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ASK THE LAWYER: Explaining state's 'lemon law' statutes

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Contributing writer

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Dear Jeff: I bought a new car, and have had nothing but trouble with it. How many times do I have to give the dealer a chance to fix it before I can get a new one? Thanks, "When Life Gives You Lemons ... "

Dear "Lemons:" The Texas "lemon law" statutes require that, in order to be considered a "lemon," the vehicle must continue to have the same nonconformity or defect after repair has been attempted four or more times by the manufacturer or an authorized dealer or representative.

Two of the repair attempts must have been made within 12 months or 12,000 miles (whichever occurs first) of the date of delivery to the owner. The other two repair attempts must be made within 12 months or 12,000 miles of the second repair attempt. If the nonconformity or defect creates a "serious safety hazard," repair only needs to be attempted twice within the 12-month/12,000-mile limits.

The nonconformity is considered to "substantially impair" the vehicle's use or market value if the vehicle is out of service for at least 30 days in the 24 months/24,000-mile window.

If a car is a lemon under these criteria, the dealer or manufacturer must either replace the vehicle with a comparable one or accept return of the vehicle and refund the full purchase price, minus a reasonable allowance for use of the vehicle.

Dear Jeff: I am involved in a lawsuit as a defendant. I have just heard that the plaintiff passed away, for reasons unrelated to the lawsuit. Does this mean the suit can be dismissed? Signed, "Gone, But Not Forgotten"

Dear "Gone:" Since the plaintiff has died, the executor of the estate has the right to now appear in the lawsuit and act as plaintiff. The suit would then proceed in the executor's name (or the heirs if no executor exists).

If no appearance is made with a reasonable time, the defendant can request the court to issue a writ known as a scire facias, which requires the party to appear and prosecute the case. If the executor still does not appear in the case, the defendant may file a motion to have the suit dismissed.

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To submit a question, send it via e-mail to JeffreyPBates@aol.com, or via regular mail to Ask the Lawyer, 101 S. First St., Lufkin 75901.



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