The Governor’s Office on Disability is providing a summary of the New Assistive Devices Warranty Act 2018-448 sponsored by the Governor’s Office on Disability in the 2018 Legislative Session.

Summary

New Assistive Devices Warranty Act (Lemon Law for Assistive Devices)

Act 2018-448


Signed by Governor Kay Ivey on 3/28/18

I. Definition of Assistive Device covered by this law:

Any device, costing five thousand dollars ($5,000) or more, including a demonstrator, that a consumer purchases or accepts transfer of in this state which is used for a major life activity.

A. What is included:

1. Manual wheelchairs, motorized wheelchairs, motorized scooters, and other aids that enhance the mobility of an individual;

2. Voice synthesized computer modules, optical scanners, talking software, Braille printers, and other devices that enhance the ability of a sight impaired individual to communicate.

B. What is not included:

1. Hearing aids, telephone communication devices for the deaf, assistive listening devices, or other aids that enhance the ability of an individual to hear;
2. Disposable assistive devices with a useful life of one year or less;

3. Assistive devices dispensed, sold, injected, or implanted by a licensed physician, licensed physician assistant, or any individual working with or for the practice of a licensed physician, employer, or other business entity that is primarily engaged in the practice of medicine.

II. What the manufacturer, dealer or lessor is required to do:

A. If the manufacturer, dealer, or lessor either refuses to accept a device which a consumer makes available for repairs or makes a reasonable attempt to repair, but the nonconformity is not actually repaired, the manufacturer shall be required to provide a refund or replacement of the device, whichever is requested by the consumer or the agency or

B. If the consumer or the agency requests a refund for a device which was purchased, the manufacturer shall refund to the consumer and to any holder of a perfected security interest in the assistive device of the consumer, as their interest may appear, the full purchase price plus any finance charge or sales tax paid by the consumer at the point of sale and any collateral costs incurred by the consumer, less a reasonable allowance for use.

C. If the consumer elects to receive a comparable new assistive device, the manufacturer shall provide the consumer or the agency with the comparable new assistive device no later than 30 days after the consumer or lessor offers to transfer possession of the assistive device having the nonconformity to the manufacturer.

III. What the consumer is required to do:

A. The consumer or the agency shall return the assistive device having the nonconformity to the manufacturer.
IV. Statute of limitations (how long consumer has to enforce this law):

A. Time period to enforce the protections of law: the duty of a manufacturer shall apply for the period of the express warranty of the manufacturer or
B. A consumer may bring an action to recover any damages caused by a violation of this act within four years after the cause of action has accrued.

V. Other important provisions:

A. This act shall not limit rights or remedies available to a consumer under any other law.
B. Any waiver of rights by a consumer under this act shall be void.

VI. Damages:

The court may award a consumer who prevails up to treble damages, together with costs, disbursements, and reasonable attorney fees, and any equitable relief that the court determines is appropriate.

*Note: this is a summary of the law’s major provisions and does not include all parts of the law. The information contained within this summary is non-binding and is not legal advice. It is given for information purposes only.

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