



A Dealer's Guide To:
**THE MASSACHUSETTS
USED VEHICLE WARRANTY LAW**

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A DEALER'S GUIDE TO THE MASSACHUSETTS USED VEHICLE WARRANTY LAW

The Massachusetts Used Vehicle Warranty Law, G.L. c. 90, § 7N ¼, (Massachusetts General Laws Chapter 90, section 7 N ¼) has been in effect since July 1, 1988, but consumers and dealers often have questions about particular provisions of the law. This guide is written **to provide information to dealerships** who have obtained their license to sell used cars from their municipality so they are aware of their obligations under the law. For specific legal advice, dealers should contact private counsel. Additional information about the law and about other consumer laws related to motor vehicles is available on the Office of Consumer Affairs and Business Regulation website: www.mass.gov/consumer

Summary of the Law

The Used Vehicle Warranty Law is intended to provide certain warranty rights to consumers who purchase a vehicle costing \$700 or more from a dealer. A “dealer” is defined under the law as a business or individual who has sold more than three vehicles in the preceding 12 months.

Under the law, you must provide a Massachusetts-specific written warranty to consumer purchasers of used vehicles. The law also requires dealers to buy back vehicles if the vehicle has a defect that substantially impairs its use or safety and cannot be repaired by the dealer within ***three repair attempts for the same defect, or the vehicle is out of service for more than 10 business days.***

Vehicles Covered By the Law

- A used car, van or truck that is sold by a Massachusetts new or used car dealer, for a purchase price of \$700 or more, that has fewer than 125,000 miles on the odometer when it is sold.
- For purposes of the Used Vehicle Warranty Law, the cost of the vehicle includes any trade-in and/or over-allowance; the cost of any options purchased from or through the dealer, the cost of preparing the vehicle for its sale and delivery to the consumer; and any other costs related to the sale that the consumer paid to the dealer.
- **Not** included in the \$700: sales or excise tax, finance charges*, registration fees, the cost of any extended warranty or service contract, and the cost of motor vehicle insurance.
- ***Note: Any dealership that finances the sale of a vehicle under a retail installment contract and holds the contract, must obtain a sales finance company license from the Division of Banks pursuant to G.L. c. 255B. This applies regardless of whether you are charging interest on the sale.**
- Demonstrator/fleet/executive vehicles are covered by the Used Vehicle Warranty Law but consumers who qualify for both new and used car arbitration must seek relief from the manufacturer under the new car Lemon Law before seeking relief from you under the Used Vehicle Warranty Law.
- When a consumer buys a demonstrator/fleet/executive vehicle, the new car Lemon Law, G.L. c. 90, §7N ½ covers the vehicle for the remainder of the first year from the date the

dealer or manufacturer first puts the vehicle into regular use (the “in-service” date), or 15,000 miles, whichever comes first.

- To qualify for arbitration under the new car Lemon Law, a consumer must have their car repaired by the manufacturer three or more times for the same substantial defect, **or** the vehicle must be out of service for repair of a substantial defect or combination of defects for fifteen (15) or more business days. Repairs must be made within one year of the original “in-service” date or within 15,000 miles, whichever comes first.
- The consumer’s request for new car arbitration must be received by the new car Lemon Law arbitration program at the Office of Consumer Affairs and Business Regulation within eighteen (18) months of the date the consumer takes delivery of the vehicle.
- **Antique/classic cars are covered by this law**, if they are sold for \$700 or more, with fewer than 125,000 miles on them at the time of sale. There is no specific exemption provided for them under the law.
- **Salvage title vehicles are also covered by this law** if they are sold for \$700 or more, with fewer than 125,000 miles on them at the time of sale. They are also covered by the “Lemon Aid” law, G.L. c. 90, § 7N. There is no specific exemption provided for salvage title vehicles under either of these laws.

Vehicles NOT Covered by the Law

- Motorcycles, mopeds, dirt bikes;
- Vehicles sold for less than \$700;
- Vehicles sold with more than 125,000 miles on the odometer (Note: it is a violation of state and federal law to alter odometer readings or to tamper with an odometer);
- Used leased vehicles (unlike the new car Lemon Law, which covers leased vehicles);
- Previously leased vehicles that are subsequently sold are specifically exempted from the used vehicle warranty law, but only if the vehicle is sold to the lessee, a family member of the lessee, or an employee of the lessee;
- Any vehicle used primarily for business purposes, or purchased by, owned by or registered to a business;
- Auto homes and vehicles built primarily for off-road use

Disclaimer/Disclosure

You **cannot** disclaim your obligations under this required state warranty, and telling the consumer about known defects does not excuse you from your responsibility to repair problems under the warranty. You **cannot** ask a consumer to give up their rights under the Used Vehicle Warranty law. A statement or notice that the consumer has given up their rights under this law **does not** excuse you from your obligation to give the consumer a warranty, or your obligation to repair covered defects. This is true **even if** the consumer signs such a statement.

