



**Senate Bill No. 739**

**Public Act No. 07-212**

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

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

Section 1. Section 42-181 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2007*):

(a) The Department of Consumer Protection, shall provide an independent arbitration procedure for the settlement of disputes between consumers and manufacturers of motor vehicles which do not conform to all applicable warranties under the terms of section 42-179. The [commissioner shall establish one or more automobile dispute settlement panels which shall consist of three members appointed by the Commissioner of Consumer Protection, only one of whom may be directly] Commissioner of Consumer Protection shall appoint as arbitrators individuals who shall not be employees or independent contractors with any business involved in the manufacture, distribution, sale or service of any [product. Members shall be persons interested in consumer disputes] motor vehicle. The arbitrator shall be a member of an arbitration organization and shall serve [without] with compensation. [for terms of two years at the discretion of the commissioner. In lieu of referring an arbitration dispute to a panel established under the provisions of this section, the] The Department of Consumer Protection may refer an arbitration dispute to the

**Senate Bill No. 739**

American Arbitration Association or other arbitration organization in accordance with regulations adopted in accordance with the provisions of chapter 54, provided such organization and any arbitrators appointed by such organization to hear cases shall not be affiliated with any motor vehicle manufacturer, distributor, dealer or repairer. Such arbitration organizations shall comply with the provisions of subsections (b) and (c) of this section.

(b) If any motor vehicle purchased at any time on or after October 1, 1984, or leased at any time on or after June 17, 1987, fails to conform to such applicable warranties as defined in said section 42-179, a consumer may bring a grievance to an [arbitration panel] arbitrator if the manufacturer of the vehicle has not established an informal dispute settlement procedure which the Attorney General has certified as complying in all respects with the requirements of said section 42-179. The consumer may initiate a request for arbitration by calling a toll-free telephone number designated by the commissioner or by requesting an arbitration hearing in writing. The consumer shall file, on forms prescribed by the commissioner, any information deemed relevant to the resolution of the dispute and shall return the form accompanied by a filing fee of fifty dollars. [Such complaint form shall offer the consumer a choice of presenting any subsequent testimony orally or in writing.] Prior to submitting the complaint to an [arbitration panel] arbitrator, the Department of Consumer Protection shall conduct an initial review of the complaint. The department shall determine whether the complaint should be accepted or rejected for arbitration based on whether it alleges that the manufacturer has failed to comply with section 42-179. The filing fee shall be refunded if the department determines that a complaint does not allege a violation of any applicable warranty under the requirements of said section 42-179. Upon acceptance of the complaint, the commissioner shall notify the manufacturer of the filing of a request for arbitration and shall obtain from the manufacturer, in writing on a form prescribed by the

**Senate Bill No. 739**

commissioner, any information deemed relevant to the resolution of the dispute. The manufacturer shall return the form within fifteen days of receipt, together with a filing fee of two hundred fifty dollars. Upon written agreement of the parties, signed after the consumer has initiated a request for arbitration, the case may be presented to the arbitrator solely based on the written documents submitted by such parties. A lessee who brings a grievance to an [arbitration panel] arbitrator under this section shall, upon filing the complaint form provided for in this section, provide the lessor with notice by registered or certified mail, return receipt requested, and the lessor may petition the [arbitration panel] arbitrator to be made a party to the arbitration proceedings. Initial determinations to reject a complaint for arbitration shall be submitted to an [arbitration panel] arbitrator for a final decision upon receipt of a written request from the consumer for a review of the initial eligibility determination and a filing fee of fifty dollars. If a complaint is accepted for arbitration, an [arbitration panel] arbitrator may determine that a complaint does not allege that the manufacturer has failed to comply with section 42-179 at any time before such [panel] arbitrator renders its decision on the merits of the dispute. The fee accompanying the consumer's complaint form shall be refunded to the consumer and the fee accompanying the form filed by the manufacturer shall be refunded to the manufacturer if the [arbitration panel] arbitrator determines that a complaint does not allege a violation of the provisions of section 42-179.

(c) The Department of Consumer Protection shall investigate, gather and organize all information necessary for a fair and timely decision in each dispute. The commissioner may issue subpoenas on behalf of any [arbitration panel] arbitrator to compel the attendance of witnesses and the production of documents, papers and records relevant to the dispute. The department shall forward a copy of all written testimony, including all documentary evidence, to an independent technical expert certified by the National Institute of Automotive Service

**Senate Bill No. 739**

Excellence or having a degree or other credentials from a nationally recognized organization or institution attesting to automotive expertise, who shall review such material and be available to advise and consult with the [arbitration panel] arbitrator. An expert shall sit as a nonvoting member of an arbitration panel whenever oral testimony is presented. Such experts may be recommended by the Commissioner of Motor Vehicles at the request of the Commissioner of Consumer Protection. An [arbitration panel] arbitrator shall, as expeditiously as possible, but not later than sixty days after the time the consumer files the complaint form together with the filing fee, render a fair decision based on the information gathered and disclose [its] his or her findings and the reasons therefor to the parties involved. The failure of the [arbitrators] arbitrator to render a decision within sixty days shall not void any subsequent decision or otherwise limit the powers of the [arbitrators] arbitrator. The [arbitration panel] arbitrator shall base [its] his or her determination of liability solely on whether the manufacturer has failed to comply with section 42-179. The arbitration decision shall be final and binding as to the rights of the parties pursuant to section 42-179, subject only to judicial review as set forth in this subsection. The decision shall provide appropriate remedies, including, but not limited to one or more of the following:

- (1) Replacement of the vehicle with an identical or comparable new vehicle acceptable to the consumer;
- (2) Refund of the full contract price, plus collateral charges as specified in subsection (d) of said section 42-179;
- (3) Reimbursement for expenses and compensation for incidental damages as specified in subsection (d) of said section 42-179;
- (4) Any other remedies available under the applicable warranties, section 42-179, this section and sections 42-182 to 42-184, inclusive, or the Magnuson-Moss Warranty-Federal Trade Commission

**Senate Bill No. 739**

Improvement Act, 88 Stat. 2183 (1975), 15 USC 2301 et seq., as in effect on October 1, 1982, other than repair of the vehicle. The decision shall specify a date for performance and completion of all awarded remedies. Notwithstanding any provision of the general statutes or any regulation to the contrary, the Department of Consumer Protection shall not amend, reverse, rescind or revoke any decision or action of an [arbitration panel] arbitrator. The department shall contact the consumer, within ten working days after the date for performance, to determine whether performance has occurred. The manufacturer shall act in good faith in abiding by any arbitration decision. In addition, either party to the arbitration may make application to the superior court for the judicial district in which one of the parties resides or, when the court is not in session, any judge thereof for an order confirming, vacating, modifying or correcting any award, in accordance with the provisions of this section and sections 52-417, 52-418, 52-419 and 52-420. Upon filing such application the moving party shall mail a copy of the application to the Attorney General and, upon entry of any judgment or decree, shall mail a copy of such judgment or decree to the Attorney General. A review of such application shall be confined to the record of the proceedings before the [arbitration panel] arbitrator. The court shall conduct a de novo review of the questions of law raised in the application. In addition to the grounds set forth in sections 52-418 and 52-419, the court shall consider questions of fact raised in the application. In reviewing questions of fact, the court shall uphold the award unless it determines that the factual findings of the [arbitrators] arbitrator are not supported by substantial evidence in the record and that the substantial rights of the moving party have been prejudiced. If the [arbitrators fail] arbitrator fails to state findings or reasons for the award, or the stated findings or reasons are inadequate, the court shall search the record to determine whether a basis exists to uphold the award. If it is determined by the court that the manufacturer has acted without good cause in bringing an appeal of an award, the court, in its discretion, may grant to the consumer his

**Senate Bill No. 739**

costs and reasonable attorney's fees. If the manufacturer fails to perform all awarded remedies by the date for performance specified by the [arbitrators] arbitrator, and the enforcement of the award has not been stayed pursuant to subsection (c) of section 52-420, then each additional day the manufacturer wilfully fails to comply shall be deemed a separate violation for purposes of section 42-184.

(d) The department shall maintain such records of each dispute as the commissioner may require, including an index of disputes by brand name and model. The department shall annually compile and maintain statistics indicating the record of manufacturer compliance with arbitration decisions and the number of refunds or replacements awarded. A copy of the statistical summary shall be filed with the Commissioner of Motor Vehicles and shall be considered [by him] a factor in determining the issuance of any manufacturer license as required under section 14-67a. The summary shall be a public record.

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

(f) Any consumer injured by the operation of any procedure which does not conform with procedures established by a manufacturer pursuant to subsection (b) of section 42-182 and the provisions of Title

**Senate Bill No. 739**

16 Code of Federal Regulations Part 703, as in effect on October 1, 1982, may appeal any decision rendered as the result of such a procedure by requesting arbitration de novo of the dispute by an [arbitration panel] arbitrator. Filing procedures and fees for appeals shall be the same as those required in subsection (b) of this section. The findings of the manufacturer's informal dispute settlement procedure may be admissible in evidence at such arbitration [panel hearing] and in any civil action subsequently arising out of any warranty obligation or matter related to the dispute. Any consumer so injured may, in addition, request the Attorney General to investigate the manufacturer's procedure to determine whether its certification shall be suspended or revoked after proper notice and hearing. The Attorney General shall establish procedures for processing such consumer complaints and maintain a record of the disposition of such complaints, which record shall be included in the annual report prepared in accordance with the provisions of subsection (a) of section 42-182.

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

Sec. 2. Section 14-12r of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2007*):

Before issuing registration for any motor vehicle that has not been previously registered in this state, except a new motor vehicle, the Commissioner of Motor Vehicles may require an inspection of the manufacturer's vehicle identification number. Such an inspection may be performed at any designated official emissions inspection station or by any other business or firm authorized by the commissioner to perform safety inspections in accordance with sections 14-12 and 14-

**Senate Bill No. 739**

16a or by any motor vehicle dealer or repairer, licensed in accordance with section 14-52 and meeting qualifications established by the commissioner. If the inspection is performed by a licensed dealer or repairer, and is not performed in connection with an official emissions inspection, such dealer or repairer may charge a fee to the owner in an amount not to exceed twenty dollars, provided an affidavit [shall be] relating to such inspection is furnished to the commissioner in accordance with the provisions of subsection (d) of section 14-99h.

Approved June 29, 2007