

# Is your Motorcycle a Lemon?

## Understanding Your Legal Rights as a Motorcycle Buyer and Owner



by Jacqueline Bodnar

**H**ave you ever wondered if your troublesome motorcycle is a lemon? While many consumers are familiar with the Lemon Laws for automobiles, most are not aware that this law also protects motorcycles. In fact, many consumers are quite surprised when they are able to receive financial compensation for their faulty motorcycle under the Lemon Law protection within their respective states.

Consumers in every state are protected by the Federal Lemon Law, although each state has their own specifications and qualifications as it relates to the federal law. The Lemon Law was specifically created to protect consumers from manufacturer defects within the automotive industry, including motorcycles and all forms of automobiles. The Lemon Law specifically addresses repetitive repairs that fall within the designated

original warranty period.

Mark Rifenburg, a Kingston, New York rider, his experience with the Lemon Law was good overall, but was not without a lot of frustration along the way. "I had tried numerous times to work things out on my own and just got nowhere," he says. "The whole ordeal had me wiped out. There were times when I felt like giving up and say, 'I'll just live with it.'"

However, Rifenburg did not give up. He stuck with the case and today he's glad he did. "Now I have a bike that runs great and puts a big smile on my face every time I ride it," he adds, "and that's the way it should be."

### Interpretation Variation

While there is some slight variation among what is considered to be a lemon within certain states, the basis of the law pertains to a motorcycle or automobile that has been required to undergo four or more repairs for the same defect and

within the original provided warranty period. Some consumers may like to designate their motorcycle or auto as a 'lemon' when the slightest thing goes wrong with their new purchase, but this was not the intention of the Lemon Law.

What about my used motorcycle or used automobile, are they covered? What about my lease, is it covered? The answer to those questions will depend on which state the product was purchased or leased within. Some states only provide relief under the Lemon Law for purchases, while others are more vast in their coverage, allowing for used and leased motorcycles or cars to qualify for protection.

While some states provide Lemon Law coverage for autos, they often do not provide the same coverage for motorcycles.

### Not All States Participate

Sergei Lemberg, a Stamford, Conn.-based attorney specializing in

Lemon Law cases says, "Typically, motorcycles are covered under each state's new car Lemon Law. However, a number of states do not."

The states that do cover motorcycles, generally only cover 'new' motorcycles. According to Lemberg: "While each state has their own definition of a 'new motorcycle,' if you've owned it less than two years or have driven it less than 18,000 miles (whichever comes first), you are generally covered by Lemon Laws."

If a motorcycle is not covered under the state's Lemon Laws, it may be covered under other Federal Laws; namely the Magnuson-Warranty Act or the Uniform Commercial Code. These laws were designed to protect consumers who purchase a product, including a motorcycle, from repetitive damage or from faulty manufacturing. If the motorcycle was purchased under a warranty, and the repairs are repetitive in nature while under this warranty, a case can be made

for financial damages to be paid. Jeremy Citron of the Steel Horse Law firm says that "Most of the time the manufacturers are going to fix the problem before it gets to the point where the Lemon Law comes into play but if they don't that's where we help."

### Why People Seek the Protection

The primary reason that a consumer would want to seek damages under the Lemon Law for their new motorcycle purchase is for their overall financial protection. Most consumers think to themselves, "If my manufacturer created a faulty product, they would replace it, right?" While this may seem like the most logical solution to these kinds of problems, if this were the typical outcome when consumers experience faulty merchandise, then there would not be the need for Federal and State Lemon Laws.

The Lemon Laws provide financial protection for the smallest and the largest consumers for the financial investments that they make when purchasing faulty merchandise, namely motorcycles and automobiles. If a consumer has purchased a lemon, they may have the potential to receive financial remedies based upon the financial severity of the situation. In some instances there is a partial financial settlement, in some cases there may be a potential buyback of the vehicle and in some cases an entirely new vehicle will be offered to the consumer filing the claim.

### Where to Start

According to Lemberg there are several steps that you need to take if you believe that you have purchased a lemon:

- **Keep a logbook.** Whether you use a spiral bound notebook or a computer spreadsheet, make a notation every time you speak to or visit the dealer or manufacturer. This proves that you have given them ample opportunity to fix the problem.
- **Write down every communication.** In your logbook, write down the date and time, as well as the name, title, and phone number of the person to whom you spoke. Make an entry outlining the information and instructions you were given.
- **Keep track of your motorcycle's performance.**

In your logbook, note the times and dates when the problems occur.