Private Party Sales

The Used Vehicle Warranty Law also mentions private party sales. A “private party sale” is a sale between two non-dealers. The Used Vehicle Warranty Law provides that for such transactions, a private party seller must disclose known defects to purchasers. If the purchaser can prove that a seller knew about a defect which substantially impairs the used vehicle’s safety

or substantially impairs its use, the purchaser can notify the seller they are cancelling the sale within thirty (30) days after the sale. The purchaser is entitled to the return of all monies paid to the seller, less a deduction for use of fifteen (15) cents a mile. If the purchaser ends up suing the seller, and the court finds that an offer of settlement made by the seller in response to a refund request from the purchaser was not reasonable, the **purchaser** can also recover attorney’s fees and costs from the seller, but if the court finds that the lawsuit was frivolous or not in good faith, the **seller** can recover attorney’s fees and costs from the purchaser. Private party sellers are **not** required to repair vehicles. Private party sellers must also comply with the Lemon Aid law (sales cancellation), but not with the Implied Warranty of Merchantability or the Implied Warranty of Fitness for a Particular Purpose, as consumers are not “merchants,” nor generally with the Consumer Protection Act, since consumers are not customarily engaged in trade or commerce simply by selling their own vehicles.

THE WARRANTY

What is covered by the Used Vehicle Warranty

The dealer is responsible under this law for all parts and labor necessary to repair any defects or malfunctions, or combination of defects or malfunctions, which impair a vehicle’s use or safety. In deciding whether a defect or malfunction impairs safety, determine whether the defect or malfunction creates or has the potential to create danger to the consumer, to the passengers, to others, or to property.

You may charge a consumer a fee of up to \$100 for repair of **all** defects during the warranty period. That is, the most you can charge for any one vehicle is \$100, and in order to do this, you must have stated on the consumer’s copy of the warranty the amount (up to \$100) that may be charged. If you do not state an amount on the warranty, you cannot charge the consumer anything at all for repair of qualified defects during the warranty period.

Length of Warranty

The length of the dealer warranty depends on how many miles are on the vehicle when you sell it.

Mileage at time of Purchase	Warranty <i>(whichever comes first)</i>
Fewer than 40,000 miles	90 days or 3,750 miles
40,000 to 79,999 miles	60 days or 2,500 miles
80,000 to 124,999 miles	30 days or 1,250 miles
125,000 miles or over	Implied Warranty only

If the **true mileage** cannot be determined at the time of the sale, the length of warranty will depend on the age of the vehicle. To determine the vehicle’s age, subtract the model year from the year in which you sell the vehicle. For example, if you sell a 2006 vehicle in 2010, the vehicle is 4 years

old, and according to the law (shown in the table below), the vehicle would have a 60 day/2,500 mile warranty.

Age of Vehicle	Warranty <i>(whichever comes first)</i>
3 or fewer years old	90 days or 3,750 miles
More than 3 but fewer than 6 years old	60 days or 2,500 miles
6 or more years old	30 days or 1,250 miles

When counting days, the day you give the consumer the warranty counts as the first day, so, for example, a warranty given on September 1 expires on September 30.

What is NOT covered by the Limited Used Vehicle Warranty

You are not responsible under the Used Vehicle Warranty Law for the following defects:

- Defects that affect only appearance
- Defects that do not impair use or safety
- Defects covered by the manufacturer's express warranty if it has been transferred to the consumer and you assure that the manufacturer makes the repairs
- Defects caused by consumer negligence or abuse
- Damage caused by accidents unrelated to the defect, or by vandalism or repair attempts made by someone other than you, your agent, or the manufacturer
- Defects caused by substantial changes the consumer made to the vehicle (such as installing a lift kit, sunroof, or parts like carburetors or exhaust systems that were not part of the vehicle when you sold it)

You should be prepared to **prove** that negligence, vandalism, accident, unauthorized repair or modification caused the problem, if you allege that this is the case. Simply stating that one of the above reasons caused the problem will not be enough for arbitration or a court challenge.

Note: Under the law, the dealer may repair a vehicle either by performing the repair directly, or by arranging and paying for prompt repair by someone else. During the repair period, the dealer is also responsible for paying the reasonable costs of towing the vehicle from the point of breakdown up to thirty miles, in order for the consumer to obtain required repairs or to return the vehicle to the dealer.

Time Periods: “Business Day,” “Tolling,” Extensions of the Warranty

Business Day: The Used Vehicle Warranty Law defines “business day” as Monday through Friday, inclusive, except for state or federal holidays. This term is especially important in determining the length of time a consumer’s vehicle has been out of service. When counting the number of business days a vehicle has been out of service, any part of a business day will count as a whole day. In contrast, “day,” when used in the statute to describe warranty periods, means calendar days, Sunday through Saturday.

Tolling: Tolling refers to the stopping of time-counting during the warranty period, or to adding extra days to the warranty or return period because of a particular event. While under other laws, one day of the warranty may be used up for every day the consumer owns the vehicle, under the Used Vehicle Warranty Law, each day a car is in your shop does *not* use up a day of the warranty. There are at least nine situations where:

- Days are added to the warranty period, or
- Days are added to the return period, or
- Days waiting for a repair appointment do not count toward meeting the 3 repair/more than 10 business days required by the law, or
- Days in the shop for repairs do not count toward meeting the three repair/more than 10 business day requirement of the law, or
- Days out of service when the vehicle is not in the dealer’s shop count toward meeting the 3 repairs/more than 10 business days required by the law.

