



General Assembly

February Session, 2006

**Raised Bill No. 451**

LCO No. 2239

\*02239\_\_\_\_\_GL\_\*

Referred to Committee on General Law

Introduced by:

(GL)

***AN ACT CONCERNING THE NEW MOTOR VEHICLE LEMON LAW.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 42-181 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2006*):

3 (a) The Department of Consumer Protection, shall provide an  
4 independent arbitration procedure for the settlement of disputes  
5 between consumers and manufacturers of motor vehicles which do not  
6 conform to all applicable warranties under the terms of section 42-179.  
7 The [commissioner] Commissioner of Consumer Protection shall  
8 [establish one or more automobile dispute settlement panels which  
9 shall consist of three members appointed by the Commissioner of  
10 Consumer Protection, only one of whom may] appoint one arbitrator,  
11 who shall not be directly involved in the manufacture, distribution,  
12 sale or service of any [product. Members shall be persons interested in  
13 consumer disputes] motor vehicle. The arbitrator shall be a member of  
14 a bona fide arbitration association and shall serve without  
15 compensation. [for terms of two years at the discretion of the  
16 commissioner. In lieu of referring an arbitration dispute to a panel  
17 established under the provisions of this section, the] The Department

18 of Consumer Protection may refer an arbitration dispute to the  
19 American Arbitration Association in accordance with regulations  
20 adopted in accordance with the provisions of chapter 54.

21 (b) If any motor vehicle purchased at any time on or after October 1,  
22 1984, or leased at any time on or after June 17, 1987, fails to conform to  
23 such applicable warranties as defined in said section 42-179, a  
24 consumer may bring a grievance to an [arbitration panel] arbitrator if  
25 the manufacturer of the vehicle has not established an informal dispute  
26 settlement procedure which the Attorney General has certified as  
27 complying in all respects with the requirements of said section 42-179.  
28 The consumer may initiate a request for arbitration by calling a toll-  
29 free telephone number designated by the commissioner or by  
30 requesting an arbitration hearing in writing. The consumer shall file,  
31 on forms prescribed by the commissioner, any information deemed  
32 relevant to the resolution of the dispute and shall return the form  
33 accompanied by a filing fee of fifty dollars. [Such complaint form shall  
34 offer the consumer a choice of presenting any subsequent testimony  
35 orally or in writing.] Prior to submitting the complaint to an  
36 [arbitration panel] arbitrator, the Department of Consumer Protection  
37 shall conduct an initial review of the complaint. The department shall  
38 determine whether the complaint should be accepted or rejected for  
39 arbitration based on whether it alleges that the manufacturer has failed  
40 to comply with section 42-179. The filing fee shall be refunded if the  
41 department determines that a complaint does not allege a violation of  
42 any applicable warranty under the requirements of said section 42-179.  
43 Upon acceptance of the complaint, the commissioner shall notify the  
44 manufacturer of the filing of a request for arbitration and shall obtain  
45 from the manufacturer, in writing on a form prescribed by the  
46 commissioner, any information deemed relevant to the resolution of  
47 the dispute. The manufacturer shall return the form within fifteen days  
48 of receipt, together with a filing fee of two hundred fifty dollars. A  
49 lessee who brings a grievance to an [arbitration panel] arbitrator under  
50 this section shall, upon filing the complaint form provided for in this  
51 section, provide the lessor with notice by registered or certified mail,

52 return receipt requested, and the lessor may petition the [arbitration  
53 panel] arbitrator to be made a party to the arbitration proceedings.  
54 Initial determinations to reject a complaint for arbitration shall be  
55 submitted to an [arbitration panel] arbitrator for a final decision upon  
56 receipt of a written request from the consumer for a review of the  
57 initial eligibility determination and a filing fee of fifty dollars. If a  
58 complaint is accepted for arbitration, an [arbitration panel] arbitrator  
59 may determine that a complaint does not allege that the manufacturer  
60 has failed to comply with section 42-179 at any time before such panel  
61 renders its decision on the merits of the dispute. The fee accompanying  
62 the consumer's complaint form shall be refunded to the consumer and  
63 the fee accompanying the form filed by the manufacturer shall be  
64 refunded to the manufacturer if the [arbitration panel] arbitrator  
65 determines that a complaint does not allege a violation of the  
66 provisions of section 42-179.

