

**Second Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 24-1136.01 Jery Payne x2157

SENATE BILL 24-192

SENATE SPONSORSHIP

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Senate Committees

Business, Labor, & Technology
Appropriations

House Committees

Business Affairs & Labor
Appropriations

HOUSE
3rd Reading Unamended
May 7, 2024

A BILL FOR AN ACT

101 **CONCERNING CHANGES TO THE LAW REQUIRING PERSONS IN THE**
102 **BUSINESS OF SELLING MOTOR VEHICLES TO MAKE A CONSUMER**
103 **WHOLE IF THE MOTOR VEHICLE FAILS TO PERFORM, AND, IN**
104 **CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

HOUSE
2nd Reading Unamended
May 6, 2024

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

SENATE
3rd Reading Unamended
April 29, 2024

Current law, which is commonly known as the "lemon law", requires a manufacturer, a manufacturer's agent, or a manufacturer's authorized dealer (dealer) to replace or buy back a motor vehicle if the

SENATE
Amended 2nd Reading
April 26, 2024

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

consumer notified the dealer within the earlier of the warranty period or one year after original delivery of the motor vehicle (notification time), and the motor vehicle underwent a reasonable number of attempts to repair. The number of repairs are considered reasonable if:

- The motor vehicle was out of service for repairs for a cumulative total of 30 or more business days; or
- The dealer tried unsuccessfully to repair the motor vehicle 4 or more times.

The bill:

- Expands the lemon law to cover motor vehicles affected by safety-based nonconformities;
- Expands the notification time to include the earlier of the first 36,000 miles or 3 years after original delivery of the motor vehicle;
- Clarifies that, for any claim a consumer raises against a manufacturer, the lemon law is not an affirmative defense against the consumer's claim when the statute of limitations is tolled for a period of time after the consumer has presented a claim and submitted the motor vehicle for repair but before the threshold for cure has been met;
- Lowers the number of out-of-service business days from 30 to 21; and
- Lowers the number of required attempts to repair from 4 to 3.

Current law requires the manufacturer to be notified of a defect and be given an opportunity to cure the defect in order to be subject to the reasonable repairs presumption. The bill adds a 10-day limit on the opportunity to cure the defect.

Current law allows a dealer, when buying back a motor vehicle, to deduct a reasonable allowance for use. The bill sets a formula for determining the reasonable allowance for use.

Current law exempts from the lemon law motor vehicles that have a problem that does not affect the market value of the motor vehicle. The bill adds that the problem must not affect the safety of the motor vehicle to qualify for the exemption.

The bill changes the statute of limitations from the earlier of 6 months after the expiration of a warranty or within one year after the original delivery of the motor vehicle to 42 months after the original delivery.

The bill requires a dealer to allow an agent of a purchaser to inspect a motor vehicle unless the dealer provides a 7-day free-look period in which the purchaser may return the motor vehicle and receive a refund of all money paid to the dealer to purchase the motor vehicle. The dealer must notify purchasers of this inspection right. The dealer is required to give certain notices that the motor vehicle was returned,

including notifying the department of revenue (department). The department must put a brand on the title to notify subsequent purchasers.

Failing to comply with the bill is a ground for discipline for a manufacturer, distributor, motor vehicle dealer, wholesale motor vehicle auction dealer, wholesaler, buyer agent, used motor vehicle dealer licensee, motor vehicle salesperson, or business disposal licensee.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 42-10-101, **amend**
3 the introductory portion, (1), and (2); and **add** (1.5) and (2.5) as follows:

4 **42-10-101. Definitions.** As used in this ~~article~~ ARTICLE 10, unless
5 the context otherwise requires:

6 (1) "Consumer" means the purchaser, other than for purposes of
7 resale, of a motor vehicle ~~normally~~ THAT IS used for personal, family,
8 or household purposes; any person to whom ~~such~~ THE motor vehicle is
9 transferred for the same purposes during the duration of a manufacturer's
10 express warranty for ~~such~~ THE motor vehicle; and any other person
11 entitled by the terms of ~~such~~ THE warranty to enforce the obligations of
12 the warranty.

13 (1.5) "LEMON LAW BUYBACK VEHICLE" MEANS A MOTOR VEHICLE
14 THAT WAS REPURCHASED BY OR RETURNED TO THE MANUFACTURER, THE
15 MANUFACTURER'S AGENT, OR THE MANUFACTURER'S AUTHORIZED DEALER
16 FOR INABILITY TO CONFORM THE MOTOR VEHICLE TO THE
17 MANUFACTURER'S WARRANTY IN ACCORDANCE WITH THIS ARTICLE 10 OR
18 WITH ANY OTHER STATE OR FEDERAL MOTOR VEHICLE WARRANTY LAW.