EXAMPLES OF TOLLING:

REPAIR/WARRANTY FACTS	NUMBER OF DAYS ADDED TO CONSUMER'S WARRANTY	DAYS THAT COUNT AS BUSINESS DAYS OUT OF SERVICE
1. Car in dealer's shop	Number of days in shop	Number of business days in for dealer warranty repairs.
2. Days in dealer's shop while waiting for parts to be delivered.	Number of days in shop	Only business days before a part is ordered, and on or after a part is received, or while other defects are being fixed when a part is on order. But Note: Only a maximum of 21 calendar days for parts orders during the warranty period do not count toward the more than 10 business day requirement.
3. Car leaves dealer's shop with fewer than 30 days left in warranty	30 days from the date the repair was completed for that defect only	Number of business days in shop
4. Return of vehicle to shop within 5 business days after warranty expired	30 days from the date the repair was completed for that defect only	Number of business days in shop
5. Dealer refuses to accept vehicle for repair when presented	Number of days waiting for repair	Number of business days during the waiting period
6. Repair covered by manufacturer's warranty	Number of days in shop	None
7. Dealer fails to give consumer correct written warranty	Number of days from delivery until consumer receives the warranty	None
8. Dealer fails to take vehicle within 3 business days of a telephoned or written request for repair	Number of days waiting for repair	Business days only during the waiting period
9. Vehicle cannot reasonably be returned to shop by consumer during the return period	Extend the return period by one day for each day until the vehicle can be reasonably returned	None

As previously stated, when the word "day" is used in above chart, rather than "business day," it means calendar day – Sunday through Saturday, inclusive.

EXAMPLES OF TOLLING SITUATIONS:

September						
<u>S</u>	<u>M</u>	<u>T</u>	<u>W</u>	<u>T</u>	<u>F</u>	<u>S</u>
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

October						
<u>S</u>	<u>M</u>	<u>T</u>	<u>W</u>	<u>T</u>	<u>F</u>	<u>S</u>
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

1. **FACTS:** The car you sold on September 1 has a 60 day warranty. On Friday, September 24th, through Monday, September 27th, the car is in the shop for repair of the brakes.

CALCULATION: Add four (4) days to the 60 day warranty for the four (4) calendar days the car was in the shop. The warranty would otherwise have expired on October 30, but now lasts until November 3. (Remember, October has 31 days; you need to consider the length of the month you are in when calculating.) But, in this situation, count only the two (2) “business days” in the shop, Friday and Monday, toward the more than 10 business day requirement of the law.

2. **FACTS:** The car you sold on September 1st has a 30 day warranty. The car goes into the shop for brake repairs on September 28th and the repair is finished on the 29th.

CALCULATION: Add two (2) days to the 30 day warranty for the two (2) calendar days the car was in the shop. The warranty on the car as a whole would have expired on September 30th, but now lasts until October 2nd. Also, the warranty for *brake defects only* is extended 30 days from the date that the repair was completed, until October 28th. Finally, count the two (2) business days the car was out of service (the 27th and 28th) toward the more than 10 “business day” limit for days out of service.

3. **FACTS:** The car you sold on September 1st has a **60** day warranty. On September 24th, the car is brought in for brake repairs. On that day, you discover that several parts needed for repairs are out of stock, so you order them (keep copies of your order slips for the consumer). The parts arrive on September 30th and you finish the repair on October 1st.

CALCULATION: Even though the car has been in the shop for six (6) business days (24, 27, 28, 29, 30, 1), only two (2) business days (September 30th and October 1st—the “on or after a part is received” days, as you ordered the parts the day the car came in) count toward the more than 10 business day limit for days out of service

NOTE: The dealer must order the part on the day they reasonably knew that the part was needed, and they must give the consumer a written receipt when the consumer picks up the car, listing the dates the part were ordered and received, and other written evidence of the parts order.

Invalid Refusal to Repair

If a consumer asks you to repair a use or safety defect, you are required to take possession of the vehicle to diagnose the problem and try to fix it. Alternatively, you are allowed to arrange for the vehicle to be repaired elsewhere. You are **NOT** allowed to refuse to diagnose the vehicle (or refuse to have someone else diagnose it), even if you do not think there is actually a defect. If you refuse, the vehicle is considered out of service beginning on the day you refuse repairs if the consumer can later show that a defect that impaired use or safety did exist. Business days out of service will count toward the 3 repairs/more than 10 business days required by the law and the consumer could eventually qualify for a buyback under the law.

BUYBACK

Dealer Option to Buy Back

If you would prefer to buy the car back from the consumer instead of making repairs you are permitted to do so under the Used Vehicle Warranty Law. You will need to pay the full repurchase price less a reasonable allowance for use of fifteen (15) cents a mile for each mile the vehicle has been driven between the sale and your repurchase. The consumer is responsible for proving their reimbursement costs to you by giving you copies of receipts and other supporting documentation. The consumer has the option of continuing to use the car until such time as you make the full refund, but the miles put on before your buyback may also be subtracted from the repurchase price.

If you offer the consumer a full refund under the law, and the consumer refuses to allow the buyback, the consumer's rights under the Used Vehicle Warranty law will be limited. The consumer will not be entitled to further dealer warranty repairs, but may seek repairs under the implied warranty of merchantability. If the dealer is required to, or chooses to, repurchase a vehicle, the consumer and dealer are required by the law to cooperate with each other to execute all necessary documents in order to clear the title of any encumbrances on the repurchased vehicle.

In order to make a buyback offer, while you may initially make such an offer orally, you must follow up with an offer in writing. It is wise to send the written offer by certified mail, return receipt requested, or by registered mail, and save a copy of the letter and return receipts and other tracking information for your records. You must allow the consumer at least five (5) business days to respond to your offer. If the consumer does not respond to your offer in that time, you should write again to the consumer to confirm that you made an offer and that you have not received the consumer's response.

This communication should also be sent by certified mail, return receipt requested, or by registered mail, keeping a copy of the letter, and the receipts, for your records.

