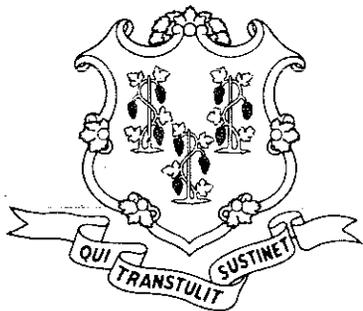


# CONNECTICUT LEMON LAW

Connecticut  
General Assembly



LEGISLATIVE  
PROGRAM REVIEW  
AND  
INVESTIGATIONS  
COMMITTEE

January 1989

## CONNECTICUT GENERAL ASSEMBLY

### LEGISLATIVE PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE

The Legislative Program Review and Investigations Committee is a joint, bipartisan, statutory committee of the Connecticut General Assembly. It was established in 1972 to evaluate the efficiency, effectiveness, and statutory compliance of selected state agencies and programs, recommending remedies where needed. In 1975, the General Assembly expanded the committee's function to include investigations, and during the 1977 session added responsibility for "Sunset" performance reviews. The committee was given bill raising and reporting authority in 1985.

The program review committee is composed of 12 members. The president pro tempore of the senate, the senate minority leader, the speaker of the house, and the house minority leader each appoint three of those members.

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#### Project Staff

Anne E. McAloon, Principal Analyst

State Capitol, Room 506, Hartford, CT 06106 (203)240-0300

**PERFORMANCE AUDIT OF THE  
CONNECTICUT LEMON LAW**

**LEGISLATIVE PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE  
JANUARY 1989**



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Legislative Program Review and Investigations Committee

The Connecticut Lemon Law: A Performance Audit

SUMMARY

The Connecticut lemon law, passed in 1982, established a framework to obtain replacement vehicles or refunds from manufacturers for new motor vehicle owners who experienced repeated or lengthy repair problems with their vehicles. Revised during four of the next five years, the law was expanded repeatedly to deal with implementation problems as they arose.

The most significant revision, dubbed Lemon Law II, was adopted in 1984. It created the state sponsored arbitration program run by the Department of Consumer Protection (DCP) and included language to control the resale of vehicles replaced or repurchased by manufacturers.

Arbitration hearings are conducted by three-member panels, composed of volunteers appointed by the Department of Consumer Protection. A written decision, including reasons for the final determination, is rendered by the arbitration panel. By statute, a decision is due within 60 days from the filing of the complaint and fee. Upon receipt of a decision, the consumer is free to accept or reject it. If the consumer accepts the decision, the manufacturer must comply with it.

Since establishment of the arbitration process within the Department of Consumer Protection, 1,702 complaints have been filed under the lemon law. More than 200 cars and trucks have been replaced with comparable vehicles, while over 500 consumers have received refunds. In total, DCP estimates the value of the refunds and replacements received through the program between January 1985 and September 1988 is \$10 million.

Whenever a manufacturer accepts the return or repurchase of a vehicle from a consumer due to a nonconformity, the manufacturer must provide the Department of Motor Vehicles with information about the reacquired vehicle. The subsequent resale of such vehicles in Connecticut is not allowed without written disclosure of the vehicle's history unless the commissioner of motor vehicles authorizes removal of the disclosure based on evidence that the problem resulting in repurchase has been corrected.

The Department of Consumer Protection has responsibility for provisions of the lemon law that involve the owners of "lemons" and the resolution of their problems. The primary involvement of the Department of Motor Vehicles begins at the

point in the process when vehicles are repurchased or replaced by manufacturers.

In June 1988, allegations that the full requirements of the Connecticut law were not being carried out led the Legislative Program Review and Investigations Committee to authorize a detailed examination of the lemon law program. Of particular interest to the committee were the timeliness of the state arbitration process and compliance with the notification and resale provisions of the law regarding vehicles returned to manufacturers.

The findings of the program review committee were that the arbitration program component of the law was working reasonably well, but the statutorily mandated monitoring of vehicles determined to be "lemons" was not occurring. The committee adopted 15 recommendations aimed at improving elements of the arbitration program and ensuring better oversight of vehicles after their return to manufacturers.

#### RECOMMENDATIONS

1. A Lemon Law Reference Guide should be prepared by staff from the Department of Consumer Protection and the Office of the Attorney General. The guide should be provided to each existing and future arbitrator, commencing in March 1989.
2. The refund estimate prepared by the arbitrators should be labelled an estimate and attached to the decision as a source of guidance for the consumer in deciding whether to accept or reject the award.
3. Clear and detailed information on the statutory remedies available to the arbitrators should be highlighted by the Department of Consumer Protection during arbitrator training. The authority of the arbitrators to use or adjust the statutory formula for consumer usage deductions should also be addressed.
4. C.G.S. Sec. 42-181(c)(4) shall be amended to clearly prohibit repair as an allowable remedy.
5. C.G.S. Sec. 42-179(e)(2) shall be amended to clarify that vehicles qualifying under the 30 days out-of-service standard must still exhibit problems in order to qualify for the lemon law program.
6. C.G.S. Sec. 42-179 shall be amended to require at least one repair attempt before a vehicle can qualify for the lemon law arbitration program.
7. The Department of Consumer Protection should revise its lemon law informational materials to more fully reflect the

scope of the law. At a minimum, the consumer information booklet should explicitly describe the program eligibility criteria, clarify that applications can be made after 18,000 miles or two years, and more fully describe the arbitration hearing process.

8. New car dealers shall be statutorily required to provide each purchaser of a new motor vehicle with written information about the Connecticut Lemon Law at the time the motor vehicle is purchased.

9. The Department of Motor Vehicles should periodically check that the statutorily mandated lemon law signs are in fact posted at all required new car dealerships in Connecticut.

10. C.G.S. Sec. 1-18a(e) shall be amended to explicitly provide that the deliberations of the lemon law arbitration panels may be conducted in executive session.

11. The Department of Motor Vehicles shall be required to report to the General Assembly committee of cognizance by September 1, 1989, the number, nature, and outcome of all "lemon" resale cases initiated to obtain compliance with the lemon law. In addition, the department shall submit a plan that specifies how its statutory responsibilities in this area will be carried out in the future.

12. The Department of Motor Vehicles shall adopt regulations that specify the data, format, and time frame manufacturers are required to utilize in reporting repurchased vehicles.

13. The Connecticut statutes shall be amended to require that any business repurchasing a vehicle ordered bought back by the Connecticut lemon law arbitration program or a certified manufacturer's program be required to display a disclosure statement in accordance with the provisions of C.G.S. Sec. 42-179(g).

14. The existing regulations related to disclosure statements and engineering reports (42-179-1 through 42-179-5) should be revised to specify the qualifications of the individuals allowed to prepare engineering reports, the information to be provided in such reports, and the time period for a response by the Department of Motor Vehicles.

15. The Department of Motor Vehicles shall be authorized to initiate contact with the other New England states, New York and New Jersey to develop the language necessary to establish consistent reporting and disclosure requirements for vehicles returned to manufacturers. The Department of Motor Vehicles shall submit a report to the General Assembly on language for a regional agreement to accomplish this goal by January 1, 1990.



## CHAPTER I

### INTRODUCTION

One type of motor vehicle related complaint receiving considerable attention in recent years involves purchasers of new cars who are unable to have problems with their vehicles corrected despite repeated repair attempts. These vehicles have low mileage and are often covered by manufacturer's warranties for some or all of the cost of repairs, but the repairs do not correct the problem. Dubbed "lemons," they are covered by "lemon laws" in 44 states. Connecticut has had a "lemon law" since 1982.

In June 1988, allegations that the full requirements of the Connecticut lemon law were not being carried out led the Legislative Program Review and Investigations Committee to authorize a detailed examination of the lemon law program. Of particular interest to the committee were the timeliness of the state arbitration process and compliance with the notification and resale provisions of the law regarding vehicles returned to manufacturers.

The findings of the program review committee were that the arbitration program component of the law was working reasonably well, but the statutorily mandated monitoring of vehicles determined to be lemons was not occurring. The committee adopted 15 recommendations aimed at improving elements of the arbitration program and ensuring better oversight of vehicles after their return to manufacturers.