19 (2) "Motor vehicle" means a self-propelled private passenger
20 vehicle, including pickup trucks and vans, designed primarily for travel
21 on the public highways and used to carry not more than ten persons,
22 which is sold to a consumer in this state; except that the term does not

1 include motor homes as defined in section 42-1-102 (57), or vehicles
2 designed to travel on three or fewer wheels in contact with the ground, OR
3 A MOTOR VEHICLE THAT HAS BEEN MODIFIED FOR COMMERCIAL USE.

4 (2.5) "SAFETY-BASED NONCONFORMITY" MEANS A _____
5 NONCONFORMITY THAT:

6 (a) RESULTS IN A CONDITION THAT IS LIKELY TO CAUSE DEATH OR
7 SERIOUS BODILY INJURY IF THE VEHICLE IS DRIVEN; OR

8 (b) CREATES A RISK OF FIRE OR EXPLOSION.

9 **SECTION 2.** In Colorado Revised Statutes, **amend** 42-10-102 as
10 follows:

11 **42-10-102. Repairs to conform vehicle to warranty.** ____ If a
12 motor vehicle HAS A SAFETY-BASED NONCONFORMITY OR does not
13 conform to a warranty and the consumer reports the nonconformity to the
14 manufacturer, ~~its~~ THE MANUFACTURER'S agent, or ~~its~~ THE
15 MANUFACTURER'S authorized dealer ~~during the term of such warranty or~~
16 ~~during a period of one year~~ WITHIN THE FIRST TWENTY-FOUR THOUSAND
17 MILES OF THE MOTOR VEHICLE'S OPERATION OR WITHIN TWO YEARS
18 following the date of the original delivery of the motor vehicle to a
19 consumer, whichever ~~is the~~ OCCURS earlier, ~~date~~; the manufacturer, ~~its~~
20 THE MANUFACTURER'S agent, or ~~its~~ THE MANUFACTURER'S authorized
21 dealer shall make such repairs as are necessary to conform the MOTOR
22 vehicle to ~~such~~ THE warranty, notwithstanding the fact that ~~such~~ THE
23 repairs are made after the expiration of ~~such term or such one-year~~ THE
24 period.

25 _____

26 **SECTION 3.** In Colorado Revised Statutes, 42-10-103, **amend**
27 (1), (2)(a), (2)(b), and (2)(c); and **add** (4) as follows:

1 **42-10-103. Failure to conform vehicle to warranty -**

2 **replacement or return of vehicle.** (1) If the manufacturer, ~~its~~ THE
3 MANUFACTURER'S agent, or ~~its~~ THE MANUFACTURER'S authorized dealer
4 is unable to conform the motor vehicle to the warranty by repairing or
5 correcting the defect or condition ~~which~~ THAT substantially impairs the
6 use and market value of ~~such~~ OR SAFETY OF THE motor vehicle after a
7 reasonable number of attempts, the manufacturer shall, at ~~its~~ THE
8 MANUFACTURER'S option, replace the motor vehicle with a comparable
9 motor vehicle or accept return of the motor vehicle from the consumer
10 and refund to the consumer the full purchase price, including the sales
11 tax, license fees, and registration fees and any similar governmental
12 charges, less a reasonable allowance for the consumer's use of the motor
13 vehicle. Refunds shall be made to the consumer and lienholder, if any, as
14 their interests may appear. A reasonable allowance for use shall be that
15 amount directly attributable to use by the consumer and any previous
16 consumer prior to the consumer's first written report of the nonconformity
17 to the manufacturer, agent, or dealer and during any subsequent period
18 when the vehicle is not out of service by reason of repair.

19 (2) (a) ~~It shall be presumed that~~ A reasonable number of attempts
20 IS PRESUMED TO have been undertaken to conform a motor vehicle to the
21 warranty if:

22 (I) The same nonconformity has been subject to repair ~~four~~ THREE
23 or more times by the manufacturer, ~~its~~ THE MANUFACTURER'S agent, or ~~its~~
24 THE MANUFACTURER'S authorized dealer within ~~the warranty term or~~
25 ~~during a period of one year~~ THE FIRST TWENTY-FOUR THOUSAND MILES OR
26 WITHIN TWO YEARS following the date of the original delivery of the
27 motor vehicle to the consumer, whichever ~~is the~~ OCCURS earlier, ~~date~~, but