- **Note the days your motorcycle is unavailable.** In your logbook, record the dates you are unable to use your motorcycle, either because it isn't in working condition or because it is in the shop for repair.
- **Keep repair records.** This may seem obvious, but it's important to keep the original paperwork of all repair and maintenance orders - even those that may not pertain to the recurring problem with your motorcycle. Never leave your motorcycle at the dealership without a copy of the work order.
- **Keep every piece of written correspondence.** It is suggested to hold on to a copy of every letter and email that is sent, as well as proof of delivery. Most states require that the consumer contact the manufacturer via certified mail. Keep a folder with correspondence and delivery documentation.
- **Use the Web.** If a consumer wants to know if their lemon has a history of problems, check the Technical Service Bulletins (TSB) for motorcycles at [www.nhtsa.dot.gov](http://www.nhtsa.dot.gov) as TSB's alert dealerships to defects and repairs for certain models. It is also advised to request that the dealer's service representative write the TSB request on your repair slip.

In addition to these steps, consumers who feel that they have purchased a lemon are advised to seek legal counsel. The Lemon Laws can be confusing and an attorney will be able to provide explanations and answers for their questions. There are many things to be considered when a consumer is fighting against a lemon case and they will be fighting against corporations who have legal counsel and teams of corporate attorneys.

Also, if a consumer takes their case to court and wins, the Lemon Law provides coverage stating that the manufacturer must provide financial remedies to cover the legal fees that were incurred on the part of the consumer filing the claim. So, if a motorcycle or automobile has been repaired unsuccessfully several times regarding the same issue, it is advised to seek an attorney's assistance to resolve the issue.

Jeremy Citron, of the Steel

Horse Law Firm in Georgia says the legal fees are there to protect the consumer. "kja;isdpo asodifano aidfoiauowieuowin oiwoieuow oioweiororwo ouowei oow ooieouori owieowueowo owie" Citron also said that "ahsoioi woieuof osidoaiu soidofiu osdoi oisighgoano oigosiu "

It is important to keep in mind that the Federal and state Lemon Laws were written to protect both the consumer and the manufacturer, although much of the discussion regarding these laws pertains to the side of the consumer.

### Abuse and Beyond

Like any law, there are individuals that will attempt to abuse what its original intention was created for. The Lemon Laws were created to protect consumers from a product that was created under faulty manufacturing. But, when manufacturing a product even under the most scrutinized procedures, over time and with enough volume, it is possible and likely that an occasional defect will occur on the production line. If a consumer happens to have purchased this defected product, the Lemon Laws were designed as their protection.

The Lemon Laws, however, were not designed for consumers to seek financial remedies whenever they have to take their automobiles or motorcycles in for repairs. Even frequent repairs, if they are not for the same condition, are often considered ordinary and customary; hence why manufacturers offer warranties on many of the typical repair items during the first several years following the purchase. While there is some misuse by consumers as it relates to the Lemon Laws, most consumers who seek protection are simply trying to receive financial damages for the financial outlays that they have made trying to repair a faulty motorcycle or automobile that they have purchased with their hard earned money.

Lemberg addresses the issue of misuse by consumers. "Although every state has a Lemon Law, consumers have to jump through proverbial hoops in order to qualify for Lemon Law protection," he says. "There are repair requirements, notification requirements, arbitration requirements and so forth. If anything, I believe that consumer protection laws are underutilized, rather than abused."

If you have additional questions about Lemon Laws, seek the information provided on the government websites for your state or seek the advice of a legal professional.

## RESOURCES ON THE WEB

The Internet is a great place to search for information on each States Lemon Law. Most of them, such as Lemon Law America,

[www.lemonlawamerica.com](http://www.lemonlawamerica.com) are primarily sites that lists attorneys who specialize in the Lemon Law. Most of the individual states also have sites where consumers can find information about their state and it's requirements and laws.

While Federal Statute covers motorcycles, there are State exclusions for used motorcycles with warranties.

### States That Do Not Cover Motorcycles

Arkansas, Colorado, Delaware, District of Columbia, Florida, Georgia, Hawaii, Illinois, Indiana, Iowa, Kentucky, Louisiana, Massachusetts, Mississippi, Missouri, Montana, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Pennsylvania and Vermont. Only one state, Washington, specifically includes motorcycles.

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