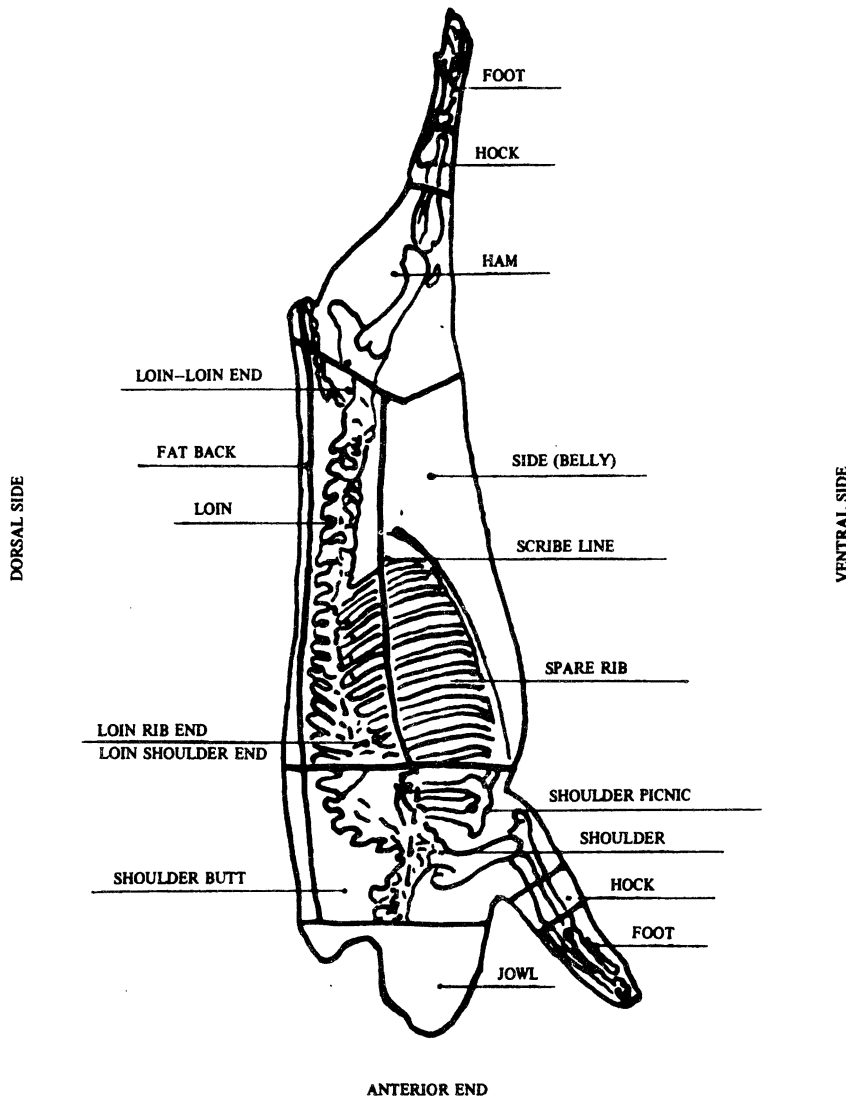


(d) Chart 4: Pork Carcass  
POSTERIOR END



**SUBCHAPTER 4. BANNED HAZARDOUS PRODUCTS**

**Case Notes**

U.S. v. One Hazardous Product Consisting of a Refuse Bin, D.C., 487 F.Supp. 581 (1980).

**13:45A-4.1 Unconscionable commercial practice**

It shall be an unconscionable commercial practice for any person, including any business entity, to manufacture, distribute, sell or offer for sale any consumer product contrary to any order of the Consumer Product Safety Commission, pursuant to 15 U.S.C. §2051 et seq.

Amended by R.1995 d.618, effective December 4, 1995.  
See: 27 N.J.R. 3566(a), 27 N.J.R. 4899(b).

**13:45A-4.2 Consumer product defined**

(a) For purposes of this rule, the term "consumer product" means any article or component part thereof, produced or distributed:

1. For sale to a consumer for use in or around a permanent or temporary household or residence, a school, in recreation or otherwise; or
2. For the personal use, consumption or enjoyment of a permanent or temporary household or residence, a school, in recreation or otherwise.

**13:45A-4.3 Violations**

Without limiting the prosecution of any other practices which may be unlawful under the Consumer Fraud Act, N.J.S.A. 56:8-1 et seq. any violation of the provisions of this rule shall be subject to the sanctions contained in said Consumer Fraud Act.

## SUBCHAPTER 5. DELIVERY OF HOUSEHOLD FURNITURE AND FURNISHINGS

### 13:45A-5.1 Deceptive practices; generally

(a) Any person who is engaged in the sale of household furniture for which contracts of sale or sale orders are used for merchandise ordered for future delivery shall:

1. Deliver all of the ordered merchandise by or on the promised delivery date; or

2. Provide written notice to the consumer of the impossibility of meeting the promised delivery date. The notice shall offer the consumer the option to cancel said order with a prompt, full refund of any payments already made or to accept delivery at a specified later time. Said written notice shall be mailed on or prior to the delivery date.

(b) In the event a seller fails to deliver all of the ordered merchandise on the promised delivery date and makes only a partial delivery, the seller shall comply with the notice requirement of (a) above. Said notice shall offer the consumer the option of cancelling the order with a prompt, full refund of any payments already made or accepting delivery of the balance of the ordered merchandise at a specified later date.

(c) Failure to comply with (a) above shall constitute a deceptive practice under the Consumer Fraud Act.

(d) For purposes of this rule, "household furniture" includes, but is not limited to, furniture, major electrical appliances, and such items as carpets and draperies.

Amended by R.1995 d.618, effective December 4, 1995.  
See: 27 N.J.R. 3566(a), 27 N.J.R. 4899(b).

#### Case Notes

Validity. *State v. Hudson Furniture Co.*, 165 N.J.Super. 516, 398 A.2d 900 (App.Div.1979).

Consumer Fraud Act regulation applies when furniture is delivered untimely. *DiNicola v. Watchung Furniture's Country Manor*, 232 N.J.Super. 69, 556 A.2d 367 (A.D.1989) certification denied 117 N.J. 126, 564 A.2d 854.

Consumer Fraud Act regulations do not apply to breach of warranty. *DiNicola v. Watchung Furniture's Country Manor*, 232 N.J.Super. 69, 556 A.2d 367 (A.D.1989) certification denied 117 N.J. 126, 564 A.2d 854.

In Consumer Fraud Act, "promised merchandise" relates to quantity and description, not to quality of merchandise. *DiNicola v. Watchung Furniture's Country Manor*, 232 N.J.Super. 69, 556 A.2d 367 (A.D. 1989) certification denied 117 N.J. 126, 564 A.2d 854.

### 13:45A-5.2 Contract forms; date of order

(a) The contract forms or sales documents shall show the date of the order and shall contain the following sentence in ten-point bold face type:

**The merchandise you have ordered is promised for delivery to you on or before (insert date or length of time agreed upon).**

(b) The blank delivery date shall be filled in by the seller either as a specific day of a specific month or as a length of time agreed upon by the buyer and seller (for example, "six weeks from date of order").

Amended by R.1995 d.618, effective December 4, 1995.  
See: 27 N.J.R. 3566(a), 27 N.J.R. 4899(b).

### 13:45A-5.3 Contract form; delayed delivery

(a) The contract forms or sales documents shall conspicuously disclose the seller's obligations in the case of delayed delivery in compliance with N.J.A.C. 13:45A-5.1 and shall contain, on the first page of the contract form or sales document, the following notice in ten-point bold face type:

**If the merchandise ordered by you is not delivered by the promised delivery date, (insert name of seller) must offer you the choice of (1) canceling your order with a prompt, full refund of any payments you have made, or (2) accepting delivery at a specific later date.**

(b) The provisions of this subchapter shall apply to any person who sells household furniture in or from the State of New Jersey or to any person located outside of the State of New Jersey who sells household furniture into this State.

(c) It shall be unlawful for any person to use any contract or sales agreement that contains any terms, such as "all sales final" or "no cancellations", which violate or are contrary to the rights and responsibilities provided for by this rule. Any contract or sales agreement which contains such a provision shall be null and void and unenforceable.

Amended by R.1995 d.618, effective December 4, 1995.  
See: 27 N.J.R. 3566(a), 27 N.J.R. 4899(b).

### 13:45A-5.4 Violations; sanctions

Without limiting the prosecution of any other practices which may be unlawful under the Consumer Fraud Act, N.J.S.A. 56:8-1 et seq., any violation of the provisions of this subchapter shall be subject to the sanctions contained in said Consumer Fraud Act.

## SUBCHAPTERS 6 THROUGH 8. (RESERVED)

## SUBCHAPTER 9. MERCHANDISE ADVERTISING

### 13:45A-9.1 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise.

“Advertisement” means any attempt by an advertiser, other than by use of a price tag, catalog or any offering for the sale of a motor vehicle subject to the requirements of N.J.A.C. 13:45A-2, to directly or indirectly induce the purchase or rental of merchandise at retail, appearing in any newspaper, magazine, periodical, circular, in-store or out-of-store sign or other written matter placed before the consuming public, or in any radio broadcast, television broadcast, electronic medium or delivered to or through any computer.

“Advertiser” means any person as defined by N.J.S.A. 56:8-1(d), other than a public utility regulated by the Board of Public Utilities, who in the ordinary course of business is engaged in the sale or rental of merchandise at retail and who places, either directly or through an advertising agency, an advertisement before the public.

“Catalog” means a multi-page solicitation in which a seller offers goods for sale or rental for a seasonal or specified period of time, from which consumers can order goods directly without going to the seller’s place of business. An advertising circular, distributed through inclusion in a newspaper, representing a seller’s partial offering of goods for sale or rental for a period of time not to exceed two weeks, shall not be considered a catalog.

“Closeout sale” means a sale in which an advertiser offers for sale at a reduced price items of merchandise remaining at one or more specified locations which the advertiser will not have available for sale within a reasonable period of time after all such items have been sold.

“Division” means the Division of Consumer Affairs.

“Factory outlet” means an establishment owned by a manufacturer that is used primarily to offer, at retail, the manufacturer’s products directly to the consumer for his or her own use and not for resale.

“Fictitious former price” means an artificially inflated price for an item or items of merchandise established for the purpose of enabling the advertiser to subsequently offer the item or items at a large reduction.

“Former price or price range” in a price reduction advertisement means an advertised price or price range for an item of merchandise that has been offered or sold by the advertiser in his or her trade area or competitors in their trade area.

“Home appliance” means any electrical, mechanical or thermal article produced or distributed for sale to a consumer for use in or around a permanent or temporary household or residence including, but not limited to, air conditioners, cameras, computers, dehumidifiers, dishwashers, dryers, electric blankets, electronic games, fans, freezers, motorized kitchen aids, ovens, radios, ranges, refrigerators, stereo equipment, televisions and washers.

