

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

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 24-1136.01 Jery Payne x2157

SENATE BILL 24-192

SENATE SPONSORSHIP

Michaelson Jenet,

HOUSE SPONSORSHIP

(None),

Senate Committees

Business, Labor, & Technology
Appropriations

House Committees

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.**

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>.)

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

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 and (2); and **add** (2.5) as follows:

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

6
7 (2) "Motor vehicle" means a self-propelled private passenger
8 vehicle, including pickup trucks and vans, designed primarily for travel
9 on the public highways and used to carry not more than ten persons,
10 which is sold to a consumer in this state; except that the term does not
11 include motor homes as defined in section 42-1-102 (57), or vehicles
12 designed to travel on three or fewer wheels in contact with the ground, OR
13 A MOTOR VEHICLE THAT HAS BEEN MODIFIED FOR COMMERCIAL USE.

14 (2.5) "SAFETY-BASED NONCONFORMITY" MEANS A
15 NONCONFORMITY THAT:

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

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

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

21 **42-10-102. Repairs to conform vehicle to warranty.** If a
22 motor vehicle HAS A SAFETY-BASED NONCONFORMITY OR does not

1 conform to a warranty and the consumer reports the nonconformity to the
2 manufacturer, ~~its~~ THE MANUFACTURER'S agent, or ~~its~~ THE
3 MANUFACTURER'S authorized dealer ~~during the term of such warranty or~~
4 ~~during a period of one year~~ WITHIN THE FIRST TWENTY-FOUR THOUSAND
5 MILES OF THE MOTOR VEHICLE'S OPERATION OR WITHIN TWO YEARS
6 following the date of the original delivery of the motor vehicle to a
7 consumer, whichever ~~is the~~ OCCURS earlier, ~~date~~; the manufacturer, ~~its~~
8 THE MANUFACTURER'S agent, or ~~its~~ THE MANUFACTURER'S authorized
9 dealer shall make such repairs as are necessary to conform the MOTOR
10 vehicle to ~~such~~ THE warranty, notwithstanding the fact that ~~such~~ THE
11 repairs are made after the expiration of ~~such term or such one-year~~ THE
12 period.

13

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14 **SECTION 3.** In Colorado Revised Statutes, 42-10-103, **amend**
15 (1), (2)(a), (2)(b), and (2)(c); and **add** (4) as follows:

16 **42-10-103. Failure to conform vehicle to warranty -**
17 **replacement or return of vehicle.** (1) If the manufacturer, ~~its~~ THE
18 MANUFACTURER'S agent, or ~~its~~ THE MANUFACTURER'S authorized dealer
19 is unable to conform the motor vehicle to the warranty by repairing or
20 correcting the defect or condition ~~which~~ THAT substantially impairs the
21 use and market value of ~~such~~ OR SAFETY OF THE motor vehicle after a
22 reasonable number of attempts, the manufacturer shall, at ~~its~~ THE
23 MANUFACTURER'S option, replace the motor vehicle with a comparable
24 motor vehicle or accept return of the motor vehicle from the consumer
25 and refund to the consumer the full purchase price, including the sales
26 tax, license fees, and registration fees and any similar governmental
27 charges, less a reasonable allowance for the consumer's use of the motor

1 vehicle. Refunds shall be made to the consumer and lienholder, if any, as
2 their interests may appear. A reasonable allowance for use shall be that
3 amount directly attributable to use by the consumer and any previous
4 consumer prior to the consumer's first written report of the nonconformity
5 to the manufacturer, agent, or dealer and during any subsequent period
6 when the vehicle is not out of service by reason of repair.

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

10 (I) The same nonconformity has been subject to repair ~~four~~ THREE
11 or more times by the manufacturer, ~~its~~ THE MANUFACTURER'S agent, or ~~its~~
12 THE MANUFACTURER'S authorized dealer within ~~the warranty term or~~
13 ~~during a period of one year~~ THE FIRST TWENTY-FOUR THOUSAND MILES OR
14 WITHIN TWO YEARS following the date of the original delivery of the
15 motor vehicle to the consumer, whichever ~~is the~~ OCCURS earlier, ~~date~~, but
16 ~~such~~ THE nonconformity continues to exist; ~~or~~

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

23 (III) A SAFETY-BASED NONCONFORMITY HAS BEEN SUBJECT TO
24 TWO OR MORE REPAIR ATTEMPTS BY THE MANUFACTURER, THE
25 MANUFACTURER'S AGENT, OR THE MANUFACTURER'S AUTHORIZED DEALER
26 WITHIN THE FIRST TWENTY-FOUR THOUSAND MILES OF OPERATION OR
27 WITHIN TWO YEARS FOLLOWING THE DATE OF THE ORIGINAL DELIVERY OF

