

39:10-9.3

LEGISLATIVE HISTORY CHECKLIST
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(Motor vehicles--title--
notation of "lemon")

NJSA: 39:10-9.3 et al

LAWS OF: 1993

CHAPTER: 21

BILL NO: S608

SPONSOR(S) Smith

DATE INTRODUCED: March 23, 1992

COMMITTEE: ASSEMBLY: Commerce

SENATE: Law & Public Safety

AMENDED DURING PASSAGE: Yes Amendments during passage
denoted by asterisks

DATE OF PASSAGE: ASSEMBLY: October 29, 1992

SENATE: December 17, 1992

DATE OF APPROVAL: January 22, 1993

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY: Yes

SENATE: Yes

FISCAL NOTE: ~~No~~ YES

VETO MESSAGE: No

MESSAGE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

See newspaper clippings--attached.

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[SECOND REPRINT]

SENATE, No. 608

STATE OF NEW JERSEY

INTRODUCED MARCH 23, 1992

By Senators SMITH, Cowan and Connors

1 AN ACT concerning the sale or lease of certain motor vehicles,
2 amending P.L.1988, c.123, and supplementing chapter 10 of
3 Title 39 of the Revised Statutes.

4

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

7 1. (New section) a. In every sale or transfer of a motor
8 vehicle returned to the manufacturer under the provisions of
9 P.L.1988, c.123 (C.56:12-29 et seq.), a similar statute of another
10 state, or as the result of a legal action or an informal dispute
11 settlement procedure, the certificate of ownership shall indicate,
12 in a conspicuous and understandable manner, that the motor
13 vehicle was returned to the manufacturer because it did not
14 conform to the manufacturer's warranty and the nonconformity
15 was not corrected within a reasonable time as provided by law.
16 The notice required under the provisions of this subsection shall
17 continue to appear on each certificate of ownership issued as a
18 result of any subsequent sale or transfer of that motor vehicle.

19 b. Any person who transfers or attempts to transfer a motor
20 vehicle in violation of this section shall be subject to a fine of not
21 more than \$7,500.

22 c. The Director of the Division of Motor Vehicles in the
23 Department of Law and Public Safety, in accordance with the
24 provisions of the "Administrative Procedure Act" P.L.1968, c.410
25 (C.52:14B-1 et seq.), shall promulgate rules and regulations to
26 effectuate the purposes of this section.

27 2. Section 7 of P.L.1988, c.123 (C.56:12-35) is amended to
28 read as follows:

29 7. ²a. If a motor vehicle is returned to the manufacturer
30 under the provisions of this act or a similar statute of another
31 state or as the result of a legal action or an informal dispute
32 settlement procedure, it shall not be resold or re-leased in New
33 Jersey unless:

34 ²[a.] ⁽¹⁾ The manufacturer provides to the dealer or lessor and
35 the dealer or lessor provides to the consumer the following
36 written statement on a separate piece of paper ²[¹or on the
37 vehicle buyer order¹]², in 10-point bold-face type:
38 "IMPORTANT: THIS VEHICLE WAS RETURNED TO THE
39 MANUFACTURER BECAUSE IT DID NOT CONFORM TO THE
40 MANUFACTURER'S WARRANTY AND THE NONCONFORMITY
41 WAS NOT CORRECTED WITHIN A REASONABLE TIME AS
42 PROVIDED BY LAW [.]"; ²[and:]²

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:

¹ Senate SLP committee amendments adopted October 22, 1992.

² Assembly ACP committee amendments adopted November 23, 1992.

1 ²[(1)] (2)² The dealer or lessor obtains from the consumer a
2 signed receipt certifying, in a conspicuous and understandable
3 manner, that the written statement required under this
4 subsection has been provided. The director shall prescribe the
5 form of the receipt². The dealer or lessor may fulfill his
6 obligation to obtain a signed receipt under this paragraph by
7 making such a notation, in a conspicuous and understandable
8 manner, on the vehicle buyer order form accompanying the sale
9 or lease of that vehicle²; and

10 ²[(2)] (3)² The dealer or lessor, in accordance with the
11 provisions of section 1 of P.L. , c. (C.) (now pending
12 before the Legislature as this bill), notifies the Director of the
13 Division of Motor Vehicles in the Department of Law and Public
14 Safety of the sale or transfer of ownership of the motor vehicle.

