CHAPTER NINE

The Wheels of Life

Automobile sales, leases and repairs

BUYING A NEW CAR, TRUCK OR VAN: The thought might excite you, or it might make you anxious. But no matter how you feel about it, the bottom line is that you are about to part with a substantial amount of hard-earned dollars for something that is going to be around for a while.

BUYING A NEW CAR

As with any other big-ticket item, it's important to do your homework in advance -- before hitting the showroom. Decide what kind of vehicle you need, and how much you can afford to spend. Think about size: do you need a big family car, or will a sporty little coupe do the trick? How much head and leg room do you need? What safety features are important to you -- anti-lock brakes, side-air bags? (Check with your insurance agent to find out what discounts you'll get with these features. In some cases, such as car alarms, the insurance savings may make it much easier to afford the option.) Think about other options: do you care if you have power everything, or do you mind cranking open the windows yourself? Do you prefer cloth, vinyl, or leather seats? Are other features important to you? And what is a realistic budget for you?

After you've analyzed your needs and your finances, you're ready to begin looking. Before you start pounding the pavement, first check out some of the consumer-oriented publications that have information on cost, reliability, comfort factors, and other features of many cars. Books and magazines include, among many others, *Consumer's Guide*, *Consumer's Report*, and *The Car Book*. Many of these publications can be tremendously helpful to you in the negotiating process (see "Negotiating Tips When Buying" on page XXX). Your local library and bookstores should have many of these references. Then, as you zero in on a model or models, or even a make, talk to people you know and try to find out what kinds of experiences they've had with particular cars and dealerships.

Advertising and Sales Practices

Advertising for motor vehicles is largely regulated by statute, and regulations vary from state to state. In some places, ads must state the number in stock of vehicles advertised. Other items that may be required in the ad include price, dealer and factory-installed options and warranty terms. In addition, if the vehicle is "on sale," the ad should state the date the sale ends. Be on the alert for scams. The bait and switch ad scam -- where the dealer is advertising a vehicle that the dealer does not intend to sell -- is particularly important to watch for. (We discussed this technique earlier, in chapter 5.) Also, if the dealer knows important facts about the vehicle, but fails to reveal them, the law may consider that as a deceptive act that could enable you to cancel the deal and even recover damages in court under consumer fraud laws. "Clearing up" the missing facts after the sale does not erase the dealer's deceitful act.

---Sidebar

Negotiating Tips When Buying

Do you like to negotiate and try to get the best possible price? Buying a car usually gives you plenty of opportunity to test your bargaining skills. A recent study by the American Bar Foundation found that the price of cars that are exactly the same can easily vary by $1,000 or more. A lot of that depends on the bargaining skills and tenacity of the buyer.

Unfortunately, lots of us *don't* like to haggle. And even if you do, salespeople at the car dealer do it all the time and are usually very good at it.

Experts recommend that you do some hard figuring *before* you even step into the showroom. How much can you afford for a down payment? For monthly payments? It may even help to shop for a loan before you shop for a car, so you know exactly what a loan for X dollars will cost. Then try to get the car you want for that price.

Go in armed with information. There are books, magazines, and a burgeoning number of Internet websites that will tell you exactly what a *dealer* pays at that time for a certain model, and each possible option. Some of them will even calculate what a fair price is, given how much the dealer pays. This information gives you a solid base from which to negotiate (far better than looking at the sticker price and asking them to cut off 5% or some other arbitrary figure). Make the dealer aware that *you* know how much the car and the options cost them. (You'll probably find that many options are marked up way more than the car itself.) Let them know too that you're comparison shopping and will be getting prices from at least three dealers. To make the comparisons simpler, keep your trade-in separate from buying the new car. Don't even mention your trade-in possibility until you've settled on a price for the new car and options.

Sound like a lot of hassle and work? You can avoid the whole problem by either going for a "one-price" model or going to a dealer that promises not to dicker. Or you can use one of the auto quotation services that you'll find advertised on the Internet, or in car books and magazines. These services say that they can get you very low prices because they work with extensive networks of dealers. For a fee, they'll get price quotes for you from a variety of dealers, letting you compare and make your choice in privacy--and with the time to make a smart choice.

The New Car Contract

A new car contract must be in writing, according to the present statute of frauds section of the Uniform Commercial Code (UCC), in effect in every state but Louisiana If the dealership has not signed the purchase agreement, you may not be able to enforce the contract.

The sales contract should

- describe the car and include the **vehicle identification number** (VIN), which you can find it on the driver's side of the dashboard near the windshield;
- state whether the car is new, used, or has had a previous life as a demonstrator, rental car or taxicab, as well as the year (i.e., 1996, 1997 -- it could be "new" but be a previous model year);
- include price terms consistent with your oral agreement, and details on any trade-in you will supply, including mileage and the dollar amount credited;
- include a cancellation provision that enables you to get your deposit back if certain conditions occur, such as the car not being delivered by a certain date; this is required by the law of many states;
- state the warranty terms very clearly;
- include financing terms that state price, deposit, trade-in allowance, annual percentage rate of finance charge (APR), monthly payments (including any taxes) and length of term.

