



## Buying A Car/Registration

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### Background

Buying an automobile involves three essential components. First, there are the matters related to the vehicle itself, including product guarantees and warranties. Second, there are the matters relating to transferring ownership of the vehicle from the manufacturer or dealer to the buyer. Third, there are the matters required of the buyer to properly register and insure the vehicle before the buyer may operate it on a public road.

### Consumer Protections

Before individuals purchase a vehicle, there are already several federal laws at work that govern the quality and safety of products available for their purchase. Most of these are found under Title 15 (Commerce and Trade) of the U. S. Code.

- The federal Automobile Information Disclosure Act, 15 USC 1231 et seq., requires automobile manufacturers and importers of new cars to affix a sticker on the window of each vehicle, called the "Monroney label." The label must list the base price of the vehicle, each option installed by the manufacturer and its suggested retail price, the transportation charge, and the car's fuel economy (in miles per gallon). Only the ultimate user (the buyer) can remove the label.
- For used vehicles, the Federal Trade Commission (FTC) has passed its Used Car Rule under 15 USC 41, which applies in all states except Maine and Wisconsin. (These states have adopted their own rules governing used car sales.) Under the Used Car Rule, dealers must prominently post buyer's guides on used vehicles that advises whether the vehicles comes with a [WARRANTY](#) and what type or are sold "as is." The buyer's guide must be given to the buyer if the buyer purchases a used vehicle, and it becomes part of the purchase contract, and its terms override any conflicting terms in the contract.
- The National Traffic and Motor Vehicle Safety Act of 1966, 15 USC 1381 et seq., has been broken down and re-codified over the years into many legal progeny. The following laws address such matters as motor vehicle or driver safety; minimum standards for motor vehicle emissions, fuel economy, bumper standards, or crash-worthiness; motor vehicle manufacturer recalls or advisories; manufacturer and dealer disclosures, etc.
- The Motor Vehicle Information and Cost Saving Act, 15 USC 1901 et seq., (much of which has been broken down into additional acts and laws, and recodified under Title 49, Transportation) contains numerous provisions for minimum quality and safety standards, disclosure, and reporting

requirements.

- The federal Truth in Mileage Act of 1986, commonly referred to as the "Anti-Tampering Odometer Law," (PL 99-579) (49 CFR 580) criminalizes any act that falsifies actual odometer readings and mandates that each transferor of a motor vehicle furnish the transferee certain information concerning the vehicle's history.
- The Clean Air Act, 42 USC 7401 et seq., addresses minimum standards for exhaust emissions on motor vehicles.
- The Anti-Car Theft Act of 1992, 15 USC 2021 et seq., establishes, among other things, a national motor vehicle title information system to disrupt attempts to obtain legitimate vehicle ownership by auto thieves. It also provides for the inspection of exports for stolen vehicles.

### ***Product Warranties***

The federal **MAGNUSON-MOSS WARRANTY ACT**, 42 USC 2301 et seq. (1984) is applicable to warranties for purchases of automobiles. Under the Act, any warranty accompanying a product must be designated as either "full" or "limited." Importantly, if a manufacturer has given a full or limited warranty on a new car, it cannot disclaim any implied warranties. However, some states have laws that effectively void any [IMPLIED WARRANTY](#) for buyer's guide used vehicles that are checked "As Is-No Warranty."

Implied warranties are exactly that: implied. They follow the sale of certain consumer goods automatically, without any express writing or document. The implied warranty of merchantability basically guarantees that the product is what it is stated to be and is adequate for the purpose for which it is purchased. Under the **UNIFORM COMMERCIAL CODE** (UCC), adopted in all 50 states, this implied warranty only applies to sellers in the business of selling the particular item and does not apply to incidental sales or cross-consumer sales.

However, the implied warranty of fitness for a particular purchase applies to all sellers, even nonprofessionals. Under this warranty, the seller is presumed to guarantee that the car sold (e.g., a restored race car), is fit for the particular purpose for which it is being sold.

### ***Lemon Laws for New and Used Vehicles***

All 50 states have enacted "lemon laws" to protect consumers from defective new automobiles. Some states have enacted separate [LEMON LAWS](#) to cover used vehicles. While their application and protections vary from state to state, they generally protect consumers from having to keep defective new vehicles. Lemon laws entitle buyers to a replacement new vehicle or a full refund if a dealer cannot fix a vehicle to conform with a warranty after three or four repair attempts made within six months to a year (state variations). Some state laws also entitle buyers to such a remedy if the new vehicle is out of commission for more than 30 non-consecutive days during the warranty period or a [STATUTORY](#) period, e.g., one year.