15 b. Nothing in this section shall be construed as imposing an
16 obligation on a dealer or lessor to determine whether a
17 manufacturer is in compliance with the terms of this section nor
18 shall it be construed as imposing liability on a dealer or lessor for
19 the failure of a manufacturer to comply with the terms of this
20 section.

21 c. Failure to comply with the provisions of this section
22 constitutes an unlawful practice pursuant to section 2 of
23 P.L.1960, c.39 (C.56:8-2).
24 (cf: P.L.1988, c.123, s.7)

25 ¹3. Section 2 of P.L.1988, c.123 (C.56:12-30) is amended to
26 read as follows:

27 2. As used in this act:

28 "Consumer" means a buyer or lessee, other than for purposes
29 of resale or sublease, of a motor vehicle; a person to whom a
30 motor vehicle is transferred during the duration of a warranty
31 applicable to the motor vehicle; or any other person entitled by
32 the terms of the warranty to enforce the obligations of the
33 warranty.

34 "Dealer" means a person who is actively engaged in the
35 business of buying, selling or exchanging motor vehicles at retail
36 and who has an established place of business.

37 "Director" means the Director of the Division of Consumer
38 Affairs in the Department of Law and Public Safety, or his
39 designee.

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

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

47 "Lessee" means a person who leases a motor vehicle pursuant
48 to a lease agreement [which provides that the lessee is
49 responsible for repairs to the motor vehicle].

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

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

54 "Lienholder" means a person with a security interest in a

1 motor vehicle pursuant to a lien.

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

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

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

17 "Motor vehicle" means a passenger automobile or motorcycle
18 as defined in R.S.39:1-1 which is purchased or leased in the State
19 of New Jersey or which is registered by the Division of Motor
20 Vehicles in the Department of Law and Public Safety, except the
21 living facilities of motor homes.

22 "Nonconformity" means a defect or condition which
23 substantially impairs the use, value or safety of a motor vehicle.

24 "Reasonable allowance for vehicle use" means the mileage at
25 the time the consumer first presents the motor vehicle to the
26 dealer or manufacturer for correction of a nonconformity times
27 the purchase price, or the lease price if applicable, of the
28 vehicle, divided by one hundred thousand miles.¹

29 (cf: P.L.1991, c.130, s.1)

30 ²[14. Section 6 of P.L.1988, c.123 (C.56:12-34) is amended to
31 read as follows:

32 6. a. At the time of purchase in the State of New Jersey, the
33 manufacturer through its dealer, or at the time of lease in the
34 State of New Jersey, the lessor, shall provide directly to the
35 consumer two copies of the following written statement on a
36 separate piece of paper, in 10-point bold-face type:
37 "IMPORTANT: IF THIS VEHICLE IS DEFECTIVE, YOU MAY BE
38 ENTITLED UNDER NEW JERSEY LAW TO A REFUND OF THE
39 PURCHASE PRICE OR YOUR LEASE PAYMENTS. FOR
40 COMPLETE INFORMATION REGARDING YOUR RIGHTS AND
41 REMEDIES UNDER THE RELEVANT LAW, CONTACT THE NEW
42 JERSEY DEPARTMENT OF LAW AND PUBLIC SAFETY,
43 DIVISION OF CONSUMER AFFAIRS."

44 This statement shall be followed by a brief description of the
45 provisions of P.L.1988, c.123 (C.56:12-29 et seq.).

46 The consumer shall sign one copy of the statement to verify
47 receipt and return the signed copy to the dealer. The dealer shall
48 retain copies of these statements on file for two years from the
49 date of signing.

