

## **MOTOR VEHICLE DISPUTE SETTLEMENT PROGRAM**

Current with material published in Conn.L.J. through 5/13/08

### **Sec. 42-181-1. Definitions**

- (a) "Commissioner" means the Commissioner of Consumer Protection.
- (b) "Department" means the Department of Consumer Protection.

(Effective December 18, 1984)

### **Sec. 42-181-2. Department panels**

(a) A "department panel" or "automobile dispute settlement panel" shall consist of three volunteer arbitrators who are interested in consumer disputes and are not directly connected with the automobile industry.

(1) Prior to an arbitration hearing, the department panel shall designate one of its members to serve as presiding officer for the duration of the case to which that department panel has been assigned.

(2) Prospective arbitrators shall complete a panel data sheet containing information as to their backgrounds and qualifications on a form prescribed by the Commissioner.

(3) Arbitration volunteers shall undergo arbitration training as established by the department. Such training shall include procedural techniques, the duties and responsibilities of arbitrators, and the principles, specific provisions and implementation of the automobile dispute settlement program, as established by Ch. 743b of the general statutes.

(b) In addition to the three arbitrators, the Commissioner shall assign an automotive technical expert, certified by the National Institute of Automotive Service Excellence (NIASE) to each case.

(Effective December 18, 1984; Amended effective August 30, 2000.)

### **Sec. 42-181-3. Use of technical expert**

(a) An adequate pool of automotive technical experts, certified by NIASE, shall be maintained by the department for assignment as advisors and consultants to each appointed arbitration panel.

(b) Said expert shall be present as advisor and consultant at each oral arbitration hearing.

(c) In the case of a documentary hearing, such expert shall be available to consult with and advise the department panel assigned to that case. Said expert shall not be present at said hearing. Any communication between the panel and said expert shall be in writing and shall be made available to both parties for comment prior to the rendering of a decision. If either party wishes to comment, it shall do so within five days of receipt of the experts statement.

(d) The expert shall sign a written oath attesting to his or her impartiality prior to the commencement of each arbitration hearing to which he or she has been assigned.

(Effective December 18, 1984; Amended effective August 30, 2000.)

**Sec. 42-181-4. Powers and duties of arbitrators**

(a) Arbitrators shall have the duty to conduct fair and impartial hearings, to take all necessary actions to avoid delay in the disposition of proceedings, to maintain order. They shall have all powers necessary to meet these ends including, but not limited to the following:

(1) to consider any and all evidence offered by the parties which the panel deems necessary to an understanding and determination of the dispute;

(2) request the Commissioner to issue subpoenas to compel the attendance of witnesses and the production of documents, papers, and records relevant to the dispute;

(3) to regulate the course of the hearings and the conduct of the parties and their counsel therein;

(4) to hold conferences for simplification of the issues or for other purposes;

(5) to schedule vehicle inspections, if deemed necessary, at such facility as the arbitrators determine;

(6) to render decisions in consultation with all members of the panel and with the agreement of the majority; and

(7) to continue the arbitration hearing to a subsequent date if, at the initial hearing, the panel determines that additional information is necessary in order for said panel to render a fair and accurate decision. Such continuance shall be held within a reasonable time.

(8) to request, at their discretion and with good cause, the withdrawal from the hearing of any individual who is not a party to the dispute.

(9) to reopen the hearing at will or upon motion of either party for good cause shown at any time before the decision is rendered.

(b) Arbitrators shall maintain their impartiality throughout the course of the arbitration proceedings.

(1) An arbitrator shall not be assigned to a department panel if he or she as or has had any relationship to or contact with either party to the dispute to be decided by that panel.

(2) An arbitrator shall sign a written oath prior to the commencement of each arbitration hearing to which he or she has been assigned, attesting to his or her impartiality in that case.

(3) There shall be no direct communication between the parties and the arbitrators other than at the oral hearing. Any other oral or written communications between the parties and the arbitrators shall be channeled through the department for transmittal to the appropriate individual(s). Any such prohibited contact shall be reported by the arbitrators to the department and noted in the case record.