#### Methodology

The program review committee held two public hearings to obtain information about the lemon law program. Both were held in September, one in Hartford and the other in Norwalk.

Personal or telephone interviews were conducted with state agency staff involved in administering the lemon law program, representatives of manufacturers involved with lemon law cases in Connecticut, dealers who have resold "lemon" vehicles in the state, and officials in the other New England states and New York who are involved with lemon law programs.

Committee staff attended several Department of Consumer Protection (DCP) lemon law arbitration hearings and two Department of Motor Vehicles (DMV) administrative hearings on resold lemon cars. More than 700 arbitration case files were reviewed, and data obtained from those files were analyzed to determine characteristics of the vehicles coming through the program. These data were also utilized to verify compliance with the law's reporting requirements.



## CHAPTER II

### BACKGROUND

In 1987, more than 184,564 new cars were bought in Connecticut. Similar numbers of cars have been sold annually since 1984. Those vehicles plus passenger trucks, vans, and motorcycles constitute the potential pool of vehicles eligible for the state's lemon law program.

The Connecticut lemon law, passed in 1982, was the first such law in the United States. It established a framework to obtain a replacement vehicle or refund from the manufacturer for new motor vehicle owners who experienced repeated or lengthy repair problems with their vehicles. Revised during four of the next five years, the law was expanded repeatedly to deal with implementation problems as they arose.

The most significant revision, dubbed Lemon Law II, was passed in 1984. It created the state sponsored arbitration program run by the Department of Consumer Protection and included statutory language to control the resale of vehicles replaced or repurchased by manufacturers.

#### Scope of the Lemon Law

In Connecticut, the law commonly known as the "lemon law" is actually Chapter 743b of the Connecticut General Statutes, entitled "Automobile Warranties." The terms "lemon" and "lemon law" do not appear in statute.

Originally enacted in 1982, Lemon Law I applied to any new motor vehicle sold in Connecticut on or after October 1, 1982. The original law contained a warranty period of one year from the date of delivery or the duration of all applicable express warranties, whichever was earlier.

Under the lemon law, a manufacturer is allowed a reasonable number of attempts to repair or correct a vehicle with a defect or condition that "substantially impair[s] the use and value of the motor vehicle to the consumer." If the problem remains, the manufacturer is required to replace the vehicle with a new one or provide a full refund (minus an allowance for use) of the purchase price. A "reasonable number of repair attempts" was originally defined as:

- (1) the same problem subject to repair four or more times within the warranty period and the problem continues to exist; or
- (2) the vehicle is out of service a cumulative total of 30 or more days within the warranty period.

During succeeding years, the scope of the lemon law was expanded in response to problems with the implementation of the original law, particularly the lack of an enforcement authority. In 1984, Lemon Law II was passed. The major changes resulting from that legislation were:

- creation of a state-operated arbitration program within the Department of Consumer Protection;
- addition of "safety" as a consideration in judging the impairment of a vehicle;
- expansion of the recoverable costs allowed to the consumer;
- involvement of the attorney general in the preparation of an annual report evaluating informal dispute settlement procedures;
- prohibition of the resale of any repurchased vehicle without written disclosure of the manner in which the vehicle was returned, unless removal of the disclosure statement was authorized by the commissioner of motor vehicles; and
- designation of a violation of the lemon law as an unfair trade practice.

Subsequent revisions have expanded the law to cover leased vehicles, required manufacturers to report specific information about repurchased vehicles to the Department of Motor Vehicles, and deleted "repair of the vehicle" as a remedy that could be ordered by the state arbitration panels. Figure 1 contains a summary of the major provisions of the lemon law currently in effect.

The Department of Consumer Protection has overall responsibility for the provisions of the lemon law that involve the owners of "lemons" and the resolution of their problems. The primary involvement of the Department of Motor Vehicles begins at the point in the process when vehicles are repurchased or replaced by manufacturers.

#### Process for Handling Complaints

When consumers think they have vehicles that qualify as "lemons," they can call or write to the Department of Consumer Protection for information about the lemon law program and the appropriate forms to file for arbitration.

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FIGURE 1. Summary of Major Provisions of Current Lemon Law.

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- Applies to new motor vehicles sold or leased in Connecticut
  - Warranty period is two years from date of delivery to the consumer or 18,000 miles, whichever comes first
  - Manufacturer unable to fix problem that substantially impairs the "use, safety or value" of a vehicle after a reasonable number of attempts must replace it or refund its cost
  - Reasonable number of attempts is: (1) same nonconformity repaired four or more times within warranty period and problem continues; (2) vehicle out of service for repair 30 or more days within warranty period; or (3) vehicle has a nonconformity likely to cause death or serious injury if driven and two repair attempts have been made during first year after original delivery and nonconformity continues
  - Department of Consumer Protection (DCP) must provide an independent arbitration procedure for settlement of disputes, utilizing three-person hearing panels
  - Complaints for DCP arbitration must be filed in writing and include a filing fee of \$50
  - Upon acceptance of a complaint, DCP notifies manufacturer to provide information and \$250 fee within 15 days
  - Decisions (specifying findings, reasons, and a date for performance and completion of all awarded remedies) are to be rendered no later than 60 days after complaint filed
  - Within 10 working days after a performance date, DCP is to contact the consumer to determine if performance has occurred
  - No vehicle returned to a manufacturer for replacement or refund shall be resold in Connecticut without "clear and conspicuous written disclosure" of that fact, unless the commissioner of motor vehicles authorizes removal of the disclosure
  - Manufacturers must notify the Department of Motor Vehicles whenever they accept the return of a vehicle from a consumer in exchange for a refund or replacement as a result of any type of dispute settlement program
-

Officially called the Automobile Dispute Settlement Program (ADSP), the lemon law program is staffed by personnel in the Product Safety Division of the Department of Consumer Protection. Figure 2 is a flow chart depicting the major steps in the processing of a lemon law case.

Lemon law complaints must be filed on forms provided by DCP. A \$50 fee must be included at the time of filing. Once the forms are received by DCP, staff checks the material filed by the consumer for completeness. If the paperwork is incomplete, all of the paperwork is returned with a checklist indicating the additional material needed. If the forms are complete, a case number is assigned, and the \$50 fee is deposited in a pending account until a determination is made on the eligibility of the complaint for arbitration.

DCP staff makes a preliminary determination as to whether the complaint meets the requirements of the statute with respect to the age and/or mileage of the vehicle and the number of repair attempts or days out of service. Decisions about whether an alleged problem affects the use, safety, or value of the vehicle are left to the arbitration panel.

