

CALIFORNIA LEMON LAW SUMMARY

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1. Citation	Song-Beverly Consumer Warranty Act, Cal. Civil Code §§ 1790-1795.7; Tanner Consumer Protection Act, § 1793.22; Cal. Business and Professions Code §§ 472-472.5; 16 Cal. Code of Regs. §§ 3396.1-3399.6.
2. Motor vehicle covered	<p>“New motor vehicle” means a “new motor vehicle” (including the chassis cab of a motor home, a dealer-owned vehicle, a “demonstrator,” or other vehicle sold with a manufacturer’s new car warranty) that:</p> <ul style="list-style-type: none"> (1) is used or bought for use primarily for personal, family or household purposes, or (2) has a gross vehicle weight under 10,000 pounds and is bought or used primarily for business purposes by any person or business to which at least one but not more than five motor vehicles are registered in California. <p>In addition, the motor vehicle must have been:</p> <ul style="list-style-type: none"> (1) purchased or leased at retail in California, or (2) purchased or leased by a full-time active duty member of the Armed Forces who was stationed or residing in California at the time of purchase or lease or at the time the claim is filed with BBB AUTO LINE. <p>The lemon law does not cover any portion of a motor home designed, used or maintained primarily for human habitation; a motorcycle; or a motor vehicle that is not registered under the Vehicle Code because it is to be operated or used exclusively off the highways.</p>
3. Consumer covered	<p>“Consumer” means:</p> <ul style="list-style-type: none"> (1) Any individual who buys or leases a new motor vehicle from a person engaged in the business of manufacturing, distributing, selling or leasing new motor vehicles at retail; (2) A lessee for a term exceeding four months; and (3) Any individual to whom the vehicle is transferred during the duration of a written warranty or who is entitled under applicable state law to enforce the obligations of the warranty. <p>“Person” means any individual, partnership, corporation, limited liability company, association, or other legal entity that engages in such business.</p>
4. Nonconformity defined	<p>“Nonconformity” is defined by the Tanner Act as a nonconformity that substantially impairs the use, market value, or safety of the motor vehicle to the buyer or lessee.</p> <p>“Nonconformity” is defined by the Certification Regulations as any defect, malfunction or failure to conform to the written warranty. “Substantial nonconformity” is any defect, malfunction or failure to conform to the written warranty that substantially impairs the use, value or safety of the new motor vehicle to the consumer.</p>
5. Warranty defined	<p>“Express warranty” is defined by Song-Beverly as (1) a written statement arising out of a sale to the consumer of a consumer good pursuant to which the manufacturer, distributor, or retailer undertakes to reserve or maintain the utility or performance of the consumer good or provide compensation if there is a failure in utility or performance; or (2) in the event of any sample or model, that the whole of the goods conforms to such sample or model.</p> <p>It is not necessary to the creation of an express warranty that formal words such as “warranty” or “guarantee” be used – but if such words are used then an express warranty is created. An affirmation merely of the value of the goods or a statement purporting to be merely an opinion or commendation of the goods does not create a warranty. Statements or representations such as expressions of general policy concerning customer satisfaction that are not subject to any limitation do not create an express warranty.</p> <p>“Written warranty” is defined by Certification Regulations as (1) any written affirmation of fact or written promise made by a manufacturer to a consumer in connection with the sale or lease of a new motor vehicle that relates to the nature of the material or workmanship and affirms or promises that such material or workmanship is defect-free or will meet a specified level of performance over a specified period of time; or (2) any undertaking in writing made by a manufacturer to a consumer in connection with the sale or lease of a new motor vehicle to refund, repair, replace, or take other remedial action with respect to the vehicle in the event that the vehicle fails to meet the specifications set forth in the undertaking, which written affirmation, promise or undertaking becomes part of the basis of the bargain.</p>