Refund Calculations

Whether you offer on your own to buy back a vehicle, or an arbitrator orders a refund, take the steps outlined below to estimate or calculate the amount you are required to refund under the Used Vehicle Warranty law.

Add

- The purchase price (including the amount for the trade-in—in the case of an over-allowance--the repurchase amount will be reduced by the amount of any over-allowance on a trade-in vehicle if the amount of the over-allowance and the actual cash value of the trade-in are separately stated and so specifically identified on the copy of the motor vehicle purchase contract or bill of sale or other document given to the consumer prior to or at the time of sale)
- Finance charges;
- Registration fees;
- The pro-rata amount of payments toward motor vehicle damage, collision and comprehensive insurance;
- The non-refundable portion of payments made for credit life, and credit accident and health insurance on the vehicle loan;
- The non-refundable portion of payments made for any extended warranties and service contracts;
- Unreimbursed towing costs up to a distance of thirty (30) miles;
- Up to \$15 a day for rental cars, trains, taxis, buses, etc. when the car is out of service, starting on the 3rd day of a repair attempt;
- Payments made toward the \$100 repair deductible; and
- Other costs related directly to the defect

Subtract

- A use allowance of 15 cents per mile for every mile driven from the time of delivery of the vehicle to the date the refund is given, but not including miles put on the vehicle by you during repair attempts (mileage at return, minus mileage at purchase, minus repair mileage, multiplied by .15 = use allowance); and
- The amount of an over-allowance, if any.

Additional expenses *not* required to be reimbursed

You are *not* required to pay the consumer's lawyer's fees, lost wages, excise or sales tax, or other costs that are not directly related to the defect.

Returning Trade-in

If you still own the trade in vehicle, and it is in the same condition as when the consumer traded it in, you may return the trade-in vehicle itself, rather than paying the consumer the amount allowed for the trade-in. You still must pay the consumer the other repurchase amounts. If you return the trade-in, the amount of any over-allowance will not be deducted from the repurchase amount.

Title

If the consumer accepts a repurchase offer, you must pay the consumer the full amount immediately upon receipt of the title. You and the consumer must each take reasonable steps to clear the title of any encumbrances. This may include paying some or all of the repurchase amount to the lienholder. More information about title law can be found at www.massrmv.com.

Damage to Vehicle

If a vehicle is damaged beyond reasonable wear and tear through no fault of the dealer or manufacturer, and that damage is unrelated to the defect, the consumer must either repair the damage, pay you for the reasonable cost of repair, or allow you to deduct the reasonable cost of repair from the repurchase price.

ADDITIONAL LAWS – LEMON AID LAW AND THE IMPLIED WARRANTY LAWS

The Used Vehicle Warranty Law does not limit a consumer's rights under the Lemon Aid Law (7 day inspection law—voiding contracts of sale), or under the Implied Warranty of Merchantability. Both of these laws will apply to your used car sales in addition to the Used Vehicle Warranty Law.

- **Lemon Aid Law, M.G.L. c. 90, § 7N:** Under this law, if the vehicle you sold to the consumer fails the Massachusetts motor vehicle inspection within seven days of the sale, and the defects in the vehicle were not caused by abusive or negligent operation of the vehicle by the consumer or by damage resulting from an accident after the date of sale, and if the cost of repairs necessary to pass inspection exceeds ten percent (10%) of the purchase price of the vehicle, the consumer may void the sale, and you must refund the purchase price of the vehicle, unless you and the consumer agree in writing that you will make the necessary repairs at your own cost within a reasonable period of time.
- **Implied Warranty of Merchantability: G.L. c. 106, § 2-314:** Under this law, the goods sold by a merchant must be fit for ordinary purposes for which such goods are used. You must also conform to any promises or affirmations of fact you make, either by word or by label or other representation.
- **Implied Warranty of Fitness for a Particular Purpose: G.L. c. 106, § 2-315:** Under this law, if the seller-dealer has reason to know of any particular purpose for which the vehicle is required and that the buyer is relying on the seller-dealer's skill or judgment to select or furnish the vehicle, there is an implied warranty that the vehicle will be fit for that purpose.

YOU CANNOT DISCLAIM ANY OF THESE LAWS IN SALES MADE TO A CONSUMER.

NOTICES AND DOCUMENTS FOR CONSUMERS

The Federal Buyer's Guide

The Federal Buyer's Guide is a requirement of the Federal Trade Commission's Used Car Rule, 16 CFR part 455. You must post a Buyer's Guide on the vehicle before you "offer" a used vehicle for sale. A vehicle is offered for sale when you display it for sale or let a customer inspect it for the purpose of buying it, even if the car is not fully prepared for delivery. This requirement also applies to used vehicles for sale on your lot through consignment, power of

attorney, or other agreement. At public auctions, dealers and the auction company must comply. The Rule does not apply at auctions that are closed to consumers. Below is the text of the Buyer's Guide required in Massachusetts. You **cannot** use the version of the Buyer's Guide which states "as-is, no warranty," as all vehicles in Massachusetts sold by a dealer are subject to, at a minimum, the implied warranty of merchantability.

When you offer a vehicle for sale on your lot, you must place on the window or dashboard of the car:

**A YELLOW STICKER OUTLINING THE USED VEHICLE WARRANTY LAW;
THE FEDERAL BUYER'S GUIDE (REQUIRED ON WINDOW)
THE YELLOW STICKER, WHICH MUST BE PLACED ON THE WINDOW OR
DASHBOARD, MUST SAY, IN AT LEAST TEN POINT TYPE:**

ATTENTION CONSUMERS

The Massachusetts Used Car Warranty Law, General Laws Chapter 90, Section 7N ¼, protects consumers who have problems with their used vehicle.

