

# Top German court backs VW owners in 'dieselgate' opinion

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Germany's top court is siding with owners of VW cars against the company

Germany top court on Friday backed Volkswagen owners' claims against the firm over cars rigged to cheat regulatory emissions tests, in an opinion that could guide lower courts' rulings.

"In the case of a vehicle delivered to the buyer with an illegal defeat

device... the presence of a material defect can be assumed," the Federal Court of Justice (BGH) said in a statement.

VW fitted millions of vehicles worldwide with so-called "defeat devices", shorthand for software that reduces output of harmful emissions like [nitrogen oxides](#) (NO<sub>x</sub>) during testing—only to allow it to increase many times over once on the road.

When a car is equipped with the cheating technology, "there is a danger that the authorities could forbid its operation," preventing the owner from using it for its intended purpose, the judges said.

VW has always insisted that since the cars remain functional, there is no legal requirement for it to replace them or pay compensation.

The opinion did not say what action the carmaker should take to correct the "defect" represented by a defeat [device](#), such as replacing or refitting vehicles or compensating drivers.

But it is the first hint of their thinking at a time when tens of thousands of VW owners' cases are working their way through the justice system.

Judges issued their "preliminary legal view", which is not binding on lower courts but could guide their deliberations, after an owner of a VW car appealed a ruling in favour of the auto giant.

While the driver has since withdrawn his case after reaching a settlement with the Wolfsburg-based group, the top judges decided to publish anyway.

Of the 11 million vehicles VW and its subsidiaries sold worldwide with defeat devices, some 2.4 million were bought by German customers.

Since admitting to "dieselgate" in 2015, the scandal has cost VW some 28 billion euros (\$31.75 billion) for fines, compensation, buybacks and refits.

Much of that sum has poured out to 500,000 customers in the United States, with European buyers so far going without reimbursement or compensation.

In Germany the group has paid only two fines, worth a combined 1.8 billion euros.

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