

[First Reprint]

ASSEMBLY, No. 1812

STATE OF NEW JERSEY

216th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2014 SESSION

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SYNOPSIS

Extends protections of the new vehicle "lemon law" to new farm tractors purchased or leased in New Jersey.

CURRENT VERSION OF TEXT

As amended by the Senate on March 16, 2015.

(Sponsorship Updated As Of: 1/12/2016)

1 AN ACT concerning new motor vehicle warranties and amending
2 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 2 of P.L.1988, c.123 (C.56:12-30) is amended to
8 read as follows:

9 2. As used in this act:

10 "Co-manufacturer" means, solely with respect to an authorized
11 emergency vehicle as defined in R.S.39:1-1, any person that
12 fabricates the authorized emergency vehicle utilizing a component
13 or components of a new motor vehicle made by a manufacturer,
14 other than modifying an existing standard model of a vehicle
15 manufactured by a manufacturer, which component or components
16 are obtained by the co-manufacturer from the manufacturer to
17 fabricate the vehicle for use as an authorized emergency vehicle
18 prior to an initial retail sale or lease of the emergency vehicle.

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

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

27 "Director" means the Director of the Division of Consumer
28 Affairs in the Department of Law and Public Safety, or his
29 designee.

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

32 "Informal dispute settlement procedure" means an arbitration
33 process or procedure by which the manufacturer, or, in the case of
34 an authorized emergency vehicle, the manufacturer, co-
35 manufacturer, or post-manufacturing modifier, attempts to resolve
36 disputes with consumers regarding motor vehicle nonconformities
37 and repairs that arise during the vehicle's warranty period.

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

43 "Lessee" means a person who leases a motor vehicle pursuant to
44 a lease agreement.

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:

¹Senate floor amendments adopted March 16, 2015.

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

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

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

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

11 "Motor vehicle" means a passenger automobile, farm tractor,
12 authorized emergency vehicle, or motorcycle as defined in
13 R.S.39:1-1 which is purchased or leased in the State of New Jersey
14 or which is registered by the New Jersey Motor Vehicle
15 Commission, except the living facilities of motor homes.

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

18 "Post-manufacturing modifier" means, solely with respect to an
19 authorized emergency vehicle as defined in R.S.39:1-1, any person
20 who modifies the configuration of an existing standard model of a
21 motor vehicle purchased from a manufacturer to adapt the vehicle
22 for use as an authorized emergency vehicle prior to an initial retail
23 sale or lease of the vehicle.

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

30 "Warranty" means any warranty, whether express or implied of
31 the manufacturer of a new motor vehicle, or, in the case of a new
32 motor vehicle that is an authorized emergency vehicle, of the
33 manufacturer, co-manufacturer or post-manufacturing modifier, of
34 the vehicle's condition and fitness for use, including any terms or
35 conditions precedent to the enforcement of obligations under the
36 warranty.

37 (cf: P.L.2009, c.324, s.2)

38

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

41 3. If a consumer reports a nonconformity in a motor vehicle to
42 the manufacturer, or, in the case of a motor vehicle that is an
43 authorized emergency vehicle, the manufacturer, co-manufacturer
44 or post-manufacturing modifier, or its dealer or distributor, during
45 the first 24,000 miles of operation or during the period of two years
46 following the date of original delivery to the consumer, whichever
47 is earlier, the manufacturer, co-manufacturer, or post-manufacturing