UNDER THE LAW, YOU HAVE A RIGHT TO A REFUND IF:

- i. a defect that impairs safety or use arose during the warranty period, AND
- ii. the defect continued to exist or has recurred during the warranty period after either:
 - 1. three or more repair attempts for the same defect, or
 - 2. being out of service after being returned for repair for any defect for a cumulative total of more than 10 business days.

IF THE DEALER DOES NOT ISSUE A REFUND, YOU HAVE A RIGHT TO HAVE YOUR CASE ARBITRATED BY THE STATE IF YOU APPLY WITHIN SIX MONTHS AFTER DELIVERY OF THE VEHICLE. FOR MORE INFORMATION, REFER TO THE USED CAR WARRANTY LAW, INFORMATION PROVIDED WITH YOUR OWNERSHIP MATERIALS, OR CONTACT:

**Used Car Warranty Law Arbitration Program
Office of Consumer Affairs and Business Regulation
501 Boylston Street, Suite 5100
Boston, MA 02116**

Used Car Warranty Law Information: 617-973-8787 or 888-283-3757

Copy of Warranty

Under Massachusetts law, G.L. c. 90, § 7 N ¼, you must also provide to the consumer, at the time of sale, the following warranty information—this is the Used Vehicle Warranty. Have the consumer sign and date both your copy of the Warranty, and their copy. You must keep a copy on file for at least 12 months. If you do not give the consumer a copy of the Warranty at the time of sale, or give the consumer a copy that is incomplete or inaccurate, the Warranty period will be unlimited, until you give the consumer a complete, accurate copy. Then the 30, 60 or 90 day warranty period begins. The consumer has rights to warranty repairs and to arbitration even

when you do not give the consumer a written copy of the warranty. Although the warranty is “limited,” in the sense that it is limited to use and safety, and for a limited amount of time, it is **not** limited to certain parts of the vehicle, such as drive train, and any warranty with such limits is **not** the correct and accurate warranty provided by the Used Vehicle Warranty Law.

Limited Use Vehicle Warranty

[name of dealer] (the “Dealer”) warrants this [make, year and model of vehicle and VIN number] against any defect, malfunction, or combination of defects or malfunctions, that impairs its safety or use for a period of:

- a) 90 days or 3,750 miles, whichever comes first (for vehicles with fewer than 40,000 miles on the odometer at the time of sale, or if the true mileage is not known and the vehicle is three years old or less)
- b) 60 days or 2,500 miles, whichever comes first (for vehicles with 40,000 to 79,999 miles on the odometer at the time of sale, or if the true mileage is not known and the vehicle is more than three but less than six years old)
- c) 30 days or 1,250 miles, whichever comes first (for vehicles with 80,000 to 124,999 miles on the odometer at the time of sale, or if the true mileage is not known and the vehicle is six years old or more) from the date of delivery of the vehicle to you. (Dealer to check 201 CMR 11.23(3)(a), (b), or (c).)

The Dealer will provide the full cost of parts and labor necessary to repair all covered defects. However, the Dealer may charge you up to a total of \$ (Dealer to fill in an amount from \$0 to \$100) per vehicle for the repair of all covered defects during the warranty period.

The warranty period is extended one day for every day the vehicle is in the shop for repairs, and one mile for every mile the vehicle is driven between the dealer’s acceptance of the vehicle for repair and its return to the consumer. The warranty is extended for 30 days from the completion of any repair attempt for every defect that was the subject of the repair attempt.

The Dealer will give you a refund if a defect that impairs the safety or use of the vehicle continued to exist or recurred within the warranty period after either three repair attempts for the same defect or being out of service after being returned for repair of any defect or defects for a cumulative total of more than ten business days.

Defects that are covered by the manufacturer’s warranty are not covered by this warranty if the Dealer gives you a copy of the manufacturer’s warranty, that warranty has been assigned to you, and the Dealer assures that those defects are repaired.

This warranty is provided pursuant to M.G.L. c. 90, § 7N¼, the Used Vehicle Warranty Law. For further information about that law contact the Office of Consumer Affairs and Business Regulation at (617) 973 – 8787.

Please sign and date this Warranty below. Keep one copy for your records and give the other copy to the dealer.

You **must** also give the consumer at the time of sale the Notice with the summaries of the Used Vehicle Warranty Law, the Lemon Aid Law, and the Implied Warranty Law either printed on the reverse side of the warranty printed above, or on a separate sheet of paper:

CONSUMER RIGHTS FOR USED CAR BUYERS

I. USED CAR WARRANTY LAW

The Massachusetts Used Car Warranty Law, M.G.L. c. 90, s. 7N ¼ protects consumers who have problems with their used vehicle.

UNDER THE LAW, YOU HAVE A RIGHT TO A REFUND IF:

- (a) A defect that impairs the safety or use of the vehicle arose during the warranty period, AND
- (b) A defect continued to exist or recurred during the warranty period after either:
 - 1) three or more repair attempts for the same defect, or
 - 2) being out of service after being returned for repair of any defect for a cumulative total of more than ten business days.

The defect must arise during the 30, 60, or 90 day warranty period stated on your warranty. The warranty period is extended one day for every day that your car is in the shop for repairs. The warranty is extended for 30 days from the completion of any repair attempt for the defect that was the subject of the repair attempt.