50 b. Each time a consumer's motor vehicle is returned from
51 being examined or repaired during the period specified in section
52 3 of this act, the [manufacturer through its] dealer shall provide
53 to the consumer an itemized, legible statement of repair which
54 indicates any diagnosis made and all work performed on the

1 vehicle and provides information including, but not limited to, the
2 following: a general description of the problem reported by the
3 consumer or an identification of the problem reported by the
4 consumer or an identification of the defect or condition; the
5 amount charged for parts and the amount charged for labor, if
6 paid for by the consumer; the date and the odometer reading
7 when the vehicle was submitted for repair; and the date and
8 odometer reading when the vehicle was made available to the
9 consumer.

10 c. Failure to comply with the provisions of this section
11 constitutes an unlawful practice pursuant to section 2 of
12 P.L.1960, c.39 (C.56:8-2).¹
13 (cf: P.L.1988, c.123, s.6)]²

14 ²[15.] 4.² Section 9 of P.L.1988, c.123 (C.56:12-37) is amended
15 to read as follows:

16 9. a. A consumer shall have the option of submitting any
17 dispute arising under section 4 of this act to the division for
18 resolution. The director may establish a filing fee, to be paid by
19 the consumer, fixed at a level not to exceed the cost for the
20 proper administration and enforcement of this act. This fee shall
21 be recoverable as a cost under section 14 of this act. Upon
22 application by the consumer and payment of any filing fee, the
23 manufacturer shall submit to the State hearing procedure. The
24 filing of the notice in subsection b. of section 5 of P.L.1988,
25 c.123 (C.56:12-33) shall be a prerequisite to the filing of an
26 application under this section.

27 b. The director shall review a consumer's application for
28 dispute resolution and accept eligible disputes for referral to the
29 Office of Administrative Law for a summary hearing to be
30 conducted in accordance with special rules adopted pursuant to
31 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1
32 et seq.), by the Office of Administrative Law in consultation with
33 the director. Immediately upon acceptance of a consumer's
34 application for dispute resolution, the director shall contact the
35 parties and arrange for a hearing date with the Clerk of the
36 Office of Administrative Law. The hearing date shall, to the
37 greatest extent possible, be convenient to all parties, but shall be
38 no later than 20 days from the date the consumer's application is
39 accepted, unless a later date is agreed upon by the consumer.
40 The Office of Administrative Law shall render a decision, in
41 writing, to the director within [15] 20 days of the conclusion of
42 the summary hearing. The decision shall provide a brief summary
43 of the findings of fact, appropriate remedies pursuant to this act,
44 and a specific date for completion of all awarded remedies. The
45 director, upon a review of the proposed decision submitted by the
46 administrative law judge, shall adopt, reject, or modify the
47 decision no later than [10] 15 days after receipt of the decision.
48 Unless the director modifies or rejects the decision within the
49 [10] 15-day period, the decision of the administrative law judge
50 shall be deemed adopted as the final decision of the director. If
51 the manufacturer unreasonably fails to comply with the decision
52 within the specified time period, the manufacturer shall be liable
53 for penalties in the amount of \$5,000.00 for each day the
54 manufacturer unreasonably fails to comply, commencing on the

1 day after the specified date for completion of all awarded
2 remedies.

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

7 d. A manufacturer or consumer may appeal a final decision to
8 the Appellate Division of the Superior Court. An appeal by a
9 manufacturer shall not be heard unless the petition for the appeal
10 is accompanied by a bond in a principal sum equal to the money
11 award made by the administrative law judge plus \$2,500.00 for
12 anticipated attorney's fees and other costs, secured by cash or
13 its equivalent, payable to the consumer. The liability of the
14 surety of any bond filed pursuant to this section shall be limited
15 to the indemnification of the consumer in the action. The bond
16 shall not limit or impair any right of recovery otherwise available
17 pursuant to law, nor shall the amount of the bond be relevant in
18 determining the amount of recovery to which the consumer shall
19 be entitled. If a final decision resulting in a refund to the
20 consumer is upheld by the court, recovery by the consumer shall
21 include reimbursement for actual expenses incurred by the
22 consumer for the rental of a motor vehicle equivalent to the
23 consumer's motor vehicle and limited to the period of time after
24 which the consumer's motor vehicle was offered to the
25 manufacturer for return under this act, except in those cases in
26 which the manufacturer made a comparable vehicle available to
27 the consumer free of charge during that period. If the court finds
28 that the manufacturer had no reasonable basis for its appeal or
29 that the appeal was frivolous, the court shall award treble
30 damages to the consumer. Failure of the Office of Administrative
31 Law to render a written decision within [15] 20 days of the
32 conclusion of the summary hearing as required by subsection b. of
33 this section shall not be a basis for appeal.