1 modifier shall make, or arrange with its dealer or distributor to
2 make, within a reasonable time, all repairs necessary to correct the
3 nonconformity. Such repairs if made after the first 12,000 miles of
4 operation or after the period of one year following the date of
5 original delivery to the consumer, whichever is earlier, shall be paid
6 for by the consumer, unless otherwise covered by a warranty of the
7 manufacturer, co-manufacturer or post-manufacturing modifier, and
8 shall be recoverable as a cost under section 14 of **[this act]**
9 P.L.1988, c.123 (C.56:12-42). If a consumer reports a
10 nonconformity in a motor vehicle that is a farm tractor to the
11 manufacturer, or its dealer or distributor, during the period of two
12 years following the date of original delivery to the consumer, the
13 manufacturer shall make, or arrange with the dealer or distributor to
14 make, within a reasonable time, all repairs necessary to correct the
15 nonconformity, and such repairs if made after the period of one year
16 following the date of original delivery to the consumer shall be paid
17 for by the consumer, unless otherwise covered by a warranty of the
18 manufacturer, and shall be recoverable as a cost under section 14 of
19 P.L.1988, c.123 (C.56:12-42).¹
20 (cf: P.L.2009, c.324, s.3)

21
22 ¹3. Section 5 of P.L.1988, c.123 (C.56:12-33) is amended to
23 read as follows:

24 5. a. It is presumed that a manufacturer, or, in the case of an
25 authorized emergency vehicle, the manufacturer, co-manufacturer,
26 or post-manufacturing modifier, or its dealer or distributor, is
27 unable to repair or correct a nonconformity within a reasonable time
28 if, within the first 24,000 miles of operation or during the period of
29 two years following the date of original delivery of the motor
30 vehicle to the consumer, whichever is the earlier date , or in the
31 case of a farm tractor, during the period of two years following the
32 date of original delivery of the motor vehicle to the consumer:

33 (1) Substantially the same nonconformity has been subject to
34 repair three or more times by the manufacturer, co-manufacturer, or
35 post-manufacturing modifier, or its dealer or distributor, other than
36 a nonconformity subject to examination or repair pursuant to
37 paragraph (3) of this subsection because it is likely to cause death
38 or serious bodily injury if the vehicle is driven, and the
39 nonconformity continues to exist;

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

45 (3) A nonconformity which is likely to cause death or serious
46 bodily injury if the vehicle is driven has been subject to
47 examination or repair at least once by the manufacturer, co-

1 manufacturer, or post-manufacturing modifier, or its dealer or
2 distributor, and the nonconformity continues to 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, or, in the case of an authorized
6 emergency vehicle, the manufacturer, and co-manufacturer or post-
7 manufacturing modifier, if known, or the dealer or distributor, has
8 received written notification, by or on behalf of the consumer, by
9 certified mail return receipt requested, of a potential claim pursuant
10 to the provisions of this act and has had one opportunity to repair or
11 correct the defect or condition within 10 calendar days following
12 receipt of the notification. Notification by the consumer shall take
13 place any time after the motor vehicle has had substantially the
14 same nonconformity subject to repair two or more times, or has
15 been out of service by reason of repair for a cumulative total of 20
16 or more calendar days, or in the case of a motorhome, 45 or more
17 calendar days, or with respect to a nonconformity which is likely to
18 cause death or serious bodily injury if the vehicle is driven, the
19 nonconformity has been subject to examination or repair at least
20 once by the manufacturer, co-manufacturer, or post-manufacturing
21 modifier, or its dealer or distributor, and the nonconformity
22 continues to exist.

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

28 d. (1) In the case of a motorhome where two or more
29 manufacturers contributed to the construction of the motorhome, or
30 in the case of an authorized emergency vehicle, it shall not be
31 considered as any examination or repair attempt if the repair facility
32 at which the consumer presented the vehicle is not authorized by the
33 manufacturer, co-manufacturer, or post-manufacturing modifier to
34 provide service on that vehicle.

35 (2) It shall be considered as one examination or repair attempt
36 for a motorhome if the same nonconformity is addressed more than
37 once due to the consumer's decision to continue traveling and to
38 seek the repair of that same nonconformity at another authorized
39 repair facility, rather than wait for the repair to be completed at the
40 initial authorized repair facility.

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

43 (cf: P.L.2009, c.324, s.5)

44

45 ¹[2.] 4.¹ This act shall take effect on the 180th day following
46 enactment.