By the way, don't let the dealer take back your solid negotiating gains in last-minute add-ons. For example, virtually no new car needs rustproofing; in fact, it voids most manufacturers′ rust warranties. Is an alarm necessary or even useful where you live? Don't get one if it isn't. Credit insurance is an expensive way to guarantee that your family will be able to pay off the loan in the event of your death. Paying off your debts is one of the reasons to buy regular term or whole life insurance, and it's much cheaper per insured dollar than the credit insurance offered by finance companies. Remember that ultimately almost anything can be made to sound cheap if you divide its cost by 12, 24, 36, 48, or 60 (the number of months in your finance contract). But you could turn around after all those little add-ons and find yourself paying twenty or fifty dollars more a month than you thought for items that are overpriced to begin with and usually available elsewhere cheaper.

If the dealer presents you with a computer-printed form that has terms in it you don't agree with, don't be shy to make the dealer go back and run off another one. Be sure that credit insurance is not included if you don't want it. (If you already have life and disability insurance, you probably don't need it.) Also watch out for "destination charges" and the notorious "dealer prep." These are just price add-ons, especially the latter. You don't have to pay them, and you should be able to negotiate them away or at least down.

Your old Edsel will almost certainly be accepted in trade for credit toward the purchase. Experts recommend separating the new car negotiations from a possible trade-in (see negotiating tips), but if you do mix them try to get the highest price possible on your trade-in while negotiating hard on the new car. Go in familiar with the **blue book** value of your car. (The blue book is available on line, at most public libraries, and at banks and other lending institutions.) Given your knowledge of its condition, mileage, etc., push hard for at least the blue book value. Make sure your trade-in cannot be decreased when the car is delivered.

Better yet, negotiate a provision that enables you to pay cash or the trade-in for a down payment, then try to sell the car on your own. The dealer is interested in the "turnaround"-- the profit that can be made in selling the car. Someone who really wants the Edsel for personal use is probably willing to pay more than the dealer, since the same car will -- because of the “turnaround” calculus -- cost more if it is bought from the dealer. Your only problem then is timing everything (and getting a ride to the dealership!).

The last step in the deal will be signing the purchase agreement. Be very careful at this stage. By signing it, you become obligated to the dealer to buy the car specified, with the features specified, according to the terms you′ve negotiated. *Before* you sign the purchase agreement, make sure you understand and accept all the contract terms. This is important because not reading it won't get you off the hook -- you'll probably have to abide by the conditions of the contract you have signed even if you have not read it. Read the contract carefully. Ask questions. Cross out blank spaces to avoid any additions after you sign. **Make sure that all the dealer's oral promises made during negotiations appear in the contract**. Do *not* sign until the contract satisfies *you*.

Who should sign it for the other side? Either an authorized salesperson or a supervisor, the manager or the owner. If for some reason the person is not authorized, the contract might not be enforceable, and the dealership might refuse to deliver the car you thought you had bought at the price you thought you had negotiated. A new car is a huge purchase. With that much money at stake, you should be sure that you've met the manager or owner, and that the person signing the contract is authorized to sign.

If you cancel the sales contract after signing, what happens to your deposit depends on the stage of the transaction and on the contract terms you signed. The earlier in the deal, the more likely the dealer will refund your deposit and the less likely you will be sued. Some states entitle you to a refund if, for example, you decide to cancel before the dealer representative signs the contract. If you need financing, be sure that the purchase agreement states that you can get a refund if you cannot get financing, despite your best efforts.

Dealer Financing Versus Other Options

Most people don′t have enough cash to buy a new or late-model used car, and need financing. Banks, credit unions, finance companies, and car dealers are all potential funding sources. Interest rates will vary among these options, though some experts think you'll generally do better at a bank or credit union than at the dealer.

Shop around for the best deal by comparing the various terms and **annual percentage rates** (APR′s). The APR is the unit price for credit that takes into account all the finance costs of the loan. The APR is expressed as a yearly rate. It may depend partially on your credit history. It pays to shop around. Some observers believe the lowest rates are often available from credit unions, especially for used cars.

The creditor (the person or institution who provides the money for the car) must inform you, prior to your being bound to particular financing, of:

- the annual percentage rate (this must be conspicuous, for example, printed in red or in much larger type than the rest of the document);
- the balance on which the creditor computes the finance charge;
- the dollar amount of the finance charge (this also must be conspicuous);
- the amount to be financed (the amount of credit);
- the total dollar amount that will be paid (credit obtained plus finance charge); and
- the number, amount, and due dates of payments.

The annual percentage rate enables you to comparison shop for credit. Don't make the mistake of automatically going for the arrangement that gives you the lowest monthly payment, since it could cost you more in the long run, as explained below. A good example of using APR to find the best deal is provided by shopping for financing for a car. Suppose that you're buying a $5,000 used car, putting $1,000 down and planning to borrow $4,000. How might you use the credit terms disclosed to select the best credit contract? Before you sign a loan, the lender must show you the amount financed ($4,000), length of loan, monthly payment, total finance charge and the APR.

Compare these four possible credit arrangements*:

	APR	Length of Loan	Monthly Payment	Total Finance Charge	Total Amount Paid
Lender A	11%	3 years	$131	$714	$4,714
Lender B	11%	4 years	$103	$962	$4,962
Lender C	12%	4 years	$105	$1,056	$5,056
Lender D	12%	2 years	$188	$512	$4,512

*Please note that these figures are correct even though the arithmetic appears to work out slightly different in some cases. Lenders frequently round off monthly payments to the nearest dollar, and adjust the final payment to make up the difference.

Which loan offers the best terms? The answer depends partly on what you need. The two cheapest loans (that is, those with the lowest APRs) are those offered by lenders A and B. You will pay a higher total finance charge to Lender B because you are using borrowed funds for four years instead of three years. However, if you only have room enough for $105 a month for car payments in your budget, and you can't find an APR less than 11%, you might have to take the longer term from lender B. You will cut your monthly payments from $131 to $103, but you will have 12 more of them and wind up paying almost $250 more in finance charges.