### ***Right to Rescind Purchases***

Contrary to general assumption, there is no federal law giving buyers the right to cancel their new car purchase within three days of sale. The often-cited Federal Trade Commission (FTC) "Cooling Off" law is only effective for door-to-door sales or sales made at other than the seller's place of business. However, many states have enacted their own versions of the FTC law, affording broader protections than what the federal law does. Prior to purchase, prospective buyers should check with their state's attorney general's office to see if automobile purchases are covered under state law.

## **Credit Matters**

The federal **CONSUMER CREDIT PROTECTION ACT**, 15 USC 1601 et seq., also referred to as the Truth in Lending Act, assures that consumers receive specific information regarding the terms, conditions, and final cost of financing. It also requires disclosure of other information that will contribute to a meaningful choice and decision to finance the purchase.

If buyers finance their purchase of vehicles, they most likely will execute a document known as a security agreement, which gives their [CREDITOR](#) a security interest in their vehicles. Under most state laws, if they seriously [DEFAULT](#) on car payments, their creditor may repossess their vehicle, sometimes without advance notice. Although they generally have a right to "cure" the default and redeem the vehicle, they normally have to pay the entire balance on the car, not just the payments in [ARREARS](#). Most financing agreements contain "acceleration clauses" which permit the termination of the [INSTALLMENT](#) payments once default occurs. Some states have laws that permit creditors to reinstate the contract terms once buyers pay the amount in arrears.

If buyers do not redeem the vehicle, the creditor may keep their vehicles to satisfy the debt, even if the vehicles are worth more than the debt owed. This is referred to as "strict foreclosure." However, if buyers have paid at least 60 percent of the purchase price, they generally are entitled to any excess money recouped from the vehicle's sale above and beyond the balance owed. Buyers are also entitled to take part in the bidding at the sale.

## **Title Transfers and Liens**

Under the UCC (Article 2), a new car contract which purports to transfer ownership to the purchaser must be in writing. It should include a description of the make and model of the vehicle, its full vehicle identification number (VIN), a statement as to whether the vehicle is new, used, a "demo," rental car, etc., the full price and any financing terms, a cancellation provision if certain conditions occur (such as the car not being delivered by a certain date), and a full statement of warranty terms.

Every transfer of title to a motor vehicle must include an odometer reading and statement of mileage from the transferor. For purposes of [TAXATION](#), most states require an [AFFIDAVIT](#) of purchase price as well.

Importantly, if the purchased vehicles are being financed, state law will dictate the form of title transfer. Some states will allow title to transfer to the buyers even though they have not yet fully paid for the vehicle, but the creditor/lender will encumber the title with a [LIEN](#). Other states permit the creditor/lender to keep title in its name until they pay for the vehicle in total, then transfer title to them. In those states, the buyers maintain an "equitable lien" on the vehicle while it is being paid for but do not have legal title to it until their final payment has been made.

Under the UCC, after executing a purchase document, but prior to the delivery of the vehicle, the risk of loss or damage to the vehicle is allocated to the seller if the seller is a merchant (car dealer). If the seller is not a merchant under the UCC, the risk passes to the buyer upon tender of delivery, i.e., when the seller actually attempts delivery or makes the car available for pickup under the contract.

Generally, title to a vehicle cannot be transferred if there is any existing lien listed. Creditors will automatically file the necessary paperwork (buyers should receive a copy) to remove their liens against the title to their vehicles once buyers have paid them creditors in full. However, if buyers attempt to sell their vehicles while a lien is still recorded, the burden is on them to contact the necessary parties to effect a removal

of the lien.

## State Registration Requirements

Registering a vehicle in the owner's name notifies the state of ownership of the vehicle, and provides the necessary documentation for the issuance of state license plates and tags to be affixed to the vehicle. Operating a motor vehicle that is not properly registered is usually an offense punishable by fine or [IMPRISONMENT](#). Within most states, the Department of Motor Vehicles (DMV) or an office of the Secretary of State is the proper entity for registering vehicles.

The most common document requirements for registering a vehicle are the title and a certificate of automobile insurance coverage. Some states additionally require a copy of the contract or [BILL OF SALE](#), or in the alternative, an affidavit containing averments of purchase price, description of the vehicle, and the VIN number, names of seller and buyer, date of purchase, and odometer reading.

The title owner of the vehicle is generally, but not always, the party to whom the vehicle is registered. Even in states where creditors retain titles in their names until the buyer pays off the auto loan, registration of the vehicle will nonetheless be in the buyer's name. This means that the buyer will pay the sales taxes, use taxes, licensing plate fees, and (usually) fees associated with the transferring of the vehicle to the buyer's name.