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	<p>Unless properly disclaimed, every sale of consumer goods at retail in California is accompanied by the manufacturer's and retail seller's implied warranty that the goods are merchantable. Every sale of consumer goods at retail in California by a manufacturer who has reason to know that the goods are required for a particular purpose and that the consumer is relying on the manufacturer's skill or judgment to select or furnish suitable goods is accompanied by the manufacturer's implied warranty of fitness. If the manufacturer, distributor or retailer gives an express warranty, then the implied warranties may not be limited, modified or disclaimed. The duration of the implied warranty of merchantability and any implied warranty of fitness are the same as the duration of the express warranty, with a minimum duration of 60 days and a maximum duration of one year following the sale to a retail buyer.</p> <p>Every warranty period is automatically tolled for the period (1) starting on the date the consumer either delivers nonconforming goods to the manufacturer or seller for warranty repairs or service or notifies the manufacturer or seller of the nonconformity of the goods, and (2) ending on the date when the repaired or serviced goods are delivered to the consumer or on the date when the consumer is notified the goods are repaired or serviced.</p> <p>The warranty period is deemed not to have expired if (1) the consumer delivered nonconforming goods to the manufacturer or seller or notified the manufacturer or seller of the nonconformity, or (2) the warranty repairs or service did not remedy the nonconformity and the consumer notified the manufacturer or seller of this failure within 60 days after the repairs or service were completed.</p>
<p>6. Lemon law rights period</p>	<p>Song-Beverly does not specifically define a "lemon law rights period," but applies to the entire manufacturer's written warranty.</p>
<p>7. Manufacturer's obligation to repair</p>	<p>Where service or repair of the goods is necessary because they do not conform to the applicable express warranties, service and repair must be commenced within a reasonable time by the manufacturer or its representative. Unless the consumer agrees in writing to the contrary, the goods must be serviced within 30 days.</p> <p>The consumer must deliver nonconforming goods to the manufacturer's service and repair facility unless, due to reasons of size and weight, method of attachment, method of installation, or nature of the nonconformity, delivery cannot reasonably be accomplished. Written notice of nonconformity to the manufacturer or its service and repair facility constitutes return of the goods.</p>
<p>8. Manufacturer's obligation to repurchase or replace</p>	<p>If the manufacturer or its representative is unable to service or repair a new motor vehicle to conform to the applicable express warranties after a reasonable number of attempts, the manufacturer must either promptly replace or repurchase the motor vehicle. The manufacturer must be provided more than one attempt to repair the vehicle, and each occasion that an opportunity for repairs is provided counts as an attempt, even if no repairs are actually undertaken.</p> <p>The consumer is free to elect repurchase in lieu of replacement; in no event may the manufacturer require a consumer to accept a replacement vehicle.</p>
<p>9. Criteria for reasonable number of repair attempts</p>	<p>Presumed if, within 18 months after delivery to the consumer or 18,000 miles on the odometer, whichever occurs first:</p> <ol style="list-style-type: none"> (1) The same nonconformity results in a condition that is likely to cause death or serious bodily injury if the vehicle is driven, and the nonconformity has been subject to repair two or more times, and the consumer has at least once directly notified the manufacturer of the need for repair; (2) The same nonconformity has been subject to repair four or more times and the consumer has at least once directly notified the manufacturer of the need for repair; or (3) The vehicle is out of service by reason of repair of nonconformities for more than 30 calendar days since delivery.
<p>10. Notice of nonconformity and final opportunity to repair</p>	<p>The consumer is required to directly notify the manufacturer pursuant to the first two parts of the presumption only if the manufacturer has clearly and conspicuously disclosed to the consumer, in the warranty or owner's manual, the provisions of the lemon law and the direct notice requirement.</p>

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11. Affirmative defenses	Not specified, although Song-Beverly does not apply to any defect or nonconformity caused by the unauthorized or unreasonable use of the goods following sale.
12. Refund	<p>Refund of an owned vehicle consists of:</p> <ol style="list-style-type: none"> (1) <i>Purchase price.</i> The actual price paid for the vehicle, including any charges for transportation and manufacturer-installed options, but not including charges for nonmanufacturer items installed by a dealer or the consumer; (2) <i>Collateral charges.</i> Official fees associated with the sale of the vehicle, including sales tax, license fees, and registration fees; and (3) <i>Incidental damages.</i> Reasonable expenses incident to the vehicle problem for which the manufacturer is repurchasing the vehicle, not including charges for which the consumer is justly responsible. Incidental damages include but are not limited to the following: <ul style="list-style-type: none"> • Reasonable repair, towing and rental car costs actually incurred by the consumer, and • Prepayment penalties, early termination charges and earned finance charges, if actually paid, incurred, or to be incurred by the consumer; (4) Less a reasonable offset for use (see Section 14). <p>Refund of a leased vehicle consists of:</p> <p><i>To the Lessor</i></p> <ol style="list-style-type: none"> (1) The pay-off amount due pursuant to the lease agreement; (2) Minus the amount of any security deposit held by the lessor; (3) Minus the amount of any refund due to the lessor for the unexpired term of a service contract or insurance included in the lease agreement. <p><i>To the Lessee</i></p> <ol style="list-style-type: none"> (1) <i>Collateral charges.</i> Official fees paid by the lessee including sales tax, license fees, and registration fees; (2) <i>Incidental damages.</i> Reasonable expenses incident to the vehicle problem for which the manufacturer is repurchasing the vehicle, not including charges for which the consumer is justly responsible. Incidental damages include but are not limited to the following: <ul style="list-style-type: none"> • Reasonable repair, towing and rental car costs actually incurred by the consumer, and • Prepayment penalties, early termination charges and earned finance charges, if actually paid, incurred, or to be incurred by the consumer; (3) Base monthly payments (total monthly payment minus collateral charges) made by the lessee to the lessor up to the time of repurchase; (4) The amount of any trade-in or deposit made by the lessee (capitalized cost reduction); and (5) The amount of any security deposit held by the lessor; (6) Less a reasonable offset for use (see Section 14).
13. Replacement	<p>The replacement vehicle must be new and substantially identical to the vehicle replaced. The replacement vehicle must be accompanied by all express and implied warranties that normally accompany new motor vehicles of that kind.</p> <p>When replacing a vehicle, the manufacturer must pay for collateral charges incurred in connection with the replacement vehicle. The manufacturer does not have to pay for collateral charges incurred in connection with the purchase of the original vehicle. In addition, the manufacturer must reimburse the purchaser for any reasonable incidental damages.</p> <p>The consumer may be required to pay for the vehicle's use (see Section 14).</p>
14. Reasonable allowance	<p>In the case of either a refund or replacement, an arbitrator may make a deduction for the consumer's use of the vehicle by using the following formula:</p> $\frac{\# \text{ miles driven by the consumer prior to delivery to the manufacturer/dealer for repair of the nonconformity that led to the repurchase}}{120,000} \times \text{purchase price}$
15. Refund of sales tax	<p>The manufacturer refunds sales tax to the consumer.</p> <p>The State Board of Equalization reimburses the manufacturer for the amount of sales tax paid to or for the consumer.</p>