1 ~~such~~ THE nonconformity continues to exist; ~~or~~

2 (II) The motor vehicle is out of service by reason of repair for a
3 cumulative total of ~~thirty~~ TWENTY-FOUR or more business days of the
4 repairer during the ~~term~~ MILEAGE specified in ~~subparagraph (f) of this~~
5 ~~paragraph (a)~~ SUBSECTION (2)(a)(I) OF THIS SECTION or during the TIME
6 period specified in ~~said subparagraph (f)~~ SUBSECTION (2)(a)(I) OF THIS
7 SECTION, whichever ~~is the~~ OCCURS earlier; ~~date~~. OR

8 (III) A SAFETY-BASED NONCONFORMITY HAS BEEN SUBJECT TO
9 TWO OR MORE REPAIR ATTEMPTS BY THE MANUFACTURER, THE
10 MANUFACTURER'S AGENT, OR THE MANUFACTURER'S AUTHORIZED DEALER
11 WITHIN THE FIRST TWENTY-FOUR THOUSAND MILES OF OPERATION OR
12 WITHIN TWO YEARS FOLLOWING THE DATE OF THE ORIGINAL DELIVERY OF
13 THE MOTOR VEHICLE TO THE CONSUMER, WHICHEVER OCCURS EARLIER,
14 BUT THE SAFETY-BASED NONCONFORMITY CONTINUES TO EXIST.

15 (b) For the purposes of this subsection (2), the term of a warranty,
16 the one-year TWO-YEAR period, and the thirty-day TWENTY-FOUR-DAY
17 ~~period shall be~~ ARE extended by any period of time during which repair
18 services are not available to the consumer because of war, invasion,
19 strike, or fire, flood, or other natural disaster.

20 (c) ~~In no event shall~~ A presumption under ~~paragraph (a) of this~~
21 ~~subsection (2)~~ SUBSECTION (2)(a) OF THIS SECTION DOES NOT apply
22 against a manufacturer unless the manufacturer has received prior written
23 notification by certified mail from or on behalf of the consumer and
24 STATING THAT ONE OR MORE ATTEMPTS TO REPAIR THE SAME
25 NONCONFORMITY HAVE BEEN MADE PURSUANT TO SECTION 42-10-102
26 AND THE ALLEGED NONCONFORMITY REMAINS, AND THE MANUFACTURER
27 has been provided an opportunity TEN BUSINESS DAYS to cure the

1 ALLEGED defect ~~alleged~~. Such AFTER RECEIPT OF THE NOTIFICATION.
2 THE defect ~~shall count~~ COUNTS as one nonconformity subject to repair
3 under ~~subparagraph (1) of paragraph (a) of this subsection (2)~~ SUBSECTION
4 (2)(a)(I) AND (2)(a)(III) OF THIS SECTION.

5 (4) A REASONABLE ALLOWANCE FOR USE, AS DESCRIBED IN
6 SUBSECTION (1) OF THIS SECTION, MUST BE OBTAINED BY MULTIPLYING
7 THE TOTAL CONTRACT PRICE OR LESSEE COST OF THE MOTOR VEHICLE BY
8 A FRACTION HAVING AS ITS DENOMINATOR ONE HUNDRED THOUSAND AND
9 HAVING AS THE FRACTION'S NUMERATOR THE SUM OF:

10 (a) THE NUMBER OF MILES THAT THE MOTOR VEHICLE TRAVELED
11 BEFORE THE CONSUMER'S FIRST PRESENTATION OF THE VEHICLE TO THE
12 MANUFACTURER, THE MANUFACTURER'S AGENT, OR THE MANUFACTURER'S
13 DEALER OR LESSOR FOR REPAIR OF THE NONCONFORMITY; AND

14 (b) THE NUMBER OF MILES THAT THE MOTOR VEHICLE TRAVELED
15 DURING ANY SUBSEQUENT PERIOD WHEN THE MOTOR VEHICLE WAS NOT
16 OUT OF SERVICE BY REASON OF REPAIR.

17 **SECTION 4.** In Colorado Revised Statutes, 42-10-104, **amend**
18 (1) introductory portion and (1)(a) as follows:

19 **42-10-104. Affirmative defenses.** (1) It ~~shall be~~ IS an affirmative
20 defense to any claim under this ~~article~~ ARTICLE 10 that:

21 (a) An alleged nonconformity does not substantially impair the
22 SAFETY OF OR use and market value of a motor vehicle, AS APPLICABLE;

23 or

24 **SECTION 5.** In Colorado Revised Statutes, **amend** 42-10-107 as
25 follows:

26 **42-10-107. Statute of limitations.** Any action brought to enforce
27 ~~the provisions of this article shall~~ THIS ARTICLE 10 MUST be commenced

1 within six months following the expiration date of any warranty term or
2 ~~within one year~~ THIRTY MONTHS following the date of the original
3 delivery of a motor vehicle to a consumer; ~~whichever is the earlier date;~~
4 except that the statute of limitations ~~shall be~~ IS tolled during the period
5 the consumer has submitted to arbitration under section 42-10-106 OR
6 WHILE THE MOTOR VEHICLE IS NOT AVAILABLE FOR USE BY REASON OF
7 REPAIR.