IF THE DEALER DOES NOT ISSUE A REFUND AFTER THESE STANDARDS HAVE BEEN MET, YOU HAVE A RIGHT TO HAVE YOUR CASE DECIDED BY A STATE-CERTIFIED ARBITRATOR. YOU MUST REQUEST STATE CERTIFIED ARBITRATION WITHIN 6 MONTHS OF ORIGINAL DELIVERY OF THE VEHICLE TO YOU.

II. LEMON AID LAW

If this vehicle fails inspection within seven days, and it would cost more than 10% of the purchase price to repair, you are entitled to a full refund if the vehicle is returned to the dealer within 14 days. See the separate Lemon Aid Law Notice.

III. IMPLIED WARRANTY LAW

The implied warranty of merchantability is a guarantee provided by law in the sale of all consumer products, including automobiles (even if they cost less than \$700 or have 125,000 miles or more on the odometer). This law says that your vehicle should function properly for a reasonable period of time. If the vehicle does not, the dealer must fix it at no charge to you. (Note: The statute does not define reasonable period of time.)

It is illegal to sell a car “AS IS”, “WITH ALL FAULTS”, or with a “50/50 WARRANTY”.

THIS SHEET PROVIDES ONLY A SUMMARY OF YOUR RIGHTS.

To request arbitration, or to get further information, contact:

Office of Consumer Affairs and Business Regulation
501 Boylston Street, Suite 5100
Boston, MA 02116

Used Car Warranty Law information: 617-973-8787 or 888-283-3757

ARBITRATION

You are required to buy back the vehicle once the consumer meets or exceeds the Used Vehicle Warranty Law's repair requirements, and you should be able to handle most repurchases yourself, without the consumer filing for arbitration. However, the option remains for consumers to file for arbitration if they believe you have not honored the requirements of the Used Vehicle Warranty Law.

Arbitration is a way to settle disputes without going to court. You and the consumer both have an opportunity to tell your side of the story at a hearing before an impartial arbitrator. At this time, there is no fee for a consumer filing for arbitration. Arbitrations are conducted by arbitrators who are trained and selected by the Office of Consumer Affairs and Business Regulation ("OCABR").

A consumer can file an application for arbitration after:

- the vehicle has been in the repair shop 3 times for the same defect, and that defect continued to exist or recurred within the warranty period; or
- the vehicle was out of service for more than ten (10) business days, not necessarily all at one time, for one or more defects during the warranty period; or
- the consumer alleges the defect impairs the use or safety of the vehicle.

The consumer has six (6) months after delivery of the vehicle to file for arbitration. The consumer must request a hearing on the official form provided by OCABR, which is available on our website, www.mass.gov/consumer. Once the consumer sends the application for arbitration to OCABR, it is reviewed to be sure that it meets all the requirements of the law. If it does, the case will be scheduled for arbitration. If the consumer misses the filing deadline of six months, they may still file a court claim against you under the Used Vehicle Warranty Law or other laws. Generally, there will only be one state-run used car arbitration per vehicle, but a consumer may still qualify for the state-run used car arbitration program even if their case has been mediated or arbitrated by another organization.

You will receive a copy of the consumer's request for arbitration and other materials within seven (7) days of the acceptance of the case. It should take about forty-five (45) days from when the request for arbitration form is complete and accepted to conduct a hearing and to receive a written decision.

The Arbitration Process

The date of the hearing will be between twenty-one (21) and thirty-five (35) days of the date of the acceptance of the request for arbitration. Notice of the date, time and location of the hearing and the name of the arbitrator selected by OCABR will be mailed to you and the consumer no later than ten (10) days prior to the hearing.

While you may hire an attorney to represent you at the arbitration, one is not required. Used car arbitration is designed to be conducted without attorneys. The hearing will, when possible, be scheduled in a place convenient for both the consumer and the dealer.

At the hearing, the consumer will be required to present the facts of their case, and to prove that they meet the requirements of the law. You will then present your side of the case.

The arbitrator will listen to both sides, and ask questions. Hearings vary in length depending on the facts in each individual case, but the average hearing length is between 1 ½ and 2 hours.

The consumer is required to bring the vehicle to the hearing, unless it cannot be driven or is unsafe to drive. The arbitrator has the option of examining, driving, or riding in the vehicle, but neither you nor the consumer can require the arbitrator to do so.

If you have a good reason and cannot be at the hearing in person, you may present your case by telephone, provided that enough advance notice is given to the arbitrator and to the consumer. You will be responsible for any and all costs associated with a telephone hearing.

If you are unable to attend the hearing on the date scheduled, you can ask to reschedule the hearing by calling OCABR well in advance of the hearing date. Re-scheduled hearings are an exception, and you must have an extraordinary reason for your request. If you do not go to the hearing, you have defaulted. This means that the arbitrator will decide against you automatically. However, you will have three (3) business days after the hearing to show that you had an extraordinary reason for not attending the hearing (claiming that you did not receive notice of the hearing is **not** always an acceptable excuse). If the arbitrator or OCABR accepts your reason for not attending, a new hearing will be scheduled.

Repairs after Hearing

Evidence that the defect(s) can be repaired given an additional attempt after the hearing will **not** be taken into consideration by the arbitrator in determining whether the vehicle is impaired. Similarly, evidence that the vehicle passed the Registry of Motor Vehicle's inspection for a sticker does not necessarily mean that the vehicle is not impaired in safety or use for the purpose of the Used Vehicle Warranty Law.

