

1 ENGROSSED HOUSE  
2 BILL NO. 1009

By: Duncan, Nelson, Wright  
(John) and Dorman of the  
House

3  
4 and

Brown of the Senate  
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8 An Act relating to contracts; creating the Oklahoma  
9 Lemon Law; amending 15 O.S. 2001, Section 901, which  
10 relates to manufacturer warranties; modifying motor  
11 vehicle return policy; modifying method of  
12 determining prior use of vehicle; modifying certain  
13 time limitation; requiring the Attorney General to  
14 make certain written statement; prohibiting resale of  
15 certain vehicles; providing exception; requiring  
16 manufacturers to provide certain written statement to  
17 consumer; specifying method of resale of certain  
18 vehicles; providing for attorney fees and costs;  
19 providing procedures for manufacturers to retitle  
20 certain vehicles; providing for codification;  
21 providing for noncodification; and providing an  
22 effective date.

23 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

24 SECTION 1. NEW LAW A new section of law not to be  
codified in the Oklahoma Statutes reads as follows:

This act shall be known and may be cited as the "Oklahoma Lemon  
Law".

SECTION 2. AMENDATORY 15 O.S. 2001, Section 901, is  
amended to read as follows:

1 Section 901. A. As used in this ~~act~~ section:

2 1. "Consumer" means the purchaser, other than for purposes of  
3 resale, of a motor vehicle, any person to whom such motor vehicle is  
4 transferred during the duration of an express warranty applicable to  
5 such motor vehicle, and any other person entitled by the terms of  
6 such warranty to enforce the obligations of the warranty; and

7 2. "Motor vehicle" means any motor-driven vehicle required to  
8 be registered under the Oklahoma Motor Vehicle License and  
9 Registration Act, ~~Sections 22 et seq. of Title 47 of the Oklahoma~~  
10 ~~Statutes~~, excluding vehicles above ten thousand (10,000) pounds  
11 gross vehicle weight and the living facilities of motor homes.

12 B. For the purposes of this act, if a new motor vehicle does  
13 not conform to all applicable express warranties, and the consumer  
14 reports the nonconformity, directly in writing, to the manufacturer,  
15 its agent or its authorized dealer during the term of such express  
16 warranties or during the period of one (1) year following the date  
17 of original delivery of the motor vehicle to a consumer, whichever  
18 is the earlier date, the manufacturer, its agent or its authorized  
19 dealer shall make such repairs as are necessary to conform the  
20 vehicle to such express warranties, notwithstanding the fact that  
21 such repairs are made after the expiration of such term or such  
22 one-year period.

23 C. If the manufacturer, or its agents or authorized dealers are  
24 unable to conform the motor vehicle to any applicable express

1 warranty by repairing or correcting any defect or condition which  
2 substantially impairs the use and value of the motor vehicle to the  
3 consumer after a reasonable number of attempts, the manufacturer  
4 shall ~~replace the motor vehicle with a new motor vehicle or,~~ at the  
5 discretion of the consumer, either accept a return of the vehicle  
6 from the consumer and refund to the consumer the full purchase price  
7 including all taxes, license, registration fees and all similar  
8 governmental fees, excluding interest, less a reasonable allowance  
9 for the consumer's use of the vehicle or replace the motor vehicle  
10 with a comparable model acceptable to the consumer. If a comparable  
11 model vehicle cannot be agreed upon, the purchase price shall be  
12 refunded less a reasonable allowance for the consumer's use of the  
13 vehicle. Refunds shall be made to the consumer, and lienholder if  
14 any, as their interests may appear. A reasonable allowance for use  
15 shall be ~~that amount directly attributable to use by the consumer~~  
16 ~~prior to his first written report of the nonconformity to the~~  
17 ~~manufacturer, agent or dealer and during any subsequent period when~~  
18 ~~the vehicle is not out of service by reason of repair~~ the purchase  
19 or lease price of the new motor vehicle multiplied by a fraction  
20 having as the denominator one hundred twenty thousand (120,000)  
21 miles and having as the numerator the miles directly attributable to  
22 use by the consumer beyond fifteen thousand (15,000) miles. It  
23 shall be an affirmative defense to any claim under this act ~~(1)~~  
24 that:

1        1. That an alleged nonconformity does not substantially impair  
2 such use and value; or ~~(2) that~~

3        2. That a nonconformity is the result of abuse, neglect or  
4 unauthorized modifications or alterations of a motor vehicle.