(Effective December 18, 1984; Amended effective August 30, 2000.)

**Sec. 42-181-5. Consumer's request for arbitration**

(a) The consumer shall file a request for arbitration on a form prescribed by the Commissioner along with a filing fee of fifty dollars. The fee shall be refunded if the request does not meet the eligibility requirements of the automobile dispute settlement program, as established by Ch. 743b of the general statutes. The date of the receipt by the department of said completed form and fee shall be considered the filing date of said request.

(b) The consumer shall be required to provide information relevant to the resolution of the dispute on said form. Said information shall include, but not be limited to, the following:

(1) the name, address, and telephone number of the consumer;

(2) the name, address, and telephone number of the consumer's legal counsel, if applicable and known;

(3) vehicle information, including the date of purchase and date of delivery of the vehicle, the make, model and manufacturer of the vehicle, the vehicle identification number, present mileage, and whether the vehicle was new or used at the time of purchase;

(4) all financial information related to the purchase and/or defect;

(5) the name and address of the selling dealership;

(6) the name and address of the servicing dealership(s) or facility(ies);

(7) information regarding the defect including: the nature of defect(s), the date and mileage when the defect(s) first occurred, the date the defect(s) was first reported to the dealer or manufacturer, the mileage when the defect(s) was so reported, dates on which the car was at the dealership for repair, the total number of days the vehicle was at the dealership by reason of repair since the purchase date, and circumstances concerning any refusal of service by the dealer, if applicable;

(8) name(s), date(s), and the nature of any and all oral or written communication with the manufacturer, selling or servicing dealership(s), or facility regarding the dispute;

(9) a statement regarding the consumer's assessment of what actions would constitute a fair resolution of the dispute;

(10) a statement regarding the consumer's chosen form of arbitration hearing, whether oral or documentary;

(11) a copy of any and all warranties, including extended warranties, sales contracts, and other relevant documents;

(12) copies of any and all correspondence between the consumer and the manufacturer or its representative(s), if available; and

(13) copies of any and all service orders.

(c) The consumer's request for arbitration shall further include an agreement to arbitrate, which shall be signed by the consumer.

(Effective December 18, 1984.)

**Sec. 42-181-6. Manufacturer's statement**

(a) The manufacturer shall be required, on a form prescribed by the Commissioner, to provide information relevant to the resolution of the dispute along with a filing fee of two hundred and fifty dollars within fifteen days from the date of the manufacturer's receipt of the certified notice of the dispute. Said information shall include, but not be limited to, the following:

(1) the name of the selling dealership;

(2) the name of the servicing dealership(s) or facility(ies);

(3) the purchase date and delivery date of the vehicle;

(4) the vehicle identification number;

(5) dates and nature of service provided by the servicing dealership(s), or facility(ies) and the total number of days the vehicle was at said dealership or facility for service since the date of delivery;

(6) a statement regarding all repair attempts including the name, title, and business address of any person(s) performing such repairs and dates thereof;

(7) a statement regarding the manufacturer's assessment of what action(s), would constitute a fair resolution of the dispute;

(8) copies of any and all service orders for the vehicle;

(9) copies of any and all correspondence between the consumer and the manufacturer or its representatives(s); and

(10) a copy of any and all warranties including extended warranties, sales contracts, and other relevant documents.

(Effective December 18, 1984.)

#### **Sec. 42-181-7. Consumer appeals process**

(a) If a consumer has proceeded through a manufacturers certified dispute settlement program and contends that he or she was injured by the operation of any procedure proscribed by Section 42-182(b) and the provisions of Title 16 Code of Federal Regulations Part 703, as in effect as of October 1, 1982, he or she may request arbitration de novo with the departments automobile dispute settlement program.

(b) When filing a request for arbitration de novo with the department, the consumer shall include a copy of the decision rendered by said manufacturers program and all other relevant documentation.

