lemon law;"
- Allow manufacturers and dealers 45 days, as compared with 20, to attempt to repair a motorhome; and
- Clarify that certain circumstances may not be counted as a repair attempt on a motorhome.