34 e. The Attorney General shall monitor the implementation and
35 effectiveness of this act and report to the Legislature after three
36 years of operation, at which time a recommendation shall be
37 made either to continue under the procedures set forth in this act
38 or to make such modifications as may be necessary to effectuate
39 the purposes of this act.¹

40 (cf: P.L.1988, c.123, s.9)

41 ²[16.] 5.² Section 10 of P.L.1988, c.123 (C.56:12-38) is
42 amended to read as follows:

43 10. a. The Division of Consumer Affairs shall maintain an
44 index of all motor vehicle disputes by make and model. The
45 division shall, at six-month intervals, compile and maintain
46 statistics indicating the record of manufacturer compliance with
47 any settlement procedure decisions. The statistics shall be public
48 record.

49 b. A manufacturer shall provide to the division all information
50 on private arbitration or private buy-back programs maintained
51 or instituted by the manufacturer. The information shall include
52 the type and number of vehicles to which these programs apply
53 and the reasons for establishing and maintaining the programs.
54 The manufacturer shall provide the division with updated

1 information at six month intervals.¹

2 (cf: P.L.1988, c.123, s.10)

3 ²[17.] 6.² Section 14 of P.L.1988, c.123 (C.56:12-42) is
4 amended to read as follows:

5 14. In any action by a consumer against a manufacturer
6 brought in Superior Court or in the division pursuant to the
7 provisions of this act, a prevailing consumer shall be awarded
8 reasonable attorney's fees, fees for expert witnesses and costs.¹

9 (cf: P.L.1988, c.123, s.14)

10 ¹[3.] ²[8.1] 7.² This act shall take effect on the first day of the
11 third month following enactment.

12

13

14

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16 _____
Makes certain changes to the "lemon law."

- 1 (2) The dealer or lessor, in accordance with the provisions of
2 section 1 of P.L. , c. (C.) (now pending before the
3 Legislature as this bill), notifies the Director of the Division of
4 Motor Vehicles in the Department of Law and Public Safety of
5 the sale or transfer of ownership of the motor vehicle.
- 6 b. Nothing in this section shall be construed as imposing an
7 obligation on a dealer or lessor to determine whether a
8 manufacturer is in compliance with the terms of this section nor
9 shall it be construed as imposing liability on a dealer or lessor for
10 the failure of a manufacturer to comply with the terms of this
11 section.
- 12 c. Failure to comply with the provisions of this section
13 constitutes an unlawful practice pursuant to section 2 of
14 P.L.1960, c.39 (C.56:8-2).
15 (cf: P.L.1988, c.123, s.7)
- 16 3. This act shall take effect on the first day of the third month
17 following enactment.

18
19

20 STATEMENT

21

22 This bill would require that a motor vehicle which has been
23 returned to its manufacturer as a "lemon" be identified as such
24 on its certificate of ownership.

25 Motor vehicles which have been returned to their
26 manufacturers under the "lemon law" (P.L.1988, c.123
27 C.56:12-29 et seq.) may be resold or released in New Jersey if
28 the manufacturer notifies the dealer or lessor and the dealer or
29 lessor, in turn, notifies the consumer that the vehicle was a
30 returned "lemon."

31 While these requirements may provide adequate notice and
32 protection for the consumer who first purchases or leases a
33 returned vehicle from a dealer or lessor who has been notified by
34 the manufacturer, it does not afford any protection to subsequent
35 consumers or to consumers who purchase vehicles which have
36 been sold or resold by dealers at auction.

37 Under the provisions of this bill, motor vehicles which have
38 been returned as "lemons" would be identified as such on their
39 certificates of ownership. The identification would be
40 transferred to each new certificate of ownership issued for that
41 vehicle. This provision is modeled upon P.L.1971, c.311
42 (C.39:10-9.1 et seq.) which requires that used police cars be
43 identified as such on their certificates of ownership.

