

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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HOUSE BILL 614

Short Title: Lemon Law for Emergency Vehicles. (Public)

Sponsors: Representatives Hardister, McNeill, and Pierce (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Transportation, if favorable, Judiciary 1, if favorable, Rules, Calendar, and Operations of the House

April 21, 2021

1 A BILL TO BE ENTITLED
2 AN ACT TO EXPAND THE LEMON LAW PROTECTIONS TO EMERGENCY VEHICLES.
3 The General Assembly of North Carolina enacts:

4 SECTION 1. Article 15A of Chapter 20 of the General Statutes reads as rewritten:
5 "Article 15A.

6 "New Motor Vehicles Warranties Act.

7 "§ 20-351. Purpose.

8 This Article shall provide State and private remedies against motor vehicle manufacturers for
9 persons injured by new motor vehicles failing to conform to express warranties. In the case of a
10 new motor vehicle that is an emergency vehicle, this Article shall require the manufacturer,
11 co-manufacturer, and post-manufacturing modifier to correct defects covered under warranty that
12 are identified and reported within a specified period.

13 "§ 20-351.1. Definitions.

14 As used in this Article:

- 15 (1a) Authorized entity. – An agency of the State, municipality, or county, or a
16 volunteer fire department or volunteer rescue squad.
17 (1b) Co-manufacturer. – With respect to an emergency vehicle, any person that
18 fabricates the emergency vehicle utilizing a component or components of a
19 new motor vehicle made by a manufacturer, other than modifying an existing
20 standard model of a vehicle manufactured by a manufacturer, which
21 component or components are obtained by the co-manufacturer from the
22 manufacturer to fabricate the vehicle for use as an emergency vehicle prior to
23 an initial retail sale or lease of the emergency vehicle.
24 ~~(1)(1c)~~ "Consumer" means ~~the~~ Consumer. – The purchaser, other than for purposes
25 of resale, or lessee from a commercial lender, lessor, or from a manufacturer
26 or dealer, of a motor vehicle, and any other person entitled by the terms of an
27 express warranty to enforce the obligations of that warranty.
28 (1d) Emergency vehicle. – A fire department vehicle, law enforcement vehicle, or
29 ambulance that is designed and equipped with specialized equipment for
30 responding to an emergency and owned, leased, or used by an authorized
31 entity for responding to an emergency.
32 (2) ~~"Manufacturer"~~ means any Manufacturer. – A person or corporation, resident
33 or nonresident, who manufactures or assembles or imports or distributes new
34 motor vehicles which that are sold in the State of North Carolina. With respect



1 to an emergency vehicle, this term includes within its meaning
2 co-manufacturer and post-manufacturing modifier.

3 (3) ~~"Motor vehicle" includes a~~ Motor vehicle. – a motor vehicle as defined in
4 G.S. 20-4.01 that is sold or leased in this State, but does not include "house
5 trailer" as defined in G.S. 20-4.01 or any motor ~~vehicle~~ vehicle, other than an
6 emergency vehicle, that weighs more than 10,000 pounds.

7 (4) ~~"New motor vehicle" means a~~ New motor vehicle. – a motor vehicle for which
8 a certificate of origin, as required by G.S. 20-52.1 or a similar requirement in
9 another state, has never been supplied to a consumer, or which a manufacturer,
10 its agent, or its authorized dealer states in writing is being sold as a new motor
11 vehicle.

12 (5) Post-manufacturing modifier. – With respect to an emergency vehicle, a
13 person who modifies the configuration of an existing standard model of a
14 motor vehicle purchased from a manufacturer to adapt the vehicle for use as
15 an emergency vehicle prior to an initial retail sale or lease of the vehicle.

16 (6) Warranty. – A warranty, whether express or implied of the manufacturer of a
17 new motor vehicle, or, in the case of a new motor vehicle that is an emergency
18 vehicle of the manufacturer, co-manufacturer, or post-manufacturing
19 modifier, of the vehicle's condition and fitness for use, including any terms or
20 conditions to the enforcement of obligations under the warranty.

21 **"§ 20-351.2. Require repairs; when mileage warranty begins to accrue.**

22 (a) Express warranties for a new motor vehicle shall remain in effect at least one year or
23 12,000 miles. If a new motor vehicle does not conform to all applicable express warranties for a
24 period of one year, or the term of the express warranties, whichever is greater, following the date
25 of original delivery of the motor vehicle to the consumer, and the consumer reports the
26 nonconformity to the manufacturer, its agent, or its authorized dealer during such period, the
27 manufacturer shall make, or arrange to have made, repairs necessary to conform the vehicle to
28 the express warranties, whether or not these repairs are made after the expiration of the applicable
29 warranty period.

