

## **New Hampshire Lemon Law Statute**

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### **Title 31 - Chapter 357D**

#### **§ 357-D: 1 Intent.**

The legislature finds and declares that manufacturers, distributors and importers of new motor vehicles should be obligated to provide speedy and less costly resolution of automobile warranty problems. Manufacturers should be required to provide in as expeditious a manner as possible a refund of the consumer's purchase price, payments to a lessor and lessee, or a replacement vehicle that is acceptable to the consumer whenever the manufacturer is unable to make the vehicle conform with its applicable warranty. New motor vehicle dealers and used motor vehicle dealers cannot be sued under this chapter.

**Source.** 1991, 222:1, eff. Jan. 1, 1992.

#### **§ 357-D:2 Definitions. - Juent vehi**

5. **"Early termination costs"** means expenses and obligations incurred by a motor vehicle lessee as a result of an early termination of a written lease agreement and surrender of a motor vehicle to a manufacturer, including penalties for prepayment of finance arrangements.
6. **"Factory branch"** means any branch office maintained by a manufacturer for the purpose of selling, leasing, or offering for sale or lease, vehicles to a distributor or new motor vehicle dealer or for directing or supervising, in whole or in part, factory distributor representatives.
7. **"Lease" or "leased"** means a written agreement with a lessee which shall be for the use of a motor vehicle for consideration for a term of 2 or more years.
8. **"Manufacturer"** means any person, resident or nonresident, who manufactures or assembles new motor vehicles, or imports for distribution through distributors of motor vehicles or any partnership, firm, association, joint venture, corporation or trust, resident or nonresident, which is controlled by a manufacturer. The term "manufacturer" includes distributors and factory branches.
9. **"Motor vehicle"** means:
  1. A motor vehicle, as defined in RSA 259:60, of the private passenger or station wagon type with a gross weight not exceeding 9,000 pounds that is purchased or leased by a consumer; or
  2. Any other 4-wheel motor vehicle with a gross weight not exceeding 9,000 pounds, except tractors, off highway recreational vehicles, and mopeds; or
  3. Motorcycles.
10. **"Motor vehicle dealer"** means any person engaged in the business of selling, offering to sell, leasing, soliciting or advertising the sale of new or used motor vehicles or possessing motor vehicles for the purpose of resale either on his own account or on behalf of another, either as his primary business or incidental thereto. However, "motor vehicle dealer" shall not include:
  1. Receivers, trustees, administrators, executors, guardians, or other persons appointed by or acting under judgment, decree or order of any court; or
  2. Public officers while performing their duties as such officers.

11. **"Motor vehicle lessor"** means a person who holds title to a motor vehicle leased to a lessee under written lease agreement for a term of 2 or more years, or who holds the lessor's rights under such an agreement.
12. **"New motor vehicle"** means a passenger motor vehicle which is still under the manufacturer's express warranty.
13. **"Nonconformity"** means a defect or condition that substantially impairs the use, value or safety of a motor vehicle, but does not include a defect or condition that results from an accident, abuse, neglect, modification, or alteration of the motor vehicle by persons other than the manufacturer or its authorized service agent.
14. **"Warranty"** includes express warranties as defined in the Uniform Commercial Code, RSA 382-A, plus any written warranty of the manufacturer.

**Source.** 1991, 222:1. 1994, 220:1, 2, eff. Jan. 1, 1995.

#### **§ 357-D:3 Enforcement of Warranties.**

1. Every new motor vehicle sold in this state shall conform to all applicable warranties.
2. It shall be the manufacturer's obligation under this chapter to insure that all new motor vehicles sold or leased in this state conform with the manufacturer's express warranties. The manufacturer may delegate responsibility to its agents or authorized dealers provided, however, in the event the manufacturer delegates its responsibility under this chapter to its agents or authorized dealers, it shall compensate the dealer for all work performed by the dealer in satisfaction of the manufacturer's responsibility under this chapter.
3. If a new motor vehicle does not conform to all applicable express warranties and the consumer reports the nonconformity to the manufacturer, its agent or authorized dealer during the term of the warranty, the manufacturer shall cause whatever repairs are necessary to conform the vehicle to the warranties, notwithstanding the fact that the repairs are made after the expiration of a warranty term.
4. A manufacturer, its agent or authorized dealer shall not refuse to provide a consumer with a written repair order and shall provide to the consumer, each time the consumer's vehicle is brought in for examination or repair of a defect, a written summary of the complaint and a fully itemized statement indicating all work performed on the vehicle including, but not limited to, examination of the vehicle, parts, and labor.

5. If, after a reasonable number of attempts, the manufacturer, its agent or authorized dealer or its delegate is unable to conform the motor vehicle to any express warranty by repairing or correctin

time during which repair services were not available to the consumer because of war, invasion, strike, fire, flood, or other natural disaster. If an extension of time is necessitated due to these conditions, the manufacturer shall provide for the free use of a vehicle to the consumer whose vehicle is out of service. A vehicle shall not be deemed out of service if it is available to the consumer for a major part of the day.