(c) The form for arbitration de novo shall be identical to that used for an original request for arbitration except that it shall require the consumer to provide information regarding any and all violations alleged to have been committed by the manufacturers program.

(Effective December 18, 1984; Amended effective August 30, 2000.)

#### **Sec. 42-181-8. Notification of parties and arbitrators**

(a) The department shall notify the consumer of the department panel's acceptance or rejection of

his or her request for arbitration within five days of the filing date of said request.

(b) If the request has been accepted, the department shall notify the manufacturer, by certified mail, of the existence of the request for arbitration. Said notification shall be sent at the same time as the department's notification of acceptance to the consumer.

(c) The department shall appoint a department panel and technical expert to hear each dispute and shall notify each of the time, date, and place of the scheduled hearing.

(Effective December 18, 1984.)

**Sec. 42-181-9. Schedule of hearings**

(a) The department shall schedule the arbitration hearing and notify both parties of the date, time, and place by certified mail at least five business days prior to the hearing.

(b) The arbitrators and technical expert assigned to the case shall receive the case file within a reasonable amount of time.

(c) In the case of an oral arbitration hearing, if either party is unavailable for the assigned hearing date, another date may be set within five days of the originally scheduled hearing.

(d) Any request for a continuance of the scheduled hearing shall be subject to a ruling by the arbitration panel.

(e) Scheduling of arbitration hearings is at the discretion of the department.

(Effective December 18, 1984; Amended effective August 30, 2000.)

**Sec. 42-181-10. Representation by counsel or other third party**

(a) Any party to an arbitration hearing may be represented by counsel. If either party opts to be so represented, said party shall notify the department of the name and address of the attorney no later than two days prior to the scheduled date of the arbitration hearing. The department shall immediately forward such information to the opposing party.

(b) Either party may be accompanied by any chosen third party, other than legal counsel, without prior notice. Such third party may also act as interpreter if a language barrier or handicap exists.

(c) A third party, other than legal counsel, may present either party's case before the department panel, provided the department is informed of this intention and of the name and address of said third party no later than one day before the hearing.

(Effective December 18, 1984; Amended effective August 30, 2000.)

**Sec. 42-181-11. Conduct of oral arbitration hearings**

- (a) Upon receipt of the manufacturer's statement and filing fee, the department shall forward copies of the consumers request for arbitration and said manufacturers statement to the appointed arbitrators and technical expert within a reasonable amount of time prior to the scheduled hearing date.
- (b) Each party at an oral arbitration hearing shall have the right to present evidence, cross-examine witnesses, enter objections, and assert all other rights essential to a fair hearing.
- (c) The chairperson of the arbitration panel shall preside at the arbitration hearing and shall require all witnesses to testify under oath or affirm that their statements are true to the best of their knowledge.
- (d) The hearing shall be opened by the recording of the place, time, and date, the identities of the arbitrators and parties and counsel, if any.
- (e) The consumer shall then present his or her testimony and witnesses, who shall submit to questions by the opposing party and/or the arbitrators.
- (f) The manufacturer shall then present its testimony and witnesses, who shall submit to questions by the opposing party and/or the arbitrators.
- (g) If good cause is shown, the arbitrators may, at their discretion, vary these procedures. Any such variance shall afford full and equal opportunity to all for the presentation of any material or relevant proofs and for the ensurance of all essential rights to a fair hearing.
- (h) The comments and advice of the panel's technical expert shall be offered or may be solicited by panel members or either party at any stage of the hearing.
- (i) Exhibits offered by either party may be received in evidence. The names and addresses of all witnesses and exhibits in the order received shall be made a part of the record. The parties may offer such evidence as they desire and shall produce whatever additional evidence the arbitrators may deem necessary to an understanding and determination of the dispute. The arbitrators shall evaluate the relevancy and materiality of the evidence offered by both parties. Conformity to legal rules of evidence shall not be necessary.
- (j) The arbitrators may receive and consider evidence of witnesses not present at the hearing by affidavit, and give it such weight as the arbitrators deem appropriate, after considering any objections made to its submission.