8 **SECTION 6.** In Colorado Revised Statutes, **add** 42-10-108,
9 42-10-109, and 42-10-110 as follows:

10 **42-10-108. Third-party inspection - disclosure.** (1) (a) A
11 MOTOR VEHICLE DEALER SELLING A LEMON LAW BUYBACK VEHICLE TO A
12 POTENTIAL PURCHASER FOR PURPOSES OTHER THAN FOR RESALE MUST
13 EITHER:

14 (I) ALLOW A THIRD-PARTY AGENT OF A POTENTIAL PURCHASER TO
15 INSPECT THE MOTOR VEHICLE BEFORE SELLING THE MOTOR VEHICLE; OR

16 (II) PROVIDE A SEVEN-DAY FREE-LOOK PERIOD DURING WHICH THE
17 PURCHASER MAY RETURN THE MOTOR VEHICLE AND RECEIVE A REFUND OF
18 ALL MONEY PAID TO PURCHASE THE MOTOR VEHICLE, LESS SHIPPING
19 COSTS.

20 (b) To MAKE THE INSPECTION PROVIDED IN SUBSECTION (1)(a)(I)
21 OF THIS SECTION, A THIRD-PARTY AGENT MAY HAVE REASONABLE ACCESS
22 TO CONDUCT THE INSPECTION, BUT THE THIRD-PARTY AGENT MUST BE
23 QUALIFIED TO USE OR OPERATE ANY EQUIPMENT USED TO INSPECT THE
24 VEHICLE AND MUST NOT INTERFERE WITH NORMAL BUSINESS OPERATIONS
25 OF THE MOTOR VEHICLE DEALER.

26 (2) A MOTOR VEHICLE DEALER SELLING A LEMON LAW BUYBACK
27 VEHICLE TO A POTENTIAL PURCHASER FOR PURPOSES OTHER THAN FOR

1 RESALE MUST CONSPICUOUSLY DISCLOSE IN WRITING, BEFORE THE MOTOR
2 VEHICLE IS PURCHASED, TO EACH POTENTIAL PURCHASER OF THE MOTOR
3 VEHICLE FOR PURPOSES OTHER THAN FOR RESALE THE RIGHT DESCRIBED
4 IN SUBSECTION (1)(a) OF THIS SECTION.

5 **42-10-109. Buy back notice.** (1) IF THE MOTOR VEHICLE IS
6 RETURNED PURSUANT TO SECTION 42-10-103 (1), A MANUFACTURER, A
7 MANUFACTURER'S AGENT, OR A MANUFACTURER'S AUTHORIZED DEALER
8 SHALL, BEFORE THE RESALE OF THE MOTOR VEHICLE IN THIS STATE:

9
10 (a) NOTIFY THE DEPARTMENT OF REVENUE THAT THE MOTOR
11 VEHICLE WAS RETURNED TO THE MANUFACTURER, THE MANUFACTURER'S
12 AGENT, OR THE MANUFACTURER'S AUTHORIZED DEALER PURSUANT TO
13 SECTION 42-10-103 (1);

14 (b) ATTACH A DECAL TO THE MOTOR VEHICLE THAT CLEARLY AND
15 CONSPICUOUSLY READS "LEMON LAW BUYBACK" ON THE BODY POST TO
16 WHICH THE DRIVER'S DOOR LATCHES, ALSO KNOWN AS THE DRIVER'S DOOR
17 B PILLAR, ON THE DATE THE MOTOR VEHICLE IS RETURNED AND SHALL NOT
18 REMOVE THE DECAL; AND

19 (c) APPLY FOR A LEMON LAW BUYBACK BRANDED CERTIFICATE OF
20 TITLE PURSUANT TO ARTICLE 6 OF THIS TITLE 42 IN THE MANUFACTURER'S,
21 THE MANUFACTURER'S AGENT'S, OR THE MANUFACTURER'S AUTHORIZED
22 DEALER'S NAME.