30 (b) Any express warranty for a new motor vehicle expressed in terms of a certain number
31 of miles shall begin to accrue from the mileage on the odometer at the date of original delivery
32 to the consumer.

33 **"§ 20-351.3. Replacement or refund; disclosure requirement.**

34 (a) When the consumer is the purchaser or a person entitled by the terms of the express
35 warranty to enforce the obligations of the warranty, if the manufacturer is unable, after a
36 reasonable number of attempts, to conform the motor vehicle to any express warranty by
37 repairing or correcting, or arranging for the repair or correction of, any defect or condition or
38 series of defects or conditions which substantially impair the value of the motor vehicle to the
39 consumer, and which occurred no later than 24 months or 24,000 miles following original
40 delivery of the vehicle, the manufacturer shall, at the option of the consumer, replace the vehicle
41 with a comparable new motor vehicle or accept return of the vehicle from the consumer and
42 refund to the consumer all of the following:

43 (1) The full contract price ~~including, but not limited to,~~ including charges for
44 undercoating, dealer preparation and transportation, and installed options,
45 plus the non-refundable portions of extended warranties and service
46 ~~contracts;~~ contracts.

47 (2) All collateral charges, ~~including but not limited to,~~ including sales tax, license
48 and registration fees, and similar government ~~charges;~~ charges.

49 (3) All finance charges incurred by the consumer after he first reports the
50 nonconformity to the manufacturer, its agent, or its authorized ~~dealer;~~
51 and dealer.

1 (4) Any incidental damages and monetary consequential damages.

2 (b) When consumer is a lessee, if the manufacturer is unable, after a reasonable number
3 of attempts, to conform the motor vehicle to any express warranty by repairing or correcting, or
4 arranging for the repair or correction of, any defect or condition or series of defects or conditions
5 which substantially impair the value of the motor vehicle to the consumer, and which occurred
6 no later than 24 months or 24,000 miles following original delivery of the vehicle, the
7 manufacturer shall, at the option of the consumer, replace the vehicle with a comparable new
8 motor vehicle or accept return of the vehicle from the consumer and refund all of the following:

9 (1) To the consumer:

10 a. All sums previously paid by the consumer under the terms of the
11 ~~lease;~~lease.

12 b. All sums previously paid by the consumer in connection with entering
13 into the lease ~~agreement, including, but not limited to, agreement,~~
14 including any capitalized cost reduction, sales tax, license and
15 registration fees, and similar government ~~charges; and~~charges.

16 c. Any incidental and monetary consequential damages.

17 (2) To the lessor, a full refund of the lease price, plus an additional amount equal
18 to five percent (5%) of the lease price, less eighty-five percent (85%) of the
19 amount actually paid by the consumer to the lessor pursuant to the lease. The
20 lease price means the actual purchase cost of the vehicle to the lessor.

21 In the case of a refund, the leased vehicle shall be returned to the manufacturer and the consumer's
22 written lease shall be terminated by the lessor without any penalty to the consumer. The lessor
23 shall transfer title of the motor vehicle to the manufacturer as necessary to effectuate the
24 consumer's rights pursuant to this Article, whether the consumer chooses vehicle replacement or
25 refund.

26 (c) Refunds shall be made to the consumer, lessor, and any lienholders as their interests
27 may appear. The refund to the consumer shall be reduced by a reasonable allowance for the
28 consumer's use of the vehicle. A reasonable allowance for use is calculated from the number of
29 miles used by the consumer up to the date of the third attempt to repair the same nonconformity
30 which is the subject of the claim, or the twentieth cumulative business day when the vehicle is
31 out of service by reason of repair of one or more nonconformities, whichever occurs first. The
32 number of miles used by the consumer is multiplied by the purchase price of the vehicle or the
33 lessor's actual lease price, and divided by 120,000.

34 (d) If a manufacturer, its agent, or its authorized dealer resells a motor vehicle that was
35 returned pursuant to this Article or any other State's applicable law, regardless of whether there
36 was any judicial determination that the motor vehicle had any defect or that it failed to conform
37 to all express warranties, the manufacturer, its agent, or its authorized dealer shall disclose all of
38 the following information to the subsequent purchaser prior to the sale:

39 (1) That the motor vehicle was returned pursuant to this Article or pursuant to the
40 applicable law of any other ~~State; and~~State.

41 (2) The defect or condition or series of defects or conditions which substantially
42 impaired the value of the motor vehicle to the consumer.

43 Any subsequent purchaser who purchases the motor vehicle for resale with notice of the return,
44 shall make the required disclosures to any person to whom ~~he resells~~ the reseller sells the motor
45 vehicle.