(k) All documents requested by either party, if deemed relevant by the arbitrators, and all documents not filed at the time of the hearing but requested by the arbitrators shall be submitted to the department by a specified date and transmitted to the arbitrators in timely fashion and in no case later than five days prior to the date set for a decision. All parties shall be given an opportunity to examine or request copies of such documents.

(l) The arbitrators may schedule vehicle inspections, if deemed necessary.

(m) The hearing generally shall be completed within one session unless the arbitrators, for good cause, and time permitting, schedule an additional hearing(s). After the arbitrators are satisfied that the presentations are complete, the chairperson of the panel shall declare the hearings closed.

(n) The hearings may be reopened by the arbitrators at will or upon motion of either party for good cause shown at any time before the decision or award is made.

(o) The arbitrators shall, after any necessary consultations among themselves or with the technical expert, render a decision not later than ten days from the date of the closing of the hearing.

(p) Oral arbitration hearings shall be recorded.

(q) At the close of the arbitration hearing, either party may file a request for a written transcript of the proceedings. The party making the request shall be responsible for transcription costs. Any party requesting a copy of the transcript shall be charged for the cost of reproduction. If no request is filed, the Commissioner or an authorized representative may order that a written transcript be prepared.

(Effective December 18, 1984; Amended effective August 30, 2000.)

#### **Sec. 42-181-12. Conduct of documentary arbitration hearings**

(a) If the consumer elects a documentary arbitration procedure, the department shall gather and disseminate all documentary information and evidence in accordance with the following procedures:

(1) The department shall notify the consumer by certified mail that he or she must submit a sworn or affirmed statement as to the facts of the dispute and any evidence which he or she wishes the panel to consider. The consumer shall forward said documentation to the department within fifteen days from the date of his or her receipt of the certified notice;

(2) the department shall notify the manufacturer of the dispute by certified mail. Included with said notice shall be a copy of the consumer's request for arbitration and a manufacturer's statement form. The manufacturer shall submit a sworn or affirmed statement as to the facts



of the dispute, any evidence the manufacturer wishes the panel to consider, and the filing fee to the department within fifteen days from the date of the manufacturer's receipt of the certified notice; and

(3) upon receipt of both the consumer's and manufacturer's sworn or affirmed statements and documentary evidence, the department shall, by certified mail, forward copies of the consumer's submissions to the manufacturer and forward copies of the manufacturer's submissions to the consumer.

(b) Each party shall thereupon have the opportunity to respond to the opposing party's submissions. Each response shall be submitted in writing to the department within ten days from the date of the responding party's receipt of said documents.

(c) The department shall forward copies of all submitted documents and responses thereto to the arbitrators and to the technical expert assigned to consult with and advise said arbitrators at least five days prior to the scheduled hearing date.

(d) At the documentary hearing, the department panel shall:

(1) review all documents and statements;

(2) consult with the appointed technical expert, as necessary;

(3) seek further information or documents of either or both parties through the department; and request that, upon receipt, the department forward copies of said information to the opposing party, department panel, and technical expert assigned to the case.

(4) schedule vehicle inspections, if deemed necessary.

(e) All evidence and statements received by the department panel shall be considered part of the record.

(Effective December 18, 1984.)

#### **Sec. 42-181-13. Pre-decision settlement of dispute**

One or both of the parties shall notify the department if, through outside mediation efforts, the dispute is settled at any time after the filing date and before the decision is rendered. The department shall thereupon verify the terms of the settlement and the date for performance to which the parties have agreed, if applicable. Said settlement shall be set forth as an award. The consumer shall notify the department if compliance has not occurred by said date, and the arbitration process shall recommence at the point at which it had been interrupted by the notification to the department of the pre-decision settlement.

(Effective December 18, 1984; Amended effective August 30, 2000.)

**Sec. 42-181-14. Notice of arbitration decision**

(a) The panel's decision shall be rendered within ten days following the close of the arbitration hearing and within sixty days following the initial filing date of the consumers request for arbitration. The decision shall be rendered by the agreement of the majority of the arbitrators.