“Merchandise” means any objects, wares, goods, commodities, services or anything offered directly or indirectly to the public for sale or rental at retail.

“Price advertisement” means any advertisement in which a specific dollar price is stated with regard to specific advertised merchandise.

“Price reduction advertisement” means an advertisement which in any way states or suggests directly or indirectly that merchandise is being offered or made available for sale at a price less than that at which it has been routinely sold or offered for sale in the past or at which it will be sold or offered for sale in the future. The following words and terms or their substantial equivalent, when used in any advertisement except when used exclusively as part of the advertiser’s corporate, partnership or trade name, shall be deemed to indicate a price reduction advertisement: sale, discount, special savings, price cut, bargain, reduced, prices slashed, clearance, regularly, usually, cut rate, originally, formerly, warehouse or factory clearance, buy one get one free, at cost, below cost, wholesale.

“Rain check” means a written statement issued by an advertiser allowing the purchase of designated merchandise at a previously advertised price.

“Trade area” means that geographical area in which an advertiser solicits or makes a substantial number of sales.

Amended by R.1996, d.309, effective July 1, 1996 (operative August 15, 1996).

See: 28 N.J.R. 1186(a), 28 N.J.R. 3304(a).

Added ‘Factory outlet’, ‘Fictitious former price’ and ‘Former price or price range’; deleted ‘Reference price’; and amended ‘Advertisement’ and ‘Home appliance’.

#### Case Notes

Held that a franchise or business opportunity venture is “merchandise” within intentment of the Consumer Fraud Act; failure of franchiser to provide franchisee with a rule disclosure statement was a per se unconscionable commercial practice, deception, fraud, false pretense, false promise or misrepresentation in violation of the Consumer Fraud Act. *Morgan v. Air Brook Limousine, Inc.*, 211 N.J.Super 84, 510 A.2d 1197 (Law Div.1986).

#### 13:45A-9.2 General advertising practices

(a) Without limiting the application of N.J.S.A. 56:8-1 et seq., the following practices shall be unlawful with respect to all advertisements:

1. The failure of an advertiser to maintain and offer for immediate purchase advertised merchandise in a quantity sufficient to meet reasonably anticipated consumer demand therefor. When an advertisement states a specific period of time during which merchandise will be available for sale, a sufficient quantity of such merchandise shall be made available to meet reasonably anticipated consumer demand during the stated period. When no stated period appears in the advertisement, a sufficient quantity of merchandise shall be made available to meet reasonably anticipated consumer demand during three consecutive business days commencing with the effective date of the advertisement. The requirement of this subsection shall not be applicable to merchandise which is advertised:

- i. On an in-store sign only with no corresponding out-of-store sign;
  - ii. As being available in a specific quantity; or
  - iii. As being available in a "limited supply," pursuant to a "closeout sale" or pursuant to a "clearance sale" if such offering meets the definition of a closeout sale; or if represented to be permanently reduced.
2. The failure of an advertiser to specifically designate within an advertisement which merchandise items possess special or limiting factors relating to price, quality, condition or availability. By way of illustration, and not by limitation, the following shall be deemed violative of this subparagraph:
- i. The failure to specifically designate which merchandise items are below cost, if any amount less than all advertised items are below cost, when a statement of below cost sales is set forth in an advertisement;
  - ii. The failure to specifically designate which merchandise items, if any, are damaged or in any way less than first quality condition;
  - iii. The failure to specifically designate merchandise as floor models, discontinued models or one of a kind, when applicable;
  - iv. The failure to clearly designate or describe the retail outlets at which advertised merchandise will or will not be available. Such information need not be disclosed on any in-store advertisement.
3. The failure to conspicuously post notice of advertised merchandise, on the business premises to which the advertisement applies, in proximity to the advertised merchandise or at all entrances to the business premises. Such notice may consist of a copy of the advertisement or may take the form of a tag attached to the merchandise or any sign with such terms as "sale," "as advertised," "20% off."
4. In any price advertisement in which a home appliance is offered for sale, the failure of an advertiser to disclose the following information relating to the advertised merchandise: the manufacturer's name or the merchandise trade name, the model or series number and such other information as may be necessary to clearly delineate the advertised item from other similar merchandise produced by the same manufacturer.
5. The use of any type, size, location, lighting, illustration, graphic depiction or color resulting in the obscuring of any material fact.
6. The use of the terms "Public Notice," "Public Sale" or words or terms of similar meaning in any advertisement offering merchandise for sale, where such sale is not required by court order or by operation of law, other than a sale conducted by an auctioneer on behalf of a non-business entity.
7. Describing the advertiser through the use of the terms "warehouse," "factory outlet," "discount," "bargain," "clearance," "liquidators," "unclaimed freight," or other words or terms of similar meaning, whether in the advertiser's corporate, partnership or trade name or otherwise, where such terms do not reflect a bona fide description of the advertiser being described.
8. Whenever an advertiser provides a raincheck for an advertised item which is not available for immediate purchase, the failure to:
- i. Honor or satisfy such raincheck within 60 days of issuance unless an extension of such time period is agreed to by the holder thereof; and
  - ii. Give written or telephonic notice to the holder thereof when the merchandise is available and hold such merchandise for a reasonable time after giving such notice, for all merchandise with an advertised price greater than \$15 per unit; and
  - iii. Offer a raincheck to all customers who are unable, due to the unavailability thereof, to purchase the advertised merchandise during the period of time during which the merchandise has been advertised as available for sale.
9. The making of false or misleading representations of facts concerning the reasons for, existence or amounts of price reductions, the nature of an offering or the quantity of advertised merchandise available for sale.
10. The failure of an advertiser to substantiate through documents, records or other written proof any claim made regarding the safety, performance, availability, efficiency, quality or price of the advertised merchandise, nature of the offering or quantity of advertised merchandise available for sale. Such records shall be made available upon request for inspection by the Division or its designee at the advertiser's regular place of business or central office in New Jersey, or, at the advertiser's option, the Division's designated offices, for a period of 90 days following the effective date of the advertisement.
11. The use, directly or indirectly, of a comparison to a suggested retail price, inventory price, invoice price or similar terms that directly or indirectly compare or suggest the comparison between the cost of supply and the price at retail for the advertised merchandise.
12. Use of the term "cost," "wholesale" or other similar terms to describe an advertised price where such price is not equal to or less than the price per unit paid by the advertiser to the manufacturer or distributor of the merchandise. In the computation of the price per unit of the advertised merchandise, freight may be included if the advertiser pays for same and is not reimbursed therefore, but handling and all overhead or operating expenses shall be excluded.

The New Jersey Coalition for Prevention  
of Developmental Disabilities  
985 Livingston Avenue  
North Brunswick, New Jersey 08902  
Tel. (908) 246-2525

Alternatively, the statement promoting the use of bicycle helmets may be in the form of a tag, notice, or decal designed by the bicycle supplier or retailer, provided the wording is clear and concise, appears in no less than 20-point type if in the form of a tag or notice and no less than 18-point type if in the form of a decal, and is printed in boldface capital letters, in color contrasting with the background. The tag or notice shall be made of cardboard, durable paper or plastic, and shall be no smaller than four inches by six inches if in the form of a tag or notice and no less than one by two inches if in the form of a decal; it may be covered by transparent plastic but shall not be obscured.

(c) A statement promoting the use of bicycle helmets that is contained within the text of the owner's manual, shall not satisfy the requirement.

Amended by R.1995 d.618, effective December 4, 1995.  
See: 27 N.J.R. 3566(a), 27 N.J.R. 4899(b).

## SUBCHAPTER 25. SELLERS OF HEALTH CLUB SERVICES

### 13:45A-25.1 "Health club" defined

(a) The term "health club" shall include any establishment which:

1. Devotes at least 40 percent of its facility to the preservation, maintenance, encouragement or basic development of physical fitness or physical well-being through physical exercise; and
2. Where patron use is predominantly at will (that is, usage is permitted whenever the establishment is open or during specified time periods, such as "weekends", "weekdays", "mornings", etc.).

(b) The term "health club" shall not include a single focus establishment/facility that is devoted to the development of one particular physical skill, or activity or enjoyment of one specific sport. The following facilities are not subject to the Act Regulating Sellers of Health Club Services, P.L. 1987, c. 238 ("Act"):

1. Basic aerobic and "dance exercise" centers operating on a scheduled lesson or hourly basis;
2. Children's gyms (commercial play-spaces with trampolines and other gymnastic equipment) operating on a scheduled lesson or hourly basis;

3. Martial arts schools (for example, karate institutes);
4. Dancing schools (for example, ballet and jazz);
5. Gymnastic schools operating on a scheduled lesson or hourly basis;
6. Tanning salons ("sun studios");
7. Weight control centers;
8. Metabolic and nutrition centers;
9. Other single sport centers (for example, swim clubs, tennis clubs and racquetball clubs).

(c) Health club facilities located in hotels, motels, condominiums, cooperatives, corporate offices or other business facilities and which charge fees comparable to other for-profit health clubs are subject to the Act unless usage is limited to guests, residents or employees at no charge or at nominal cost, in which event the facilities are not within the scope of the Act.

### 13:45A-25.2 Registration; fees

(a) Applicant(s) shall request information from the Health Club Coordinator, Office of Consumer Protection, Post Office Box 45025, Newark, New Jersey 07101 regarding the initial registration of a facility; thereafter an application shall be forwarded to the applicant, along with a copy of the Act and a copy of all current rules.

(b) Any person who offers for sale or sells health club services shall pay to the Director of the Division of Consumer Affairs a registration fee of \$300.00 every two years for each health club facility operated, \$150.00 if paid during the second half of the biennial period.

(c) Upon verification of the information submitted in the application, payment of the registration fee and posting of a security, if not exempt from that requirement pursuant to N.J.A.C. 13:45A-25.4, a Certificate of Registration and the Notice described in (e) below shall be issued to the facility. The Certificate of Registration and Notice shall be displayed in a prominent place at the main entrance of each health club facility.

(d) Each contract for health club services shall contain, in the upper right-hand corner, the facility's Certificate of Registration number.

(e) The following shall be the text of the Notice to be provided by the Division to each registered facility:

#### NOTICE

This facility is registered as a seller of health club services by the State of New Jersey, Department of Law and Public Safety, Division of Consumer Affairs, 124 Halsey Street, Newark, New Jersey 07102. Such registration does not mean that this facility has been approved or endorsed by that

agency. Patrons are advised that under New Jersey law, facilities offering contracts for health club services for longer than a three-month period must post with the Division of Consumer Affairs security against failure to provide such services.

(f) A registrant may note in advertising that it is a registered health club; however, a registrant shall not state or imply that the facility has been approved or endorsed by the Division.

(g) All registrations shall expire every two years on the 10th day of February.

Amended by R.1990 d.104, effective February 5, 1990.

See: 21 N.J.R. 3657(a), 22 N.J.R. 358(b).

Registration fee increased from \$100.00 to \$200.00 every two years.

Amended by R.1992 d.101, effective March 2, 1992.

