

Administrative Correction.
See: 28 N.J.R. 4105(a).

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.

(c) The manufacturer shall advise the Director as to its compliance with the final decision or its intent to appeal the final decision no later than 10 days following the date stated for completion of all awarded remedies.

(d) If the manufacturer unreasonably fails to comply with the decision within the specified time period, the manufacturer shall be liable for penalties in the amount of \$5,000 for each day the manufacturer unreasonably fails to comply, commencing on the day after the specified date for completion of all awarded remedies.

13:45A-26E.13 Appeals

(a) A manufacturer or a consumer may appeal a final decision to the Appellate Division of the Superior Court by filing a notice of appeal with the court as well as the Director no later than 45 days after the date of the final decision as defined in N.J.A.C. 45A-26E.12(b).

(b) An appeal by a manufacturer shall not be heard unless the notice of appeal is accompanied by a bond which shall be:

1. For a principal sum equal to the money award made by the administrative law judge, plus \$2,500 for anticipated attorney's fees and other costs;
2. Which sum shall be secured by cash or its equivalent; and
3. Payable to the consumer.

13:45A-26E.14 Manufacturer's informal dispute resolution system

(a) The WLLU shall compile a roster of American and foreign manufacturers of motorized wheelchairs sold or leased in New Jersey.

(b) Manufacturers who establish or participate in an in-house customer assistance mechanism, private arbitration, private buy-back program, or any other type of dispute resolution system shall:

1. Advise the WLLU of the existence of its procedure mentioned in (b) above; and
2. Send the WLLU an outline of the steps that a consumer must take in order to participate in the manufacturer's informal dispute resolution procedure and shall include all necessary addresses and phone numbers.

Amended by R.2006 d.141, effective April 17, 2006.

See: 37 N.J.R. 4369(a), 38 N.J.R. 1760(a).

In (b), deleted the September 18, 1996 deadline.

13:45A-26E.15 Index of disputes

(a) The Division of Consumer Affairs shall maintain an index of motorized wheelchair disputes by make and model and shall compile and maintain statistics indicating the record of manufacturer compliance with any settlement procedure decisions.

(b) The index and statistical record of compliance shall be made available to the public.

Amended by R.2006 d.141, effective April 17, 2006.

See: 37 N.J.R. 4369(a), 38 N.J.R. 1760(a).

In (b), deleted "initial" and "on January 1, 1997 and every 12 months thereafter".

SUBCHAPTER 26F. UNFAIR TRADE PRACTICES— USED MOTOR VEHICLES—SALE AND WARRANTY

13:45A-26F.1 Purpose and scope

(a) The purpose of this subchapter is to implement N.J.S.A. 56:8-67 et seq., commonly known as the Used Car Lemon Law. The subchapter specifies which used motor vehicles are subject to the Act; the purchaser's as well as the dealer's obligations under the Act; the warranties which the dealer must provide; the conditions which must be met before a purchaser may waive a warranty; and the dealer's bonding and reporting requirements. In addition, the subchapter establishes a dispute resolution program within the Division of Consumer Affairs in conjunction with the Office of Administrative Law.

(b) This subchapter applies to:

1. Dealers (as defined in N.J.A.C. 13:45A-26F.2), who sell used motor vehicles in the State of New Jersey; and
2. All consumers (as defined in N.J.A.C. 13:45A-26F.2), of used motor vehicles in the State of New Jersey.

Case Notes

Consumer was not entitled to a refund under the New Jersey Used Car Lemon Law, N.J.S.A. 56:18-67 et seq., where the dealer repaired the material defect by replacing the vehicle's engine with an engine from a totaled vehicle; the consumer had communicated with the dealer about replacement of the engine and the consumer's concerns over the repaired vehicle's safety were based on conjecture. *Rosenberry v. Signature Motor Cars, LLC*, OAL Dkt. No. CMA 8223-07, 2007 N.J. AGEN

LEXIS 821, Initial Decision (December 26, 2007, deemed adopted, 2008 N.J. AGEN LEXIS 247 (January 25, 2008)).

Initial Decision (2006 N.J. AGEN LEXIS 339) adopted, which concluded that a transmission under warranty constituted a material defect under the New Jersey Used Lemon Law, N.J.S.A. 56:8-67 et seq., where it continued to pose problems despite being presented for work on three occasions and undergoing extensive repairs. *Mudrinic v. Auto Toy Store of New Jersey, Inc.*, OAL Dkt. No. CMA 02403-06, 2006 N.J. AGEN LEXIS 525, Final Decision (May 24, 2006).

13:45A-26F.2 Definitions

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

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

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

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

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

“Deduction for personal use” means the mileage allowance set by the Federal Internal Revenue Service for business usage of a motor vehicle in effect on the date a used motor vehicle is repurchased by a dealer in accordance with N.J.S.A. 56:8-71, multiplied by the total number of miles a used motor vehicle is driven by a consumer from the date of purchase of that vehicle until the time of its repurchase.

“Director” means the Director of Consumer Affairs in the Department of Law and Public Safety.

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

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

“Model year” means the calendar year beginning January 1 and ending December 31 of the year listed on the motor vehicle’s title or certificate of ownership and vehicle identification number.

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

“Sale” means the transfer of title of a used motor vehicle from the owner-seller to the purchaser-consumer and does not include those transactions in which the owner-seller has obtained title to, or is granted the right to sell, a used motor vehicle by operation of law (for example, pursuant to N.J.S.A. 2C:64-7 or 54:49-13a), or in which the seller is a public entity or governmental unit.

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

“Used motor vehicle” means a passenger motor vehicle, excluding motorcycles, motor homes and off-road vehicles, title to, or possession of which has been transferred from the person who first acquired it from the manufacturer or dealer, and so used as to become what is commonly known as “secondhand,” within the ordinary meaning thereof but does not mean a passenger motor vehicle, subject to a motor vehicle lease agreement which was in effect for more than 90 days, which is sold by the lessor to the lessee, or to a family member or employee of the lessee upon the termination of the lease agreement.

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

Petition for Rulemaking.
See: 33 N.J.R. 1478(c).

13:45A-26F.3 Dealer warranty; form; scope; purchaser’s obligations

(a) Upon the sale of a used motor vehicle in the State of New Jersey, the dealer shall furnish the consumer with a written warranty which meets the requirements of (c) below, unless: