

The Washington Post

Some Lemon Laws Really Are Lemons

By Don Oldenburg

Washington Post Staff Writer Tuesday,

December 2, 2003; Page C09

After handling more than a thousand lemon-law cases over 14 years, lawyer Vince Megna hasn't soured on the state laws designed to protect consumers whose new automobiles turn out to be irreparable clunkers. But he warns that, like new cars, some lemon laws are not as good as consumers believe they are.

"D.C. has a bad lemon law," says Megna, who stopped in Washington recently on a nationwide tour promoting his new book, "Bring On Goliath:

Lemon Law Justice in America" (KenPress; \$24.95), in which he evaluates the lemon laws of all 50 states and the District. "I rank Maryland and Virginia's as decent, maybe even above average."

The difference, says Megna, is in the protection and legal recourse a law gives the one car buyer in 10 (estimated at a million annually) who gets stuck with a "lemon" -- a vehicle that within a specified period after its purchase has persistent problems that can't be repaired.

For instance, most state lemon laws -- including Maryland's and Virginia's -require the manufacturer to pay the consumer's attorney fees if the consumer wins. But the District and eight states don't. Megna says that alone discourages the average lemon owner from going to court.

The other big problem: The District's lemon law requires consumers and manufacturers to go to D.C.'s arbitration board. Megna says consumers win lemon cases only half the time in such state-run arbitration boards. Even worse, some state laws direct consumers to manufacturer-run arbitration, where consumers win less than 25 percent of the cases, he says.

Megna likes that Maryland and Virginia don't have state-run arbitration and don't force consumers into manufacturer-run arbitration before they can sue. "There's no judge and no jury," he says of arbitration, where consumers face manufacturers' "endless resources" and attorneys who handle nothing but lemon law cases and arbitrations. "You don't stand a chance," he says.

Peter Lavalee, spokesman for the D.C. Office of the Corporation Counsel, says Megna doesn't take into account that the District's lemon law "has to be read together with the D.C. Consumer Protection Procedures Act," which provides for attorney's fees and damages in consumer cases.

While there is the arbitration requirement, Lavalee says, not everyone sees arbitration as a negative. Moreover, he says, D.C.'s arbitration board isn't funded, so consumers can't use it even if they want to. "You can go right to court if you desire," he says.

But few do, says Megna. And, he says, tying a lemon law to another law causes confusion. "Why not just make the lemon law do what it should do?" he says.

Automakers use that confusion to their advantage, says Megna. "They'll tell you 'It doesn't qualify under the lemon law' or 'We don't buy back cars' or 'Your state doesn't have a lemon law.' All lies."

If that doesn't work, he says, many carmakers offer financial incentives -- an extended warranty, a few car payments, or an "appreciation certificate" for \$1,000 to \$2,000 toward a trade-in purchase -- in exchange for the customer signing away his lemon-law rights. "They pressure you, and people take it most of the time," says Megna, who specializes in lemon-law cases at the Waukesha, Wis., law firm of Jastroch & LaBarge.

"The consumer thinks the automobile manufacturer is their friend and is going to work with them to make it right. That's not true," he adds.

Charles Territo, spokesman for the Alliance of Automobile Manufacturers, the D.C.-based trade association, says that in lemon cases, "manufacturers do what they can to ensure that both the customer and the manufacturer feel satisfied with whatever outcome occurs."

Offers of extended warranties or other financial lures, he says, are attempts to resolve the problem. Automakers, he says, "do what needs to be done in accordance with the state laws to ensure the consumers are satisfied."

But other than in cases where the lemons had undeniably life-threatening defects, Megna says, most consumers go to arbitration or court thinking they can represent themselves -- and instead of getting a new car or full refund, they lose.

"Nobody reminds consumers that they are dealing with the largest corporations on earth," says Megna, who has won 99 percent of his lemon-law cases for defects that couldn't be repaired ranging from serious safety failures to seemingly cosmetic paint scratches. "People try to do this on their own all the time and manufacturers run over them. I'm not a big fan of lawyers -- and I am one -- but you absolutely need a lawyer to do this. You're fighting an industry that stops at nothing to give you as little as possible."

Got questions? A consumer complaint? E-mail details to oldenburgd@washpost.com or write Don Oldenburg, The Washington Post, 1150 15th St. NW, Washington, D.C. 20071.

For Information On Lemon Laws

To contact the D.C. government concerning lemon-law issues, call the Office of the Corporation Counsel's consumer hotline at 202-442-9828. In Maryland, call the Attorney General's Division of Consumer Affairs at 888-743-0023; and in Virginia, call the Office of Consumer Affairs at 800-5529963.

For more information on your state's lemon law, visit autopedia.com/html/HotLinksLemon.html or [www.autosafety.org\(lemonlaws.ph12](http://www.autosafety.org(lemonlaws.ph12)

Vince Megna's Web site is www.wisclemonlaw.com