23 (2) A SELLER OF A MOTOR VEHICLE, INCLUDING A MANUFACTURER
24 OR DEALER, WHO KNOWS OR SHOULD HAVE KNOWN THAT THE MOTOR
25 VEHICLE IS A LEMON LAW BUYBACK VEHICLE SHALL CLEARLY AND
26 CONSPICUOUSLY DISCLOSE THAT THE MOTOR VEHICLE IS A LEMON LAW
27 BUYBACK VEHICLE BEFORE THE SALE OF THE MOTOR VEHICLE.

1 (3) THE SELLER OF A LEMON LAW BUYBACK VEHICLE SHALL NOT
2 REMOVE A LEMON LAW BUYBACK DECAL FROM THE LEMON LAW BUYBACK
3 VEHICLE.

4 **42-10-110. Applicability.** (1) THIS ARTICLE 10 DOES NOT APPLY
5 TO A USED MOTOR VEHICLE; EXCEPT THAT SECTIONS 42-10-108 AND
6 42-10-109 APPLY TO A USED MOTOR VEHICLE.

7 (2) THIS ARTICLE 10 DOES NOT APPLY TO A USED MOTOR VEHICLE
8 DEALER LICENSED IN ACCORDANCE WITH ARTICLE 20 OF TITLE 44.

9 **SECTION 7.** In Colorado Revised Statutes, 42-6-102, **amend**
10 (1.7)(e) and (1.7)(f); and **add** (1.7)(g) as follows:

11 **42-6-102. Definitions.** As used in this part 1, unless the context
12 otherwise requires:

13 (1.7) "Brand" means a permanent designation or marking on a
14 motor vehicle's title, associated with the vehicle identification number,
15 that conveys information about the value of the vehicle or indicates that
16 the vehicle:

- 17 (e) Has had its odometer tampered with; ~~or~~
- 18 (f) Has a designation placed on the title by another jurisdiction; OR
- 19 (g) IS A LEMON LAW BUYBACK VEHICLE, AS DEFINED IN SECTION
20 42-10-101 (1.5).

21 **SECTION 8.** In Colorado Revised Statutes, 42-6-107, **amend**
22 (1)(a)(III) as follows:

23 **42-6-107. Certificates of title - contents - rules.** (1) (a) (III) If
24 a vehicle shows a brand in ~~its~~ THE VEHICLE'S title history, or if the vehicle
25 is subject to a brand, the department shall place the appropriate brand on
26 the certificate of title. If the vehicle has multiple brands, the department
27 shall place the most recent brand on the certificate of title and the notice

1 "other brands exist". If the brand is from a certificate of title issued in
2 another jurisdiction, the brand must be carried forward to the Colorado
3 certificate of title along with the name of the jurisdiction originating the
4 brand. ON AND AFTER JANUARY 1, 2027, THE APPROPRIATE BRAND IS
5 "LEMON LAW BUYBACK" IF A MOTOR VEHICLE IS A LEMON LAW BUYBACK
6 VEHICLE, AS DEFINED IN SECTION 42-10-101 (1.5).

7 **SECTION 9.** In Colorado Revised Statutes, 44-20-121, **add**
8 (1)(d) as follows:

9 **44-20-121. Licenses - grounds for denial, suspension, or**
10 **revocation.** (1) A manufacturer's or distributor's license may be denied,
11 suspended, or revoked on the following grounds:

12 (d) FAILING TO COMPLY WITH ARTICLE 10 OF TITLE 42.

13 ==

14 **SECTION 10. Appropriation.** (1) For the 2024-25 state fiscal
15 year, \$19,605 is appropriated to the department of revenue. This
16 appropriation is from the Colorado DRIVES vehicle services account in
17 the highway users tax fund created in section 42-1-211 (2), C.R.S. To
18 implement this act, the department may use this appropriation as follows:

19 (a) \$14,700 for DRIVES maintenance and support;

20 (b) \$1,088 for personal services related to driver services;

21 (c) \$1,540 for personal services related to administration and
22 support; and

23 (d) \$2,277 for payments to OIT.

24 **SECTION 11. Act subject to petition - effective date -**
25 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
26 the expiration of the ninety-day period after final adjournment of the
27 general assembly; except that, if a referendum petition is filed pursuant

1 to section 1 (3) of article V of the state constitution against this act or an
2 item, section, or part of this act within such period, then the act, item,
3 section, or part will not take effect unless approved by the people at the
4 general election to be held in November 2024 and, in such case, will take
5 effect on the date of the official declaration of the vote thereon by the
6 governor.

7 (2) This act applies to motor vehicles sold or leased on or after the
8 applicable effective date of this act.