See: 23 N.J.R. 3637(a), 24 N.J.R. 853(a).

Revised (a), (b), (e) and (g).

### 13:45A-25.3 Exemption from registration

(a) Where a facility claims exemption from registration because less than 40 percent of its square footage is devoted to health club services, the facility shall calculate the 40 percent square footage on the basis of the total indoor square footage of the establishment including the exercise equipment area(s), sauna(s), swimming pool(s), locker facilities and shower areas. The facility shall return a completed application form to the Division of Consumer Affairs along with documentation of the "less than 40 percent" claim, which shall include:

1. A schematic drawing noting the dimensions and use of each area of the facility;
2. A list of the various rooms/spaces with the total square footage of each room/space;
3. A statement of the total square footage of the facility; and
4. Two sample advertisements or brochures if any have been published by the facility within a three month period prior to the date documentation is filed.

(b) If, after the filing of the claim of exemption from registration, a facility makes an internal or external change in space allocation which changes the relationship of the health club services area to the total premises, the facility shall file a revised schematic diagram with the Division. This filing shall be made no later than 90 days after the date when the change in space allocation is completed.

(c) A claim of exemption from registration because less than 40 percent of the facility's square footage is devoted to health club services shall be subject to on-site verification at the discretion of the Director of the Division.

### 13:45A-25.4 Exemption from security requirement

A separate Declaration of Exemption from Security Requirement shall be filed for each facility claiming exemption from the bond/letter of credit/security requirement of N.J.S.A. 56:8-41 because its membership contracts are for a period no longer than three months. When the Declaration of Exemption from Security Requirement is filed, it must be accompanied by a copy of a written contract as proof that the contract duration is for a period of no longer than three months. The Declaration of Exemption from Security Requirement shall be available upon request from the Health Club Coordinator, Office of Consumer Protection, Post Office Box 45025, Newark, NJ 07101.

Amended by R.1992 d.101, effective March 2, 1992.

See: 23 N.J.R. 3637(a), 24 N.J.R. 853(a).

Revised text.

### 13:45A-25.5 Documentation of maintenance of security

Each establishment which has posted a bond as security shall maintain complete and accurate records relating to the bond and premium payments made thereon. Each establishment which has posted a letter of credit or provided other security acceptable to the Director of the Division shall maintain complete and accurate records relating to those items. These records shall be available on the premises of the establishment for review by the Director or his or her designated representative on any operating day.

### 13:45A-25.6 Violations; sanctions

Without limiting the prosecution of any other practices which may be unlawful under the Consumer Fraud Act, N.J.S.A. 56:8-1 et seq., any violation of the provisions of this subchapter shall be subject to the sanctions contained in the Consumer Fraud Act.

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## SUBCHAPTER 26. AUTOMOTIVE DISPUTE RESOLUTION

### 13:45A-26.1 Purpose and scope

(a) The purpose of this subchapter is to implement the Lemon Law, P.L. 1988, c. 123, by establishing an automotive dispute resolution system within the Division of Consumer Affairs in conjunction with the Office of Administrative Law. The subchapter also sets forth the method of refund computation, and details the reporting requirements and procedure for publication of compliance records of manufacturers of motor vehicles.

(b) This subchapter is applicable to:

1. All manufacturers of passenger cars and motorcycles registered, sold or leased in the State of New Jersey;

2. All purchasers and lessees of passenger cars and motorcycles registered, sold or leased in the State of New Jersey; and

3. Dealers servicing such vehicles whether their service facilities are located within or outside of the State.

Amended by R.1992 d.236, effective June 1, 1992.  
See: 24 N.J.R. 53(a), 24 N.J.R. 2063(a).  
Revised (b).

### 13:45A-26.2 Definitions

As used in this subchapter, the following words shall have the following meanings:

“Days” means calendar days.

“Director” means the Director of the Division of Consumer Affairs.

“Dispute Resolution System” means a procedure established by the Division of Consumer Affairs and the Office of Administrative Law for the resolution of disputes regarding motor vehicle nonconformity(s) through summary administrative hearings.

“Lemon Law” means P.L. 1988, c.123, an Act concerning new motor warranties and repealing P.L. 1983, c.215, as amended by P.L. 1993, c.21.

“Lemon Law Unit” (“LLU”) means the administrative unit within the Division of Consumer Affairs that processes Lemon Law matters.

“Motor vehicle” means a passenger automobile or motorcycle as defined in N.J.S.A. 39:1-1, that is registered, sold or leased in the State of New Jersey, whether purchased, leased, or repaired in the State or outside the State.

“Nonconformity” means a defect or condition which substantially impairs the use, value or safety of a motor vehicle.

“OAL” means the Office of Administrative Law.

“Out of service” means the number of days the defective motor vehicle is on the premises of a repair facility for the purpose of repairing one or more nonconformities; delays caused by the consumer, such as a delay in picking up the motor vehicle from the facility after notification that it is ready, shall not be counted as days out of service.

“Term of protection” means within the first 18,000 miles of operation or the two years following the original date of delivery of the motor vehicle to the consumer, whichever is the earlier date.

“Title” means the certificate of ownership of a motor vehicle.

Amended by R.1992 d.236, effective June 1, 1992.  
See: 24 N.J.R. 53(a), 24 N.J.R. 2063(a).

Revised definition “motor vehicle”.  
Amended by R.1994 d.176, effective April 4, 1994.  
See: 25 N.J.R. 3939(a), 26 N.J.R. 1535(a).

### Case Notes

Vibration in steering, subject of consumer’s subjective assessment but without basis in objective fact, was not defect substantially impairing use, value or safety. *Simon v. Volkswagen*, 95 N.J.A.R.2d (CMA) 226.

Alleged pulsation which occurred when brakes were applied on vehicle was not defect substantially impairing use, value or safety. *Manley v. Mercedes-Benz*, 95 N.J.A.R.2d (CMA) 224.

Intermittent failure of gearshift indicator light was nonconformity substantially impairing use, value and/or safety. *Bowser v. Ford Motor*, 95 N.J.A.R.2d (CMA) 222.

Use, value or safety of vehicle was not substantially impaired by musty odor discharge from air conditioner/heater when activated. *Ashkenazie v. Ford Motor*, 95 N.J.A.R.2d (CMA) 220.

Random engine stalling reported by consumer was not defect substantially impairing vehicle’s use, value or safety. *Pisani v. Chrysler*, 95 N.J.A.R.2d (CMA) 218.

Wind noises in doors and misalignment were not defects substantially impairing vehicle’s value or safety. *Simmons v. Chevrolet Motor*, 95 N.J.A.R.2d (CMA) 215.

Lag in transmission of four-cylinder vehicle while shifting from one gear to another was not a defect substantially impairing use, value and safety. *Hong v. Chrysler Motor*, 95 N.J.A.R.2d (CMA) 213.

Indicators falsely warning of door opening were nonconformities substantially impairing vehicle’s use or safety. *Mecca v. Ford Motor*, 95 N.J.A.R.2d (CMA) 211.

Neither pull in steering nor sound emanating from front end was a demonstrable defect for which manufacturer was liable to consumer. *Tursi v. Ford Motor*, 95 N.J.A.R.2d (CMA) 208.

Brakes that could not properly stop vehicle after repair attempts were a defect substantially impairing vehicle’s safety. *Di Bella v. Ford Motor*, 95 N.J.A.R.2d (CMA) 205.

Bucking and stalling described by consumer were not defects substantially impairing use, value or safety of vehicle. *Schneiderman v. Chrysler Motor*, 95 N.J.A.R.2d (CMA) 203.

Intermittent shaking and sudden loss of power was nonconformity that substantially impaired vehicle’s use, value and safety. *Petrone v. Chrysler Motor*, 95 N.J.A.R.2d (CMA) 200.

Alleged sticking in steering of vehicle was not a defect shown by concrete evidence to impair use, value or safety. *Faller v. Ford Motor*, 95 N.J.A.R.2d (CMA) 198.

Rough idle and stalling were defects impairing vehicle’s safety and, when not repaired after notice, warranted refund. *Termyna v. Hyundai Motor*, 95 N.J.A.R.2d (CMA) 193.

Neither coolant leak nor alleged odor was a defect or condition that substantially impaired value, safety or use of vehicle. *Ho v. Nissan Motor*, 95 N.J.A.R.2d (CMA) 191.

Moisture problems inside vehicle were due to consumer’s failure to understand controls and were not defects impairing use, value or safety. *Newsome v. Volkswagen*, 95 N.J.A.R.2d (CMA) 188.

Left-veering on hard braking, absent objective corroboration, was a subjective observation that was not a substantial nonconformity. *Artinian v. Chrysler Motor*, 95 N.J.A.R.2d (CMA) 187.

Unnatural cranking or grinding sound from brakes was defect that substantially impaired value of vehicle. *McInerney v. Hyundai Motor*, 95 N.J.A.R.2d (CMA) 176, supplemented 95 N.J.A.R. (CMA) 185.

Neither muffled thump in anti-lock brakes nor nonfunctional directional signals were nonconformity substantially impairing use, value or safety. *Chen v. Chrysler Motor*, 95 N.J.A.R.2d (CMA) 185.

Gap between bottom of trunk lid and top of bumper was common and was not defect substantially impairing use, value or safety. *Walsh v. Chrysler Motor*, 95 N.J.A.R.2d (CMA) 182.

Design which caused paint abrasions due to flexing of bedliner against bed of pickup truck was not defect substantially impairing use, value or safety. *Watts v. Toyota Motor*, 95 N.J.A.R.2d (CMA) 180.

Problems with steering, radiator coolant, rear hatch, and driver's door were nonconformities that substantially impaired use, value and safety of vehicle. *Silverman v. Ford Motor*, 95 N.J.A.R.2d (CMA) 170.

Alleged stalling of engine, though subjectively perceived by consumer, was not a defect impairing safety absent corroboration by an objective factual evaluation. *Seidenfrau v. Chrysler Motor*, 95 N.J.A.R.2d (CMA) 168.

Alignment problem that caused vehicle to pull to left was corrected and, absent objective evidence of any further problem, was not a defect substantially impairing safety of vehicle. *McCabe v. Buick Motor*, 95 N.J.A.R.2d (CMA) 167.

Extra effort necessary to properly close passenger side rear door was not a substantial defect impairing safety of vehicle. *Jones v. Chrysler Motor*, 95 N.J.A.R.2d (CMA) 165.

Defects that were subject of consumer's subjective complaints were not established by objective evidence and were not nonconformities impairing use, value or safety. *Bravo v. Chevrolet Motor*, 95 N.J.A.R.2d (CMA) 163.

Deficiencies in overall paint cover on vehicle were nonconformities substantially impairing use, value and safety. *Clay v. Ford Motor*, 95 N.J.A.R.2d (CMA) 159.

Optical illusion of lines converging under vehicle was a normal result of curvature of windshield and was not a defect impairing safety or value of vehicle. *Reicherz v. Ford Motor*, 95 N.J.A.R.2d (CMA) 153.