After the Hearing—Next Steps

You will generally receive the Arbitrator's written decision in the mail within 14 days after the hearing. Arbitration is an **all or nothing** decision. If the arbitrator rules that the consumer has not met the requirements of the law, they will not be awarded anything. If the arbitrator rules that the consumer has met the requirements of the law, you will be ordered to give the consumer a refund.

If the arbitrator decides in your favor, you will not be required to refund the consumer's money. The consumer may still sue you in court pursuant to the Consumer Protection Act, G.L. c. 93A. However, in that action, you can present the arbitrator's decision in your favor as evidence that the consumer has not met the requirements of the Used Vehicle Warranty Law. Even if the court decides in your favor on this issue, however, that does not mean that the court cannot analyze the consumer's claims under another theory of law, including the Implied Warranty of Merchantability.

If the arbitrator finds in the consumer's favor, you have twenty one (21) days from the mailing date of the decision to either appeal the case to court, or to pay the refund. You may only appeal if it was evident that the arbitrator was biased, if the arbitrator exceeded their power, or if the decision was based on fraud.

If you do not appeal, or pay the refund within twenty one days, you are subject to a fine of \$50 a day until you pay the refund.

Four times a year, you must give OCABR a list of the VIN numbers of vehicles returned under used car arbitration and resold in Massachusetts. The list must also include the names of previous owners, the purchaser's name and address, and registration numbers. You also have a legal obligation under the Attorney General's regulations to disclose to any buyer any material fact that would affect a decision to purchase a vehicle.

ADVERTISING, SALES AND REPAIRS

Advertising

The Attorney General's Motor Vehicle Regulations have specific requirements, both for what must be included in advertising of motor vehicles, and what is prohibited in motor vehicle advertising, found at 940 CMR 5.02 (940 Code of Massachusetts Regulation 5.02).

Motor Vehicle Sales Contract

While there is currently no specific sales contract required in Massachusetts, the Attorney General's regulations require certain information to be included in such contracts, which must be titled Motor Vehicle Purchase Contract, including:

- a) The name and address of the dealer and the purchaser;
- b) The make, model, year and identification or serial numbers of both the vehicle purchased and a trade-in vehicle;
- c) A designation of the purchased vehicle as either "new" or "used"; and a further designation as a "police car", taxicab", "demonstrator", "former leased car", "former daily rental" or a rebuilt vehicle which was previously declared a total loss by an insurance company, if the dealer knows or, in the exercise of reasonable care, should know of the applicability of any such designation;
- d) The total contract price, including an itemized list of any charges for vehicle repair or preparation, optional accessories and documentary preparation which are not already included in the purchase price;
- e) If there are any conditions precedent to the dealer's acceptance of the contract (for example, if the contract must be counter-signed by an authorized dealer representative or if a trade-in vehicle must be inspected and meet certain standards, etc.), the following statement, set forth in a clear and conspicuous manner, with the conditions inserted in the blank spaces:

"This contract is not binding upon either the dealer or the purchaser until the following conditions are met:

PURCHASER MAY CANCEL THIS CONTRACT AND RECEIVE A FULL REFUND AT ANY TIME UNTIL S/HE RECEIVES A COPY OF THIS CONTRACT SIGNED BY AN AUTHORIZED DEALER REPRESENTATIVE. PURCHASER MUST GIVE WRITTEN NOTICE OF CANCELLATION TO THE DEALER."

For purposes of 940 CMR 5.00, if a controversy arises concerning the date or time of receipt of any notice or document, the time and date of the postmark will be determinative unless the notice or document was hand-delivered, in which case the actual time of delivery will govern;

- f) If the vehicle carries an express warranty, the following statement:
"This vehicle carries an express warranty. You may obtain a written copy of such warranty from the dealer upon request."
- g) The following statement, in either form appearing herein, set forth in a clear and conspicuous manner:

"ATTENTION PURCHASER: All vehicles are WARRANTED as a matter of state law. They must be fit to be driven safely on the roads and must remain in good running condition for a reasonable period of time. If you have significant problems with this vehicle or if it will not pass a Massachusetts inspection, you should notify the dealer immediately. They may be required to fix the car or refund your money.

THIS WARRANTY IS IN ADDITION TO ANY OTHER WARRANTY GIVEN BY THE DEALER."

or

"ATTENTION PURCHASER: If you have mechanical or operating problems or if this vehicle does not pass a Massachusetts safety inspection within seven days of purchase, you should notify the dealer immediately. They may be required to fix the vehicle or refund your money. This vehicle is covered by the implied warranties of merchantability and fitness for a particular purpose.

THESE IMPLIED WARRANTIES ARE IN ADDITION TO ANY OTHER WARRANTIES GIVEN BY THE DEALER."

Repairs and Services

The Attorney General's Motor Vehicle Regulations, at 940 CMR 5.05, require that you give consumers copies of repair receipts and itemized bills containing the following information:

- the name and address of the customer and the repair shop;
- the date the customer's vehicle was delivered to the repair shop;
- the year, make and registration number of the customer's vehicle and the odometer reading of the vehicle on the date it was delivered to the repair shop;
- an itemized list of the repairs performed on the customer's vehicle;
- a list of parts supplied to the customer by name and number, the price charged to the customer for each part, and the total amount charged to the customer for parts;
- if any part supplied was not new, a statement as to whether it was used, reconditioned or rebuilt;
- the number of hours charged for the repair work, a designation of such hours as actual hours worked or flat- rate hours, the price charged to the customer for each such hour and the total amount charged to the charged to the customer for labor; and
- the total amount charged to the customer for parts and labor.