(b) The consumer and manufacturer shall each receive official written notice of the arbitration decision by certified mail on a form prescribed by the Commissioner.

(c) The decision shall be written by the panel chairperson on a form prescribed by the Commissioner and shall be signed by the agreeing majority of arbitrators. In the event that the chairperson dissents from the majority decision he or she shall designate one of the agreeing arbitrators to write the decision in his or her stead. The department shall thereupon forward copies of said decision to all parties and arbitrators.

(d) The effective date of the decision shall be the date the written decision is signed by the panel chairperson or his or her designated representative.

(e) The arbitration decision shall contain the following:

(1) the panels findings of fact and the reason for its decision;

(2) the specific terms of the award, if applicable;

(3) the date for performance, if applicable; and

(4) notice of other legal remedies available to both parties under applicable state or federal law.

(Effective December 18, 1984; Amended effective August 30, 2000.)

**Sec. 42-181-15. Post-performance date contact**

(a) If the arbitration decision is in the favor of the consumer and requires some performance by the manufacturer, the department shall contact the consumer within ten days following the date scheduled for performance of the arbitration award either by telephone or by mail to determine whether performance has occurred.

(b) If the consumer anticipates that the department either will be unable to contact or will encounter difficulties in contacting him or her at this time, he or she shall so notify the

department at the time of the arbitration hearing. An alternative means or date for confirming performance shall then be determined by the department and the consumer.

(Effective December 18, 1984.)

**Sec. 42-181-16. Sign to be placed in motor vehicle dealership**

(a) Each dealer of motor vehicles, the manufacturer of which does not provide a certified dispute settlement program, shall post notification of the department's motor vehicle dispute settlement program and the method by which a consumer may utilize it. Said notification shall be prominently posted by the dealer, in the service department of his or her dealership, in the area in which consumers transact business with said service department.

(b) Such notification shall be in the form of a sign, 35 inches wide by 23 inches high, of contrasting background and print.

(1) The sign shall read as follows:

MOTOR VEHICLE DISPUTE PROGRAM  
IF THE SAME SUBSTANTIAL DEFECT PERSISTS WITH YOUR NEW MOTOR  
VEHICLE AFTER 4 ATTEMPTS TO RESOLVE IT, OR IF YOU ARE WITHOUT THE  
USE OF YOUR MOTOR VEHICLE FOR A TOTAL OF 30 DAYS OR MORE BY  
REASON OF REPAIR, DURING THE FIRST 2 YEARS OR 24,000 MILES, YOU MAY  
BE ELIGIBLE FOR RECOURSE UNDER CONNECTICUT LAW.

FOR MORE INFORMATION, CONTACT:

DEPARTMENT OF CONSUMER PROTECTION

MOTOR VEHICLE DISPUTE SETTLEMENT PROGRAM

165 CAPITOL AVENUE

HARTFORD, CT 06106

PHONE: 1-800-538-CARS

(2) Print size and style shall be as follows:

(A) the words "MOTOR VEHICLE DISPUTE PROGRAM": two-inch boldface capitals;

(B) all other wording: one-inch boldface capitals; and

(C) toll-free number: two-inch boldface numerals and capitals.

(Effective September 30, 1985; Amended effective August 30, 2000.)

**Sec. 42-181-17. Use of American Arbitration Association**

(a) The department may contract for the American Arbitration Association to provide services related to the arbitration process, as necessary and at the discretion of the Commissioner.

(b) Such services shall comply with these regulations, with standards determined by the department, and with the provisions of Ch. 743b of the general statutes.

(c) The American Arbitration Association shall be duly compensated by the department for services rendered.

(Effective December 18, 1984; Amended effective August 30, 2000.)

**Sec. 42-181-18. Recordkeeping**

(a) The department shall maintain records of each dispute, which shall include any and all information necessary for preparing annual statistical reports.

(b) The department shall retain such records for at least four years following the final disposition of each dispute.

(Effective December 18, 1984; Amended effective August 30, 2000.)