67 (c) The Department of Consumer Protection shall investigate, gather  
68 and organize all information necessary for a fair and timely decision in  
69 each dispute. The commissioner may issue subpoenas on behalf of any  
70 [arbitration panel] arbitrator to compel the attendance of witnesses and  
71 the production of documents, papers and records relevant to the  
72 dispute. The department shall forward a copy of all written testimony,  
73 including all documentary evidence, to an independent technical  
74 expert certified by the National Institute of Automotive Service  
75 Excellence or having a degree or other credentials from a nationally  
76 recognized organization or institution attesting to automotive  
77 expertise, who shall review such material and be available to advise  
78 and consult with the [arbitration panel]. An expert shall sit as a  
79 nonvoting member of an arbitration panel whenever oral testimony is  
80 presented. Such experts may be recommended by the Commissioner of  
81 Motor Vehicles at the request of the Commissioner of Consumer  
82 Protection. An arbitration panel] arbitrator. The arbitrator shall, as  
83 expeditiously as possible, but not later than sixty days after the time  
84 the consumer files the complaint form together with the filing fee,  
85 render a fair decision based on the information gathered and disclose

86 [its] his or her findings and the reasons therefor to the parties involved.  
87 The failure of the [arbitrators] arbitrator to render a decision within  
88 sixty days shall not void any subsequent decision or otherwise limit  
89 the powers of the [arbitrators] arbitrator. The [arbitration panel]  
90 arbitrator shall base [its] his or her determination of liability solely on  
91 whether the manufacturer has failed to comply with section 42-179.  
92 The arbitration decision shall be final and binding as to the rights of  
93 the parties pursuant to section 42-179, subject only to judicial review as  
94 set forth in this subsection. The decision shall provide appropriate  
95 remedies, including, but not limited to one or more of the following:

96 (1) Replacement of the vehicle with an identical or comparable new  
97 vehicle acceptable to the consumer;

98 (2) Refund of the full contract price, plus collateral charges as  
99 specified in subsection (d) of said section 42-179;

100 (3) Reimbursement for expenses and compensation for incidental  
101 damages as specified in subsection (d) of said section 42-179;

102 (4) Any other remedies available under the applicable warranties,  
103 section 42-179, this section and sections 42-182 to 42-184, inclusive, or  
104 the Magnuson-Moss Warranty-Federal Trade Commission  
105 Improvement Act, 88 Stat. 2183 (1975), 15 USC 2301 et seq., as in effect  
106 on October 1, 1982, other than repair of the vehicle. The decision shall  
107 specify a date for performance and completion of all awarded  
108 remedies. Notwithstanding any provision of the general statutes or  
109 any regulation to the contrary, the Department of Consumer Protection  
110 shall not amend, reverse, rescind or revoke any decision or action of an  
111 [arbitration panel] arbitrator. The department shall contact the  
112 consumer, within ten working days after the date for performance, to  
113 determine whether performance has occurred. The manufacturer shall  
114 act in good faith in abiding by any arbitration decision. In addition,  
115 either party to the arbitration may make application to the superior  
116 court for the judicial district in which one of the parties resides or,  
117 when the court is not in session, any judge thereof for an order