44 To afford additional protection to the consumer, the bill
45 amends section 7 of the "lemon law" (P.L.1988, c.123;
46 C.56:12-35) to:

47 (1) Require dealers and lessors to obtain a signed receipt
48 confirming that the consumer has been notified that the motor
49 vehicle being sold or leased was previously returned to its
50 manufacturer; and

51 (2) Require dealers and lessors to notify the Director of the
52 Division of Motor Vehicles whenever they sell or transfer
53 ownership of a returned vehicle.

ASSEMBLY COMMERCE AND REGULATED
PROFESSIONS COMMITTEE

STATEMENT TO

[FIRST REPRINT]

SENATE, No. 608

with committee amendments

STATE OF NEW JERSEY

DATED: NOVEMBER 23, 1992

The Assembly Commerce and Regulated Professions Committee reports favorably Senate Bill No. 608(1R) with amendments.

As amended, this bill requires a motor vehicle certificate of ownership to state if the vehicle was ever returned to the manufacturer as a "lemon."

Under current law, a motor vehicle returned to the manufacturers under the "lemon law" (P.L.1988, c.123; C.56:12-29 et seq.) may be sold or leased again in New Jersey if the manufacturer notifies the dealer or lessor and the dealer or lessor, in turn, notifies the consumer that the vehicle was once a "lemon."

These requirements may provide adequate notice and protection for the first consumer who purchases or leases a returned vehicle, but it does not afford any protection to subsequent consumers.

Under this bill, a motor vehicle returned as a "lemon" would forever be identified as such on its certificate of ownership. This provision is modeled after P.L.1971, c.311 (C.39:10-9.1 et seq.) which requires that a used police car be identified as such on its certificate of ownership.

To afford additional protection to the consumer, the bill amends section 7 of P.L.1988, c.123 (C.56:12-35) to require a dealer or lessor:

(1) to obtain a signed receipt confirming that the consumer has been notified that the motor vehicle being sold or leased was previously returned to its manufacturer; and

(2) to notify the Director of the Division of Motor Vehicles whenever a returned vehicle is sold or the ownership is transferred.

The committee amended this section of law by providing that the dealer or lessor may fulfill his obligation to obtain a signed receipt by making such a notation, in a conspicuous and understandable manner, on the vehicle order form accompanying the sale or lease of that vehicle.

The bill also includes the changes to the "lemon law" recommended by the Division of Consumer Affairs in its recent report to the Legislature.

Consequently, the bill changes from 10 to 15 days the review period during which the Director of the Division of Consumer Affairs is required to review a "lemon law" decision made by the Office of Administrative Law (OAL). Under the current statute, the director has 10 days after a decision is rendered to review and accept or modify it. In addition, the amount of time an administrative law judge has to render a decision following the conclusion of a "lemon law" hearing is increased from 15 to 20 days. This change will give the director and the OAL the additional

time needed to handle the current case load and future increases in the caseload.

A final letter from the consumer to the manufacturer will be required as a precondition to initiating the lemon law process. The division has ruled that the letter of final notice and opportunity to repair written by the consumer to the manufacturer is necessary prior to the lemon law unit accepting an application for review. The division therefore requires the consumer to state in the application to the unit that he has given the manufacturer a final opportunity to repair and that the problem still exists. This step ensures that the statutory presumption in section 5 of P.L.1988, c.123 (C.56:12-33) that the vehicle is a lemon is applicable in all lemon law cases handled by the division.

A prevailing consumer will be permitted to collect reasonable fees for expert witnesses. The division has interpreted "costs" to include expert fees and the special hearing rules promulgated by the OAL also provide for recovery of expert fees. Therefore, the law is being amended to provide legal authority for this practice. The law currently only allows for the recovery of attorneys fees and costs by a prevailing consumer in any lemon law action brought before the OAL.