You may not be able to shop for credit effectively if you merely compare the APRs.

The benefits of a low rate may have to be compared with those of a rebate--you cannot have both. The less credit you need, the better deal taking the rebate may be.

For example, a major automobile manufacturer recently offered consumers a choice of a cash rebate of $1,500 or 5.8 percent financing for four years on certain models. Assume that the car that you would like to buy under this offer costs $16,000, and that you have $2,000 for a down payment. You have the following choices:

1. Finance through the dealer. A $2,000 down payment, if required, would leave $14,000 to be financed over four years at 5.8 percent. Monthly payments would be $327.51.
2. Finance through a bank, credit union or other lender. With the $1,500 cash rebate and your $2,000, you have $3,500 to apply to the purchase price of $16,000. This leaves $12,500 to borrow ($16,000 -$3,500 ‘ $12,500). If you can borrow $12,500 for four years at 11.17 percent, you will find that your monthly payments are $324.10. This is the better deal.

Or let's say your car dealer is pushing "incentive financing," by offering a 4.9 percent rate, while your credit union may be charging 12 percent on new car loans. In such cases, you need to find how much the dealer would charge for the car if you paid cash. By holding constant the down payment and the length of the loan from the dealer or credit union, you can see which arrangement would cost less in finance charges and be better for your particular situation. In essence, you make all the terms of the two credit arrangements the same, except for finance charges and monthly payment. Then favor the deal that gives you the lowest monthly payment for the same length loan.

The Paper Chase

One way buying a car differs from buying a loaf of bread is that the buyer virtually never walks in with a checkbook and drives off with the car -- especially where financing is involved. Part of the reason is that, even if the car doesn′t have to be ordered for you, the dealer usually handles the paper work with your state′s motor vehicle administration that makes it possible for you to hold title -- legal ownership -- of the car. (This is one area of the law where possession is much less than nine-tenths of the law, because the technical title requirements are legally critical.)

Dealers are entitled to charge a fair fee for running down your paperwork, but keep an eye on these numbers -- getting you a registration and plates shouldn′t be a profit center for them. (Though use this opportunity to have them order duplicates of the registration, as needed for your family, in states that issue them.)

What if something happens to the car between the time you make your deposit and the time the dealer delivers it? The answer depends on who has the risk of loss. Usually, unless there is an agreement to the contrary, the party who possesses the vehicle bears the risk and is more likely to have insurance against the loss. Under the UCC, if the seller is a merchant (for example, a car dealer), the risk of loss passes to buyers only when they receive the car. If the seller is not a merchant, as in a private sale of a used car, the risk passes to the buyer on "tender of delivery″-- when the seller actually tries to deliver the car, or makes the vehicle available for a pick-up arranged by a contract.

Repossession

You may lose title if you fail to make your payments as they become due. The creditor is then permitted to repossess your car. When you buy a car on credit, you usually give the creditor rights in your property (the car) that are superior to the rights of your other creditors. This is known as a **lien**. When you buy the vehicle on credit, you sign a **security agreement**, which gives the creditor a **security interest** in your car (the collateral). These liens are filed with the state, usually by noting the lender's interest on the title certificate. If you don't pay, the creditor may try to get the car back and apply its value toward your debt. That is **repossession**.

The only limitation on a repossession is that the vehicle must be taken without “breaching the peace,” i.e., without violence or a significant potential for violence. The repossessor can, however, essentially break in to the car or tow it away. In many states, the creditor does not have to sue the debtor, or even notify the debtor of the default before reclaiming the vehicle.

If your car is repossessed, you have one chance to redeem yourself -- or, more specifically, to **redeem** the property before it is sold to someone else. To do so, you normally must pay the entire balance due, plus any repossession costs and other reasonable charges. This is because of the contract's **acceleration clause**. This forces you, the debtor, to pay the entire outstanding debt, not just the amount of overdue payments. Some states, however, have laws that allow you to "reinstate" the contract by making up missed payments. But in most cases, once a default and repossession have occurred, it is unlikely that you will have enough money to pay the entire balance, even if you don't have to pay interest for the period after the car was repossessed. Redemption rarely takes place.

If you do not redeem the car, the creditor may keep the car to satisfy the debt fully (unless you have paid at least 60% of the purchase price). The law refers to this as **strict foreclosure**. There is no duty to return excess value over the amount owed in a strict foreclosure. You must, however, be provided notice of a proposal to strictly foreclose and may object to it. Creditors seldom use the option of strict foreclosure, because dealers want to sell, not keep, cars.

More likely, the creditor will sell the car to satisfy the debt. If the profits from the sale are not enough to pay expenses and satisfy the debt, you would be liable for the difference. The only limitation placed on the creditor is that the sale be "commercially reasonable." In some cases, that may mean first getting court permission to hold a sale. The sale may be public or private. The creditor must, however, give you reasonable notice of the time and manner of the sale. If it is a public sale, you have the right to take part (bid on the car). If the sale produces too much money, the creditor must pass some of it along to you. For example, if the amount of debt and expenses totals $5,000, and the creditor gets $5,600 from the sale of the car, the balance of $600 is due to you and the UCC obliges the creditor to refund the money to you.

