

NEW MOTOR VEHICLES WARRANTIES ACT ("LEMON LAW")--UNREASONABLE  
REFUSAL TO COMPLY WITH REQUIREMENTS OF ACT.

The *(state number)* issue reads:

"Did the defendant unreasonably refuse to comply with the requirements of the New Motor Vehicles Warranties Act?"<sup>1</sup>

You will answer this issue only if you have answered the *(state number)* issue "Yes" in favor of the plaintiff (and the *(state number)* issue in favor of the plaintiff).

On this issue the burden of proof is on the plaintiff. This means that the plaintiff must prove, by the greater weight of the evidence, that the defendant unreasonably refused to comply with the requirements of the New Motor Vehicles Warranties Act.

[The law requires a manufacturer to make or arrange to have made all repairs necessary to conform a vehicle to the express warranties covering that vehicle, so long as the nonconformity occurred during the warranty period and so long as the consumer reported the nonconformity to the manufacturer, its agent or authorized dealer during the warranty period.<sup>2</sup>]

[The law requires a manufacturer to replace a consumer's vehicle with a comparable new motor vehicle or accept return of the vehicle from the consumer and refund the consumer's money if the manufacturer is unable, after a reasonable number of attempts, to conform the motor vehicle to any express warranty by

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<sup>1</sup>N.C.G.S. §20-351, *et seq.* This finding is required to support an award of treble damages. N.C.G.S. §20-351.8(2). Treble damages do not appear to be available to a "lessor" entitled to a refund under N.C.G.S. §20-351.3(b)(2).

<sup>2</sup>N.C.G.S. §20-351.2.

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REFUSAL TO COMPLY WITH REQUIREMENTS OF ACT. (Continued).

repairing or correcting, or arranging for the repair or correction of, any defect or condition which substantially impairs the value of the motor vehicle to the consumer, and which occurred no later than 24 months or 24,000 miles following original delivery of the vehicle.<sup>3]</sup>

The question here is not whether the defendant merely failed to comply with the Act, it is whether the defendant unreasonably refused to do so in light of all the evidence you have heard.

Finally, as to this (*state number*) issue on which the plaintiff has the burden of proof, if you find, by the greater weight of the evidence, that the defendant unreasonably refused to comply with the requirements of the New Motor Vehicles Warranties Act, then it would be your duty to answer this issue "Yes" in favor of the plaintiff.

If, on the other hand, you fail to so find, then it would be your duty to answer this issue "No" in favor of the defendant.

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<sup>3</sup>N.C.G.S. §20-351.3.