Water leak in sunroof damaged interior and was defect or nonconformity that substantially effected use, value, and safety of vehicle. *Calo v. Ford Motor*, 95 N.J.A.R.2d (CMA) 151.

Haziness on low beam did not preclude illumination of roadway and did not substantially impair safety of vehicle. *Gold v. Mitsubishi*, 95 N.J.A.R.2d (CMA) 146.

Grinding and whining sounds were insufficient absent objective proof to establish defects impairing use, value or safety of vehicle. *Holley v. Chrysler Motor*, 95 N.J.A.R.2d (CMA) 144.

Minor swaying on metal grating when vehicle was driven across metal bridge was not defect impairing safety. *Tilli v. Nissan Motor*, 95 N.J.A.R.2d (CMA) 142.

Conditions that were subject of consumer's subjective complaints were not defects substantially impairing use, value or safety in absence of objective proof. *Rhodes v. Mercedes Benz*, 95 N.J.A.R.2d (CMA) 140.

Consumer's problems with steering, suspension and alignment were subjective fears but were not defects impairing safety in absence of objective evidence. *Anan v. Ford Motor*, 95 N.J.A.R.2d (CMA) 138.

Normal play in power train and transmission of commercial vehicle was not a defect substantially impairing value, safety or use. *Tamm v. Ford Motor*, 95 N.J.A.R.2d (CMA) 136.

Pull to right when driver took hand off steering wheel at excess speeds reflected an unsafe driving habit, not a defect impairing vehicle's safety. *DiLacio v. Ford Motor*, 95 N.J.A.R.2d (CMA) 133.

Malfunctions in transmission and electrically controlled window were defects that substantially impaired use, value and safety of vehicle. *Boyle v. American Isuzu*, 95 N.J.A.R.2d (CMA) 128.

Front end noise reported by consumer was not an impairment of safety, value or use that manufacturer was required to remedy. *Birmingham v. Hyundai Motor*, 95 N.J.A.R.2d (CMA) 126.

Imperfections in paint job of expensive vehicle were minor and did not substantially impact upon value of vehicle. *Rosenberg v. Lotus Cars*, 95 N.J.A.R.2d (CMA) 121.

Report by consumer of an rpm flare-up at 40 miles per hour was neither a significant nor a substantial transmission defect in a vehicle. *Picarelli v. Hyundai Motor*, 95 N.J.A.R.2d (CMA) 115.

Consumer's subjective complaints about odors emanating from air conditioning vent were insufficient, absent any objective evidence, to establish defect impairing use, value or safety of vehicle. *Huber v. Nissan Motor*, 95 N.J.A.R.2d (CMA) 109.

Ticking noise emanating from right front wheel of truck was caused by defective seal which, when replaced, did not substantially impair use, value or safety of vehicle. *Siraj v. Nissan Motor*, 95 N.J.A.R.2d (CMA) 106.

Brakes in which consumer allegedly lost confidence were not so impaired as to effect use, value or safety of vehicle. *Petty v. Chrysler Motor*, 95 N.J.A.R.2d (CMA) 104.

Loss of oil every 800 miles was not within accepted tolerances and was a defect impairing use and safety of vehicle. *Perry v. Chrysler Motor*, 95 N.J.A.R.2d (CMA) 102.

Alarm system that armed itself inappropriately was not a defect substantially impairing use, value or safety of vehicle. *Valentine v. Ford Motor*, 95 N.J.A.R.2d (CMA) 100.

Use, value and safety of vehicle were not impaired by oscillation and vibration in steering wheel. *Bracco v. Chrysler Corporation*, 95 N.J.A.R.2d (CMA) 96.

Neither intermittent slight vibration in steering wheel nor noise in driveshaft impaired use, value or safety of vehicle. *Mell v. Audi of America*, 95 N.J.A.R.2d (CMA) 92.

Condition which caused dashboard around cassette radio to become very warm or even hot was not a substantial impairment to use, safety or value of vehicle. *Daleo v. Ford Motor*, 95 N.J.A.R.2d (CMA) 91.

Malfunctioning heating system, sticking lock, and rattling dashboard were not substantial defects impairing use, value or safety. *Peat v. Chrysler Motor*, 95 N.J.A.R.2d (CMA) 83.

Problem with noise and vibration interfered with consumer's enjoyment of vehicle and was nonconformity substantially impairing use and value. *Garino v. Mazda Motor*, 95 N.J.A.R.2d (CMA) 81.

Abnormal brake wear was a defect that substantially impaired use and safety of vehicle. *Santos v. Hyundai Motor*, 95 N.J.A.R.2d (CMA) 75.

Grinding sound while shifting gears was a result of consumer's driving habits and was not a defect impairing safety of vehicle. *Klisouras v. Mitsubishi Motor*, 95 N.J.A.R.2d (CMA) 73.

Knocking noise reported by consumer in engine did not affect use, safety or value of vehicle. *Joyce v. Chrysler Motor*, 95 N.J.A.R.2d (CMA) 69.

Performance of vehicle under 100,000 miles was warranted, not in perpetuity, but for a reasonable period of four years. *Citarella v. Ford Motor*, 95 N.J.A.R.2d (CMA) 67.

Rain water coming in from firewall and producing wet carpet was nonconformity impairing use and value of vehicle. *Kientzler v. Chrysler Motor*, 95 N.J.A.R.2d (CMA) 65.

Problems with anti-locking brakes were due mainly to consumer's inexperience, and were not a defect substantially impairing use, value or safety of vehicle. *Kosylo v. Ford Motor*, 95 N.J.A.R.2d (CMA) 63.

Wind noise coming from sunroof was not a defect substantially impairing use, value, or safety of vehicle. *Vicinanza v. Mitsubishi Motor*, 95 N.J.A.R.2d (CMA) 61.

Alleged brake problem described as shimmying and grabbing was not a defect substantially impairing use, value, or safety of vehicle. *Morris v. Mazda Motor*, 95 N.J.A.R.2d (CMA) 59.

Vibration of steering wheel whenever vehicle was standing still with engine running did not substantially impair use, value or safety. *Wolfram v. Toyota Motor*, 95 N.J.A.R.2d (CMA) 54.

Water leak in rear window panel did not substantially impair use, value or safety of vehicle. *Brecht v. Chrysler Motor*, 95 N.J.A.R.2d (CMA) 52.

Consumer failed to present necessary proofs of a nonconformity or defect in form of a tapping noise in engine. *Kinney v. Ford Motor*, 95 N.J.A.R.2d (CMA) 47.

Steering condition that caused vehicle to drift left or right depending on condition of road rendered vehicle unsafe for intended use. *Hagemann v. Hyundai Motor*, 95 N.J.A.R.2d (CMA) 45.

Oily film on interior windows, though an inconvenience, did not substantially impair use, value or safety of vehicle. *Damgen v. Nissan Motor*, 95 N.J.A.R.2d (CMA) 42.

Seepage or leaking of oil from vehicle was not a nonconformity that substantially impaired use, safety or value of vehicle. *Dandrea v. Chrysler Motor*, 95 N.J.A.R.2d (CMA) 40.

Problems with a transmission, absent objective evidence of a substantial defect, were insufficient to establish a nonconformity impairing safety of vehicle. *Fricchione v. Mitsubishi Motor*, 95 N.J.A.R.2d (CMA) 35.

Defect in ignition switch that caused engine to shut off was nonconformity impairing use, value, or safety of vehicle. *Gantt v. Volkswagen*, 95 N.J.A.R.2d (CMA) 32.

Shaking of steering wheel on bumps and turns was without effect on use, value or safety of vehicle. *Matari v. American Isuzu*, 95 N.J.A.R.2d (CMA) 29.

Water leak leading to moisture in interior of vehicle substantially impaired value and was a nonconformity. *Rodriguez v. Ford Motor*, 95 N.J.A.R.2d (CMA) 27.

Use or safety of vehicle was substantially impaired through replacement of clutch assembly on two separate occasions. *Kulig v. Nissan Motor*, 95 N.J.A.R.2d (CMA) 25.

Minor rain water leaks in vehicle were not a substantial value impairment. *Dale v. Chrysler Motor*, 95 N.J.A.R.2d (CMA) 22.

Claimed poor gas mileage was not a substantial impairment in value of vehicle. *Robbins v. Toyota Motor*, 95 N.J.A.R.2d (CMA) 19.

Unaligned doors and malfunctioning alarms were not a nonconformity impairing use, value or safety of vehicle. *Wall v. Mazda Motor*, 95 N.J.A.R.2d (CMA) 16.

Whining noise in compact disk player was not a nonconformity that substantially impaired value of vehicle. *Tarn v. Ford Motor Company*, 95 N.J.A.R.2d (CMA) 13.

Alleged problem with position of steering wheel did not impair use, value or safety of vehicle. *Sharon v. Ford Motor*, 95 N.J.A.R.2d (CMA) 11.

Tapping sound coming from engine, though an annoyance, did not effect use of vehicle so as to be a nonconformity. *Orr v. Chrysler Motor*, 95 N.J.A.R.2d (CMA) 3.

Relief was not available when alleged defect in vehicle existed only prospectively in future. *Henry v. Chrysler Motor*, 95 N.J.A.R.2d (CMA) 1.

Vehicle nonconformity; proof. *Kuhn v. Mercedes-Benz of North America, Inc.*, 94 N.J.A.R.2d (CMA) 101.

Lemon law claim had to be brought before 18,000 miles. *Ortenau v. Ford Motor Company*, 94 N.J.A.R.2d (CMA) 98.

Failure to prove that vehicle had substantial impairment. *Mayurnik v. Chrysler Corporation*, 94 N.J.A.R.2d (CMA) 96.

Failure to prove defect. *Krieg v. American Isuzu Motors*, 94 N.J.A.R.2d (CMA) 91.

Squealing breaks not a defect. *Kaufman v. Hyundai Motor America*, 94 N.J.A.R.2d (CMA) 89.

Failure to prove nonconformity. *Wilkinson v. Chrysler Motor Corp.*, 94 N.J.A.R.2d (CMA) 87.

Pulsing upon braking was not a defect; antilock brakes. *Candeias v. Ford Motor Corporation*, 94 N.J.A.R.2d (CMA) 85.

Relief under Lemon Law; problems continued after vehicle was repaired over period of several visits. *Gehring v. Volkswagen United States, Inc.*, 94 N.J.A.R.2d (CMA) 78.

Failure to afford manufacturer final opportunity to repair. *Simmons-Dixon v. Ford Motor Corporation*, 94 N.J.A.R.2d (CMA) 74.

Failure to prove that intermittent hard shifting constituted nonconformity. *Thornton v. Mercedes-Benz of North America*, 94 N.J.A.R.2d (CMA) 73.

No nonconformity; car's condition was remedied on fifth repair. *Pajaro v. Hyundai Motor America*, 94 N.J.A.R.2d (CMA) 69.

Failure to prove that brake chatter was nonconformity. *Hoe v. Chrysler Motor Corporation*, 94 N.J.A.R.2d (CMA) 67.