BUYING OR SELLING A USED CAR

In recent years, the used-car business has boomed, partly because consumers may resist the high prices of new cars, partly because the popularity of leasing has resulted in many clean, late-model cars on the used car market. The business is changing too, with superstores promising low prices, no-haggle shopping, and good warranties on late model cars. Some auto brokerage services, including some that are on-line and available through the Internet or a commercial service such as Compuserve0, advertise that they'll get you low, no-haggle prices on used as well as new cars.

Legally, buying and selling a used car has some unique features, but it is similar to buying a new car. The advertising rules are largely the same, so you must still beware of bait and switch ads that look too good to be true. And you have to keep in mind, always, that unlike most auto dealerships, a private seller (the source of most used car sales) is not concerned about a commercial reputation. The private seller might leave town with your money and never be seen again -- especially if you′re the one looking.

Still, some experts believe you may be better off buying from a private seller, as alluded to in the discussion on trade-ins above. A private seller may give a more accurate description of the car's faults based on personal knowledge, and you may get a lower price from a private seller. (They’re not in the car business, after all, and indeed are seldom looking for profit on the “turnaround” but rather need to raise cash for something new.) Private sellers, however, seldom give warranties, which dealers sometimes offer. Also, some states have regulations governing used car sales that may apply only to dealers.

You have to handle your own paperwork with a private seller. If you are paying more than $500, you should have a written contract. An oral contract to sell a car for over $500 may not be enforceable. Even under $500, it is always best to put the contract in writing if you are not going to conclude the deal immediately with a Bill of Sale. Many states require you to present a Bill of Sale to register your car. A Bill of Sale also may serve as a receipt. The Bill of Sale should contain the: date of the sale; year, make, and model of the car; Vehicle Identification Number (VIN); odometer reading; a statement of the car's condition; amount paid for the car, and in what form (cash, check, and the like); and buyer's and seller's names, addresses, and phone numbers. The seller should sign and date the Bill of Sale, and both you and the seller should get a copy.

Special Rules for Used Car Dealers

A hundred years ago, horse traders had a reputation for shady dealings. Fair or not, used car dealers often have a similar reputation today. The inherent problem lies with human nature. Too many of us don′t take to heart the natural risks of buying a used car -- or a used horse. All too often, our unrealistic expectations lead to bad feelings and disappointment All this could be prevented if we took some precautions up front.

Used car dealers have to make a profit, above the salesperson's commission, on a car whose "real value" is probably closer to what they bought it for than what they are selling it for. To improve their chances, they make sure that most cars, especially later-model ones, are in almost pristine *cosmetic* condition. The car looks good, but you have to find out about structural defects, accident histories, and chronic maintenance problems. By all means, ask the seller about each of these matters. You also must get the car to a trustworthy mechanic for examination -- one that you select, not one recommended by the dealer. *Anyone who does not permit this kind of inspection simply cannot be trusted -- look elsewhere*.

The Federal Trade Commission has issued a Used Car Rule for dealers. Under the rule, "dealers" are those who sell, or offer to sell, six or more used cars in a twelve-month period. The rule prohibits them from representing that a car comes with a warranty when none exists. They must make available the terms of any written warranty they provide, and they must post a "Buyers Guide" prominently in any location on the car.

Information contained on the Buyers Guide includes:

- whether or not the car comes with a warranty. If there is a warranty, the specific coverage must be outlined;
- whether the vehicle comes with implied warranties only, or is sold "as is," that is, with no

warranties at all;

- that you should request an inspection by an independent mechanic before you buy;
- that you should get all promises in writing; and
- what some of the major problems are that may happen in any car.

If you do buy a used car from a dealer, you must be given a copy of the actual Buyers Guide that was posted in your car. If you have negotiated any changes in the warranty, it should be noted on the Buyers Guide. The Buyers Guide becomes part of your contract, and its terms override any conflicting terms in that contract.

There are other facts that a seller must tell the buyer. The seller, whether a dealer or a private individual, should be truthful about the car. If the buyer is disappointed because it is not as described or does not perform as it was supposed to, a breach of warranty action may arise against the seller who has deceived the buyer. If possible, you should get the seller should to provide you with the car's complete service records.

Federal law requires the seller of a used car to give the buyer a mileage disclosure statement, even if the seller is not a dealer. The statement also should certify the odometer's accuracy, to the seller's knowledge. If the seller knows it is incorrect, the seller must admit it. Refusal to provide such a statement, or illegally tampering with the odometer, exposes the seller to stiff penalties.

SIDEBAR: Inspection Obsession

The Buyers Guide sticker, which applies to used car dealers, urges you to take the car to your mechanic before the sale is final. If the seller, whether a dealer or a private party, will not allow your mechanic to inspect the car, don’t buy it unless it is such a good deal that you won′t mind paying for car repairs later. Some people choose to take this risk by buying used cars at auctions. But it is a high risk indeed.

LEMON LAWS AND OTHER SPECIAL PROTECTIONS

What can you do if the car you just bought is a real "lemon"? What if the car you purchased is in the repair shop almost as much as in your garage? To protect consumers from such situations, most states have passed some form of **lemon laws**, which usually apply to *new* cars purchased for personal, family, or household use. These laws entitle you to a replacement car or a refund if your new car is so defective that it is beyond satisfactory repair by the dealer. You must, however, give the dealer a reasonable opportunity to repair the car.

A lemon normally is a car that continues to have a defect that substantially restricts its use, safety, or value, even after reasonable efforts to repair it. This often means four repair attempts on the same problem or a directly related problem within six months or one year (the time period varies by state). Or, it might mean the car is out of commission for more than thirty nonconsecutive days during either: (1) The year after the dealer sold it; or (2) the duration of any express warranty, whichever is shorter.