If the buyer has a lien against the title to the buyer's vehicle, the state will most likely require the buyer to maintain full coverage insurance on the car, including, especially, collision coverage. Doing so protects the interests of the lienholder, who could stand to lose both payment and the vehicle if the buyer is involved in an accident and does not have the vehicle insured. Registration may be denied if the vehicle fails to pass auto emissions or operational testing, or if any taxes are pending. Additionally, registration may be denied to persons whose driving licenses have been suspended or revoked.

## State Lemon Laws

**ALABAMA:** See Article 8, Chapter 20A of the Alabama Code of 1975. Requires three repair attempts or 30 calendar days out of service.

**ALASKA:** See Title 45, Chapter 45, Sections 300 to 360 of the Alaska Statutes. Requires three repair attempts or 30 business days out of service.

**ARIZONA:** See Sections 44.1261 to 1265 of the Arizona Revised Statutes. Requires four repair attempts or 30 calendar days out of service.

**ARKANSAS:** See Title 4, Chapter 90, Sections 401 to 417 of Arkansas Statutes. Requires one repair attempt for defect that may cause death or serious injury or three repair attempts or 30 calendar days out of service.

**CALIFORNIA:** See California Civil Code 1793.22, the Tauner **CONSUMER PROTECTION** Act. Requires two repair attempts for a defect which may cause death or serious injury or four repair attempts or 30 calendar days out of service.

**COLORADO:** See Colorado Statutes 42-10-101 to 107. Requires four repair attempts or 30 calendar days out of service.

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**CONNECTICUT:** See Connecticut Statutes, Title 42, Chapter 743b for new vehicles, Chapter 743f for used vehicles. Requires two repair attempts if there is a serious safety hazard, otherwise four repair attempts or 30 calendar days out of service.

**DELAWARE:** See Title 6, Subtitle II, Chapter 50, Sections 5001 to 5009. Requires four repair attempts or 30 business days out of service.

**DISTRICT OF COLUMBIA:** See DC Code, Division VIII, Title 50, Subtitle II, Chapter 5. Requires four repair attempts or 30 calendar days out of service.

**FLORIDA:** See Florida Statutes Annotated, Chapter 681. Requires three repair attempts or 30 calendar days out of service.

**GEORGIA:** See Georgia Code, Section 10-1-780. Requires one attempt for a serious safety defect in braking or steering systems, otherwise three repair attempts or 30 calendar days out of service.

**HAWAII:** See Hawaii Revised Statutes, Chapter 481i. Requires one repair for defects which may cause death or serious injury, otherwise three repair attempts or 30 business days out of service.

**IDAHO:** See Titles 48, Chapter 9, Sections 901-903. Requires four repair attempts or 30 business days out of service.

**ILLINOIS:** See Chapter 815, 815 ILCS, Section 815.380. Requires four repair attempts or 30 business days out of service.

**INDIANA:** See Indiana Code Section 24-5-13. Requires four repair attempts or 30 business days out of service.

**IOWA:** See Iowa Code, Chapter 322G, Sections 1 to 15. Requires one repair attempt for defects that may cause death or serious injury, otherwise three repair attempts plus a final attempt or 30 calendar days out of service.

**KANSAS:** See Kansas Statutes, Chapter 50-645 to 646. Requires four repair attempts or ten repair attempts for different defects, otherwise 30 calendar days out of service.

**KENTUCKY:** See KRS 367.840 to 846, also KRS 860 to 870. Requires four repair attempts or 30 days out of service.

**LOUISIANA:** See Louisiana Revised Statutes Title 51, Sections 1941 to 1948. Requires four repair attempts or 30 calendar days out of service.

**MAINE:** See Title 10, Chapter 203A, Sections 1161 to 1169. Requires three repair attempts or 15 business days out of service.

**MARYLAND:** See Statutes under Commercial Law, 12-1504 and 14-501. Requires one unsuccessful repair for braking or steering system failures, otherwise four repair attempts or 30 calendar days out of service.

**MICHIGAN:** See MCL 257.1401 et seq. Requires four repair attempts or 30 business days out of service.

**MINNESOTA:** See Minnesota Statutes Annotated, 325F.665 for new cars, 325F.662 for used ones. Requires one unsuccessful repair for braking or steering system failures, otherwise four repair attempts or 30 business

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days out of service.

MISSISSIPPI: See STATUTE Sections 63-17-151 to 165. Requires three repair attempts or 15 working days out of service.