1 THE MOTOR VEHICLE TO THE CONSUMER, WHICHEVER OCCURS EARLIER,
2 BUT THE SAFETY-BASED NONCONFORMITY CONTINUES TO EXIST.

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

8 (c) ~~In no event shall~~ A presumption under ~~paragraph (a) of this~~
9 ~~subsection (2)~~ SUBSECTION (2)(a) OF THIS SECTION DOES NOT apply
10 against a manufacturer unless the manufacturer has received prior written
11 notification by certified mail from or on behalf of the consumer and
12 STATING THAT ONE OR MORE ATTEMPTS TO REPAIR THE SAME
13 NONCONFORMITY HAVE BEEN MADE PURSUANT TO SECTION 42-10-102
14 AND THE ALLEGED NONCONFORMITY REMAINS, AND THE MANUFACTURER
15 has been provided an opportunity TEN DAYS to cure the ALLEGED defect
16 ~~alleged. Such~~ ___ AFTER RECEIPT OF THE NOTIFICATION. THE defect ~~shall~~
17 ~~count~~ COUNTS as one nonconformity subject to repair under ~~subparagraph~~
18 ~~(f) of paragraph (a) of this subsection (2)~~ SUBSECTION (2)(a)(I) AND
19 (2)(a)(III) OF THIS SECTION.

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

25 (a) THE NUMBER OF MILES THAT THE MOTOR VEHICLE TRAVELED
26 BEFORE THE CONSUMER'S FIRST PRESENTATION OF THE VEHICLE TO THE
27 MANUFACTURER, THE MANUFACTURER'S AGENT, OR THE MANUFACTURER'S

1 DEALER OR LESSOR; AND

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

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

7 **42-10-104. Affirmative defenses.** (1) It ~~shall be~~ IS an affirmative
8 defense to any claim under this ~~article~~ ARTICLE 10 that:

9 (a) An alleged nonconformity does not substantially impair the
10 SAFETY OF OR use and market value of a motor vehicle; or

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

13 **42-10-107. Statute of limitations.** Any action brought to enforce
14 ~~the provisions of this article shall~~ THIS ARTICLE 10 MUST be commenced
15 ~~within six months following the expiration date of any warranty term or~~
16 ~~within one year~~ THIRTY MONTHS following the date of the original
17 delivery of a motor vehicle to a consumer; ~~whichever is the earlier date;~~
18 except that the statute of limitations ~~shall be~~ IS tolled during the period
19 the consumer has submitted to arbitration under section 42-10-106 OR
20 WHILE THE MOTOR VEHICLE IS NOT AVAILABLE FOR USE BY REASON OF
21 REPAIR.

22 **SECTION 6.** In Colorado Revised Statutes, **add** 42-10-108,
23 42-10-109, and 42-10-110 as follows:

24 **42-10-108. Third-party inspection - disclosure.** (1) IF A MOTOR
25 VEHICLE IS RETURNED PURSUANT TO SECTION 42-10-103 (1), THE
26 MANUFACTURER, THE MANUFACTURER'S AGENT, OR THE MANUFACTURER'S
27 AUTHORIZED DEALER SHALL ALLOW A THIRD-PARTY AGENT OF A

1 POTENTIAL PURCHASER TO INSPECT A MOTOR VEHICLE BEFORE SELLING
2 THE MOTOR VEHICLE UNLESS THE MANUFACTURER, THE MANUFACTURER'S
3 AGENT, OR THE MANUFACTURER'S AUTHORIZED DEALER PROVIDES A
4 SEVEN-DAY FREE-LOOK PERIOD IN WHICH THE PURCHASER MAY RETURN
5 THE MOTOR VEHICLE AND RECEIVE A REFUND OF ALL MONEY PAID TO
6 PURCHASE THE MOTOR VEHICLE.

7 (2) IF THE MOTOR VEHICLE IS RETURNED PURSUANT TO SECTION
8 42-10-103 (1), THE MANUFACTURER, THE MANUFACTURER'S AGENT, OR
9 THE MANUFACTURER'S AUTHORIZED DEALER SHALL DISCLOSE, BEFORE THE
10 MOTOR VEHICLE IS PURCHASED, TO EACH POTENTIAL PURCHASER OF THE
11 MOTOR VEHICLE THE RIGHT DESCRIBED IN SUBSECTION (1) OF THIS
12 SECTION.

13 **42-10-109. Buy back notice.** (1) IF THE MOTOR VEHICLE IS
14 RETURNED PURSUANT TO SECTION 42-10-103 (1), A MANUFACTURER, A
15 MANUFACTURER'S AGENT, OR A MANUFACTURER'S AUTHORIZED DEALER
16 SHALL:

17
18 (a) NOTIFY THE DEPARTMENT OF REVENUE THAT THE MOTOR
19 VEHICLE WAS RETURNED TO THE MANUFACTURER, THE MANUFACTURER'S
20 AGENT, OR THE MANUFACTURER'S AUTHORIZED DEALER PURSUANT TO
21 SECTION 42-10-103 (1);

22 (b) ATTACH A DECAL TO THE MOTOR VEHICLE THAT CLEARLY AND
23 CONSPICUOUSLY READS "LEMON LAW BUYBACK" IN A CLEAR AND
24 CONSPICUOUS OR EASILY VISIBLE LOCATION ON THE DATE THE MOTOR
25 VEHICLE IS RETURNED AND SHALL NOT REMOVE THE DECAL; AND

