

# MICHIGAN RV LAW

A newsletter for RV Dealers and Manufacturers

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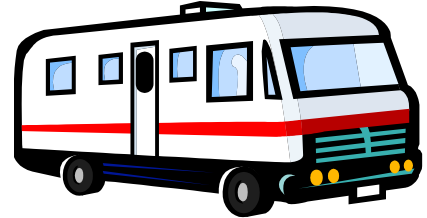
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## Second Edition

The introductory edition of Michigan RV Law was sent to numerous RV dealers and manufacturers in late, 2002. Our readers' response was excellent and your continued thoughts, comments and questions are welcomed. You may contact us by calling Michael Dolenga at (248) 988-9922 or e-mailing [mdolenga@mich.com](mailto:mdolenga@mich.com).

This quarterly newsletter will continue to cover topics that are im-



portant to RV dealers and manufacturers. Watch for future articles on these topics: *Attorney Fees in Michigan, Defending a Consumer Protection Act Claim, Information on Consumers' Attorneys, Experts, and Federal Court v State Court?*

## **STATE SENATE CONSIDERS CHANGES TO MICHIGAN'S LEMON LAW**

As this edition of the Michigan RV Law Newsletter was going to press rumors began to spread about a new lemon law in Michigan. The timing is interesting as the featured article for the Legal Tidbits portion of this newsletter (see p. 2) explains the various lemon laws throughout the United States. We have added an insert to this newsletter to explain the proposed changes to Michigan's Lemon Law. Essentially,

this change would make Michigan's Lemon Law applicable to motor homes. The Commerce and Labor Committee of the state Senate is currently considering the proposed changes. If they become effective Michigan law could require a buy back if a motorhome has a substantial defect that is not repaired after four repair attempts. See the insert entitled "? Michigan's New Lemon Law ?"



## Legal Tidbits

### The Lemon Law(s)

Several of our readers contacted us with inquires regarding Michigan's Lemon Law and the fact that it does not apply to recreational vehicles. This article is intended to respond to those questions and provide additional information regarding Michigan's Lemon Law as well as Lemon Laws throughout the country.

Almost every state in America has some type of consumer protection laws designed to give consumers more leverage in litigation involving goods that they purchase. Many states supplement their consumer protection laws with a lemon law, which govern parties' rights with the sale of automobiles, and, some times, recreational vehicles. General speaking, lemon laws fall into three categories. The first category is lemon laws that cover all vehicles, including recreational vehicles and motor homes that are sold in certain states. The second category is lemon laws that exclude recreational vehicles from that state's lemon law. The third category provides for partial coverage of recreational vehicles or motor homes.

### Category 1 – Lemon Law Applies

In states with the all-encompassing lemon law, manufacturers and dealerships that sell recreational vehicles may be sued under the lemon law. Normally, the lemon law has a triggering event (e.g. four repair attempts or 30 days out of service), and if the trigger is met, the product is considered a lemon. This entitles the consumer to a refund of the purchase price. States that have this type of lemon law give consumers much leverage in bringing claims against RV dealerships and manufacturers in those states.

Here's an example. If a consumer buys an RV in one of the



states where the lemon law applies to RVs and the lemon law states that the manufacturer and/or dealer must buy the product back if the RV has problems which substantially impair its value after 4 repairs, than the consumer may be able to force a "buy back" if he or she has taken the RV in for repairs more than 3 times and the problems are still occurring.

Now, before you go buying back every RV where a claim is made under a lemon law, note that there are various defenses to these claims. Oftentimes the repair must be to the same item, or same component and/or the defect must substantially impair the value of the motorhome. In addition, lemon laws often give last repair attempts.

## Category 2 – Lemon Law Does Not Apply

Michigan falls into the second category, i.e., Michigan's Lemon Law, MCL 257.1401, excludes recreational vehicles from the lemon law. As such, in Michigan, as with other states that fall into category two, consumers cannot sue an RV manufacturer or dealership under the lemon law. If your company is sued under Michigan's lemon law, an immediate dismissal motion should be brought, and the judge should dismiss

*"If your company is sued under Michigan's lemon law, an immediate dismissal motion should be brought, and the judge should dismiss any claim brought under the lemon law"*

any claim brought under the lemon law.

However, our readers should take note of the fact that a bill has been pending in Michigan for some time to change this law. As the bill currently stands, it would remove the exclusion of RVs from the lemon law. The bill was inactive for some time, but at the beginning of 2003 there was some renewed interest in getting it passed through the State Senate.

## Category 3 – Lemon Law Partially Applies



The third category of lemon laws is the most complicated. States in this category have lemon laws that partially apply to RVs. Generally, these lemon laws are written in a fashion where the intention is to have the house portion of an RV excluded from the lemon law, but the chassis portion of the RV included in the lemon law. In other words, the chassis manufacturer can be sued under these state's lemon laws, but the coach manufacturer, or final assembler, cannot be sued under these state's lemon laws.

As noted, this is the most complicated of the 3 categories, and unfortunately, in many states, the statutes are not clearly written. Thus, the issue becomes even more complicated than it should. As a result, judges or arbitrators often find that manufacturers that only manufacturer or assemble a portion of an RV that should be excluded from the state's lemon law are included in the state's lemon law. Those judges (or arbitrators) often allow consumers to bring claims under these states lemon laws, even though the legislation was not designed for consumers to do that. We recommend consultation with an RV/Lemon Law expert before deciding how to proceed if you are involved in that type of case.

## Conclusion

Currently, RV dealers and manufacturers do not need to be concerned about Michigan's Lemon Law. If you are sued under the Lemon Law, your attorney should be able to get this claim immediately dismissed. If the current Bill passes through

Michigan's legislature and becomes law this could change. Also, if your company is sued in another state, that state's lemon law may cover, or partially cover the RV. Therefore, you should consult with an RV/Lemon Law expert before deciding what to do.

## **FIVE STATES PASS 45 FOOT LENGTH LEGISLATION IN 2002**



Five states passed laws in 2002 to increase the maximum allowable length for motor homes on their highways to 45 feet.

The Recreational Vehicle Industry Association has been working on its goal of nationwide uniformity on the 45 feet issue, and with Michigan, Illinois, Massachusetts,

South Carolina and Pennsylvania passing 45 feet length legislation in 2002 the United States now has 43 states, which allow motor homes up to 45 feet on their highways. For more information on this topic contact RVIA at (703) 620-6003, or check out their web cite at [www.rvia.org](http://www.rvia.org).

*Editors note: our introductory edition of Michigan RV Law did not contain the full contact information for RVIA due to an error by the printing company. We apologize for any inconvenience this may have caused.*

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