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Used Car Lemon Law

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56:8-67 Definitions relative to sale and warranty of certain used vehicles

■ As used in this act:

"As is" means a used motor vehicle sold by a dealer to a consumer without any warranty, either express or implied, and with the consumer being solely responsible for the cost of any repairs to that motor vehicle.

"Consumer" means the purchaser or prospective purchaser, other than for the purpose of resale, of a used motor vehicle normally used for personal, family or household purposes.

"Covered item" means and includes the following components of a used motor vehicle: Engine - all internal lubricated parts, timing chains, gears and cover, timing belt, pulleys and cover, oil pump and gears, water pump, valve covers, oil pan, manifolds, flywheel, harmonic balancer, engine mounts, seals and gaskets, and turbo-charger housing; however, housing, engine block and cylinder heads are covered items only if damaged by the failure of an internal lubricated part. Transmission Automatic/Transfer Case - all internal lubricated parts, torque converter, vacuum modulator, transmission mounts, seals and gaskets. Transmission Manual/Transfer Case - all internal lubricated parts, transmission mounts, seals and gaskets, but excluding a manual clutch, pressure plate, throw-out bearings, clutch master or slave cylinders. Front-Wheel Drive - all internal lubricated parts, axle shafts, constant velocity joints, front hub bearings, seals and gaskets, Rear-Wheel Drive - all internal lubricated parts, propeller shafts, supports and U-joints, axle shafts and bearings, seals and gaskets.

"Dealer" means any person or business which sells or offers for sale a used motor vehicle after selling or offering for sale three or more used motor vehicles in the previous 12-month period.

"Deduction for personal use" means the mileage allowance set by the federal Internal Revenue Service for business usage of a motor vehicle in effect on the date a used motor vehicle is repurchased by a dealer in accordance with section 5 of this act, multiplied by the total number of miles a used motor vehicle is driven by a consumer from the date of purchase of that vehicle until the time of its repurchase.

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

"Excessive wear and tear" means wear or damage to a used motor vehicle beyond that expected to be incurred in normal circumstances.

"Material defect" means a malfunction of a used motor vehicle, subject to a warranty, which substantially impairs its use, value or safety.

"Repair insurance" means a contract in writing to refund, repair, replace, maintain or take other action with respect to a used motor vehicle for any period of time or any specified mileage and provided at an extra charge beyond the price of the used motor vehicle.

"Service contract" means a contract in writing to refund, repair, replace, maintain or take other action with respect to a used motor vehicle for any period of time or any specific mileage or provided at an extra charge beyond the price of the used motor vehicle.

"Used motor vehicle" means a passenger motor vehicle, excluding motorcycles, motor homes and off-road vehicles, title to, or possession of which has been transferred from the person who first acquired it from the manufacturer or dealer, and so used as to become what is commonly known as

"secondhand," within the ordinary meaning thereof but does not mean a passenger motor vehicle, subject to a motor vehicle lease agreement which was in effect for more than 90 days, which is sold by the lessor to the lessee, or to a family member or employee of the lessee upon the termination of the lease agreement.

"Warranty" means any undertaking, in writing and in connection with the sale by a dealer of a used motor vehicle, to refund, repair, replace, maintain or take other action with respect to the used motor vehicle, and which is provided at no extra charge beyond the price of the used motor vehicle.

L.1995,c.373,s.1; amended 1997,c.22,s.1.

56:8-67.1 Sale of used passenger motor vehicle, upon termination of lease agreement

■ A lessor who is a dealer and who sells or offers for sale a used passenger motor vehicle, subject to a motor vehicle lease agreement which was in effect for more than 90 days, to a consumer who is not the lessee, or a family member or employee of the lessee upon the termination of the lease agreement, shall be subject to the provisions of P.L.1995, c.373 (C.56:8-67 et seq.) including the bonding requirement of section 11 of that act (C.56:8-77).

L.1997,c.22,s.2.

56:8-68. Unlawful practices

■ It shall be an unlawful practice for a dealer:

- a. To misrepresent the mechanical condition of a used motor vehicle;
- b. To fail to disclose, prior to sale, any material defect in the mechanical condition of the used motor vehicle which is known to the dealer;
- c. To represent that a used motor vehicle, or any component thereof, is free from material defects in mechanical condition at the time of sale, unless the dealer has a reasonable basis for this representation at the time it is made;
- d. To fail to disclose, prior to sale, the existence and terms of any written warranty, service contract or repair insurance currently in effect on a used motor vehicle provided by a person other than the dealer, and subject to transfer to a consumer, if known to the dealer;
- e. To misrepresent the terms of any written warranty, service contract or repair insurance currently in effect on a used motor vehicle provided by a person other than the dealer, and subject to transfer to a consumer;
- f. To fail to disclose, prior to sale, the existence and terms of any written warranty, service contract or repair insurance offered by the dealer in connection with the sale of a used motor vehicle;
- g. To misrepresent the terms of any warranty, service contract or repair insurance offered by the dealer in connection with the sale of a used motor vehicle;
- h. To represent, prior to sale, that a used motor vehicle is sold with a warranty, service contract or repair insurance when the vehicle is sold without any warranty, service contract or repair insurance;

i. To fail to disclose, prior to sale, that a used motor vehicle is sold without any warranty, service contract, or repair insurance; and

j. To fail to provide a clear written explanation, prior to sale, of what is meant by the term "as is," if the used motor vehicle is sold "as is."

L.1995,c.373,s.2.