To get the benefit of your state′s lemon law, you typically must do several things: First, you must notify the manufacturer, and, in some states, the dealer about the defect. Second, you should keep a copy of *every* repair or service receipt you are given. This serves as your record that the required number of repair attempts has been made, and is especially important if your car's defect had to be repaired at another garage or in another city because it was physically impossible to drive the car back to the seller's repair location.

Most states require that you go through an arbitration procedure before you can get a replacement or refund. Some states sponsor arbitration programs, while other states require you to use a program run by manufacturers. Arbitration is usually free, and results often are binding only on the manufacturer or dealer; if you don't like the result, you can still take the manufacturer to court. Some states require arbitration only if the manufacturer refuses to give you a satisfactory replacement or a refund. You also may have the option of bypassing arbitration and going directly to court.

You should be aware than many consumer advocates have serious misgivings about lemon laws. They say such laws are often of little use because the requirements may be extreme (i.e., car out of commission for 30 days in a year) and the statutes may build in considerable risk to the consumer, often under the guise of "avoiding a litigation explosion." In some states, for example, if the manufacturer makes a settlement offer to the buyer that the buyer rejects, and then at trial the buyer does not get at least 10% more than the offer, the buyer must pay the manufacturer's legal fees and costs from the time of the offer. For many consumers, this would lead to immediate bankruptcy. As a result, not many suits may be brought under such laws.

If you do successfully pursue a lemon-law claim, you may get a refund of what you paid for the car, as well as reimbursement for things like taxes, registration fees, and finance charges. If you choose, you may get a replacement car. Be sure that it is of comparable value to the lemon it is replacing, and that it satisfies you completely.

Lemon laws cover used cars in a growing number of states. In some places, the law applies both to dealer and private seller purchases. The laws may have a connection with the safety inspection-sticker requirement. These sticker laws usually protect you if two conditions occur. First, the car must fail inspection within a certain period from the date of sale. Second, the repair costs must exceed a stated percentage of the purchase price. Then you are permitted to cancel the deal within a certain period. You probably will have to notify the seller in writing of your intention to cancel, including your reasons. You must return the car to the place of sale even if it requires towing. If the seller offers to make repairs, you can decide whether to accept the seller's offer or get your money back.

Keep in mind that the car might pass the safety inspection and still be a lemon. And you may drive the car (if it is drivable), but be aware that, if the car does indeed turn out to be a lemon, the law usually allows the seller to deduct a certain amount from your refund based on the miles you have driven. This applies to both new and used car sales.

Other statutes protect car buyers besides lemon laws:

- the federal Anti-Tampering Odometer Law prohibits acts that falsify odometer mileage readings;
- the federal Used Car Law requires that dealers post Buyers Guides on used cars;
- the federal Automobile Information Disclosure Act requires manufacturers and importers of new cars to affix a sticker, called the "Monroney label," on the windshield or side window of the car. The Monroney label lists the base price of the car, the options installed by the manufacturer, along with their suggested retail price, how much the manufacturer has charged for transportation, and the car's fuel economy (miles per gallon). Only the buyer is allowed to remove the Monroney label.

By far, the statutes providing the strongest protection are the consumer fraud statutes prohibiting unfair and deceptive acts and practices, discussed in chapter 15.

RECALLS

The recall system identifies defective automobiles that are already on the road, by notifying car owners about how to get them fixed. Generally, it includes defects that affect the car's safety, cause it to fall below federal safety standards, or both, and that are common to a group of the same kind of cars or equipment. The defect can be in performance, construction, components, or materials found in the car or in related equipment, such as child safety seats.

Many recalls result from the manufacturer's response to owner complaints. The National Highway Traffic Safety Administration (NHTSA), however, influences and orders many recalls. The NHTSA receives safety-related complaints through letters and its telephone toll-free hotline. (This hotline number is listed in Where to Get More Information.) When the NHTSA registers enough complaints, NHTSA engineers perform an engineering analysis. Then the NHTSA engineers contact the automobile's manufacturer. The manufacturer must either remedy the defect or launch its own defect investigation. Ultimately, the NHTSA decides if a final defect determination and recall is proper.

The manufacturer must remedy the defect for free. This does not apply when the first buyer bought the car more than eight years earlier. In comparison, the standard for tires is three years. The manufacturer has the option of repairing the defect, replacing the car, or refunding the purchase price. If it refunds the money, the manufacturer may deduct a certain amount for depreciation (loss in value). The manufacturer reimburses the dealer who makes the repairs. If the manufacturer chooses to repair the defect, it must do so within a reasonable time. Otherwise the manufacturer must replace the vehicle or refund the purchase price.

AUTOMOBILE LEASING

An alternative to buying a car is leasing one. Leases are becoming increasingly popular, with about a quarter of consumers choosing to lease a new car rather then buy one. This percentage rises to half in the case of luxury cars.

A lease is essentially a contract for the use of a vehicle for a specified time period. There are two types of lease contracts: the **closed-end lease** (sometimes called a **net** or **walk-away lease**) and the less common **open-end lease** (sometimes called a **finance lease**). Leases usually have a one-year minimum term; two- and three-year leases are common.