Manufacturers would be required to supply the division with information on their private arbitration and buy-back programs. This would provide the division with information on the number of vehicles that fall under these programs, as well as the reasons why these measures are being pursued. This information would allow the division to examine the impact of the lemon law in this area and would help the division compile more comprehensive six-month reports as required by law.

In addition, the bill amends section 2 of P.L.1988, c.123 (C.56:12-30) to change the definition of a lessee. The statute currently excludes a lessee who is not responsible for repairs to the vehicle. With the growth of lease agreements which cover all repairs, this change will insure that individuals who lease lemons are given recourse under the law.

The committee amended the bill by removing the provisions requiring dealers to supply consumers with copies of warranty repair orders indicating any diagnosis made and all work performed on the vehicle. In addition, the amendments remove specific provisions in the bill that called for dealers to retain signed copies for two years from the date of filing from consumers indicating that these consumers received copies of statements that provide a brief description of the lemon law.

SENATE LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

SENATE, No. 608

with Senate committee amendments

STATE OF NEW JERSEY

DATED: OCTOBER 22, 1992

The Senate Law and Public Safety Committee reports favorably Senate Bill No. 608 with amendments.

This bill would require a motor vehicle certificate of ownership to state if the vehicle was ever returned to the manufacturer as a "lemon."

Under current law, a motor vehicle returned to the manufacturers under the "lemon law" (P.L.1988, c.123; C.56:12-29 et seq.) may be sold or leased again in New Jersey if the manufacturer notifies the dealer or lessor and the dealer or lessor, in turn, notifies the consumer that the vehicle was once a "lemon."

These requirements may provide adequate notice and protection for the first consumer who purchases or leases a returned vehicle, but it does not afford any protection to subsequent consumers.

Under this bill, a motor vehicle returned as a "lemon" would forever be identified as such on its certificate of ownership. This provision is modeled after P.L.1971, c.311 (C.39:10-9.1 et seq.) which requires that a used police car be identified as such on its certificate of ownership.

To afford additional protection to the consumer, the bill amends section 7 of P.L.1988, c.123 (C.56:12-35) to require a dealer or lessor:

(1) to obtain a signed receipt confirming that the consumer has been notified that the motor vehicle being sold or leased was previously returned to its manufacturer; and

(2) to notify the Director of the Division of Motor Vehicles whenever a returned vehicle is sold or the ownership is transferred.

The committee amended the bill to permit the notice to the customer that the vehicle was once a "lemon" to be included on the vehicle buyer order as an alternative to having it provided to the consumer on a separate piece of paper.

The committee also amended this bill to include the changes to the "lemon law" recommended by the Division of Consumer Affairs in its recent report to the Legislature.

As amended, the bill changes from 10 to 15 days the review period during which the Director of the Division of Consumer Affairs is required to review a "lemon law" decision made by the Office of Administrative Law (OAL). Under the current statute, the director has 10 days after a decision is rendered to review and accept or modify it. In addition, the amount of time an administrative law judge has to render a decision following the conclusion of a "lemon law" hearing is increased from 15 to 20 days. This change will give the director and the OAL the additional time needed to handle the current case load and future increases in the caseload.

A final letter from the consumer to the manufacturer will be required as a precondition to initiating the lemon law process. The division has ruled that the letter of final notice and opportunity to repair written by the consumer to the manufacturer is necessary prior to the lemon law unit accepting an application for review. The division therefore requires the consumer to state in the application to the unit that he has given the manufacturer a final opportunity to repair and that the problem still exists. This step ensures that the statutory presumption in section 5 of P.L.1988, c.123 (C.56:12-33) that the vehicle is a lemon is applicable in all lemon law cases handled by the division.

Dealers will be required to supply to consumers accurate warranty repair orders and inform consumers of the lemon law. Copies of warranty repair orders are important for many consumers to make their case under the lemon law. Currently, some dealers do not routinely give copies of warranty repair orders to consumers, and many give orders that are lacking vital information. The dealer needs to be held responsible if warranty repair orders are not given or if they do not include mileage, date and repair rendered.