118 confirming, vacating, modifying or correcting any award, in  
119 accordance with the provisions of this section and sections 52-417, 52-  
120 418, 52-419 and 52-420. Upon filing such application the moving party  
121 shall mail a copy of the application to the Attorney General and, upon  
122 entry of any judgment or decree, shall mail a copy of such judgment or  
123 decree to the Attorney General. A review of such application shall be  
124 confined to the record of the proceedings before the [arbitration panel]  
125 arbitrator. The court shall conduct a de novo review of the questions of  
126 law raised in the application. In addition to the grounds set forth in  
127 sections 52-418 and 52-419, the court shall consider questions of fact  
128 raised in the application. In reviewing questions of fact, the court shall  
129 uphold the award unless it determines that the factual findings of the  
130 arbitrators are not supported by substantial evidence in the record and  
131 that the substantial rights of the moving party have been prejudiced. If  
132 the [arbitrators fail] arbitrator fails to state findings or reasons for the  
133 award, or the stated findings or reasons are inadequate, the court shall  
134 search the record to determine whether a basis exists to uphold the  
135 award. If it is determined by the court that the manufacturer has acted  
136 without good cause in bringing an appeal of an award, the court, in its  
137 discretion, may grant to the consumer his costs and reasonable  
138 attorney's fees. If the manufacturer fails to perform all awarded  
139 remedies by the date for performance specified by the [arbitrators]  
140 arbitrator, and the enforcement of the award has not been stayed  
141 pursuant to subsection (c) of section 52-420, then each additional day  
142 the manufacturer wilfully fails to comply shall be deemed a separate  
143 violation for purposes of section 42-184.

144 (d) The department shall maintain such records of each dispute as  
145 the commissioner may require, including an index of disputes by  
146 brand name and model. The department shall annually compile and  
147 maintain statistics indicating the record of manufacturer compliance  
148 with arbitration decisions and the number of refunds or replacements  
149 awarded. A copy of the statistical summary shall be filed with the  
150 Commissioner of Motor Vehicles and shall be considered by him in  
151 determining the issuance of any manufacturer license as required

152 under section 14-67a. The summary shall be a public record.

153 (e) If a manufacturer has not established an informal dispute  
154 settlement procedure certified by the Attorney General as complying  
155 with the requirements of said section 42-179, public notice of the  
156 availability of the department's automobile dispute settlement  
157 procedure shall be prominently posted in the place of business of each  
158 new car dealer licensed by the Department of Motor Vehicles to  
159 engage in the sale of such manufacturer's new motor vehicles. Display  
160 of such public notice shall be a condition of licensure under sections  
161 14-52 and 14-64, as amended. The Commissioner of Consumer  
162 Protection shall determine the size, type face, form and wording of the  
163 sign required by this section, which shall include the toll-free  
164 telephone number and the address to which requests for the  
165 department's arbitration services may be sent.

166 (f) Any consumer injured by the operation of any procedure which  
167 does not conform with procedures established by a manufacturer  
168 pursuant to subsection (b) of section 42-182 and the provisions of Title  
169 16 Code of Federal Regulations Part 703, as in effect on October 1, 1982,  
170 may appeal any decision rendered as the result of such a procedure by  
171 requesting arbitration de novo of the dispute by an [arbitration panel]  
172 arbitrator. Filing procedures and fees for appeals shall be the same as  
173 those required in subsection (b) of this section. The findings of the  
174 manufacturer's informal dispute settlement procedure may be  
175 admissible in evidence at such arbitration [panel hearing] and in any  
176 civil action subsequently arising out of any warranty obligation or  
177 matter related to the dispute. Any consumer so injured may, in  
178 addition, request the Attorney General to investigate the  
179 manufacturer's procedure to determine whether its certification shall  
180 be suspended or revoked after proper notice and hearing. The  
181 Attorney General shall establish procedures for processing such  
182 consumer complaints and maintain a record of the disposition of such  
183 complaints, which record shall be included in the annual report  
184 prepared in accordance with the provisions of subsection (a) of section

185 42-182.

186 (g) The Commissioner of Consumer Protection shall adopt  
187 regulations, in accordance with the provisions of chapter 54, to carry  
188 out the purposes of this section. Written copies of the regulations and  
189 appropriate arbitration hearing procedures shall be provided to any  
190 person upon request.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2006	42-181

**Statement of Purpose:**

To establish a more efficient and effective hearing process for the settlement of disputes between consumers and motor vehicle manufacturers.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*