Leasing a vehicle is like renting an apartment -- you know what your monthly costs are going to be, but at the end of the term you have no equity built up. Whether to lease or not depends on your situation and what's important to you. Purchasing a car might be more economical in the long run, but leasing may be attractive to people who want to avoid the hassles of ownership, drive a more expensive car than they could afford to buy, and drive a new car every two or three years.

Whether it is better to lease or buy a car depends on many factors. A car lease may allow you to make lower monthly payments than if you purchased. Whether your lease payment is lower depends on four key factors:

- the capitalized cost of the vehicle (i.e., what the vehicle is worth new);
- the interest rate;
- the residual value of the vehicle (i.e., what it's worth at the end of the lease); and

- the length of the lease.

Your monthly payments cover an estimated amount for the depreciation of the car over the lease (the difference between the vehicle's worth when new and at the end of the lease), so, unlike your monthly payments if you purchase a car, you are not paying off the vehicle's full value when new. When your lease is up, your options are to turn it in, extend the lease payments (or renegotiate another lease), buy for cash (typically at residual value) or finance the purchase through an installment loan. The lease usually doesn't spell out these options, though the lease often does contain an option to purchase at the residual value. How you buy the car or extend the lease is often a separate negotiation.

With a lease, you'll probably have to face another set of monthly payments once the lease has expired. On the other hand, if you buy on credit instead of leasing you at least have the possibility of paying the vehicle off entirely over time, and driving it for several years without having to make any monthly payments. You'll be driving an older car, but when you're done with it, you can sell it and get some cash.

At one time leasing normally avoided a down payment and various taxes, but nowadays you often have to put up a down payment, sometimes called a "capital cost reduction." You may also face an "acquisition fee" if you ultimately choose to buy or a "disposition fee" if you return it at the end. You may have to pay a "documentation fee" to the dealer to set up the lease. You'll have to put down a security deposit equivalent to one or two months' payments, and in some states a monthly "use tax." However, don't forget that there are fees associated with installment loans, as well as the possible headache of selling a car yourself (see page 12). And there may be some tax advantages if you lease mainly for business use.

It's hard to generalize with all these variables in the air, but sometimes you can get "more car"-- a higher-priced model -- under a lease than if you purchased it.

Usually the consumer is liable for damage to the vehicle, and a lease may include insurance. If not, you must provide your own. Damage done to the car while in your possession may cause the **lessor** -- the bank or company that leases the car to you -- to deduct an "appropriate" amount from your deposit.

Will you owe anything at the end of the lease? That depends on what kind of lease you have. Under a closed-end lease contract, the car's value when you return it may not matter unless you have put extreme wear on the car. But because lessors sometimes charge for minor damage, it might be a good idea to repair things like cracked windows (usually covered by insurance) and to clean or even "detail" the car before you bring it back. If all is well, you return the car at the end of the term and "walk away." However, your monthly payments are higher under this kind of lease than under an open-end lease because the lessor (the leasing company) takes the risk on the car's future worth. An open-end lease involves lower payments. You gamble that the car will be worth a stated price, the **estimated residual value**, at the end of the lease. If its appraised value at the end of the term equals or exceeds the specified residual value, you owe nothing and may be refunded the difference, if your contract provides for a refund. If it is worth less, you pay some or all of the difference, often called an "end of lease" payment.

Lease Financing

As noted above, up front you'll probably have to pay a security deposit (returnable at the end of the lease) and a fee similar to a down payment when you buy a car, though it will have a different name. By paying a large amount up front, you could, in effect, reduce your monthly payments. But by doing this, you lose one of the advantages of leasing: lower up-front costs. Other expenses may include sales tax, title, and license fee, as well as a lease-acquisition fee. You might have to pay for repairs and maintenance after any warranty period expires, unless the lessor agrees to pay in your contract. At the end of the lease term, you may have to pay an excess mileage cost if you have a closed-end lease. Excess mileage charges add up very fast. For example, if your lease specified that you would drive no more than 15,000 miles a year, and you exceeded that amount, you might have to pay twelve or thirteen cents a mile for the excess. It is essential that you get a lease that allows you to drive the number of miles that you typically drive before the excess mileage kicks in. (Under an open-end lease, the final appraised value of the car will reflect any excess mileage.) Excessive wear and tear also may cost you.

You almost always may renew or extend a lease at the end of the term. Sometimes your lease may contain this option, or you can negotiate for it.

On the other hand, getting out early is something altogether different. You have signed a binding contract that obligates you to make payments for a stated term. Your contract may contain an early termination clause. This usually requires a minimum number of monthly payments before you may cancel, and the formula for determining the amount you owe in the event of early termination typically results in a very large payment. In addition, this early termination charge may apply even if the reason for early termination is the theft or destruction of the vehicle or even death or disability of the lessee or someone in the family who drove the car.

There are many ways of calculating the charge for early termination, and it is important that you understand the method that the dealer propose, so that you have the option of trying to negotiate better terms before you sign. You may also wish to have gap insurance included in the lease, to take care of situations like owing more for a car that has been stolen than the market value that the insurance company will cover. Even if you have to turn a car in early under an existing contract, it may be possible to work something out with the company, if they hope to get more business with you in the future.

Almost all leases include a **purchase option**, which allows you to buy the car when your lease term ends. Under such a provision, which you'd probably be well advised to bargain for, the lessor must state the purchase price or the basis for setting this price in the initial lease contract. Purchase options are common in both open-end and closed-end leases.