Inability to repair nonconformity within a reasonable time. *Shin v. Mitsubishi Motor Sales of America, Inc.*, 94 N.J.A.R.2d (CMA) 63.

Failure to show that problems were attributable to defect in starter. *Velez v. General Motors Corporation*, 94 N.J.A.R.2d (CMA) 59.

Rumble and vibration of transmission at certain speeds did not constitute nonconformity. *Hurff v. Ford Motor Corporation*, 94 N.J.A.R.2d (CMA) 55.

Testimony refuted claim of substantial impairment affecting the use and safety of the vehicle. *Valentin v. Hyundai Motor America*, 94 N.J.A.R.2d (CMA) 53.

Manufacturer failed to correct faulty brake system and overcharged keyless entry system; defects substantially interfered with the safety and enjoyment. *Kolody v. Ford Motor Company*, 94 N.J.A.R.2d (CMA) 52.

Failure of seat belts to buckle and rear air conditioning to perform; Lemon Law. *McGlynn v. Ford Motor Corporation*, 94 N.J.A.R.2d (CMA) 47.

Engine noise; substantial impairment in value, use, or safety of vehicle. *Esposito v. Ford Motor Company*, 94 N.J.A.R.2d (CMA) 42.

Automatic cutoff of air conditioner; no substantial impairment in value, use, or safety of vehicle. *Casey v. Chrysler Motor Corporation*, 94 N.J.A.R.2d (CMA) 40.

Engine noise; substantial impairment of use, value, or safety of vehicle. *Collado v. Ford Motor Company*, 94 N.J.A.R.2d (CMA) 39.

Transmission problem; no substantial impairment of substantial impairment of use, value, or safety of vehicle. *Collura v. General Motors Corporation*, 94 N.J.A.R.2d (CMA) 35.

Leaking transmission; substantial impairment of the use, value, or safety of vehicle. *Parker v. Subaru of America*, 94 N.J.A.R.2d (CMA) 33.

Engine and radio noise; no substantial impairment of use, value, or safety of vehicle. *Smith v. Chrysler Motor Corporation*, 94 N.J.A.R.2d (CMA) 31.

Insufficient evidence; transmission defect. *Shook v. Hyundai Motor America*, 94 N.J.A.R.2d (CMA) 26.

Value, use and safety unimpaired and owner failed to complain after repairs. *Zwerin v. Ford Motor Corporation*, 94 N.J.A.R.2d (CMA) 24.

Insufficient evidence; brake, steering and paint defects. *Geller v. Mitsubishi Motor Sales of America, Inc.*, 94 N.J.A.R.2d (CMA) 23.

Loss of engine oil was substantial defect affecting use of vehicle. *Schoppmann v. Ford Motor Company*, 94 N.J.A.R.2d (CMA) 16.

Fog light failure not a substantial defect or nonconformity. *Terkovich v. Mercedes Benz of North American, Inc.*, 94 N.J.A.R.2d (CMA) 13.

Claim of transmission problem not substantiated. *Barton v. Ford Motor Company, Inc.* 94 N.J.A.R.2d (CMA) 11.

Petitioner failed to meet burden of proof required for Lemon Law relief. *Dachisen v. American Honda Motor Company, Inc.*, 94 N.J.A.R.2d (CMA) 4.

Automobile's air conditioning design was not a defect which substantially impaired use or value of vehicle. *Sanchez v. Chrysler Motor Corporation*, 94 N.J.A.R.2d (CMA) 3.

Complaint of car's vibrations or jerkiness at slow speeds failed to meet the requirement for a Lemon Law claim. *Reaves v. Ford Motor Company*, 94 N.J.A.R.2d (CMA) 1.

Fogging condition on car's windows constituted a safety hazard entitling car's purchaser to refund of the purchase price. *Federico v. Mitsubishi Motor Sales of America*, 93 N.J.A.R.2d (CMA) 148.

Defective power steering belt entitled owner to full restitution. *Pelle v. Ford Motor Company*, 93 N.J.A.R.2d (CMA) 145.

Alleged excess oil consumption was not substantial nonconformity that impaired the use, value or safety of the petitioner's vehicle. *Doyle v. American Suzuki Motor Corp.*, 93 N.J.A.R.2d (CMA) 142.

A consumer was not entitled to relief under New Jersey Lemon Law where the consumer failed to present evidence that misalignment in dashboard affected use, safety and value of vehicle. *Cascetti v. Chevrolet Motor Division — GM*, 93 N.J.A.R.2d (CMA) 138.

Claimant could not recover absent presence of actual defects. *Schulke v. Chrysler Motor Corp.*, 93 N.J.A.R.2d (CMA) 137.

Vehicle owner failed to establish substantial impairment. *Kay v. Ford Motor Co.*, 93 N.J.A.R.2d (CMA) 132.

Repeated engine problems; nonconformity. *Soto v. Nissan Motor Corporation in U.S.A.*, 93 N.J.A.R.2d (CMA) 129.

Seat belts; no nonconformity. *Warren v. Ford Motor Co.*, 93 N.J.A.R.2d (CMA) 125.

Pulling to right was nonconformity. *Miele v. Chrysler Motor Corp.*, 93 N.J.A.R.2d (CMA) 123.

Steering problem; no nonconformity. *Rooney v. Toyota Motor Distributors*, 93 N.J.A.R.2d (CMA) 121.

Traction system failure; nonconformity. *Maffeo v. Mercedes Benz of North America*, 93 N.J.A.R.2d (CMA) 115.

Dash light, air conditioning and mirror problems; proof of defect. *Kwiatkowska v. Mitsubishi Motor Sales of America, Inc.*, 93 N.J.A.R.2d (CMA) 111.

Brake, vibration and transmission problems; failure to show defect. *Katz v. Mazda Motor of America, Inc.*, 93 N.J.A.R.2d (CMA) 108.

Vehicle noise and power steering problems; safety impairment. *Hanley v. Ford Motor Co.*, 93 N.J.A.R.2d (CMA) 105.

Battery acid drip; failure to show impairment. *Tetlow v. Chrysler Motor Co.*, 93 N.J.A.R.2d (CMA) 103.

Engine vibration; no Lemon Law relief. *Vallillo v. Ford Motor Co.*, 93 N.J.A.R.2d (CMA) 101.

Pulling to right; no Lemon Law relief. *Knoblauch v. American Isuzu Motors, Inc.*, 93 N.J.A.R.2d (CMA) 97.

Claimed steering defect; no nonconformity. *Hsueh v. Toyota Motor Distributors*, 93 N.J.A.R.2d (CMA) 94.

Noise not shown to constitute nonconformity. *Horan v. Ford Motor Co.*, 93 N.J.A.R.2d (CMA) 92.

Failure to establish alleged brake defect. *Boccanfuso v. Ford Motor Co.*, 93 N.J.A.R.2d (CMA) 88.

Rough idle and transmission grinding; no nonconformity. *Sullivan v. General Motors Corp.*, 93 N.J.A.R.2d (CMA) 85.

No recovery under the Lemon Law; normal wind noise. N.J.S.A. 56:12-29 et seq. *Peritz v. Ford Motor Co.*, 93 N.J.A.R.2d (CMA) 83.

Odor rendered automobile nonconforming and unsafe. N.J.S.A. 56:12-30. *Gerson v. BMW of North America, Inc.*, 93 N.J.A.R.2d (CMA) 80.

Noise did not substantially impair the value. N.J.S.A. 56:12-29 et seq. *Wasserman v. Ford Motor Co.*, 93 N.J.A.R.2d (CMA) 78.

Wheel noise did not constitute nonconformity. *Wasserman v. Ford Motor Co.*, 93 N.J.A.R.2d (CMA) 78.

There was failure to prove alleged transmission defects. N.J.S.A. 56:12-29 et seq. *Gall v. Ford Motor Co.*, 93 N.J.A.R.2d (CMA) 76.

Failure to show that the vehicle had defects that were not repaired. N.J.S.A. 56:12-29 et seq. *Bartoli v. Mazda Motor of America, Inc.*, 93 N.J.A.R.2d (CMA) 74.

Maintaining Lemon Law claim against manufacturer for dealer's neglect repair even though repainted auto hood was not nonconformity. N.J.S.A. 56:12-31. *Anderson v. American Honda Motor Co., Inc.*, 93 N.J.A.R.2d (CMA) 71.

Vehicle noise and steering vibration; nonconformity. *Stine v. Chrysler Motor Corporation*, 93 N.J.A.R.2d (CMA) 67.

Engine noise was not nonconformity. *Dacko v. Ford Motor Co.*, 93 N.J.A.R.2d (CMA) 64.

Vehicle performance; no nonconformity. *Miles v. Mitsubishi Motor Sales of America, Inc.*, 93 N.J.A.R.2d (CMA) 63.

Vehicle noise; no nonconformity. *Rubell v. Ford Motor Co.*, 93 N.J.A.R.2d (CMA) 59.

Rear-end hum; no Lemon Law relief. *Pasqua v. Ford Motor Co.*, 93 N.J.A.R.2d (CMA) 57.

Repair corrected claimed nonconformity. *Citarella v. Chrysler Motor Co.*, 93 N.J.A.R.2d (CMA) 53.

Brake defect; failure to repair. *Schutzbank v. Mitsubishi Motor Sales of America, Inc.*, 93 N.J.A.R.2d (CMA) 50.

Steering defect; customer mistreatment; Lemon Law. *Pak v. Hyundai Motor America, Inc.*, 93 N.J.A.R.2d (CMA) 47.

Normal vibration; not nonconformity. *Soueid v. American Honda Motor Co., Inc.*, 93 N.J.A.R.2d (CMA) 43.

Clicking noise and difficulty of engagement of brake constituted an impairment in use, value and safety of vehicle. *Batista v. Ford Motor Company*, 93 N.J.A.R.2d (CMA) 41.

Vehicle drift did not substantially impair use, safety or value of vehicle. *Grillo v. Chrysler Motor Corporation*, 93 N.J.A.R.2d (CMA) 39.

Sulphureous odor preventing use of heater and air conditioner was a substantial impairment. *Edwards v. Mitsubishi Motor Sales of America, Inc.*, 93 N.J.A.R.2d (CMA) 37.

Ability to shift gears without difficulty and never having been towed did not show transmission problems impairing the use, value or safety of vehicle for a claim under the Lemon Law. *Millar v. Chrysler Corporation*, 93 N.J.A.R.2d (CMA) 34.

Air leak and whistling noise in door did not constitute a nonconformity. *Kozma v. Chrysler Motor Corp.*, 93 N.J.A.R.2d (CMA) 28.

Vibration not shown to have impact on the use, value or safety of the vehicle. *Villagomez v. Toyota Motor Sales, U.S.A., Inc.*, 93 N.J.A.R.2d (CMA) 31.

Vehicle drift was not substantial impairment in use, safety or value under provisions of Lemon Law. *McConnell v. Ford Motor Company*, 93 N.J.A.R.2d (CMA) 27.