56:8-69. Written warranty required; minimum durations

■ It shall be an unlawful practice for a dealer to sell a used motor vehicle to a consumer without giving the consumer a written warranty which shall at least have the following minimum durations:

a. If the used motor vehicle has 24,000 miles or less, the warranty shall be, at a minimum, 90 days or 3,000 miles, whichever comes first;

b. If the used motor vehicle has more than 24,000 miles but less than 60,000 miles, the warranty shall be, at a minimum, 60 days or 2,000 miles, whichever comes first; or

c. If the used motor vehicle has 60,000 miles or more, the warranty shall be, at a minimum, 30 days or 1,000 miles, whichever comes first, except that a consumer may waive his right to a warranty as provided under section 7 of this act.

L.1995,c.373,s.3.

56:8-70. Written warranty; requirements of dealer

■ The written warranty shall require the dealer, upon failure or malfunction of a covered item during the term of the warranty, to correct the malfunction or defect, provided the used motor vehicle is delivered to the dealer, at his regular place of business, and subject to a deductible amount of \$50 to be paid by the consumer for each repair of a covered item. This written warranty shall exclude repairs covered by any manufacturer's warranty, or recall program, as well as repairs of a covered item required because of collision, abuse, or the consumer's failure to properly maintain such used motor vehicle in accordance with the manufacturer's recommended maintenance schedule, or from damage of a covered item caused as a result of any commercial use of the used motor vehicle, or operation of such vehicle without proper lubrication or coolant, or as a result of any misuse, negligence or alteration of such vehicle by someone other than the dealer.

L.1995,c.373,s.4.

56:8-71. Dealer's failure to correct defect

■ a. If, within the periods specified in section 3 of this act, the dealer or his agent fails to correct a material defect of the used motor vehicle, after a reasonable opportunity to repair the used motor vehicle, the dealer shall repurchase the used motor vehicle and refund to the consumer the full purchase price, excluding all sales taxes, title and registration fees, or any similar governmental charges, and less a reasonable allowance for excessive wear and tear and less a deduction for personal use of such vehicle. Refunds shall be made to the consumer and lienholder, if any, as their interests appear on the records of ownership kept by the Director of the Division of Motor Vehicles.

b. It shall be an affirmative defense to any claim under this section that:

(1) The alleged material defect does not substantially impair the use, value or safety of the used motor vehicle; or

(2) The material defect is the result of abuse, neglect or unauthorized modification or alteration of the used motor vehicle by anyone other than the dealer or his agent.

c. It shall be presumed that a dealer has a reasonable opportunity to correct or repair a material defect in a used motor vehicle, if:

(1) The same material defect has been subject to repair three or more times by the dealer or his agent within the warranty period, but the material defect continues to exist; or

(2) The used motor vehicle is out of service by reason of waiting for the dealer to begin or complete repair of the material defect for a cumulative total of 20 or more days during the warranty period.

L.1995,c.373,s.5.

56:8-72. Term of warranty extended for repairs

■ The term of any written warranty offered by a dealer in connection with the sale of a used motor vehicle shall be extended by any time period during which the used motor vehicle is waiting for the dealer or his agent to begin or complete repairs of a material defect of the used motor vehicle.

L.1995,c.373,s.6.

56:8-73. Waiver of dealer's obligation to provide warranty

■ Notwithstanding any provision of this act to the contrary, a consumer, as a result of a price negotiation for the purchase of a used motor vehicle with over 60,000 miles, may elect to waive the dealer's obligation to provide a warranty on the used motor vehicle. The waiver shall be in writing and separately stated in the agreement of retail sale or in an attachment thereto and separately signed by the consumer. The waiver shall state the dealer's obligation to provide a warranty on used motor vehicles offered for sale, as set forth in sections 3 and 4 of this act. The waiver shall indicate that the consumer, having negotiated the purchase price of the used motor vehicle and obtained a price adjustment, is electing to waive the dealer's obligation to provide a warranty on the used motor vehicle and is buying the used motor vehicle "as is."

L.1995,c.373,s.7.

56:8-74. Warranty given as a matter of law

■ If a dealer fails to give a written warranty required by this act, the dealer nevertheless shall be deemed to have given the warranty as a matter of law, unless a waiver has been signed by the consumer in accordance with section 7 of this act.

L.1995,c.373,s.8.

56:8-75. Remedies, rights preserved

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

L.1995,c.373,s.9.

56:8-76. Nonapplicability of act

■ The provisions of sections 3, 4, and 5 shall not apply to: any used motor vehicle sold for less than \$3,000; any used motor vehicle over seven or more model years old; any used motor vehicle which has been declared a total loss by an insurance company and with respect to which the consumer, at or prior to the time of sale, has been advised in writing that the used motor vehicle has been declared a total loss by an insurance company; or, any used motor vehicle with more than 100,000 miles.

L.1995,c.373,s.10.

56:8-77. Bond to assure compliance

■ To assure compliance with the requirements of this act, a dealer shall provide a bond in favor of the State of New Jersey in the amount of \$10,000, executed by a surety company authorized to transact business in the State of New Jersey by the Department of Insurance and to be conditioned on the faithful performance of the provisions of this act. This bond shall be for the term of 12 months and shall be renewed at each expiration for a similar period. The Director of the Division of Motor Vehicles shall not issue a dealer's license and shall not renew a license of any dealer who has not furnished proof of the existence of the bond required by this act.

L.1995,c.373,s.11.

56:8-78. Rules, regulations

■ The Director shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to effectuate the purposes of this act.

L.1995,c.373,s.12.

56:8-79. Consumer awareness program required

■ The director shall implement a consumer awareness program which shall advise consumers of the requirements, protections and benefits provided by this act, within 120 days following enactment of this act.

L.1995,c.373,s.13.

56:8-80. Administrative fee established

■ The director may establish an administrative fee, to be paid by the consumer, in order to implement the provisions of this act, which fee shall be fixed at a level not to exceed the cost for the administration and enforcement of this act.

L.1995,c.373,s.14.