Protections for Consumers Who Lease

The Federal Consumer Leasing Act offers protections not only to consumers who lease cars, but to those who lease other items as well. It applied to leases of consumer goods for more than four months. (It does not apply to leases of real estate, vehicles leased for business use, or total contractual obligations over $25,000.) The law requires the lessor to disclose information before you sign the lease. Among the most important items are:

- total amount of any initial payment you are required to pay;
- number and amounts of monthly payments:
- total amount for fees, such as license fees and taxes;
- any penalty for default or late payments;
- the annual mileage allowance and the extra charges involved if you exceed that allowance;

- whether you can end the lease early, and the extra charge required;
- whether you can purchase the auto at the end of the lease, and for what price;
- any liability that you may have for the difference between the estimated value of the auto and its market value at the time you end the lease;
- any extra payment that you must make at the end of the lease.

The Federal Trade Commission helps enforce the CLA, and will take action if there is evidence of a pattern of federal law violations. You can contact them at the Correspondence Branch, Federal Trade Commission, Washington, DC 20580. The FTC has published a free booklet entitled "A Consumer Guide to Vehicle Leasing," which explains your legal protections, provides a checklist to help you decide whether to lease or buy and a checklist to help you compare lease offers, and answers commonly asked questions. It is available from the FTC Public Reference Department, at the address given above, or at http://www.federalreserve.gov/pubs/leasing/. Your state may have laws protecting consumers who lease. Check with your consumer protection agency or the office of your local state's attorney.

Sidebar

Negotiating Tips when Leasing

With more and more people leasing vehicles, it's natural that a number of state and federal agencies should explore consumer protection in this area. One reform adopted by a number of states is to require the lease contract to include the vehicle's "capitalized cost," a figure that would be roughly the vehicle's sticker price if it were purchased. Since hardly anyone pays the sticker price on a new car, the thinking goes, why should they permit their monthly payments to be in part determined by this figure? (Your monthly payment depends in large part on the difference between the value of the car when new and its value at the end of the lease, as well as the interest you pay.) And even where it is not legally required, car dealers are often voluntarily providing the capitalized cost in their standard lease contract, as well as simplifying the contract generally and making it more reader friendly. Consumers who know how to look for and use this information, and comparison shop between dealers, may be able to save $100 or more on their monthly payments.

Yet one of the big attractions of leasing is that it is relatively hassle free. Many consumers may be mostly concerned about getting a monthly payment they can afford, and may not want to do the work of trying to get it lowered. And a lease contract has many more variables than a straight purchase. All these variables actually open up more opportunities for bargaining, which could benefit you. As usual, it pays to do your homework, make the effort to negotiate, and not go ahead with a deal until you are fully satisfied.

Renting a Car

Rentals may last one day; they are never economical in the long run, but have the advantage of, say, getting you from the end of a May lease to early autumn, when dealers are eager to make deals to move out cars of the waning model year. And, of course, people rent cars when traveling on business or pleasure.

A car rental contract should list the base rate for the rental car and any extra fees.

The length of the rental period should also appear. Special rates are frequent, and discounts are available through so many bodies -- professional organizations, unions, frequent-flier clubs, etc. -- that virtually no one should ever pay the full price for a car rental, at least without an upgrade to a larger or better-equipped vehicle. At the counter, when you pick up your car, it may also be possible to negotiate a special deal or upgrade. It's always worth your while to try to get as large a car as you feel comfortable driving.

But the rental agencies giveth, and quickly taketh away -- or will, if you let them -- through extras. The rental company might offer you the Collision Damage Waiver (CDW) option. The rental company covers damage to your rented car if you accept CDW. Coverage, however, does not include personal injuries or personal property damage. Similarly, they will offer you personal-effects coverage -- insurance on your own property that may be stolen from the car while you′re renting it.

Before accepting these expensive options, make sure your own automobile, medical, and homeowner's insurance policies do not already protect you in an accident involving a rented car and for your own property loss. (Hint: If they don′t, you should talk to your broker. This is standard coverage, though your deductible may be higher than the CDW offers. Also, it is not standard coverage outside of the U.S., but your credit card may offer insurance that does apply outside the U.S.) If traveling on business, your company's insurance policy might cover you. Sometimes, charging rentals on certain credit cards automatically covers you. Confirm this in writing, however, before you use the card and decline the coverage. Consumer experts consistently identify the CDW in particular as the one of the most unnecessary expense incurred by consumers, perhaps vying only with credit insurance.

Other additional fees might include drop-off fees, if you leave the car in a different city than where you picked it up. More costs might be fuel charges, extra mileage fees, and fees for renting equipment like child safety seats or ski racks, as well as fees for additional drivers or younger drivers. Watch out for these, avoid the unnecessary ones, and by all means (as ever) shop around!

When you accept you rental car, and before you drive it off the lot, carefully check the car for damage, and have any noted on the rental agreement. And in some parts of the country, criminals prey on tourists driving rental vehicles. It's worth checking to make sure that your car cannot be identified as a rental.

Are you guaranteed a car if you have confirmed reservations? Not necessarily. Many companies are now checking driving records when customers arrive to pick up cars, and rejecting customers whose driving records don't meet company standards. Even if you have a confirmed reservation, you may be disqualified from renting a car for any of the following reasons: moving violations within the last few years; seat belt law violations; accidents, regardless of fault; convictions for DWI, DUI, reckless driving, or leaving the scene of an accident; or driving with an invalid, suspended, or revoked license.

REPAIRS

Every car needs repairs, or at least regular maintenance. If you don′t regularly change the oil, plus the oil and air filters, you may as well skip this whole chapter; whatever money you save with purchasing savvy you′re throwing away with maintenance negligence.