Foreign substances which caused the engine to seize substantially impaired the use, value or safety of the vehicle due to abuse, but was not caused by the dealer or manufacturer. *Booker v. Hyundai Motor America*, 93 N.J.A.R.2d (CMA) 25.

Brakes which squeal or grind do not rise to the level of nonconformity under the Lemon Law. *Tirre v. Ford Motor Company*, 93 N.J.A.R.2d (CMA) 21.

Veering on brake application substantially impaired use, value and safety of the vehicle. *Montesian v. Chrysler Motor Corporation*, 93 N.J.A.R.2d (CMA) 19.

Uncorrected shimmying constituted substantial impairment. *Umbach v. Volkswagen of America*, 93 N.J.A.R.2d (CMA) 11.

Claim under Lemon Law for failure of rear defroster to work dismissed. *Singh v. Ford Motor Company*, 93 N.J.A.R.2d (CMA) 7.

Slight rightward drift of minivan did not impair the safety, use or value of vehicle so as to entitle owner to relief under Lemon Law. *Thompson v. Chrysler Motor Corporation*, 93 N.J.A.R.2d (CMA) 5.

Leak was not substantial and did not entitle owner to relief under Lemon Law. *Drayton v. Sterling Motor Cars*, 93 N.J.A.R.2d (CMA) 3.

Transmission problems of stalls and lost power substantially impaired the safety of the vehicle. *Bello v. Hyundai Motor America*, 92 N.J.A.R.2d (CMA) 208.

No defect which constituted a nonconformity under the Lemon Law existed in a car that pulled to the right and drifted to left. *Dente v. Ford Motor Company*, 92 N.J.A.R.2d (CMA) 204.

Evidence that vibration and involuntary downshifting substantially impaired the use, value or safety of the vehicle demonstrated no claim was available under the Lemon Law. *Manzi v. BMW of North America, Inc.*, 92 N.J.A.R.2d (CMA) 195.

Rough idle and rattle was not impairment in use, value and safety as to constitute a nonconforming vehicle. *Scanlon v. Volkswagen of America, Inc.*, 92 N.J.A.R.2d (CMA) 190.

Excessive bounciness and swaying and creaking noises did not constitute nonconformity. *Ostrovsky v. Toyota Motor Sales*, 92 N.J.A.R.2d (CMA) 187.

Sudden excessive revving was defect or nonconformity which substantially impaired use, safety or value of vehicle. *Bertucci v. Chrysler Motor Corp.*, 92 N.J.A.R.2d (CMA) 185.

Stalling and electrical failures interfered with reasonable enjoyment and safe operation of vehicle entitling owner to relief under Lemon Law. *Baccigalupi v. Hyundai Motor America*, 92 N.J.A.R.2d (CMA) 182.

Oil pump rotor damage and consequences following oil changes by owner was substantial defect for which neither the dealer nor the manufacturer was liable under the Lemon Law. *Purcell v. Kawasaki Motors Corporation, U.S.A.*, 92 N.J.A.R.2d (CMA) 177.

Rattles did not use to a level for which Lemon Law relief was appropriate. *George v. Acura Div.-American Honda Motor Co., Inc.*, 92 N.J.A.R.2d (CMA) 175.

Vehicle pulling and vibrating was substantially impaired in use, value and safety. *Kaufman v. Mercedes-Benz of North America*, 92 N.J.A.R.2d (CMA) 171.

Rough engine idle was not substantial impairment. *Wilson v. Hyundai Motor America*, 92 N.J.A.R.2d (CMA) 169.

Emission of odor and low gasoline mileage constituted substantial impairment. *Ryan v. Ford Motor Company*, 92 N.J.A.R.2d (CMA) 165.

Vehicle pulling sideways at least three feet within a 60 foot stop entitled the owner to relief under the Lemon Law. *Cranston v. Ford Motor Company*, 92 N.J.A.R.2d (CMA) 160.

Vehicle contained fuel pump defect which constituted a nonconformity. *Stanford v. Toyota Motor Sales, U.S.A., Inc.*, 92 N.J.A.R.2d (CMA) 155.

Failure of anti-lock brake system constituted a nonconformity. *Slusarczyk v. Chrysler Corporation*, 92 N.J.A.R.2d (CMA) 151.

Neither squealing noise nor a "popping" noise constituted a condition which substantially impaired the use, safety or value of the vehicle. *Kuras v. Chrysler Motor Corp.*, 92 N.J.A.R.2d (CMA) 149.

Pulsating/knocking noise would not impair the safety or use of vehicle. *Ruff v. Ford Motor Company*, 92 N.J.A.R.2d (CMA) 147.

Steering mechanism had design defect substantially impairing the value of the vehicle. *Watkins v. Chevrolet Motor Division, General Motors Corporation*, 92 N.J.A.R.2d (CMA) 144.

Nonconformity as defined in the Lemon Law existed in vehicle with steering problems. *Shannon v. Buick Motor Division, General Motors Corporation*, 92 N.J.A.R.2d (CMA) 142.

Proof failed to establish veering of vehicle on sudden braking. *Breitman v. Ford Motor Company*, 92 N.J.A.R.2d (CMA) 140.

Failure of judge to hear noise on a test drive and continued driving of the vehicle after report of problem indicated that nonconformity did not exist. *Compolo v. Chrysler Corporation*, 92 N.J.A.R.2d (CMA) 138.

Continued repair efforts did not prove nonconformity of the vehicle under the Lemon Law. *Bennett v. Chrysler Motor Corporation*, 92 N.J.A.R.2d (CMA) 137.

Clanging, rumbling and vibration in the drive shaft substantially affected the use of sports utility vehicle and entitled the purchaser to relief under Lemon Law. *Ward v. Chrysler Motor Corp.*, 92 N.J.A.R.2d (CMA) 133.

Continuing tire air loss constituted a nonconformity which entitled owner of vehicle right to restitution under Lemon Law. *McCarthy v. Hyundai Motor America*, 92 N.J.A.R.2d (CMA) 132.

Smell from the air conditioning and wind noise from the windows was not substantial impairment of the use of the vehicle. *Galvano v. American Honda Motor Co., Inc.*, 92 N.J.A.R.2d (CMA) 130.

Rattle was not a substantial impairment of the value of the car. *Hirschorn v. Acura Division-American Honda Motor Co., Inc.*, 92 N.J.A.R.2d (CMA) 129.

Leak was a nonconformity under the Lemon Law. *Black v. Volvo North America Corporation*, 92 N.J.A.R.2d (CMA) 123.

Vibration due to transmission with a lock-up torque converter was not nonconformity within the Lemon Law. *Gentile v. Chevrolet Motor Division, General Motors Corporation*, 92 N.J.A.R.2d (CMA) 120.

Vehicle contained a defect which constituted a nonconformity which impaired the use, safety and value of the vehicle. *Berrie v. Toyota Motor Sales, U.S.A., Inc.*, 92 N.J.A.R.2d (CMA) 117 affirmed 267 N.J. Super. 152.

Leak was a nonconformity which substantially impaired the value of the vehicle. *Cappuccio v. Hyundai Motor America*, 92 N.J.A.R.2d (CMA) 114.

Intermittent rattle and claimed vibration in the steering column failed to establish right to relief under the Lemon Law. *Longa v. Ford Motor Company*, 92 N.J.A.R.2d (CMA) 111.

Finish of car did not constitute a nonconformity within the Lemon Law. *Rottenberg v. Volkswagen of America, Inc.*, 92 N.J.A.R.2d (CMA) 109.

Squeaking brakes substantially impaired vehicle use, value or safety, and entitled owner to full restitution. *Pardo v. Chevrolet Motor Division*, 92 N.J.A.R.2d (CMA) 105.

Corrected nonconformity of exterior paint of car was not basis for relief under the Lemon Law. *Ferrara v. Ford Motor Company*, 92 N.J.A.R.2d (CMA) 93.

Transmission slippage was not a sufficient defect to constitute a nonconformity under the Lemon Law. *Roe v. Chrysler Motor Corp.*, 92 N.J.A.R.2d (CMA) 91.

Repair of rattle negated any claim for nonconformity under the Lemon Law. *Pagano v. General Motors Corporation*, 92 N.J.A.R.2d (CMA) 87.

Transmission defects caused by impact of external force, and results of repair and/or maintenance not authorized by the manufacturer, did not allow the owner the right of recovery under the Lemon Law. *Lugo v. Hyundai Motor America*, 92 N.J.A.R.2d (CMA) 84.

Uncorrectable water leak constituted a substantial impairment of value which allowed the owner to relief under the Lemon Law. *Pak v. Ford Motor Company*, 92 N.J.A.R.2d (CMA) 80.

Vehicle noisier than the owner desired, and without the gas mileage which the owner expected, was not so defective as to constitute a nonconformity. *Frison v. Toyota Motor Sales, U.S.A.*, 92 N.J.A.R.2d (CMA) 75.

Noises were not nonconformity which would impair use, value or safety of vehicle. *Dogra v. Mitsubishi Motor Sales of America, Inc.*, 92 N.J.A.R.2d (CMA) 73.

Transmission slippage and whining and clanking did not constitute a condition or defect which substantially impaired the use, value or safety of the vehicle. *Valentini v. Chrysler Motor Corporation*, 92 N.J.A.R.2d (CMA) 70.

Transmission with design defect entitled owner to restitution under the Lemon Law. *Mills v. Chrysler Motor Corporation*, 92 N.J.A.R.2d (CMA) 68.

Failure of the headlights and wipers entitled the owner to relief under the Lemon Law. *Marley v. Hyundai Motor America*, 92 N.J.A.R.2d (CMA) 62.

Engine noise did not constitute a nonconformity. *Spadavecchia v. Toyota Motor Corporation*, 92 N.J.A.R.2d (CMA) 59.

Leaks of water into the passenger compartment and engine starting defect constituted a nonconformity under the Lemon Law. *Hartzell v. Porsche Cars North America, Inc.*, 92 N.J.A.R.2d (CMA) 55.

Grinding and noisy brakes demonstrated a nonconformity which substantially impaired the use, safety and value of the vehicle. *Davis v. Mazda Motor of America*, 92 N.J.A.R.2d (CMA) 53.

Racing of engine failed to establish a nonconformity under the Lemon Law. *Quairoli v. Chrysler Motor Corporation, Inc.*, 92 N.J.A.R.2d (CMA) 51.

Screeching brakes did not substantially impair use, value or safety of vehicle. *Friedberg v. Volvo Cars of North America*, 92 N.J.A.R.2d (CMA) 47.

Vehicle was not subject to the defect of a "body boom", but was the normal condition for the vehicle as modified, and did not constitute a nonconformity under the Lemon Law. *Palamara v. Ford Motor Company*, 92 N.J.A.R.2d (CMA) 45.

Neither rattling noise, ignition switch problem, nor misalignment of the steering wheel constituted a nonconformity under Lemon Law. *Kochie v. Ford Motor Company*, 92 N.J.A.R.2d (CMA) 39.