MISSOURI: See Missouri Revised Statutes 407.560 to 579. Requires four repair attempts or 30 business days out of service.

MONTANA: See Montana Code, Title 61, Chapter, Part 5, Section 61-4-501. Requires four repair attempts or 30 business days out of service.

NEBRASKA: See Chapter 60 (Motor Vehicles), Sections 60-2701 to 2709. Requires four repair attempts or 40 business days out of service.

NEVADA: See Nevada Revised Statutes, 597.600 to 680. Requires four repair attempts or 30 calendar days out of service.

NEW HAMPSHIRE: See Title 31, Chapter 3570. Requires three repair attempts or 30 business days out of service.

NEW JERSEY: See Title 56, Sections 56-12-29 to 49. Requires three repair attempts or 30 calendar days out of service.

NEW MEXICO: See Chapter 57, Article 16A. Requires four repair attempts or 30 business days out of service.

NEW YORK: See New York State General Business Laws (GBL), Section 198a for new vehicles, Section 198b for used vehicles. Requires four repair attempts or 30 calendar days out of service. Substantial defects must be repaired within 20 days of receipt of notice from the consumer using certified mail.

NORTH CAROLINA: See Chapters 20 of the North Carolina General Statutes, Article 15A. Requires four repair attempts or 20 calendar days out of service.

NORTH DAKOTA: See Title 51 of the Century Code, Sections 51-07-16 to 22. Requires three repair attempts or 30 business days out of service.

OHIO: See ORC 1345.71 to 78. Requires one repair attempt for condition likely to cause death or injury, three repair attempts for same defect, eight total repair attempts, or 30 calendar days out of service.

OKLAHOMA: See Section 15-901 of the Oklahoma Statutes. Requires four repair attempts or 45 calendar days out of service.

OREGON: See ORS 646.315 to 75. Requires four repair attempts or 30 business days out of service.

PENNSYLVANIA: See Pennsylvania Statutes Annotated, Title 73, Chapter 28, Sections 1951 to 63. Requires three repair attempts or 30 calendar days out of service.

RHODE ISLAND: See Rhode Island Code, Title 31 (Motor and Other Vehicles), Chapter 31-5.2. Requires four repair attempts or 30 calendar days out of service.

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**SOUTH CAROLINA:** See Title 56 (Motor Vehicles), Chapter 28, Section 56.28-10. Requires three repair attempts or 30 calendar days out of service.

**SOUTH DAKOTA:** See Title 32, Chapter 32-6D.1 to 11. Requires four repair attempts plus a final attempt.

**TENNESSEE:** See Tennessee Code, Chapter 24, Sections 55-24-201. Requires four repair attempts or 30 calendar days out of service.

**TEXAS:** See Motor Vehicle Commission Code, Article 4413(36) of Vernon's Texas Civil Statutes. Requires two repair attempts for serious defects, otherwise four repair attempts or 30 days out of service.

**UTAH:** See Utah Administrative Code, Rule R152-20. Requires four repair attempts or 30 business days out of service.

**VERMONT:** See Chapter 115, Sections 4170 to 4181. Requires three repair attempts or 30 calendar days out of service.

**VIRGINIA:** See Title 59.1, Chapter 17.3, Sections 59.1- 207.9 to 207.16. Requires one repair for serious safety defect, otherwise three repair attempts or 30 calendar days out of service.

**WASHINGTON:** See RCW Title 19, Chapter 118, Section 19.118.005. Requires two repair attempts for serious safety defect, otherwise four repair attempts or 30 calendar days out of service.

**WEST VIRGINIA:** See West Virginia Code 46A-6A, Sections 1 to 9. Requires three repair attempts or 30 calendar days out of service.

**WISCONSIN:** See Chapter 218.015. Requires four repair attempts or 30 days out of service.

**WYOMING:** See Title 40, Chapter 17, Section 101. Requires three repair attempts or 30 business days out of service.

## Additional Resources

"Buying a New/Used Car FAQ," Nolo Online Law. Available at <http://www.nolo.com/lawcenter/faqs/detail.cfm>.

*Guide to Consumer Law.* American Bar Association. Random House, 1997.

*Law for Dummies.* Ventura, John,. IDG Books Worldwide, Inc., 1996.

"State by State Lemon Law Summaries." Autopedia. Available at [http://autopedia.com/html/HotLinks\\_Lemon2.html](http://autopedia.com/html/HotLinks_Lemon2.html).

## Organizations

***The Automotive Consumer Action Program (AUTOCAP)***

URL: <http://www.autocap.com>

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