8. In order for an attempt at repair to qualify for the presumptions of this section, the attempt at repair shall be evidenced

5. An amount equal to 5 percent of the lessor's actual purchase cost as prescribed in subparagraph IX(b)(1). The amount in this subparagraph shall be instead of any early termination costs.
10. The lessee's lease agreement with the motor vehicle lessor and all contractual obligations shall be terminated upon a decision of the board in favor of the lessee. The lessee shall not be liable for any further costs or charges to the manufacturer or motor vehicle lessor under the lease agreement.
11. The motor vehicle lessor shall release the motor vehicle title to the manufacturer upon the payment by the manufacturer under the provisions of this section.
12. The board shall give notice to the motor vehicle lessor of the lessee's filing of a request for arbitration under this chapter and shall notify the motor vehicle lessor of the date, time and place scheduled for a hearing before the board. The motor vehicle lessor shall provide testimony and evidence necessary to the arbitration proceedings. Any decision of the board shall be binding upon the motor vehicle lessor.

**Source.** 1991, 222:1. 1992, 282:15, eff. Jan. 1, 1993.

#### **§ 357-D:4 Procedure to Obtain Refund or Replacement.**

1. After the third attempt at repair or correction of the nonconformity, defect or condition, or after the vehicle is out of service by reason of repair of one or more nonconformities, defects or conditions for a cumulative total of 30 or more business days as provided in this chapter, the consumer shall notify the manufacturer along with a clear and conspicuous disclosure notice of the rights of the consumer under this chapter at the time the new motor vehicle is delivered, of the nonconformity, defect or condition and the consumer's election to proceed under this chapter. The forms shall be made available by the manufacturer to the New Hampshire new motor vehicle arbitration board, and any other public or nonprofit agencies that shall request them. Forms and notices shall be in a form prescribed by rule of the department of justice and shall not include window stickers. The consumer shall, in the notice, elect whether to use the dispute settlement mechanism or the arbitration provisions established by the manufacturer or to proceed under the New Hampshire new motor vehicle arbitration board as established under this chapter. The consumer's election of whether to proceed before the board or the manufacturer's dispute settlement mechanism shall preclude his recourse to the method not selected.
2. A consumer shall not pursue a remedy under this chapter if he has discontinued financing or lease payments, if the payments have been discontinued due to the

manufacturer's breach of obligation under this chapter or due to a breach of the manufacturer's warranties.

3. A consumer who elects to proceed before the board shall pay a filing fee of \$ 50

the board shall be new car dealers in New Hampshire, one member and one alternate shall be persons knowledgeable in automobile mechanics, and 3 members and one alternate shall be persons who represent consumers and have no direct involvement in the design, manufacture, distributions, sales or service of motor vehicles or their parts. Three members of the board shall constitute a quorum. Members shall be paid \$50 per diem plus mileage.

2. The board shall be administratively attached to the department of safety under RSA 21-G:10.
3. The board shall adopt rules, pursuant to RSA 541-A, to implement the provisions of this chapter.
4. The board shall hold a hearing within 40 days of receipt of a complaint, unless an extension of time has been granted by the board under RSA 357-D:4, IV, and shall render a decision within 30 days of the conclusion of a hearing. The board shall have the authority to issue only damages as are provided by this chapter.

**Source.** 1991, 222:1. 1994, 220:4, 5, eff. Jan. 1, 1995.



Failure of the manufacturer or distributor to comply with a decision of the board shall constitute an unfair or deceptive act or practice under RSA 358-A:2.

**Source.** 1991, 222:1, eff. Jan. 1, 1992.

#### **§ 357-D:8 Dealer's Liability.**

Nothing in this chapter imposes any liability on a franchised motor vehicle dealer or creates a cause of action by a consumer against a dealer, except for written express warranties made by the dealer apart from the manufacturer's warranties. A dealer shall not be made a party defendant in any action involving or relating to this chapter, except as provided in this section. The manufacturer shall not charge back or require reimbursement by the dealer for any costs, including, but not limited to, any refunds or vehicle replacements, incurred by the manufacturer arising from this chapter.

**Source.** 1991, 222:1, eff. Jan. 1, 1992.

#### **§ 357-D:9 Notification to Consumers; Rulemaking by Department of Justice.**

Beginning with the model year following July 1, 1992, the manufacturer of every motor vehicle sold in this state shall provide a clear and conspicuous written notice of the consumer's rights under this chapter as provided under RSA 357-D:4 at the time of the delivery of every such new motor vehicle in this state. The manufacturer shall provide the consumer with a self-addressed notice in a form developed in accordance with rules adopted by the department of justice under RSA 541-A and sufficient to notify the manufacturer of the consumer's election to proceed under this chapter. The manufacturer shall not delegate this responsibility to its authorized dealers. The manufacturer of every new motor vehicle sold in this state shall also provide a clear and conspicuous notice that informs consumers of their rights under this chapter.

**Source.** 1991, 222:1, eff. Jan. 1, 1992.

#### **§ 357-D:10 Costs and Attorney's Fees.**

In any action by a consumer against the manufacturer or distributor of a motor vehicle based upon the alleged breach of an express warranty made in connection with the sale or lease of such motor vehicle, the court, in its discretion, may award to the plaintiff costs and reasonable attorney's fees. If the court determines that the action was brought with no substantial justification, it may award costs and reasonable attorney's fees to the defendant.

**Source.** 1991, 222:1, eff. Jan. 1, 1992.

#### **§ 357-D:11 Limitations on Actions.**