5        In no event shall the presumption described in this subsection  
6 apply against a manufacturer unless the manufacturer has received  
7 prior direct written notification from or on behalf of the consumer  
8 and has had an opportunity to cure the defect alleged.

9        D. It shall be presumed that a reasonable number of attempts  
10 have been undertaken to conform a motor vehicle to the applicable  
11 express warranties, if ~~(1) the~~:

12        1. The same nonconformity has been subject to repair four or  
13 more times by the manufacturer or its agents or authorized dealers  
14 within the express warranty term or during the period of one (1)  
15 year following the date of original delivery of the motor vehicle to  
16 a consumer, whichever is the earlier date, but such nonconformity  
17 continues to exist; or ~~(2) the~~

18        2. The vehicle is out of service by reason of repair for a  
19 cumulative total of ~~forty-five (45) or more calendar~~ thirty (30)  
20 business days during such term or during such period, whichever is  
21 the earlier date.

22        The term of an express warranty, such one-year period and such  
23 ~~forty-five-day~~ thirty-day period shall be extended by any period of  
24 time during which repair services are not available to the consumer

1 because of a war, invasion, strike ~~or~~, fire, flood or other natural  
2 disaster.

3 E. Nothing in this act shall in any way limit the rights or  
4 remedies which are otherwise available to a consumer under any other  
5 law.

6 F. If a manufacturer has established an informal dispute  
7 settlement procedure which complies in all respects with the  
8 provisions of Title 16, Code of Federal Regulations, Part 703, as  
9 from time to time amended, the provisions of subsection C of this  
10 section concerning refunds or replacement shall not apply to any  
11 consumer who has not first resorted to such procedure.

12 G. The Oklahoma Attorney General shall prepare a written  
13 statement explaining the rights of a purchaser under this law.  
14 Dealers shall provide to each purchaser at the time of original  
15 purchase of a new motor vehicle a written statement containing a  
16 copy of the statement of the Attorney General.

17 H. Vehicles returned pursuant to the provisions of this act may  
18 not be resold in this state unless:

19 1. The manufacturer provides the same express warranty the  
20 manufacturer provided the original purchaser, except that the term  
21 of the warranty need only last for twelve thousand (12,000) miles or  
22 twelve (12) months after the date of resale, whichever is earlier;  
23 or

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1        2. The manufacturer provides the consumer with a written  
2 statement on a separate piece of paper that clearly discloses the  
3 reason or reasons the vehicle was reacquired by the manufacturer.

4        I. Notwithstanding the provisions of subsection H of this  
5 section, returned vehicles shall not be resold if a new motor  
6 vehicle has been returned pursuant to the provisions of this act or  
7 a similar statute in another state because of nonconformity  
8 resulting in a complete failure of the braking or steering system  
9 likely to cause death or serious bodily injury if the vehicle is  
10 driven.

11        J. In any civil action pursuant to this section wherein the  
12 consumer is the prevailing party in the civil action, the consumer  
13 shall recover all costs and reasonable attorney fees as determined  
14 by the court.

15        SECTION 3.        NEW LAW        A new section of law to be codified  
16 in the Oklahoma Statutes as Section 901.1 of Title 15, unless there  
17 is created a duplication in numbering, reads as follows:

18        A. Any manufacturer who reacquires or assists a dealer or  
19 lienholder to reacquire a motor vehicle registered in this state,  
20 prior to any sale, lease, or transfer of the vehicle in this state,  
21 or prior to exporting the vehicle to another state for sale, lease,  
22 or transfer if the vehicle was registered in this state and  
23 reacquired pursuant to this law shall:  
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1           1. Cause the vehicle to be retitled in the name of the  
2 manufacturer;

3           2. Request the Oklahoma Tax Commission to brand the certificate  
4 of title with the notation "Lemon Law Buyback"; and

5           3. Affix a decal to the vehicle stating the following: "This  
6 vehicle was repurchased by the manufacturer under the Lemon Law of  
7 the State of Oklahoma. The vehicle certificate of title has been  
8 branded as a 'Lemon Law Buyback'."

9           B. The decal shall be permanently and conspicuously affixed to  
10 the front door frame of the left side of the vehicle, or if there is  
11 no front door frame, then the decal shall be affixed as directed by  
12 the Oklahoma Tax Commission. No person shall knowingly remove or  
13 alter any decal required by the provisions of this section.

14           SECTION 4. This act shall become effective November 1, 2009.

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1 Passed the House of Representatives the 24th day of February,  
2 2009.

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Presiding Officer of the House of  
Representatives

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Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2009.

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Presiding Officer of the Senate

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