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<p>16. Enhanced damages</p>	<p>If a consumer establishes that a failure to comply with any obligation under Song-Beverly was willful, the judgment may include a penalty of up to two times the amount of actual damages.</p> <p>If the consumer establishes a violation of the obligation to replace or repurchase, the consumer must recover a penalty of up to two times the amount of damages. The manufacturer is not liable for this penalty if (1) the manufacturer maintains a qualified third-party dispute resolution process; (2) the consumer did not serve written notice upon the manufacturer after the presumption was met; (3) the manufacturer complied with the obligation to replace or repurchase within 30 days after receipt of the consumer's written notice; or (4) the consumer received a penalty for a willful violation.</p>																								
<p>17. Attorney's fees</p>	<p>A consumer who prevails in an action under Song-Beverly must be allowed by the court to recover costs and expenses, including attorney's fees based on actual time expended, determined by the court to have been reasonably incurred by the consumer in connection with the commencement and prosecution of the action.</p>																								
<p>18. Manufacturer-sponsored arbitration</p>	<p>The presumption may not be asserted by a consumer who has not first resorted to a qualified third-party dispute resolution process. A qualified process must comply with specific operational requirements set out in Rule 703 and Song-Beverly, and must obtain and maintain certification by the Department of Consumer Affairs.</p>																								
<p>19. Restrictions on resale of returned vehicles</p>	<p>Before a manufacturer sells, leases or transfers in California, or exports to another state, any reacquired motor vehicle, the manufacturer must retitle the vehicle in the name of the manufacturer, ask DMV to inscribe the title with "Lemon Law Buyback", and affix a decal to the vehicle. Prior to resale, lease, or other transfer, the manufacturer must deliver to the subsequent transferee and obtain the transferee's written acknowledgment of the notice specified below. Any person who acquires a motor vehicle and knows or should have known that the vehicle was reacquired as a buyback must, prior to the sale, lease or other transfer, execute and deliver to the subsequent transferee and obtain the transferee's written acknowledgment of the notice specified below.</p> <p>The required notice must disclose the following: (1) Year, make, model, and vehicle identification number of the vehicle. (2) Whether the title to the vehicle has been inscribed with the notation "Lemon Law Buyback." (3) The nature of each nonconformity reported by the original buyer or lessee of the vehicle. (4) Repairs, if any, made to the vehicle in an attempt to correct each nonconformity reported by the original buyer or lessee.</p> <p>The notice must be on a form 8 1/2 x 11 inches in size and printed in no smaller than 10-point black type on a white background. The form must contain only the following information prior to it being filled out by the manufacturer:</p> <p style="text-align: center;">WARRANTY BUYBACK NOTICE</p> <p>(Check One)</p> <p><input type="checkbox"/> This vehicle was repurchased by the vehicle's manufacturer after the last retail owner or lessee requested its repurchase due to the problem(s) listed below.</p> <p><input type="checkbox"/> THIS VEHICLE WAS REPURCHASED BY ITS MANUFACTURER DUE TO A DEFECT IN THE VEHICLE PURSUANT TO CONSUMER WARRANTY LAWS. THE TITLE TO THIS VEHICLE HAS BEEN PERMANENTLY BRANDED WITH THE NOTATION "LEMON LAW BUYBACK." Under California law, the manufacturer must warrant to you, for a one year period, that the vehicle is free of the problem (s) listed below.</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 40%; border: none;">V.I.N.</td> <td style="width: 15%; border: none;">Year</td> <td style="width: 15%; border: none;">Make</td> <td style="width: 30%; border: none;">Model</td> </tr> <tr> <td style="border: none;"> ----- </td> <td style="border: none;"> ----- </td> <td style="border: none;"> ----- </td> <td style="border: none;"> ----- </td> </tr> <tr> <td style="border: none;"> Problem(s) Reported by Original Owner</td> <td colspan="3" style="border: none;"> Repairs Made, if any, to Correct Reported Problem(s)</td> </tr> <tr> <td style="border: none;"> ----- </td> <td colspan="3" style="border: none;"> ----- </td> </tr> <tr> <td style="border: none;"> ----- </td> <td colspan="3" style="border: none;"> ----- </td> </tr> <tr> <td style="border: none;"> ----- </td> <td colspan="3" style="border: none;"> ----- </td> </tr> </table>	V.I.N.	Year	Make	Model	-----	-----	-----	-----	Problem(s) Reported by Original Owner	Repairs Made, if any, to Correct Reported Problem(s)			-----	-----			-----	-----			-----	-----		
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Signature of Manufacturer	Date
_____	_____
Signature of Dealer(s)	Date
_____	_____
Signature of Retail Buyer or Lessee	Date
_____	_____