26 (c) APPLY FOR A CERTIFICATE OF TITLE PURSUANT TO ARTICLE 6 OF
27 THIS TITLE 42 IN THE MANUFACTURER'S, THE MANUFACTURER'S AGENT'S,

1 OR THE MANUFACTURER'S AUTHORIZED DEALER'S NAME.

2 (2) A SELLER OF A MOTOR VEHICLE, INCLUDING A MANUFACTURER
3 OR DEALER, WHO KNOWS OR SHOULD HAVE KNOWN THAT THE MOTOR
4 VEHICLE WAS RETURNED PURSUANT TO SECTION 42-10-103 (1) OR WAS
5 RETURNED DUE TO THE FAILURE OF THE MANUFACTURER TO CONFORM THE
6 VEHICLE TO WARRANTIES REQUIRED BY ANY OTHER LAW OF ANOTHER
7 STATE SHALL CLEARLY AND CONSPICUOUSLY DISCLOSE THAT THE MOTOR
8 VEHICLE IS A LEMON LAW BUYBACK BEFORE THE SALE OF THE MOTOR
9 VEHICLE. A SELLER COMPLIES WITH THIS SUBSECTION (2) IF A DECAL IN
10 ACCORDANCE WITH SUBSECTION (1)(b) OF THIS SECTION IS ATTACHED TO
11 THE MOTOR VEHICLE AT THE TIME OF SALE AND THE SALE WAS COMPLETED
12 IN PERSON.

13 **42-10-110. Applicability.** (1) THIS ARTICLE 10 APPLIES ONLY TO
14 A NEW VEHICLE, AS DEFINED IN SECTION 42-6-102 (11), SOLD TO A
15 CONSUMER.

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

18 **SECTION 7.** In Colorado Revised Statutes, 42-6-102, **amend**
19 (1.7)(e) and (1.7)(f); and **add** (1.7)(g) as follows:

20 **42-6-102. Definitions.** As used in this part 1, unless the context
21 otherwise requires:

22 (1.7) "Brand" means a permanent designation or marking on a
23 motor vehicle's title, associated with the vehicle identification number,
24 that conveys information about the value of the vehicle or indicates that
25 the vehicle:

26 (e) Has had its odometer tampered with; ~~or~~

27 (f) Has a designation placed on the title by another jurisdiction; OR

1 (g) HAS BEEN RETURNED TO THE MANUFACTURER, THE
2 MANUFACTURER'S AGENT, OR THE MANUFACTURER'S AUTHORIZED DEALER
3 PURSUANT TO SECTION 42-10-103 (1).

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

6 **42-6-107. Certificates of title - contents - rules.** (1) (a) (III) If
7 a vehicle shows a brand in ~~its~~ THE VEHICLE'S title history, or if the vehicle
8 is subject to a brand, the department shall place the appropriate brand on
9 the certificate of title. If the vehicle has multiple brands, the department
10 shall place the most recent brand on the certificate of title and the notice
11 "other brands exist". If the brand is from a certificate of title issued in
12 another jurisdiction, the brand must be carried forward to the Colorado
13 certificate of title along with the name of the jurisdiction originating the
14 brand. IF A MOTOR VEHICLE IS RETURNED PURSUANT TO SECTION
15 42-10-103 (1), THE APPROPRIATE BRAND IS "LEMON LAW BUYBACK".

16 **SECTION 9.** In Colorado Revised Statutes, 44-20-121, **add**
17 (1)(d), (3)(t), (6)(q), and (6.5)(q) as follows:

18 **44-20-121. Licenses - grounds for denial, suspension, or**
19 **revocation.** (1) A manufacturer's or distributor's license may be denied,
20 suspended, or revoked on the following grounds:

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

22 (3) A motor vehicle dealer's, wholesale motor vehicle auction
23 dealer's, wholesaler's, buyer agent's, or used motor vehicle dealer's license
24 may be denied, suspended, or revoked on the following grounds:

25 (t) FAILING TO COMPLY WITH ARTICLE 10 OF TITLE 42.

26 (6) The license of a motor vehicle salesperson may be denied,
27 revoked, or suspended on the following grounds:

1 (q) FAILING TO COMPLY WITH ARTICLE 10 OF TITLE 42.

2 (6.5) A business disposal license may be denied, suspended, or
3 revoked on the following grounds:

4 (q) FAILING TO COMPLY WITH ARTICLE 10 OF TITLE 42.

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

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

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

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

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

15 **SECTION 11. Act subject to petition - effective date -**
16 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
17 the expiration of the ninety-day period after final adjournment of the
18 general assembly; except that, if a referendum petition is filed pursuant
19 to section 1 (3) of article V of the state constitution against this act or an
20 item, section, or part of this act within such period, then the act, item,
21 section, or part will not take effect unless approved by the people at the
22 general election to be held in November 2024 and, in such case, will take
23 effect on the date of the official declaration of the vote thereon by the
24 governor.

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