

1. Shane Dingman, The Globe and Mail, *Volkswagen's deception, and how it was discovered*, Sept. 22 '15
To sell a car in North America, the company must prove it is in compliance with the U.S. Clean Air Act. Cars must pass tests such as the EPA's Urban Dynamometer Driving Schedule (UDDS), also known as "the city test" – an 11.9 km test at an average speed of 30.6 km per hour, or the Highway Fuel Economy Test, which is a 16-km test at an average speed of 77.2 kph. The test measures pollutant in emissions and involves very specific calibrations to which car-makers and testers have agreed.

VW has yet to describe publicly how it engineered its defeat device, but the EPA says VW's onboard computer software recognized the test conditions – perhaps because the car steering wheel was not turning at high speed – and activated technology that would capture Nox [*nitrogen oxides*] and allow it to pass the test.

Buyer and Seller: Different standards of disclosure

2. Talmud, Bava Metzia 60b

One may not cause an animal's hair to stand on end [to make it look larger], one may not inflate innards [for sale in the market], and one may not soak meat in water.

3. Rabbi Moses Maimonides (12th century Egypt), Mishneh Torah, Laws of Sale 15:6

One who purchases without specifications only expects to purchase a whole entity, without defect. Where the seller specifies, "This sale is on the condition that you not come back to me regarding a defect," the buyer may still come back to the seller, unless the seller specifies the defect in his merchandise and the seller forgives it...

4. Sale of Goods Act, R.S.O. 1990, Chapter S.1, 15(2)

Where goods are bought by description from a seller who deals in goods of that description (whether the seller is the manufacturer or not), there is an implied condition that the goods will be of merchantable quality, but if the buyer has examined the goods, there is no implied condition as regards defects that such examination ought to have revealed.

What counts as a "defect"?

5. Rabbi Yechiel Michel Epstein (19th-20th century Lithuania), Aruch haShulchan, Choshen Mishpat 232:1

Onaah [sale for an incorrect price, which may involve a partial refund] is only with money. *Onaah* is not relevant for volume, weight or number; those are simply error. Therefore, if one sells by volume, weight or number and makes a mistake, the sale is valid and the error, large or small, is refunded.

6. Rabbi Moses Maimonides (12th century Egypt), Mishneh Torah, Laws of Sale 15:5

Whatever the population agrees to consider a defect, such that a sale should be reversed, is cause for reversal. Whatever the population agrees not to consider a defect is not cause for reversal, unless the buyer specified it. One who transacts without specification relies upon popular practice.

7. Rabbi Yechiel Michel Epstein (19th-20th century Lithuania), Aruch haShulchan, Choshen Mishpat 232:7

If it is known that the purchased item is stolen, and this could cause pain or loss to the purchaser, there could be no greater defect, and the sale is cancelled.

Is the seller always required to accept the refund?

8. Limitations Act, S.O. 2002, Chapter 24, Schedule B, 4

Unless this Act provides otherwise, a proceeding shall not be commenced in respect of a claim after the second anniversary of the day on which the claim was discovered.

9. Rabbi Moses Maimonides (12th century Egypt), Mishneh Torah, Laws of Sale 15:3

If one sells [an item]... and a defect of which the buyer had not known becomes evident, the buyer may return it even years later, for this is an erroneous transaction. This assumes he does not use it after becoming aware of the defect; if he uses it after seeing the defect, he forgives it and he cannot reverse the sale.

10. Rabbi Vidal of Toulouse (14th century Spain), Maggid Mishneh commentary to Laws of Sale 15:3

One author has written that where the defect was something the buyer could have perceived immediately, such as where he could have tested or tasted the goods and he was not careful to do so and the seller sold him the item without identifying the defect, there is no refund.

11. Rabbi Yechiel Michel Epstein (19th-20th century Lithuania), Aruch haShulchan, Choshen Mishpat 232:5

In truth, there is no substance to this, and many disagree with it.

12. Consumer Protection Act, S.O. 2002, Chapter 30, Schedule A, 7(1)

The substantive and procedural rights given under this Act apply despite any agreement or waiver to the contrary.