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ENGROSSED SUBSTITUTE HOUSE BILL 1399

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State of Washington

52nd Legislature

1991 Regular Session

By House Committee on Commerce & Labor (originally sponsored by Representatives Beck, Cantwell, Heavey, Sheldon, Forner, R. King, Casada, Roland, Moyer, Betrozoff and G. Fisher).

Read first time March 6, 1991.

1 AN ACT Relating to home electronic and appliance consumer  
2 warranties; adding a new chapter to Title 19 RCW; providing an  
3 effective date; and declaring an emergency.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature finds that electronic  
6 equipment manufacturers, as a matter of practice, warrant their  
7 equipment against certain defects. The warranties may be honored by  
8 retailers of the manufacturers' products as part of their contractual  
9 obligation or by independent maintenance and service facilities. The  
10 legislature also finds that consumers do not always receive prompt,  
11 complete service that returns the product to its working condition at  
12 the time of purchase because manufacturers cannot always supply the  
13 necessary parts promptly or at a price that keeps the warranty service  
14 within the retailer's cost of doing business. Because of these  
15 problems, some of the service costs are transferred to customers

1 seeking service without warranties. The legislature further finds that  
2 a strong competitive market requires manufacturers and sellers who  
3 fully stand behind their products by complying with the spirit of the  
4 warranty. The legislature declares that it is in the public interest  
5 to establish certain elements as characteristic of express electronic  
6 equipment warranties to protect the consumer from dilatory and unfair  
7 practices and from manufacturers discontinuing the manufacture of  
8 replacement parts within the time period that can be reasonably  
9 anticipated as necessary to effect repairs.

10 NEW SECTION. **Sec. 2.** For the purposes of this chapter the  
11 following definitions apply.

12 (1) "Buyer" or "retail buyer" means an individual who buys  
13 electronic equipment from a person engaged in the business of  
14 manufacturing, distributing, or selling such goods at retail.

15 (2) "Distributor" means a person that stands between the  
16 manufacturer and the retail seller in purchases, consignments, or  
17 contracts for sale of electronic equipment.

18 (3) "Independent repair or service facility" or "independent  
19 service dealer" means a person or business, not an employee or  
20 subsidiary of a manufacturer or distributor, that engages in the  
21 business of servicing and repairing consumer goods.

22 (4) "Retailer," "seller," or "retail seller" means a person who  
23 engages in the business of selling electronic goods to retail buyers.

24 (5) "Person" means an individual, partnership, corporation,  
25 association, or other legal entity.

26 (6) "Home electronic equipment" means a television/monitor, radio,  
27 antenna rotator, audio or video recorder or playback equipment, video  
28 camera, video game, if it is normally used or sold for personal,  
29 family, or household purposes. The term includes any electronic

1 accessory that is normally used or sold with a home electronic product  
2 for one of those purposes. The term excludes any single product with  
3 a wholesale price to the retail seller of less than one hundred twenty-  
4 five dollars.

5 (7) "Home appliance" means a refrigerator, freezer, range,  
6 microwave or convection oven, washer, dryer, dishwasher, garbage  
7 disposal, trash compactor, or room air conditioner normally used or  
8 sold for personal, family, or household purposes. The term excludes  
9 any single product with a wholesale price to the retail seller of less  
10 than one hundred twenty five dollars.

11 (8) "Parts" means individual components of assemblies or circuit  
12 boards.

13 (9) "Literature" means service literature only.

14 NEW SECTION. **Sec. 3.** In addition to the requirements of RCW  
15 62A.2-313 every warranty shall state that the warranty period shall be  
16 extended for the number of days that the product has been in the repair  
17 facility for warranty repairs. If a defect exists within the warranty  
18 period and the buyer takes the product to a repair facility for  
19 servicing, the warranty shall not expire until the defect has been  
20 fixed. The warranty period shall also be extended if the repairs fail  
21 within ten days after they were completed. If, after four repair  
22 attempts, the defect has not been fixed, the buyer may return the  
23 product within sixty days of the completion of the fourth repair for a  
24 replacement or refund, subject to the deduction of a reasonable charge  
25 for use. This time extension does not affect the protections or  
26 remedies the buyer has under other laws.

27 NEW SECTION. **Sec. 4.** Every work order or repair invoice for  
28 warranty repairs or service shall clearly and conspicuously incorporate

1 in ten-point boldface type the following statement either on the face  
2 or the reverse side of the work order or repair invoice, or on an  
3 attachment to the work order or repair invoice:

4 A buyer of this product in this state has the right to have  
5 this product serviced or repaired during the warranty period.  
6 The warranty period is extended for the number of whole days  
7 that the product has been out of the buyer's hands for warranty  
8 repairs if the buyer takes the product to the repair facility  
9 prior to the warranty expiration date. The warranty period is  
10 also extended if the warranty repairs have not been performed  
11 because parts are not available from the manufacturer, or if  
12 the warranty repairs fail within ten days after they were  
13 completed. If, after four repair attempts the defect has not  
14 been fixed, the buyer may return the product within sixty days  
15 of the completion of the fourth repair attempt for a  
16 replacement or a refund, subject to the deduction of a  
17 reasonable charge for use. This time extension does not affect  
18 the protections or remedies the buyer had under other laws.