Transmission problems constituted a nonconformity which substantially impaired the use, safety or value of the vehicle and entitled the purchaser to restitution. *Caprio v. American Honda Motor Company, Inc.*, 92 N.J.A.R.2d (CMA) 36.

Transmission problem was nonconformity which substantially impaired the use, safety or value of the vehicle and entitled the buyer to full restitution. *Hopke v. Chrysler Motor Corporation*, 92 N.J.A.R.2d (CMA) 33.

Transmission and other claimed defects did not establish the existence of a bona fide defect or condition substantially impairing the use, value or safety. *Deitelbaum v. Ford Motor Company*, 92 N.J.A.R.2d (CMA) 30.

Acid rain damage is not covered by Lemon Law. *Mavuro v. Ford Motor Company*, 92 N.J.A.R.2d (CMA) 26.

Transmission drag did not rise to the level of a substantial impairment to the use, safety, or market value of the vehicle. *Boyd v. Ford Motor Company*, 92 N.J.A.R.2d (CMA) 24.

Stalling for no apparent reason was not substantial impairment in use, value and safety within the statutory standard for relief under the Lemon Law. *Cortes v. Ford Motor Company*, 92 N.J.A.R.2d (CMA) 23.

No sufficient evidence that a defect or nonconformity which affected its use, safety or value existed. *Trifun v. World-Wide Volkswagen Corp.*, 92 N.J.A.R.2d (CMA) 20.

Absence of testimony to the effect on value or safe use made a claim under the Lemon Law unavailable. *Rosko v. General Motors Corporation*, 92 N.J.A.R.2d (CMA) 18.

Clicking noise was not a substantial impairment under the Lemon Law. *Greenbaum v. Ford Motor Co.*, 92 N.J.A.R.2d (CMA) 16.

Unauthorized modification or alteration did not constitute a "nonconformity" within the Lemon Law. *Mount v. Ford Motor Company*, 92 N.J.A.R.2d (CMA) 13.

Unsuccessful repair entitled the owner to a claim under the Lemon Law. *Quinton v. GMC Truck, D.M.A.C. Operation*, 92 N.J.A.R.2d (CMA) 5.

Convertible having water leak was not "nonconformity" under the Lemon Law. *Chudzinski v. Chrysler Motor Corporation*, 92 N.J.A.R.2d (CMA) 1.

Rattle and rumbling noise did not cause motor vehicle to be a "nonconformity" under the Lemon Law. *Stewart v. Ford Motor Company*, 92 N.J.A.R.2d (CMA) 1.

Evidence was insufficient to find that motor vehicle had any unusual vibration. *N.J.S.A. 56:12-30, 56:12-31, 56:12-32, 56:12-40, 56:12-33. Nolin v. Ford Motor Co.*, 91 N.J.A.R.2d (CMA) 19.

Automobile used excessive amounts of oil; nonconformity which substantially impaired its safety, use, and value. *N.J.S.A. 56:12-29, 56:12-30, 56:12-31, 56:12-32, 56:12-34, 56:12-42. Antunes v. Mitsubishi Motor Sales of America, Inc.*, 91 N.J.A.R.2d (CMA) 14.

Rattle in wheels presented a safety hazard with respect to use of the vehicle. *N.J.S.A. 13:45A-26.11, 56:12-29 et seq., 56:12-33. Sager v. Nissan Motor Corp.*, 91 N.J.A.R.2d (CMA) 11.

Humming and vibrations substantially impaired use and value of the vehicle under the Lemon Law. *N.J.S.A. 56:12-29 et seq. Zuelch v. Ford Motor Co.*, 91 N.J.A.R.2d (CMA) 7.

Gear noise was not defect. *N.J.S.A. 56:12-29 et seq., 56:12-30. Weaver v. Hyundai Motor America*, 91 N.J.A.R.2d (CMA) 6.

Overheated engine and loss of fluids, malfunctioning air conditioning system, and smell of exhaust fumes inside car, did not justify refund of purchase price. *N.J.S.A. 56:12-29 et seq., 56:12-31. Gilliard v. Ford Motor Co.*, 91 N.J.A.R.2d (CMA) 4.

Excessive vibration was not a defect. *N.J.S.A. 56:12-29 et seq. McClintock v. Chrysler Motor Corp.*, 91 N.J.A.R.2d (CMA) 2.

Pick-up was not a passenger vehicle under the state Lemon Law. N.J.S.A. 39:1-1, 56:12-29 et seq. *Hund v. Ford Motor Co.*, 91 N.J.A.R.2d (CMA) 1.

### 13:45A-26.3 Statements to consumer; other notices

(a) At the time of purchase or lease of a motor vehicle in the State of New Jersey, the manufacturer, through its dealer or lessor, shall provide the following written statement directly to the consumer on a separate piece of paper, in 10-point bold-face type:

**“IMPORTANT: IF THIS VEHICLE IS DEFECTIVE, YOU MAY BE ENTITLED UNDER NEW JERSEY LAW TO A REFUND OF THE PURCHASE PRICE OR YOUR LEASE PAYMENTS. FOR COMPLETE INFORMATION REGARDING YOUR RIGHTS AND REMEDIES UNDER THE RELEVANT LAW, CONTACT THE NEW JERSEY DEPARTMENT OF LAW AND PUBLIC SAFETY, DIVISION OF CONSUMER AFFAIRS, LEMON LAW UNIT, AT POST OFFICE BOX 45026, 124 HALSEY STREET, NEWARK, NEW JERSEY 07101, TEL. NO. (201) 504-6226.”**

The manufacturer, through its dealer or lessor, shall maintain a record substantiating compliance with this section and shall make the record available to the Division upon request.

(b) If a motor vehicle is returned to the manufacturer under the provisions of the Lemon Law or a similar statute of another state or as the result of a legal action or an informal dispute settlement procedure, the motor vehicle shall not be resold or released in New Jersey unless the following steps are taken:

1. Immediately upon receipt of the vehicle, the manufacturer, its agent, or a dealer who accepts the vehicle shall cause the words “R—RETURNED TO MANUFACTURER UNDER LEMON LAW OR OTHER PROCEEDING” to be clearly and conspicuously stamped on the face of the original certificate of title, the manufacturer’s statement of origin, or other evidence of ownership.

2. Within 10 days of receipt of the vehicle, the manufacturer, its agent, or a dealer who accepts the vehicle shall submit a copy of the stamped document to the Special Title Section of the Division of Motor Vehicles to indicate that title to the vehicle shall be permanently branded.

3. The manufacturer shall provide to the dealer or lessor, and the dealer or lessor shall provide to the consumer prior to the resale or release of the motor vehicle a copy for the consumer’s records of the following statement on a separate piece of paper, in 10-point boldface type:

### NOTICE OF NONCONFORMITY

**“IMPORTANT: THIS VEHICLE WAS RETURNED TO THE MANUFACTURER BECAUSE IT DID NOT CONFORM TO THE MANUFACTURER’S WARRANTY AND THE NONCONFORMITY WAS NOT CORRECTED WITHIN A REASONABLE TIME AS PROVIDED BY LAW.”**

(This notice is required under the New Jersey “Lemon Law”, N.J.S.A. 56:12-1 et seq., for vehicles that have been replaced or repurchased by the manufacturer as the result of any one of the following: a court judgment, or a final decision pursuant to a hearing or settlement by the Office of Administrative Law, or an arbitration proceeding between the manufacturer or its agent and a consumer.)

4. Upon delivery to the consumer of the statement in (b)3 above the dealer or lessor shall obtain from the consumer a signed receipt, on a separate sheet of paper, which shall state the following, in underlined 10-point boldface type:

**“I ACKNOWLEDGE RECEIPT OF NOTICE OF NONCONFORMITY OF THIS VEHICLE, VIN NO. \_\_\_\_\_ AS REQUIRED BY N.J.S.A. 56:12-35 (THE ‘LEMON LAW’).”**

Alternatively, the dealer or lessor may fulfill this requirement by making the following notation in underlined bold-face type on the front page of the vehicle buyer order form or the lease form:

**“NOTICE OF NONCONFORMITY OF THIS VEHICLE, VIN NO. \_\_\_\_\_, HAS BEEN PROVIDED TO THE PURCHASER OR LESSEE, AS REQUIRED BY N.J.S.A. 56:12-35 (THE ‘LEMON LAW’).”**

5. The manufacturer, dealer or lessor shall notify the Special Title Section of the Division of Motor Vehicles of the resale or release of the vehicle by requesting transfer of the branded title to the new owner or lessor, in writing.

(c) Each time a consumer’s motor vehicle is returned from being examined or repaired during the term of protection, the manufacturer through its dealer shall provide to the consumer an itemized, legible statement of repair which indicates any diagnosis made and all work performed on the vehicle; the statement of repair shall provide at least the following information:

1. A description or identification of the problem reported by the consumer or an identification of the defect or condition;

2. A specific description of the repair work performed.

3. The amount charged for parts and the amount charged for labor, if paid by the consumer;

4. The date and the odometer reading when the vehicle was submitted for repair; and
5. The date and the odometer reading when the vehicle was made available to the consumer.

(d) Failure to comply with the provisions of this section shall be a violation of the Consumer Fraud Act, N.J.S.A. 56:8-1 et seq.

Administrative Change.  
See: 25 N.J.R. 1516(b).  
Amended by R.1994 d.176, effective April 4, 1994.  
See: 25 N.J.R. 3939(a), 26 N.J.R. 1535(a).  
Amended by R.1995 d.618, effective December 4, 1995.  
See: 27 N.J.R. 3566(a), 27 N.J.R. 4899(b).

### 13:45A-26.4 Lemon Law Unit

(a) There is established within the Division of Consumer Affairs a section processing Lemon Law matters, to be known as the Lemon Law Unit (LLU).

(b) The Lemon Law Unit shall upon request provide consumers with a brochure setting forth:

1. Information regarding a consumer's rights and remedies under the relevant law; and
2. The procedure to be followed in order to participate in the various dispute resolution systems.

(c) All correspondence by consumers or manufacturers to the Division of Consumer Affairs regarding Lemon Law matters shall be directed to the attention of the Lemon Law Unit, as follows:

Division of Consumer Affairs  
Lemon Law Unit  
Post Office Box 45026, 124 Halsey Street  
Newark, New Jersey 07101  
Telephone (201) 504-6226

Amended by R.1992 d.236, effective June 1, 1992.  
See: 24 N.J.R. 53(a), 24 N.J.R. 2063(a).  
Revised (c).  
Administrative Change.  
See: 25 N.J.R. 1516(b).  
Amended by R.1994 d.176, effective April 4, 1994.  
See: 25 N.J.R. 3939(a), 26 N.J.R. 1535(a).