Under the Used Vehicle Warranty Law, you must give the consumer receipts for parts ordered for repair of the vehicle. The receipt must include the following, in addition to what is required by 940 CMR 5.05:

- the date the vehicle was returned to the consumer;
- the number of days the consumer's warranty has been extended as a result of the repairs;

- the mileage on the date the vehicle was returned to the consumer;
- the defect(s) and symptom(s) complained of;
- the work performed in an attempt to correct the defect(s) or symptom(s);
- the identity of the person or organization that performed the work if it was not performed by you;
- any parts replaced in performing the work;
- any amount charged to the consumer for the repair;
- the dates parts were ordered and received; and
- receipts for parts ordered must be attached.

You must also keep a copy of the Limited Used Vehicle Warranty with the consumer's signature and date written on it for at least one year.

LICENSING REQUIREMENTS

Who must obtain a license to sell used cars?

M.G. L. Chapter 90 Section 7N ¼ defines a motor vehicle dealer as: any person engaged in the business of selling, offering for sale, or negotiating the retail sale of used motor vehicles or selling motor vehicles as broker or agent for another, including the officers, agents and employees of such person and any combination or association of dealers, but not including a bank or other financial institution, or the commonwealth, its agencies, bureaus, boards, commissions, authorities, nor any of its political subdivisions. A person shall be deemed to be engaged in the business of selling used motor vehicles if such person has sold more than three used motor vehicles in the preceding twelve months.

Where can I get the required license?

Dealers are required to obtain a valid license from the municipality where their dealership is located. M.G.L. Chapter 140 Sections 57, 58, and 59 describe the requirements and responsibilities of obtaining and maintaining an active Class 2 (used car dealer) license. These include, but are not limited to, obtaining a surety bond or other equivalent proof of financial responsibility satisfactory to the municipal licensing authority in the amount of \$25,000 executed by a surety company authorized by the insurance department to transact business in the commonwealth. The bond or its equivalent shall be for the benefit of a person who purchases a vehicle from a Class 2 licensee, and who suffers loss on account of:

- (i) the dealer's default or nonpayment of valid bank drafts, including checks drawn by the dealer for the purchase of motor vehicles;
- (ii) the dealer's failure to deliver, in conjunction with the sale of a motor vehicle, a valid motor vehicle title certificate free and clear of any prior owner's interests and all liens except a lien created by or expressly assumed in writing by the buyer of the vehicle;
- (iii) the fact that the motor vehicle purchased from the dealer was a stolen vehicle;
- (iv) the dealer's failure to disclose the vehicle's actual mileage at the time of sale;
- (v) the dealer's unfair and deceptive acts or practices, misrepresentations, failure to disclose material facts or failure to honor a warranty claim or arbitration order in a retail transaction; or
- (vi) the dealer's failure to pay off a lien on a vehicle traded in as part of a transaction to purchase a vehicle when the dealer had assumed the obligation to pay off the lien.

What is the penalty for selling cars without a license?

Under M.G.L Chapter 140 Section 68: Whoever, not being licensed, carries on the business for which a license is required by section fifty-seven, or is concerned therein, or, being licensed, carries on such business or is concerned therein in any other place or manner than that designated in his license, or after notice to him that his license has been revoked or suspended, shall be punished by a fine of not less than two hundred and not more than one thousand dollars or by imprisonment for not more than one year, or both.

Resources

- 201 CMR 11.00 (OCABR New and Used Motor Vehicle Arbitration Regulations)**
<https://www.mass.gov/regulations/201-CMR-11-new-and-used-motor-vehicle-arbitration>
- 940 CMR 5.00 (Attorney General Motor Vehicle Regulations)**
<https://www.mass.gov/regulations/940-CMR-500-motor-vehicle-regulations>
- **G.L. c. 90, § 7N (Sales Cancellation Law)**
<https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXIV/Chapter90/Section7N>
- **G.L. c. 90, § 7N ¼ (Used Vehicle Warranty Law)**
<https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXIV/Chapter90/Section7N1/4>
- **G.L. c. 106, § 2-314 (Uniform Commercial Code—Warranty of Merchantability)**
<https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXV/Chapter106/Article2/Section2-314>
- **G.L. c. 106, § 2-315 (Uniform Commercial Code—Warranty of Fitness for Particular Purpose)**
<https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXV/Chapter106/Article2/Section2-315>
- **G.L. c. 106, § 2-316A—(No Disclaimer of Warranty in Consumer Sale)**
<https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXV/Chapter106/Article2/Section2-316A>
- Massachusetts Registry of Motor Vehicles**
www.massrmv.com
- Massachusetts Independent Automobile Dealers Association**
www.miada.com

For Additional Information:

Office of Consumer Affairs and Business Regulations

www.mass.gov/consumer

Consumer Hotline

617-973-8787 or 888-283-3757

Office of the Attorney General

www.mass.gov/ago

Consumer Hotline

617-727-8400

Registry of Motor Vehicles

www.massdot.state.ma.us/rmv

Telephone Center

617-351-4500 (from the 339/617/781/857 area codes)

or 800-858-3926 (from all other MA area codes)

Department of Revenue

www.mass.gov

Information Lines

617-887-MDOR

800-392-6089 (toll-free in Massachusetts)

This publication provides general information about Massachusetts Used Vehicle Warranty laws. It is not designed to address all questions in detail and dealers are encouraged to contact the agency directly for additional information.