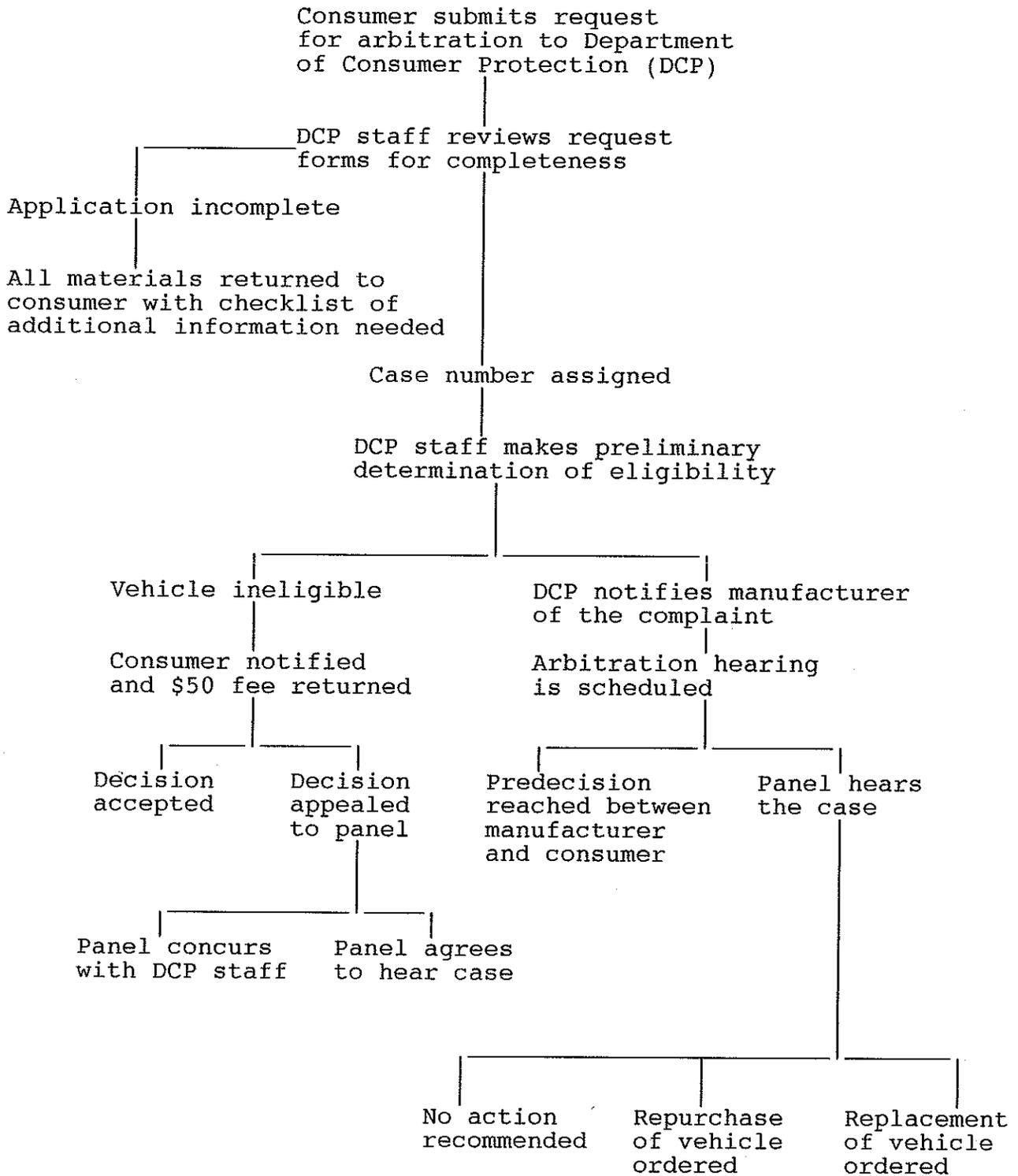
If the complaint is determined ineligible, the consumer is notified, and the \$50 fee is refunded. A denial at the staff level can be appealed to an arbitration panel.

If the complaint is judged eligible for arbitration, DCP notifies the manufacturer involved in the complaint. Within 15 days, the manufacturer must provide information on forms provided by DCP plus a \$250 fee. Specific individuals have been identified by the various manufacturers to receive the initial complaint materials from the department.

After a complaint has been filed with ADSP but prior to the actual hearing, the manufacturer may attempt to work out a settlement satisfactory to the consumer. If that happens, the case is considered to be settled by a "predecision." If the settlement occurs prior to the expiration of the 15 days within which the manufacturer is to file its initial response with DCP, the \$250 fee does not have to be paid. However, the consumer's fee is retained by DCP.

If there is no predecision and the manufacturer fails to submit information or the fee to DCP, the department will ask the attorney general to seek a compliance action to obtain the \$250 fee. No paperwork specifically addressing the vehicle in the case is required. In cases where no information is submitted by the manufacturer, the arbitrators are told by DCP to consider the lack of contrary material from the manufacturer as supporting the information provided by the consumer.

FIGURE 2. Automobile Dispute Settlement Program Process.



All hearings are conducted by three-member arbitration panels, composed of volunteers appointed by the Department of Consumer Protection. Each panel selects its own chairperson. A consumer information representative and a technical expert from the DCP staff are also present at the hearings.

If necessary for a particular case, the vehicle involved is examined and/or driven by a technical expert employed by the state. If the condition of the vehicle prevents the consumer from bringing it to the hearing and inspection is deemed necessary by the panel, the technical expert will make arrangements to see the vehicle wherever it is being kept.

A written decision, including reasons for the final determination, is rendered by the arbitration panel. The panels are encouraged by DCP to decide the cases and issue their decisions immediately after the hearings unless further data (such as a test drive of the vehicle) are needed. By statute, a decision is due within 60 days from the filing of the complaint and fee.

The major decision options available to the Department of Consumer Protection arbitration panels are:

- (1) order the manufacturer to replace the vehicle with a new vehicle acceptable to the consumer;
- (2) order the manufacturer to repurchase the vehicle for the full contract price (including but not limited to charges for undercoating, dealer preparation and transportation, and installed options), collateral charges (such as taxes and registration fees), finance charges incurred after the problem with the vehicle was first reported to the manufacturer or dealer and during any subsequent period the vehicle was out of service for repair, and all incidental damages, less a "reasonable allowance" for the consumer's use of the vehicle; or
- (3) order no action be taken by the manufacturer.

Once a decision is reached, it is mailed to the parties in the case.

Upon receipt of the decision, the consumer is free to accept or reject it. If the consumer accepts the decision, the manufacturer must comply with it. Either party to the dispute is allowed to apply to Superior Court for an order confirming, vacating, modifying, or correcting an award.

If the consumer accepts the decision, DCP staff sends a letter to the consumer within 10 working days after the date

set for performance to determine whether compliance has occurred. Lack of a response from the consumer is presumed by DCP to mean that satisfactory compliance has occurred.

If a manufacturer fails to comply with an arbitration award accepted by a consumer, the Department of Consumer Protection will send a certified letter to the company requesting compliance. If the manufacturer fails to respond, the attorney general sends a letter to the manufacturer demanding compliance by a specific date. If compliance still does not occur, court enforcement is sought.

### Arbitrators

Currently, there are nearly 250 individuals trained as volunteer arbitrators for the DCP program. They receive no monetary compensation for their time, but DCP does pay for parking. Training for the arbitrators was developed for DCP by the Department of Administrative Services trainer. Sessions are run several times a year for new arbitrators.

A book listing the names, addresses, and occupations of each arbitrator as well as the date, file number, and result of each case the person served on is maintained by DCP. A separate book includes information on the availability of the arbitrators with respect to dates, times, and the particular manufacturers they will hear cases involving. Arbitrators are prohibited from serving on any case where they have had any type of relationship or contact with any of the parties involved in the dispute.

Two hearings are scheduled at the State Office Building at both 10 a.m., and 2 p.m., Monday through Thursday. About a week and a half before a hearing, arbitrators are called to make up the panel for a particular case. DCP technical staff are assigned to the hearings in advance.

Cancellations of hearings, other than as a result of a predecision, only occur because of bad weather or upon the specific request of one of the parties for rescheduling. In the latter case, arbitrators, rather than DCP staff, rule on allowing the change. Several people in the State Office Building are available as back-up arbitrators in instances where a previously assigned arbitrator is unavailable at the last minute or to rule on requests for postponements.

### Staffing

Seven full-time staff are assigned to the ADSP: one senior consumer information representative, four consumer information representatives, and two technical experts. A volunteer programs manager and a secretary are assigned part time. The director of the Product Safety Division is responsible for overall management of the program.

The senior consumer representative supervises the other consumer representatives, screens all consumer applications for completeness and eligibility, and may advise arbitration panels about issues related to interpreting the lemon law. The consumer representatives rotate a variety of tasks. Usually each spends one day per week answering telephone questions about the lemon law program, one day with both morning and afternoon arbitration hearings, and one day with only one hearing. The rest of their time is spent doing paperwork.

The technical experts provide advice to the arbitrators about whether or not separate repair orders involve related problems and present information about the mechanical operation of motor vehicles brought through the lemon law program. If directed by the arbitration panel, the technical experts will inspect a vehicle to determine whether specific problems exist prior to a decision being rendered in a case. A technical person from outside DCP is available for motorcycle cases, if the motorcycle must be examined or driven.

The volunteer programs manager is responsible for the preliminary training of new arbitrators and the continuing education of all arbitrators. This individual also coordinates the scheduling of arbitrators for specific hearings.

#### Budget

The state FY 88 appropriation to the Department of Consumer Protection for the lemon law arbitration program was approximately \$189,000. During the same period, an estimated \$140,000 was returned to the state from the fees charged to consumers and manufacturers for participation in the program.

#### Case Processing Time

One of the motivating factors in setting up the lemon law was to offer consumers a speedy resolution of their problems with new, but poorly operating motor vehicles. Due to low staffing levels and an increasing demand for hearings during the first few years of the program, DCP failed to keep the arbitration process within the 60-day statutory time frame for decisions to be rendered.

In February 1988, DCP acquired its second full-time technical expert in order to allow four hearings a day to be scheduled. At that time, it often took as long as four months for a consumer to receive a hearing. Since August, DCP has reduced the average waiting time to 60 days or less. Table 3 presents data on case processing times since February 1988.

TABLE 3. Number of Days Elapsed from Filing of Lemon Law Complaint to Date of Arbitration Hearing.

| Month hearing scheduled | Average No. of days from filing to hearing* | Range of days from filing to hearing |
|-------------------------|---|--------------------------------------|
| February 1988           | 120   | 112-131                              |
| March 1988              | 110   | 84-147                               |
| April 1988              | 84  | 69-207                               |
| May 1988                | 69  | 63-241                               |
| June 1988               | 69  | 65-258                               |
| July 1988               | 70  | 59-183                               |
| August 1988             | 60  | 36-66                                |
| September 1988          | 58  | 49-62                                |
| October 1988            | 51  | 44-56                                |

\* Estimated calculation based on first week of each month.

Source: Office of Legislative Research, Report 88-R-0287, and unpublished data analyzed by Legislative Program Review and Investigations Committee staff.

### Case Dispositions

Since establishment of the arbitration process within the Department of Consumer Protection, 1,702 complaints have been filed under the lemon law. Table 4 presents a breakdown of all lemon law complaints filed with DCP by outcome. Of those cases, 56 percent went through the hearing process, 24 percent resulted in predecisions, 19 percent were ruled ineligible for arbitration, and 1 percent were withdrawn.

As a result of predecisions and hearing awards, more than 200 cars and trucks have been replaced with comparable vehicles, while over 500 consumers have received refunds. In total, DCP estimates the value of the refunds and replacements received through the program between January 1985 and September 1988 at \$10 million.

TABLE 4. Number and Disposition of Lemon Law Cases.

|  | 1984<br>(3 mos.) | 1985 | 1986 | 1987 | 1988<br>(9 mos.) | TOTAL |
|--|------------------|------|------|------|------------------|-------|
| Total number of complaints             | 4                | 271  | 381  | 620  | 426              | 1,702 |
| No. ineligible                         | 1                | 45   | 91   | 132  | 54               | 323   |
| No. withdrawn                          | 0                | 2    | 7    | 10   | 1                | 20    |
| No. arbitrated                         | 3                | 224  | 283  | 480  | 371              | 1,361 |
| For cases arbitrated:                  |                  |      |      |      |                  |       |
| No. where predecision reached          | 1                | 90   | 60   | 144  | 108              | 403   |
| No. where hearing held                 | 2                | 135  | 223  | 336  | 263              | 959   |
| For predecision cases:                 |                  |      |      |      |                  |       |
| No. involving repair                   | 0                | 17   | 7    | 16   | 5                | 45    |
| No. involving partial recovery         | 1                | 6    | 4    | 13   | 9                | 33    |
| No. involving refund                   | 0                | 24   | 8    | 52   | 37               | 121   |
| No. involving replacement              | 0                | 25   | 25   | 50   | 40               | 140   |
| No. involving other resolution         | 0                | 0    | 3    | 4    | 0                | 7     |
| No. with settlement unknown            | 0                | 17   | 13   | 9    | 2                | 41    |
| For cases where hearing held:          |                  |      |      |      |                  |       |
| No. with no action ordered             | 0                | 17   | 40   | 107  | 49               | 213   |
| No. ordering repair*                   | 0                | 33   | 32   | 3    | *                | 68    |
| No. ordering partial recovery          | 1                | 27   | 72   | 16   | 2                | 66    |
| No. ordering full refund               | 1                | 37   | 101  | 189  | 90               | 418   |
| No. ordering replacement               | 0                | 11   | 20   | 17   | 17               | 65    |
| No. ordering "other"                   | 0                | 10   | 10   | 4    | 0                | 24    |
| No. where decision is pending          | 0                | 0    | 0    | 0    | 105              | 105   |
| For decisions requiring mfger. action: |                  |      |      |      |                  |       |
| No. where mfger. complied              | 2                | 104  | 184  | 297  | 104              | 691   |
| No. in noncompliance                   | 0                | 31   | 39   | 39   | 9                | 118   |
| No. where compliance is pending        | 0                | 0    | 0    | 0    | 40               | 40    |

\* Repair eliminated from law in 1987 as remedy that arbitrators can order.

Source: Department of Consumer Protection, Automobile Dispute Settlement Program, Semi-annual Statistical Report, October 1, 1984 - September 30, 1988.

## Manufacturer-Sponsored Programs

A number of manufacturers offer dispute settlement programs for owners of vehicles produced by their particular company. Companies are allowed to operate their own programs, but consumers cannot be required to utilize such programs before applying to the state DCP program unless the manufacturer's program has been certified by the state.

Under the Connecticut lemon law, manufacturers must annually submit detailed information about their dispute settlement programs to the attorney general. The attorney general is required to prepare an annual report evaluating the various informal dispute settlement procedures of the manufacturers. Certificates of approval are issued to those firms whose procedures "comply in all respects" with the requirements of the federal trade legislation known as the Magnuson-Moss Act and the state's own lemon law.

To date, no manufacturer programs have been certified. As a result, owners of all makes of vehicles are able to apply directly to the state operated arbitration program. However, manufacturers can require prior written notification of the alleged nonconformity before the consumer applies to the program, if that restriction is clearly indicated in the warranty or owner's manual of the vehicle.

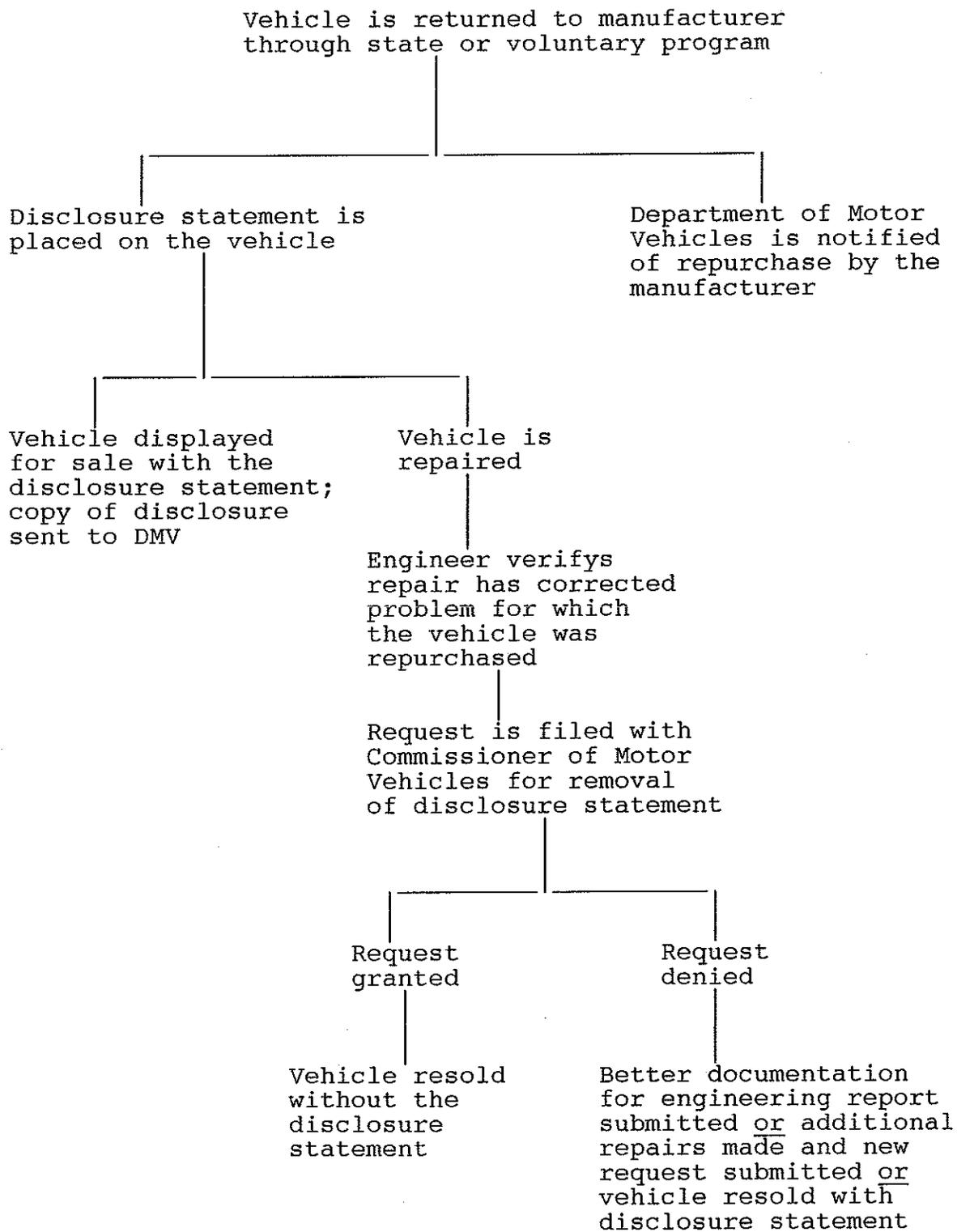
## Resale Restrictions

Whenever a manufacturer accepts the return or repurchase of a vehicle from a consumer due to a nonconformity, the manufacturer must provide the Department of Motor Vehicles with information about the reacquired vehicle, including the year, make, model, vehicle identification number, and prior title number. The subsequent resale of such vehicles in Connecticut is not allowed without written disclosure of the vehicle's history unless the commissioner of motor vehicles authorizes removal of the disclosure based on evidence the problem resulting in repurchase has been corrected.

Regulations adopted by the Department of Motor Vehicles specify the content of the disclosure statement and the manner in which the commissioner's permission to remove the disclosure can be obtained. Approval will only be granted if an inspection report detailing the action taken to correct defects in the vehicle causing its reacquisition is submitted to and accepted by the commissioner.

Figure 5 summarizes the reporting requirements for vehicles returned to manufacturers. The detailed tracking provisions only apply to vehicles being resold in the state.

FIGURE 5. Resale of Vehicles Returned to Manufacturers.



## Agency Reports

By statute, the Department of Consumer Protection must maintain an index of all disputes submitted to its lemon law arbitration program by the brand name and model of car. At least every six months, statistics on the record of each manufacturer's compliance with arbitration decisions and the number of refunds or replacements awarded is to be prepared by DCP. A copy of this summary is to be filed with the commissioner of motor vehicles.

The Department of Consumer Protection has prepared the semi-annual reports. To date, however, DCP has not compiled an index by brand name and model.

Until the summer of 1988, the Department of Consumer Protection was not consistently notifying DMV about the outcome of the cases processed through the state arbitration program. Subsequent to publicity at that time about alleged violations of the resale provisions of the lemon law, DCP and the Department of Motor Vehicles established a mechanism for DCP to provide specific information about the results of lemon law cases to DMV on a monthly basis.

In June 1988, a list containing the vehicle identification numbers of all vehicles repurchased or replaced through the lemon law hearings process from the beginning of the program was given to DMV by DCP. In addition, the identification numbers of vehicles repurchased or replaced as part of predecision cases since July 1987 were provided to the Department of Motor Vehicles.

This information is being used by DMV to determine manufacturer compliance with the reporting requirements of the lemon law. In conjunction with data reported by manufacturers about vehicles replaced or repurchased through voluntary programs, the information is also being entered into a data base that can be referenced by consumers and dealers to determine whether a used motor vehicle has ever been returned to the manufacturer because of a defect or nonconformity.



## CHAPTER III

### FINDINGS AND RECOMMENDATIONS

The Legislative Program Review and Investigations Committee's study of the lemon law focused on two major aspects -- the state arbitration program for consumers who think they have defective vehicles and the identification and labelling of vehicles returned to manufacturers because of defects or nonconformities. The committee's recommendations are aimed at improving the operation of the arbitration program and ensuring that problem vehicles are not resold without adequate disclosure.

#### Arbitration Program

Since the inception of the state sponsored arbitration component of the Connecticut lemon law, more than 1,700 consumers have applied to the program. As discussed in Chapter II, nearly half of all cases have resulted in the repurchase or replacement of the vehicle. The Department of Consumer Protection estimates the value to consumers of these transactions has been \$10 million.

A departmental survey of more than 700 consumers who went through the arbitration program between October 1986 and May 1988 resulted in responses from 359 individuals. Nearly half of the respondents rated the handling of their case as "excellent," while 23 percent rated it "very good." Only 13 percent of the respondents rated the program "poor." Of all the respondents, 71 percent were satisfied with the decision rendered in their own case; 29 percent were not.

The program review committee believes the Department of Consumer Protection arbitration program as currently functioning is operating smoothly in most respects. However, to ensure that the future operation of the program remains equitable and that the statutory language fulfills the intent of the original lemon law, some aspects of the arbitration program require clarification or revision.

Arbitrators. The Department of Consumer Protection utilizes three-person panels of arbitrators as the dispute settlement mechanism for its lemon law program. By statute, these individuals serve without compensation.

The program review committee believes the value of the existing community involved arbitration system balances any loss of formality that may result from the current use of volunteer arbitrators. The system currently in place should be allowed to continue.

Diversity in the rulings within particular types of dispute settlement mechanisms is not unusual. For example, in court cases different judges may sentence differently for the same crime. Such subjectivity is the result of the application of the same rules of law to unique sets of circumstances.

In the same way, although the decision resulting from a particular set of data presented by a consumer alleging a vehicle is a "lemon" cannot be predicted, the outcome should follow from the findings and reasons identified by the arbitrators in their decision. The volunteer nature of the DCP arbitrators does not exempt them from maintaining a minimum level of preparation and familiarity with the requirements of the lemon law. To assist them in their ability to meet such standards, DCP must provide them with appropriate initial and ongoing training.

It is the belief of the program review committee that a detailed reference guide with a comprehensive index is needed as a reference tool for the arbitrators. This guide should contain plain language descriptions of the portions of the lemon law relevant to determining the eligibility of a case and the possible remedies that can be awarded. It should also contain information about the procedures to be followed in conducting a lemon law hearing. Such a document will provide greater uniformity in the application of the standards of the lemon law and decrease the likelihood of misapplications due to misunderstandings.

**The Legislative Program Review and Investigations Committee recommends that a Lemon Law Reference Guide be prepared by staff from the Department of Consumer Protection and the Office of the Attorney General. The guide should be provided to each existing and future arbitrator, commencing in March 1989.**

The Department of Consumer Protection has certain responsibilities, which it seems aware of, to monitor the quality of the arbitrators' work. The department already keeps track of all decisions rendered by each arbitrator and watches for patterns of favoritism toward one party or another as well as toward one type of remedy versus another.

But the department has a larger responsibility. If, at any time, DCP believes the rules or resources under which the program must operate are affecting its ability to recruit, train, and retain sufficient numbers of volunteers to operate the program successfully, the department should alert the legislature of the need to reassess whether a permanent hearing board is more appropriate.

Awards. Determining the dollar value of an arbitration decision awarding a refund to a consumer is impossible to

ascertain solely from reading that decision. The awards generally require a reference to the original invoice from the sale of the vehicle, reference to the vehicle itself for the mileage at the time it is returned, and information from a bank if financing is involved.

This information is needed because most refund awards also include a deduction for consumer usage based on mileage. When only limited reimbursement for financing costs is included in the award, it is possible that when the award is finally calculated, it can result in a consumer having to pay money and give up the vehicle. Obviously, in such a situation the consumer would not choose to accept the award.

The committee recognizes that the financing aspect and final mileage are impossible to know exactly at the time of the hearing, but this lack of specificity is a concern. Recently, the Department of Consumer Protection has asked the arbitrators to estimate the value of an award before setting it out in general terms as a decision.

The program review committee recommends that the refund estimate prepared by the arbitrators be labelled an estimate and attached to the decision as a source of guidance for the consumer in deciding whether to accept or reject the award.

A related area requiring clarification is the nature of the remedies the arbitrators are allowed to award. The law permits the panels to choose from several specific options as well as any remedies under certain other warranties or laws, including the federal Magnuson-Moss Act. This flexibility does not appear to be understood by all the arbitrators.

The program review committee recommends that clear and detailed information on the statutory remedies available to the arbitrators be highlighted by the Department of Consumer Protection during arbitration training. The authority of the arbitrators to use or adjust the statutory formula for consumer usage deductions should also be addressed.

At the same time, the committee believes the statutes should be clarified with respect to the remedy of further repair of the vehicle. When Lemon Law II was adopted, it allowed arbitrators to order further repairs. In 1987, the law was amended to delete repair as an allowed remedy. However, the same section of the statute still allows "any other remedies" available under the federal Magnuson-Moss Act, one of which is repair.

The Legislative Program Review and Investigations Committee recommends that C.G.S. Sec. 42-181(c)(4) be amended to clearly prohibit repair as an allowable remedy.

Program eligibility. The program review committee is concerned about several aspects of the eligibility criteria for the DCP arbitration program. First, the committee believes there may be misunderstandings among consumers about eligibility because of the multiple standards under which the state currently is determining whether a vehicle is eligible for a lemon law hearing.

In order to qualify for arbitration, a vehicle must have a defect or condition that cannot be brought into conformity with any applicable express warranty of the manufacturer and which "substantially impairs the use, safety or value of the motor vehicle to the consumer after a reasonable number of [repair] attempts." In the case of an alleged safety related problem, generally two repair attempts during the first year are required with the problem continuing to exist.

For all other categories of problems, generally a reasonable number of repair attempts is defined as four attempts during the first 18,000 miles or two years and the problem continues to exist or the vehicle has been out of service for more than 30 days during that same time period regardless of whether or not the problem still exists. In some instances, less than four repair attempts is allowed if the problem is one for which evidence exists that no repair will bring the vehicle back into conformance.

The written materials about the lemon law program distributed by DCP do not make these alternative standards clear. Their informational booklet, under the heading "What's a Reasonable Number of Attempts?," only mentions four attempts in 18,000 miles or two years or 30 days out of service. In neither instance is there any mention of whether the problem with the vehicle must still exist.

The second concern of the program review committee is that current application of the lemon law eligibility standards may be placing a "lemon" label and its attendant disclosure requirement on vehicles that have no existing problem affecting their future use, safety, or value.

In a case involving a vehicle out of service for repairs for more than 30 days, the current language in the statutes does not require the vehicle to have an existing problem at the time a request for lemon law arbitration is made. The rationale offered for the existence of such language is that the purchaser of a brand new vehicle expects trouble free use from that vehicle and deserves compensation for the loss suffered when the vehicle was unavailable for use because of excessive repairs.

While the committee does not quarrel with that concept, it is concerned that the particular section of the statutes allowing this interpretation is not in keeping with the

overall purpose of the Connecticut lemon law. The law is supposed to provide a mechanism to allow consumers to receive a refund or replacement for new vehicles that cannot be brought back into conformance with manufacturer standards. In keeping with that spirit, resale provisions are included in the law to ensure that "lemon" vehicles do not subsequently become the problems of other consumers without their knowledge.

The program review committee believes the force of the lemon law should be guided by a single, clear principle. If that principle is compensation for frustrated car owners, then the definition of vehicles eligible for consideration under the program should be expanded. If the principle is meant to provide restitution only to consumers who have suffered a permanent loss because their new vehicle cannot be repaired to an acceptable level, then the current eligibility standards should be revised.

The program review committee recommends that C.G.S. Sec. 42-179(e)(2) be amended to clarify that vehicles qualifying under the 30 days out-of-service standard must still exhibit problems in order to qualify for the lemon law program.

The final concern in this area is the fact that some vehicles are being deemed eligible for the lemon law program without any repair attempts being required. For example, in cases involving problems with the paint on a vehicle, a determination may be made that it is impossible for any dealer to repaint the vehicle in a manner that would match the type of finish originally achieved at the manufacturer's plant when the car was built.

The program review committee recognizes that the statutory definitions of repair attempts are meant to serve as guides rather than absolute standards. However, the presumption that only an exact duplication of methods can restore a vehicle to its express warranty level seems an extreme interpretation. Even in cases alleging safety problems, the general guideline in the law is two repair attempts.

**The Legislative Program Review and Investigations Committee recommends that C.G.S. Sec. 42-179 be amended to require at least one repair attempt before a vehicle can qualify for the lemon law arbitration program.**

Program information. The written materials provided to consumers about procedural aspects of the arbitration process should be improved. The Department of Consumer Protection recently revised its informational pamphlet about the lemon law program, but the committee believes additional changes are needed.

Among the areas where better explanations are desirable are: the list of information to be included with the request for arbitration; the differences between oral and documentary hearings; the meaning of a refund award versus a replacement award and the definition of a "comparable vehicle"; the responsibilities of the manufacturers and the dealers under the law; and a description of the length of time it takes to resolve a case.

Also needing additional publicity is the fact that a consumer may apply to the program after the 18,000 mile/two year time period is over as long as the problem with the vehicle occurred during the specified time period. At least 10 percent of the cases processed through the DCP program have involved vehicles with mileage greater than 18,000 miles at the time of application. Three-quarters of these cases were deemed eligible for the program, and more than 60 percent received awards.

Obviously some individuals have realized that there are no limits on when an application can be filed. Improved public information might expand the number of Connecticut car buyers taking advantage of the lemon law.

The program review committee recommends the Department of Consumer Protection revise its lemon law informational materials to more fully reflect the scope of the law. At a minimum, the consumer information booklet should explicitly describe the program eligibility criteria, clarify that applications can be made after 18,000 miles or two years, and more fully describe the arbitration hearing process.

Efforts to publicize the existence of the lemon law as an available remedy for owners of new motor vehicles should also be expanded. The program review committee believes consumers should be made aware of the law at the time they purchase a new vehicle.

Written information about the existence of the arbitration program and the eligibility requirements of the law should be given to the purchaser of a new motor vehicle by the selling dealer at the time the consumer takes possession of the vehicle. Materials about the law to be distributed by the dealers should be developed by the state agencies responsible for the lemon law program.

The Legislative Program Review and Investigations Committee recommends that new car dealers be statutorily required to provide each purchaser of a new motor vehicle with written information about the Connecticut lemon law at the time the motor vehicle is purchased.

In conjunction with this recommendation, the committee believes more efforts should be made to verify dealer

compliance with statutory requirements for signs about the lemon law. Under C.G.S. Sec. 42-181(e), new car dealerships selling the motor vehicles of manufacturers that do not have certified dispute settlement programs of their own must prominently post notice about the availability of the state arbitration program.

During the course of investigating consumer complaints, Department of Motor Vehicles staff are on site at many new car dealerships at various times throughout the year. In conjunction with such visits or while in the vicinity at another licensee, it would be possible for DMV staff to quickly and easily check on the prominent posting of lemon law signs at a large number of locations. Accordingly, the program review committee recommends the Department of Motor Vehicles periodically check that the statutorily mandated lemon law signs are in fact posted at all required new car dealerships in Connecticut.

#### Procedural Issues

Currently, during the course of an arbitration hearing, the panel will go into executive session at least once prior to deliberating on the case and sometimes more often. While the program review committee understands the need for an executive session on occasions such as final deliberations, other issues, such as whether an inspection of the vehicle is needed, might better be done in public.

A question was recently raised as to whether or not the lemon law arbitration panels are exempt from Freedom of Information (FOI) requirements. The panels are specifically exempted from Uniform Administrative Procedure Act provisions of the statutes, but the question with respect to FOI is not as clear.

A 1985 Advisory Opinion from the Freedom of Information Commission, in response to whether the hearings were open to the public, said, "It is therefore the Commission's opinion that the Department's 'Lemon Law' arbitration hearings are subject to the open meetings provisions of the Freedom of Information Act." The Department of Consumer Protection and the Office of the Attorney General have raised questions about the definition of "agency" on which that opinion is based, but, to date, neither has specifically challenged the definition.

Recognizing that the arbitrators are volunteers of varying backgrounds who may feel uncomfortable deliberating in public, that judges and juries deliberate in private, and that the lemon law decisions are in writing and include reasons, the program review committee believes the statutes should be clarified to indicate that deliberations shall remain private. However, determinations on which documents

to accept and whether to order an inspection should be part of the public record.

Assuming that the lemon law arbitration panels are public agencies, the following recommendation is made. The Legislative Program Review and Investigations Committee recommends that C.G.S. Sec. 1-18a(e) be amended to explicitly provide that the deliberations of the lemon law arbitration panels may be conducted in executive session.

#### DMV Responsibilities

The program review committee is very concerned about the timeliness and comprehensiveness with which the Department of Motor Vehicles is handling its enforcement of the statutes prohibiting the resale of unlabeled "lemon" vehicles.

Although one inspector from the Dealers and Repairers Division of DMV has been working almost full time on lemon resale investigations since the summer, as of early December, only four administrative hearings against dealers charged with resale violations had been convened. Only two decisions had been rendered, and those were issued in early December for cases heard in early October.

Despite the fact at least 36 additional resale cases are expected to go to formal administrative hearings, DMV does not appear to have a coordinated plan for handling these cases. Based on committee staff observing two of the lemon resale hearings and conversations with DMV representatives, the committee is concerned about the department's enforcement capabilities in this area.

The committee recognizes that lemon law resale cases are only one of many kinds of cases handled by DMV. Indeed, other cases such as "Driving While Intoxicated" are more important and have a greater potential impact on the general public. However, the committee is concerned that if the lemon resale cases are progressing this slowly and without a plan during a period when attention is focused on DMV's performance, what will happen when observation of the department's handling of its responsibility in this area ends.

It is the finding of the program review committee that, to date, the Department of Motor Vehicles has failed to effectively carry out its responsibility under C.G.S. Sec. 42-179(g). Therefore, the program review committee recommends that the Department of Motor Vehicles be required to report to the General Assembly committee of cognizance by September 1, 1989, the number, nature, and outcome of all "lemon" resale cases initiated to obtain compliance with the lemon law. In addition, the department shall submit a plan that specifies how its statutory responsibilities in this area will be carried out in the future.

The program review committee is also concerned that DMV assessment of manufacturer compliance with reporting stipulations has not occurred to date. After media attention initially focused on the resale and manufacturer reporting requirements of the law, DMV initiated license revocation proceedings against a number of manufacturers.

To avoid such administrative hearings, most of the manufacturers entered into written agreements with the department. The companies agreed to report on a monthly basis all future vehicles returned by consumers and to provide a list of vehicles similarly returned between July 1, 1987, and the date of the agreement.

The program review committee compared data compiled from DCP lemon law case files and the lists of repurchased cars submitted by a sample of three manufacturers. Reporting by the manufacturers of vehicles repurchased during the period from July 1, 1987, to the dates of their agreements, appeared to be incomplete as of early December 1988. At least 23 cars reportedly repurchased through the DCP program did not show up on the appropriate manufacturer's list initially submitted as part of the individual stipulation agreements.

Another manufacturer did not enter into a stipulation with the department because the company contended it had not repurchased any vehicles in Connecticut. Yet, the program review committee found that at least two vehicles from that manufacturer had been ordered repurchased through the DCP program after July 1, 1987.

The Department of Motor Vehicles has said verification of the manufacturer information cannot occur until its staff finishes inputting data. This is not expected before the beginning of 1989, yet the stipulations were entered into during the summer of 1988.

The Department of Motor Vehicles must develop a mechanism to verify that manufacturers comply with all their responsibilities in the area of resales. DMV is currently setting up a computerized data bank listing all repurchased vehicles coded by reporting source. The absence of a match with information from DCP about vehicles ordered bought back through its program will be one way to check on manufacturer reporting efforts.

No regulations on manufacturer reporting requirements were ever established by the Department of Motor Vehicles. While all manufacturers apparently are now aware that they are required to report certain information about repurchases to DMV, it is still desirable to have regulations that clearly detail which cars are to be reported and in what format the information is to be provided.

The program review committee recommends that the Department of Motor Vehicles adopt regulations that specify the data, format, and time frame manufacturers are required to utilize in reporting repurchased vehicles.

#### Statutory Areas

Under the current wording of the statutes, no motor vehicle returned to the manufacturer for replacement or refund can be resold in Connecticut without written disclosure of that fact on the vehicle. A question has arisen as to whether cars bought back by dealers, even if at the request of a manufacturer, should be considered buybacks requiring disclosure statements.

The program review committee believes this potential loophole should be closed. There should be no question that any vehicle involved in a refund or repurchase arbitration decision must be resold with a disclosure statement. The only exception would be a case where the statutorily allowed permission from the commissioner of motor vehicles has been obtained.

The program review committee recommends that the statutes be amended to require that any business repurchasing a vehicle ordered bought back by the Connecticut lemon law arbitration program or a certified manufacturer's program be required to display a disclosure statement in accordance with the provisions of C.G.S. Sec. 42-179(g).

As mentioned previously, an alternative to reselling a "lemon" vehicle with the disclosure statement attached is to obtain a waiver from the commissioner of motor vehicles. This approval is based on an engineering report verifying that the vehicle has been repaired.

The program review committee believes the existing process for submitting engineering reports and evaluating requests for removing disclosure statements is inadequate. Dealers complain it is unclear what information is required in the engineering report or when and where the information is to be submitted.

The program review committee recommends that the existing regulations related to disclosure statements and engineering reports (42-179-1 through 42-179-5) be revised to specify the qualifications of the individuals allowed to prepare engineering reports, the information to be provided in such reports, and the time period for a response by the Department of Motor Vehicles.

A major concern of the program review committee during the evaluation of the state lemon law program has been the prevention of unlabeled "lemons" being resold to used car

consumers. This aspect of the program remains the most troubling both in terms of knowing the magnitude of the problem and of knowing how to prevent future occurrences. Current state law is inadequate to ensure that no unlabeled, repurchased vehicles are being resold in Connecticut.

One suggestion for reducing the number of unlabeled "lemon" vehicles being resold is to permanently mark the title of the vehicle. Under such a system, anyone viewing the title document would be able to tell that the vehicle had been returned to the manufacturer because of a problem.

The limitation of such a system is that it only alerts individuals who actually see the title. To overcome that drawback, it would be necessary to amend the statutes to mandate the right of a customer to see title documents. In addition, consumers would have to be alerted to the value of examining this paperwork before purchasing a used vehicle.

Another problem with instituting a marking system for titles is that it only affects some of the repurchased vehicles being resold in Connecticut. Cars and trucks bought back from consumers in other states may also be resold in Connecticut. If those states do not require titles of "lemon" vehicles to be marked, educating consumers about that as an information source will not help. In addition, anyone wishing to reduce the likelihood of a marked title document being seen can move a Connecticut titled vehicle to another state.

Probably only national legislation would ensure that comprehensive safeguards could be put in place. Recognizing that such a likelihood is a long way off, if ever, the program review committee believes a regional agreement involving New England, New York, and New Jersey is needed to at least provide help for this region of the country.

The commissioner of motor vehicles has already expressed concern about the resale of "lemon" vehicles across state lines. In his role as an officer of the Region I section of the Association of Motor Vehicle Administrators, departmental staff indicated the commissioner plans to address this problem and encourage that group to take a position on the issue at its next meeting.

**The Legislative Program Review and Investigations Committee recommends that the Department of Motor Vehicles be authorized to initiate contact with the other New England states, New York and New Jersey to develop the language necessary to establish consistent reporting and disclosure requirements for vehicles returned to manufacturers. The Department of Motor Vehicles shall submit a report to the General Assembly on language for a regional agreement to accomplish this goal by January 1, 1990.**



## AGENCY RESPONSES





**MARY M. HESLIN**

COMMISSIONER OF CONSUMER PROTECTION  
STATE OFFICE BUILDING, HARTFORD, CONNECTICUT 06106

January 12, 1989

Michael L. Nauer  
Director  
Legislative Program Review and Investigations Committee  
State Capitol - Room 506  
Hartford, Connecticut 06106

Dear Mr. Nauer:

Per your letter of January 6, 1989, please be advised that department staff have reviewed the recommendations contained in the Program Review and Investigations Committee's performance audit of the department's Automobile Dispute Settlement Program. We have consolidated the recommendations contained in the audit report (see attached) and will refer to your recommendations as enumerated in our summary.

First, as regards recommendations one, three and seven, please be advised that the department is in agreement with these recommendations and has already initiated implementation of these recommendations in cooperation with the Office of the Attorney General.

As regards the statutory amendment recommendation in item four, please be advised that the department would support an amendment to Section 42-181 (c)(4) which would clearly prohibit repair as an allowable remedy. However, we would be unable to support the statutory changes contained in recommendations five and six. We believe that the statutory changes outlined in recommendations five and six are in contradiction to the purpose and intent of Chapter 743b and would have a deleterious effect on the remedies presently available to Connecticut consumers pursuant to the Automobile Dispute Settlement Program.

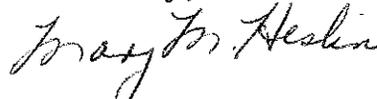
Although the department is in full agreement with committee recommendation number nine, we are inclined to believe that the ability of the arbitration panel to deliberate in executive session might best be expressed within Chapter 743b as opposed to in Section 1-18(a)(3).

Finally, I would point out that recommendation eight which would require Connecticut dealerships to provide point of sale information regarding lemon law to purchasers should be referred to the Motor Vehicle Department for consideration as that department currently has enforcement responsibility pursuant to Section 42-181(e) as regards the public notice of the lemon law program which is presently required of each new car dealer.

Page 2  
January 12, 1989  
Michael L. Nauer

I wish to express the department's appreciation for the dedication and careful attention to detail which was clearly demonstrated by the Program Review Committee staff in performing this performance audit. I am pleased that we find ourselves in agreement on so many of the recommendations and I am hopeful that we can reach a consensus with staff regarding those with which we do not agree. Again, I thank you and the Program Review and Investigations Committee staff particularly, Anne McAloon, for the professional manner in which she conducted herself throughout the audit period.

Sincerely,



MARY M. HESLIN  
COMMISSIONER

MMH:dls

Attachment

cc: Kathleen B. Curry, Bureau Chief, Consumer Affairs  
Lois Bryant, Division Chief, Product Safety  
Maura Martin, Legislative Liaison

**RECOMMENDATIONS OF THE  
LEGISLATIVE PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE  
CONCERNING THE DEPARTMENT OF CONSUMER PROTECTION'S  
LEMON LAW ARBITRATION PROGRAM**

1. The Legislative Program Review and Investigations Committee recommends that a Lemon Law Reference Guide be prepared by staff from the Department of Consumer Protection and the Office of the Attorney General. The guide should be provided to each existing and future arbitrator, commencing in March 1989.
2. The Legislative Program Review and Investigations Committee recommends that the refund estimate prepared by the arbitrators be labelled an estimate and attached to the decision as a source of guidance for the consumer in deciding whether to accept or reject the award.
3. The Legislative Program Review and Investigations Committee recommends that clear and detailed information on the statutory remedies available to the arbitrators be highlighted by the Department of Consumer Protection during arbitration training. The authority of the arbitrators to use or adjust the statutory formula for consumer usage deductions should also be addressed.
4. The Legislative Program Review and Investigations Committee recommends that CGS Sec. 42-181(c) (4) be amended to clearly prohibit repair as an allowable remedy.
5. The Legislative Program Review and Investigations Committee recommends that CGS Sec. 42-179(e) (2) be amended to clarify that vehicles qualifying under the 30 days out of service standard must still exhibit problems in order to qualify for the lemon law program.
6. The Legislative Program Review and Investigations Committee recommends that CGS Sec. 42-179 be amended to require at least one repair attempt before a vehicle can qualify for the lemon law arbitration program.
7. The Legislative Program Review and Investigations Committee recommends that the Department of Consumer Protection revise its lemon law informational materials to more fully reflect the scope of the law. At a minimum, the consumer information booklet should explicitly describe the program eligibility criteria, clarify that applications can be made after 18,000 miles or two years, and more fully describe the arbitration hearing process.
8. The Legislative Program Review and Investigations Committee recommends that new car dealers be statutorily required to provide each purchaser of a new motor vehicle with written information about the Connecticut Lemon Law at the time the motor vehicle is purchased.
9. The Legislative Program Review and Investigations Committee recommends that CGS Sec. 1-18a(e) be amended to explicitly provide that the deliberations of the lemon law arbitration panels may be conducted in executive session.



# STATE OF CONNECTICUT

## DEPARTMENT OF MOTOR VEHICLES

60 STATE STREET • WETHERSFIELD, CONNECTICUT 06109

LAWRENCE F. DELPONTE  
COMMISSIONER

January 13, 1989

Mr. Michael L. Nauer  
Director  
Legislative Program Review  
and Investigations Committee  
State Capitol - Room 506  
Hartford, Ct 06106

Dear Mr. Nauer:

The responsibility for responding to automotive consumers in situations in which they feel they have been unfairly treated in the purchase or repair of vehicles is an area of the strongest concern to the Department of Motor Vehicles. The resolution of all complaints arising out of these situations is a constant goal of the Department, and of the Department's Dealers and Repairers Division.

In the past few years, however, the balance of attention focused on the two basic functions in the Dealers and Repairers Division (licensing and complaints), has shifted away from the complaint process. This shift resulted in a degradation of the overall response mechanism, with a corresponding increase in average response time.

At the same time, an even more important consideration was being overlooked: the need for a basic yet ongoing customer information program. In the absence of specific direction to the consumers regarding agency jurisdiction, the range of possible responses, what is required of consumers who have complaints, etc., the problems associated with the complaint function were magnified.

Department officials recognized the need for a fresh analysis in this area after appointment of a new bureau chief in the field support area. At this time, an internal review of the Dealers and Repairers Division was initiated to assess the workload, staffing and work processes in that Division. This review was undertaken at the same time, but independent of, the Program Review Committee's investigation.

The results of the internal investigation revealed that complaint processing times were slowing somewhat and that, in the face of growing budget constraints, a greater emphasis was being placed on the licensing and regulatory function than that which was being placed on processing of the complaints. It was also determined that low morale was developing among the inspectors assigned to the area. (In fact, three resignations were submitted by inspectors in the complaint "team", out of a group of 10 inspectors assigned to that function.)

Department officials have developed a number of solutions to meet the problems uncovered in the investigations into this area. These solutions, which involve a major organizational revision in the Dealers and Repairers Division, as well as the work distribution and work processing within this Division, have already begun to be implemented. When implementation is complete, Department officials are confident that the recommendations made by LPR&IC will be addressed and, further, that the basic systemic infirmities which resulted in development of these problems will be eliminated.

In addition, Department officials agree with LPR&IC staff's basic premise that increased efforts at customer awareness of the "Lemon Law" and what it makes available to the consumer is perhaps the single most important step state agencies can take to aid and protect the state's consumers. As such, LPR&IC recommendations regarding statutory modifications which will contribute to this end are supported fully by the Department of Motor Vehicles.

With this as background, the following are the Department's responses to the specific points of recommendation concerning the DMV submitted by LPR&IC staff.

First, the DMV agrees to submit a report to the legislature by September 1, 1989 reflecting the improved departmental performance in processing "lemon law" complaints. In addition, the Department will outline how it will achieve this improvement for the legislature by March 1, 1989.

Second, the Department has already begun to draft regulations which will address the "gaps" that exist in the current framework. These regulations will be submitted to the legislature's Regulations Review Committee within the next 30 days, and will be included in the Department's report to the legislature in September.

January 13, 1989

Third, the department has already reviewed and upgraded the information required in engineering reports from those pursuing rehabilitation of vehicles judged to be "lemons" pursuant to the State's Lemon Law program. These have already been partially implemented, with full implementation anticipated in the first quarter of calendar year 1989.

Lastly, Department officials, as representatives to the northeast regional branch of the American Association of Motor Vehicle Administrators, will propose an association study of regional agency compacts designed to eliminate the ability for manufacturers and dealers to "launder" lemons from any state in the region via relocation of these vehicles to another jurisdiction. Progress in this undertaking will be communicated to the General Assembly by January 1, 1990.

Sincerely,

  
Lawrence F. DelPonte  
Commissioner

LFD/wb