A prevailing consumer will be permitted to collect reasonable fees for expert witnesses. The division has interpreted "costs" to include expert fees and the special hearing rules promulgated by the OAL also provide for recovery of expert fees. Therefore, the law is being amended to provide legal authority for this practice. The law currently allows for the recovery of attorneys fees and costs by a prevailing consumer in any lemon law action brought before the OAL. Manufacturers frequently utilize expert witnesses, and consumers should not be discouraged from utilizing them for fear of incurring unreimbursable costs.

Manufacturers would be required to supply the division with information on their private arbitration and buy-back programs. The division needs information on the number of vehicles that fall under these programs, as well as the reasons why these measures are being pursued. This information would allow the division to examine the impact of the lemon law in this area and would help the division compile more comprehensive six-month reports as required by law.

Finally, the bill amends section 2 of P.L.1988, c.123 (C.56:12-30) to change the definition of a lessee. The statute currently excludes a lessee who is not responsible for repairs to the vehicle. With the growth of lease agreements which cover all repairs, this change is needed to insure that individuals who lease lemons are given recourse under the law.

FISCAL NOTE TO
[SECOND REPRINT]
SENATE, No. 608

STATE OF NEW JERSEY

DATED: January 8, 1993

Senate Bill No. 608 (2R) of 1992 requires a motor vehicle certificate of ownership to state if the vehicle was ever returned to the manufacturer as a "lemon" pursuant to the "lemon law," P.L.1988, c.123. Under this bill, a motor vehicle returned as a "lemon" would forever be identified as such on its certificate of ownership. This provision is modeled after P.L.1971, c.311 (C.39:10-9.1 et seq.) which requires that a used police car be identified as such on its certificate of ownership.

In addition, the bill requires a dealer or lessor to notify the Director of the Division of Motor Vehicles (DMV) in the Department of Law and Public Safety whenever a returned vehicle is sold or the ownership is transferred. Manufacturers would be required to supply the division with information on their private arbitration and buy-back programs.

This bill also changes several provisions of law including:

1) increasing the review period during which the Director of the Division of Consumer Affairs is required to review a "lemon law" decision made by the Office of Administrative Law from 10 to 15 days;

2) increasing the time an administrative law judge has to render a decision following the conclusion of a "lemon law" hearing from 15 to 20 days;

3) requiring that a final letter for opportunity for repair from the consumer to the manufacturer be a precondition to initiating the lemon law process;

4) allowing a prevailing consumer to collect reasonable fees for expert witnesses; and

5) changing the definition of lessee to include lessees not responsible for repairs to the vehicle.

DMV estimates enactment of this bill would have a one-time cost of \$91,507 to reprogram its computer. The DMV estimate does not identify the components of this cost.

The Office of Legislative Services (OLS) finds this estimate to be high. Extensive reprogramming should not be required because DMV currently identifies used police cars as such on their certificates of ownership. Moreover, OLS finds that no appreciable increase in State costs should result from the other administrative changes in the "lemon law" made by this bill.

This fiscal note has been prepared pursuant to P.L.1980, c.67.

7/4.901

661



OFFICE OF THE GOVERNOR NEWS RELEASE

CN-001
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GOVERNOR SIGNS LAW TO TIGHTEN LEMON LAW AND PROTECT CONSUMERS

Governor Jim Florio today signed a bill that strengthens the state's "lemon law" and gives consumers greater protection against defective cars.

A key provision of the law requires that the titles of cars that have been returned as "lemons" must state that the car was returned to the manufacturer under the "lemon law," so all subsequent buyers know the car's history.

"Consumers deserve protection and fair treatment, regardless of whether they are the first or third or fourth purchaser of a car," Gov. Florio said. "A car is a major investment, and consumers deserve to be told if the car was returned as a lemon by a prior owner. This law requires that they be told, and gives them the information they need to make an informed decision."

The law also requires dealers and lessors to obtain a signed receipt verifying that the consumer has been notified that the motor vehicle being sold or leased was previously returned to its manufacturer.

The law also imposes changes in the "lemon law" hearing process designed to make the process more consumer friendly. Those changes include eliminating confusion about what consumers are required to do to take advantage of the lemon law, and making it clear that consumers are entitled to collect reasonable fees for expert witnesses.

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