46 "**§ 20-351.4. Affirmative defenses.**

47 It is an affirmative defense to any claim under this Article that an alleged nonconformity or
48 series of nonconformities are the result of abuse, neglect, odometer tampering by the consumer
49 or unauthorized modifications or alterations of a motor vehicle.

50 "**§ 20-351.5. Presumption.**

1 (a) It is presumed that a reasonable number of attempts have been undertaken to conform
2 a motor vehicle to the applicable express warranties ~~if~~if either of the following occurs:

- 3 (1) The same nonconformity has been presented for repair to the manufacturer,
4 its agent, or its authorized dealer four or more times but the same
5 nonconformity continues to ~~exist~~or exist.
- 6 (2) The vehicle was out of service to the consumer during or while awaiting repair
7 of the nonconformity or a series of nonconformities for a cumulative total of
8 20 or more business days during any 12-month period of the ~~warranty~~,
9 ~~provided that the warranty and the consumer has notified the manufacturer~~
10 ~~directly in writing of the existence of the nonconformity or series of~~
11 ~~nonconformities and allowed the manufacturer a reasonable period, not to~~
12 ~~exceed 15 calendar days, in which to correct the nonconformity or series of~~
13 ~~nonconformities. The manufacturer must clearly and conspicuously disclose~~
14 ~~to the consumer in the warranty or owners manual that written notification of~~
15 ~~a nonconformity is required before a consumer may be eligible for a refund or~~
16 ~~replacement of the vehicle and the manufacturer shall include in the warranty~~
17 ~~or owners manual the name and address where the written notification may be~~
18 ~~sent. Provided, further, that notice~~ Notice to the manufacturer shall not be
19 required if the manufacturer fails to make ~~the disclosures provided herein~~this
20 disclosure.

21 (b) The consumer may prove that a defect or condition substantially impairs the value of
22 the motor vehicle to the consumer in a manner other than that set forth in subsection (a) of this
23 section.

24 (c) The term of an express warranty, the one-year period, and the 20-day period shall be
25 extended by any period of time during which repair services are not available to the consumer
26 because of war, strike, or natural disaster.

27 **"§ 20-351.6. Civil action by the Attorney General.**

28 Whenever, in ~~his opinion~~, the opinion of the Attorney General the interests of the public
29 require it, it shall be the duty of the Attorney General ~~upon his~~upon ascertaining that any of the
30 provisions of this Article have been violated by the manufacturer to bring a civil action in the
31 name of the State, or any officer or department ~~thereof of the State~~ as provided by law, or in the
32 name of the State on relation of the Attorney General.

33 **"§ 20-351.7. Civil action by the consumer.**

34 A consumer injured by reason of any violation of the provisions of this Article may bring a
35 civil action against the manufacturer; provided, however, the consumer has given the
36 manufacturer written notice of ~~his~~the consumer's intent to bring an action against the
37 manufacturer at least 10 days prior to filing such suit. Nothing in this section shall prevent a
38 manufacturer from requiring a consumer to utilize an informal settlement procedure prior to
39 litigation if that procedure substantially complies in design and operation with the
40 Magnuson-Moss Warranty Act, ~~15 USC § 2301 et seq.~~, 15 U.S.C. §§ 2301-2312, and regulations
41 promulgated ~~thereunder~~, under this act, and that requirement is written clearly and conspicuously,
42 in the written warranty and any warranty instructions provided to the consumer.

43 **"§ 20-351.8. Remedies.**

44 In any action brought under this Article, the court may grant as ~~relief~~relief any of the
45 following:

- 46 (1) A permanent or temporary injunction or other equitable relief as the court
47 deems ~~just~~just.
- 48 (2) Monetary damages to the injured consumer in the amount fixed by the verdict.
49 Such damages shall be trebled upon a finding that the manufacturer
50 unreasonably refused to comply with G.S. 20-351.2 or G.S. 20-351.3. The

1 jury may consider as damages all items listed for refund ~~under G.S.~~
2 ~~20-351.3; under G.S. 20-351.3.~~
3 (3) ~~A reasonable attorney's fee for the attorney of~~ Reasonable attorneys' fees to
4 the prevailing party, payable by the losing party, upon a finding by the court
5 ~~that:~~ of either of the following:
6 a. The manufacturer unreasonably failed or refused to fully resolve the
7 matter which constitutes the basis of such ~~action;~~ or action.
8 b. The party instituting the action knew, or should have known, the action
9 was frivolous and malicious.

10"

11 **SECTION 2.** This act becomes effective July 1, 2021.