



**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**

**Original Sponsor:** Rep. Ken Johnson, **Senate:** Senator Linda Coleman-Madison

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.**

**The Governor's Office on Disability**

602 South Lawrence Street

Montgomery, Al 36104

**Dr. Graham Sisson, Executive Director**

334-293-7189, ADA Hotline 800-205-9986

**Marlene Word, Deputy Director**

334-293-7228, GOOD Toll Free 888-879-3582

[www.good.alabama.gov](http://www.good.alabama.gov)