### 13:45A-26.5 Preliminary steps

(a) To initiate a claim under the Lemon Law, written notification of the potential claim must be sent certified mail, return receipt requested, by or on behalf of a consumer, to the manufacturer of a nonconforming motor vehicle if either of the following occurs during the first 18,000 miles of operation or within 24 months after the date of original delivery, whichever is earlier:

1. Substantially the same nonconformity has been subject to repair two or more times by the manufacturer or its dealer and the nonconformity continues to exist; or

2. The motor vehicle has been out of service by reason of repair for one or more nonconformities for a cumulative total of 20 or more days since the original delivery of the motor vehicle, and a nonconformity continues to exist.

(b) The manufacturer by law has one more opportunity to repair or correct the nonconformity within 10 days following receipt of notification from the consumer of a potential claim; if the nonconformity continues to exist after expiration of the 10-day time period and the manufacturer refuses to replace or refund the price of the vehicle, the criteria necessary to pursue a Lemon Law claim have been met. The consumer may then:

1. Refer the matter to the manufacturer for resolution through the manufacturer's informal dispute settlement procedure;
2. Refer the matter to the LLU for dispute resolution; or
3. File an action in the Superior Court. Any party to an action asserting a claim, counterclaim or defense based upon violations of the Lemon Law shall mail a copy of the initial or responsive pleading containing the claim, counterclaim or defense to the Attorney General within 10 days after filing the pleading with the court.

### Case Notes

Consumer failed to meet procedural requirements by submitting allegedly defective vehicle to repair three or more times and affording manufacturer a last chance opportunity. *Shepps v. Mitsubishi Motor*, 95 N.J.A.R.2d (CMA) 78.

Failure to give manufacturer a final opportunity to repair alleged defect in vehicle was fatal to consumer's claim. *Viccaro v. Mitsubishi Motor*, 95 N.J.A.R.2d (CMA) 56.

Presumption of inability to correct nonconformity was not available when manufacturer commenced repair but was thereafter prevented by consumer from completing repair. *Stassi v. Hyundai Motor*, 95 N.J.A.R.2d (CMA) 49.

Remedies under Lemon Law were not available to consumer without affording dealer last chance opportunity to correct alleged defects in vehicle. *Benenati v. Mitsubishi Motor Sales*, 95 N.J.A.R.2d (CMA) 9.

Failure to tell repairer that malfunction occurred only when the headlights were turned on required the manufacturer be given last chance to repair the nonconformity. *Measley v. Volkswagen of America, Inc.*, 93 N.J.A.R.2d (CMA) 1.

Failure to send correct last chance notice required the complaint under the Lemon Law be dismissed without prejudice. *Millar, Patrick J., v. Chrysler Corporation*, 92 N.J.A.R.2d (CMA) 180.

Settlement agreement was in full force and effect after the manufacturer honestly and in good faith performed its duties under the agreement. *Guarino v. Ford Motor Company*, 92 N.J.A.R.2d (CMA) 99.

### 13:45A-26.6 Eligibility

(a) To be eligible for the Dispute Resolution System, a consumer must provide the following items to the LLU by certified mail, return receipt requested:

2. Refer the matter to the WLLU for dispute resolution; or

3. File an action in the Superior Court of New Jersey. Any party to an action asserting a claim, counterclaim or defense based upon violations of the Wheelchair Lemon Law shall mail a copy of the initial or response pleading containing the claim, counterclaim or defense to the Attorney General within 10 days after filing the pleading with the court.

#### 13:45A-26E.6 Eligibility

(a) To be eligible for the Dispute Resolution System, a consumer shall provide the following items to the WLLU by certified mail, return receipt requested:

1. A completed Application for Dispute Resolution which can be obtained from the WLLU; and

2. Photocopies of the consumer's written notification(s) of the nonconformities to the manufacturer sent prior to the expiration of the manufacturer's warranty.

(b) If application forms are not available, a consumer may file a written request for dispute resolution which shall be accepted by the WLLU if that written request contains all information, items and statements listed in N.J.A.C. 13:45A-26E.7.

#### 13:45A-26E.7 Application

(a) Application for Dispute Resolution shall require submission of the following:

1. The name, address and telephone number of the consumer as well as the lienholder, if any;

2. The date of the original delivery of the motorized wheelchair to the consumer;

3. A written account of the events resulting in the dispute including description(s) of the claimed nonconformity(ies) and a chronology of the repair attempts;

4. Photocopies of the statements of repair given to the consumer by the manufacturer through its dealer, each time a motorized wheelchair is returned from being examined or repaired; and

5. Photocopies of the agreement of sale or lease, the receipt for payment of any options or other modifications arranged, installed or made by the manufacturer or its dealer within 30 days after the date of original delivery, receipts for any other charges or fees including, but not limited to:

i. Sales tax;

ii. Finance charges;

iii. Rental of a motorized wheelchair equivalent to the consumer's motorized wheelchair for the period when the consumer's motorized wheelchair was out of service due to a nonconformity;

iv. Prescription for the wheelchair from a licensed medical professional if the consumer purchased or leased the wheelchair by prescription;

v. Documents from third-party payors; and

vi. Any other documents related to the dispute.

(b) The application must contain a statement as to the following:

1. That the consumer believes that the motorized wheelchair's use, market value or safety is substantially impaired by the nonconformity(ies) complained of;

2. That the nonconformity(ies) complained of is (are) not the result of abuse, neglect or unauthorized modifications of the motorized wheelchair by anyone other than the manufacturer or its dealer;

3. That within the term of protection the manufacturer, its agent or authorized dealer failed in at least three attempts to correct the same substantial defect, or the motorized wheelchair was out of service by reason of repair for at least an aggregate of 20 days;

4. That within the term of protection:

i. The consumer gave the manufacturer or its dealer at least three attempts to repair substantially the same nonconformity and the nonconformity continues to exist; or

ii. The motorized wheelchair was out of service by reason of repair for one or more nonconformities for an aggregate total of 20 or more days since the original delivery of the motorized wheelchair, and the nonconformity(ies) continues to exist; and

5. Whether the consumer wishes to appear at the hearing in person or instead will allow a decision to be rendered by the OAL on the papers submitted by both parties. This option will be available only in the event the manufacturer does not object to a proceeding on the papers in its response pursuant to N.J.A.C. 13:45A-26E.10(f).

#### 13:45A-26E.8 Filing fee

(a) A consumer whose application for dispute resolution is accepted by the Division shall pay a filing fee of \$50.00 by certified check or money order payable to the "New Jersey Division of Consumer Affairs." The filing fee shall be nonrefundable but is recoverable as a cost if the consumer prevails.

(b) The filing fee shall be requested by the WLLU when it has determined that the consumer's application is complete, that it complies with this subchapter and the Wheelchair Lemon Law and that it is eligible for the WLLU's Dispute Resolution System.

#### 13:45A-26E.9 Processing of applications

(a) Submitted applications shall be reviewed by the WLLU for completeness and compliance with the Wheelchair Lemon Law and this subchapter.

1. Incomplete applications shall be returned to the consumer for completion.

2. Applications not in compliance with this subchapter and the Wheelchair Lemon Law shall be rejected and the WLLU shall notify the consumer of the reason for the rejection. However, no judgment shall be made by the WLLU as to whether the claimed defect is substantiated by the evidence or whether the defect substantially impairs the use, market value or safety of a motorized wheelchair.

(b) Upon receipt of the filing fee of \$50.00, the application shall be date-stamped to indicate its acceptance for dispute resolution.

#### 13:45A-26E.10 Notification and scheduling of hearings

(a) By August 29, 1996, each manufacturer of motorized wheelchairs sold or leased in New Jersey shall forward to the Division of Consumer Affairs, Wheelchair Lemon Law Unit, the name, address, telephone and telefax number of the person designated by the manufacturer to receive notices under this dispute resolution process. It shall be the duty of the manufacturer to update this information, as necessary.

(b) On the day that an application is accepted for resolution, the WLLU shall send a notice by certified mail, return receipt requested to the consumer and the manufacturer's designee. This notice shall indicate that the consumer's request for resolution has been accepted and shall provide general information about the resolution process.

(c) The WLLU shall immediately thereafter refer an accepted application for dispute resolution to the OAL and arrange a hearing date acceptable to all parties. The dispute resolution shall be conducted as a contested case by the OAL in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., the Uniform Administrative Procedure Rules, N.J.A.C. 1:1, and Special Rules, N.J.A.C. 1:13A.

(d) The date of the hearing shall be no later than 20 days from the date of the notice of acceptance unless a later date is agreed to by the consumer.

(e) Notice of the date, time, and location of the hearing shall be mailed by the OAL to both parties.

(f) A copy of the application materials shall be sent by the WLLU simultaneously with the notice of acceptance of the application, to the manufacturer or the manufacturer's designee. Within 10 days of receipt of the notice of acceptance of the consumer's application for dispute resolution, the manufacturer shall mail by certified mail, return receipt requested, to the consumer and to the clerk of the Office of Administrative Law at 185 Washington Street, Newark, New Jersey 07102, a response to each of the statements set forth in the consumer application. The response shall also state whether the manufacturer objects to a proceeding on the papers if requested by the consumer.

(g) Applications by the consumer or the manufacturer with consent of the consumer for adjournments or rescheduling of the hearing shall be made in accordance with N.J.A.C. 1:1-9.6.

#### Cross References

Motorized wheelchair dispute resolution, applications, proceeding on the papers, see N.J.A.C. 13:45A-26E.6.

#### 13:45A-26E.11 Computation of refund

(a) The refund claimed by a consumer pursuant to section 4 of the Wheelchair Lemon Law, whether through the Division of Consumer Affairs motorized wheelchair dispute resolution system or a manufacturer's informal dispute resolution process, shall include:

1. The total purchase price of the wheelchair including finance charges, sales tax or, in the case of a lease, the total sum of lease payments made, including any down payment;

2. The cost of any necessary modifications arranged, installed or made by the manufacturer or its dealer within one year after the original date of delivery; and

3. Other charges or fees, including, but not limited to:

i. Actual expenses incurred by the consumer for the rental of a motorized wheelchair equivalent to the consumer's motorized wheelchair for the period during which the consumer's motorized wheelchair was out of service due to a nonconformity; and

ii. The filing fee for participation in the Division's dispute resolution system.

(b) From the total sum of items in (a) above, a deduction shall be made, representing an allowance for use. This deduction shall be calculated as follows: the full purchase price of the motorized wheelchair shall be multiplied by a fraction, the denominator of which is 1,825 and the numerator of which is equal to the number of days that the wheelchair was used before the consumer first reported the problem to the dealer or the manufacturer.

#### 13:45A-26E.12 Final decision

(a) The Director shall review the OAL proposed decision submitted by the administrative law judge who conducts the administrative hearing and shall adopt, reject, or modify the decision no later than 15 days after receipt.

(b) At the conclusion of the 15-day review period, the Director shall mail notification of the rejected, modified or adopted decision to both parties, the lien-holder, if any, and the OAL. The mailing to the manufacturer and consumer shall be by certified mail, return receipt requested. Within 45 days of receipt of the final decision, any party may file an appeal in the Appellate Division of the Superior Court.