The manufacturer must provide an executed copy of the notice to the manufacturer's transferee. Each transferee to whom the motor vehicle is transferred prior to its sale to a retail buyer or lessee must be provided an executed copy of the notice by the previous transferor.

Any person, including the manufacturer or dealer, who sells, leases or transfers ownership of a motor vehicle with a branded title must, prior to the sale, lease or transfer, provide the transferee with the following statement signed by the transferee:

THIS VEHICLE WAS REPURCHASED BY ITS MANUFACTURER DUE TO A DEFECT IN THE VEHICLE PURSUANT TO CONSUMER WARRANTY LAWS. THE TITLE TO THIS VEHICLE HAS BEEN PERMANENTLY BRANDED WITH THE NOTATION "LEMON LAW BUYBACK".

20. Point of sale notice of lemon law rights

A manufacturer in a certified arbitration program must include either in its written warranty or in a separate section of materials accompanying each vehicle sold or leased in California, in clear and readily understood language, the following information about the manufacturer's arbitration program and how to use it:

- (1) Either (a) a form addressed to the arbitration program containing spaces requesting the information which the program may require for prompt resolution of warranty disputes, or (b) a telephone number of the arbitration program which consumers may use without charge.
- (2) The name and address of the arbitration program.
- (3) A brief description of the arbitration program's procedures and how to use them. The Arbitration, Certification Program may reproduce such materials to inform the public about each program.
- (4) The time limits adhered to by the arbitration program.
- (5) The types of information which the arbitration program may require for prompt resolution of warranty disputes.
- (6) If applicable, a clear statement explaining any requirement imposed by the manufacturer that the consumer resort to the arbitration program before invoking rights or remedies conferred by 15 USC Section 2310 or Civil Code Section 1793.22(b), together with a disclosure that the consumer is not required to resort to the program if the consumer chooses to seek redress by pursuing rights and remedies not created by those laws.
- (7) Any limits on the scope of the decision, if authorized by Section 3398.10(d).
- (8) A statement that if the consumer accepts the decision of the arbitration program, the manufacturer will be bound by the decision, and will comply with the decision within a reasonable time not to exceed 30 days after the manufacturer receives notice of the consumer's acceptance of the decision.
- (9) A statement that the consumer may reject the decision and go to court, and that the decision and any findings will be admissible in any court action.

The form described in (1)(a) above may request any information reasonably necessary to decide the dispute including:

- (1) The consumer's name, address and telephone number.
- (2) The brand name and vehicle identification number (VIN) of the vehicle.
- (3) The approximate date of the consumer's acquisition of the vehicle.
- (4) The name of the selling dealer or the location where the vehicle was acquired.
- (5) The current mileage.
- (6) The approximate date and mileage at the time the problem was first brought to the attention of the manufacturer or any of its repair facilities.
- (7) A brief statement of the nature of the problem and whether the problem is continuing.
- (8) The names if known of any other dealers where the vehicle was serviced.

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	(9) A statement of the relief that is sought.
21. Limitation on waiver	Any waiver by the consumer of the provisions of Song-Beverly, except as expressly provided by that law, is deemed contrary to public policy and is unenforceable and void.