You can take it to a car dealer, which warranty terms may require. Other choices include an independent garage, a franchise operation specializing in specific repairs, or repairing it yourself. Each option has its advantages and disadvantages.

Dealers may charge more. On the other hand, they are more familiar with your make of car than other repair shops, and may have new and better equipment to service your car. Manufacturers want to ensure that dealerships run quality repair operations, so they invest in training mechanics. Dealers want you to be happy with the car you bought so you′ll buy another in a few years -- from them. You can take advantage of these strengths and save money by looking for dealers of your make that run seasonal specials on routine maintenance.

A service station is a good option for non-warranty work if the mechanics have adequate training and test equipment. Parts might cost more, but labor might be less expensive than dealer repairs. Certainly routine matters such as oil and filter changes can be done just as well at a service station as at a dealer. And though they don′t have the leg up on your make of car that a dealer′s shop does, if you often use the service station, the mechanics get to know your car. Then they might spot potential problems early. There′s also the angle that a local mechanic would like to develop such a good relationship with you that you′ll make a point of buying your gasoline there, and perhaps other products like tires.

What about highly advertised repair chains? Specialty shops may repair one part of a car, such as brakes or mufflers. Or, they may advertise complete car care services. Sheer size and volume means lower costs than dealers and independent mechanics. On the other hand, because they specialize in repairs that are usually one-time shots, they have an incentive to make those repairs rather than to advise skipping them. Similarly, they are seldom in a position to develop a long-term relationship with you. If you know what repairs your car needs, however, franchise shops can be a good deal.

The Repair Contract

The repair contract, often called the **repair order**, is essential for getting a satisfactory repair job done on your car. The repair order describes the work to be done, and, once signed, creates a contract authorizing the mechanic to make the described repairs. The repair order should contain:

- the make, model, and year of your car;
- the mileage and repair date;
- an accurate description of the problem;
- a list of parts to be used and their charges;
- the amount of labor estimated to be needed (time to be spent fixing your car);
- the rate to be charged, either per hour or the flat rate to do the work; and
- your name, address, and telephone number.

The mileage and repair date are important. They verify warranty terms and simplify service records. Also, your telephone number is critical should unexpected problems arise. If the mechanic cannot reach you, the mechanic has to decide whether or not to proceed, and you may have to live with the results of that decision. But note that in many states, if you do not sign the repair order, you do not have to pay for any services done by the mechanic.

Getting a cost estimate for the repairs before work actually begins is a good idea. It's even required by law in some states. In those states, the final cost must not exceed a certain percentage or dollar value of the original estimate without the customer's consent. Repair shops generally have the right to charge for making estimates, but you must receive advance notice.

The law may entitle you to some repair warranties. If the repair shop makes an express warranty, you are protected as long as you abide by the terms of the warranty. Likewise, if a manufacturer's warranty covers the car or part, you should not have to pay as long as you satisfy warranty conditions. Some state courts have held that the implied warranty of merchantability extends to car repairs. That means the repairs must be suitably performed. Beware of "unconditional" guarantees offered by many repair shops. There are always *some* limitations on written guarantees. Be sure to read the fine print; there may be special procedures that you are required to follow in order to obtain the benefits of the warranty.

False and Deceptive Repair Practices

Most of us don't understand how cars work. We certainly don′t understand why they *don′t* work, and making them work again -- forget it! To protect consumers against fraudulent practices, mechanic incompetence, and overcharging, many states have enacted statutes specifically governing car repairs, or have included car repairs in their unfair and deceptive practices statutes.

Most of these statutes, or the regulations issued under their authority, require price estimates and repair orders. Also, many states give you the right to keep or examine replaced parts, and require repair shops to prepare a detailed invoice, which must state the labor and parts supplied, warranty work done, guarantees, and installation of any used or rebuilt parts. In some states, you may have the right to same-day repairs, unless you agree to a longer period or the delay is beyond the shop's control. Shoddy repair work must be corrected at no charge, especially in states where the implied warranty of merchantability has been extended to repair work. Finally, many states require repair shops to post price lists conspicuously.

If you think a repair shop has intentionally cheated you, or made unauthorized repairs, you should notify your state attorney general's office and call your lawyer to discuss possible legal action. Keep in mind that for many mechanics -- and the only ones you should deal with! -- their business depends on a good reputation, which they will take care to maintain. So you may wish to try to adjust the matter with them before you complain to your state attorney general's office, or the local branch of the Better Business Bureau, or even to the Chamber of Commerce.

If you do not get satisfaction, you may wish to sue if, for example, the shop made unneeded repairs or reinstalled the original part rather than a replacement. If the shop tried its best to correct the fault by fixing something that *was* broken, though *not* the problem's ultimate cause, you should pay the shop. After all, the repair shop *did* fix one of your car's problems. It is not, however, a complete guarantor of your car′s health.

The Mechanic's Lien

In most states the shop obtains a **mechanic's lien** on your car, which helps the shop secure payment for the work done. For example, if you have authorized extensive work, but decide that the car isn't worth that much after the shop completes the work and refuse to pay for completed repairs, the shop may keep your car. The car's actual value, and the actual cost of the repairs, do not matter. If you abandon your car in this manner, the shop may ultimately sell your car so that it can recover as much of the cost of repairs as possible. But note that in states that require written estimates and repair authorization, the mechanic's lien does not attach if the repair shop has not complied with these requirements. In such states, you are entitled to ask a court to order the car returned to you.

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