



General Assembly

January Session, 2007

Raised Bill No. 1059

LCO No. 3529

03529 _____ 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 Section 42-181 of the general statutes is repealed and the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, 2007*):

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 an arbitration association and shall serve without compensation. [for
15 terms of two years at the discretion of the commissioner. In lieu of
16 referring an arbitration dispute to a panel established under the
17 provisions of this section, the] The Department of Consumer

18 Protection may refer an arbitration dispute to the American
19 Arbitration Association or other arbitration association in accordance
20 with regulations adopted in accordance with the provisions of chapter
21 54.

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

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

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

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

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

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

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

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

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

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

152 Commissioner of Motor Vehicles and shall be considered [by him] a
153 factor in determining the issuance of any manufacturer license as
154 required under section 14-67a. The summary shall be a public record.

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

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

185 complaints, which record shall be included in the annual report
186 prepared in accordance with the provisions of subsection (a) of section
187 42-182.

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

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2007</i>	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.]