19 NEW SECTION. **Sec. 5.** If a manufacturer of home electronic  
20 equipment and appliances sold in this state makes an express warranty  
21 on such equipment or appliance, the manufacturer shall maintain  
22 sufficient service and repair facilities in this state that are  
23 reasonably close to all areas in which its electronic equipment and  
24 appliances are sold, except for mail order businesses, or may designate  
25 and authorize independent repair or service facilities in this state  
26 that are reasonably close to all areas in which its electronic  
27 appliances are sold, to carry out the terms of the warranties. As a  
28 means of complying with this section, a manufacturer may enter into

1 warranty service contracts with independent service and repair  
2 facilities.

3 NEW SECTION. **Sec. 6.** A manufacturer entering into a warranty  
4 service contract with an independent service and repair facility may  
5 include a fixed schedule of rates to be charged for warranty service or  
6 warranty repair work. However, the rates fixed by these contracts  
7 shall include the actual cost of service and repair, plus a twenty  
8 percent markup on part costs and shipping costs, and a reasonable  
9 profit on labor. The rates established between the manufacturer and  
10 the independent service and repair facility shall not preclude a good  
11 faith discount that is reasonably related to reduced credit and general  
12 overhead cost factors arising from the manufacturer's payment of  
13 warranty charges direct to the independent service and repair facility.  
14 The discount may consider all extra services the manufacturer provides  
15 to the independent authorized service dealer. The warranty service  
16 contracts authorized by this section may not cover more than one year,  
17 and may be renewed only by a separate, new contract or letter of  
18 agreement between the manufacturer and the independent service and  
19 repair facility. The manufacturer who is a party to a warranty service  
20 contract is only liable to the other party for repairs performed under  
21 warranty.

22 NEW SECTION. **Sec. 7.** Every manufacturer contracting with an  
23 independent facility for maintenance and repair of electronic or  
24 appliance products shall make service literature and replacement parts  
25 available to effect repairs within thirty days of the request from the  
26 service repair facility. However, the thirty-day requirement may be  
27 suspended during a period of a national emergency or natural disaster.  
28 If the manufacturer fails to supply the necessary part or literature

1 within thirty days of the service repair facility's request, the  
2 manufacturer shall replace the nonworking equipment or appliance with  
3 new equipment or a new appliance upon the owner's request. Replacement  
4 parts and literature for products with a wholesale price to retailers  
5 of not less than one hundred twenty-five dollars and not more than one  
6 hundred seventy-five dollars and ninety-nine cents, shall be available  
7 at the service dealer's wholesale cost to all established independent  
8 service and repair facilities who service the products, whether or not  
9 under contract to provide warranty services, for three years after the  
10 date the product model or type was last manufactured, regardless of  
11 whether the three-year period exceeds the warranty period for the  
12 product. Replacement parts and literature for products with a  
13 wholesale price to retailers of not less than one hundred seventy-six  
14 dollars, shall be available, at the service dealer's wholesale cost, to  
15 all established independent service and repair facilities who service  
16 the products, whether or not under contract to provide warranty  
17 services, for seven years after the date the product model or type was  
18 last manufactured, regardless of whether the seven-year period exceeds  
19 the warranty period for the product.

20 NEW SECTION. **Sec. 8.** Every manufacturer making express  
21 warranties whose consumer goods are sold in this state shall be liable  
22 as prescribed in this section to any authorized independent service  
23 center that performs services or incurs obligations under the express  
24 warranties that accompany the manufacturer's consumer goods. The  
25 amount of the liability shall be an amount equal to the actual and  
26 reasonable costs of the service and repair, including cost plus twenty  
27 percent on parts and any reasonable cost of transporting the goods or  
28 parts, plus a reasonable profit on labor, which shall not preclude a  
29 good faith discount as described in section 6 of this act. There is a

1 rebuttable presumption affecting the burden of producing evidence that  
2 the reasonable cost of service or repair is an amount equal to that  
3 which is charged by the independent serviceman for like services or  
4 repairs rendered to service or repair customers who are not entitled to  
5 warranty protection. Any waiver of the liability of a manufacturer  
6 shall be void and unenforceable.

7 NEW SECTION. **Sec. 9.** A dispute initiated by either party arising  
8 from cancellation of a warranty service center contract that cannot be  
9 resolved by the parties to the contract must be presented to the  
10 American arbitration association or a dispute resolution center  
11 operated under chapter 7.75 RCW for third-party committee mediation.  
12 Contracts cannot be canceled on the basis of an allegation of  
13 nonperformance of contractual obligations without a hearing by the  
14 committee. Only after a hearing and a showing of a good faith attempt  
15 at resolution may a disputant file a legal action. The statute of  
16 limitations controlling filing legal action to resolve a contract  
17 dispute shall be tolled for a period of six months or until the third-  
18 party mediator takes a final action, either resolving the dispute or  
19 declaring it unresolvable, whichever comes first.

20 NEW SECTION. **Sec. 10.** Any protections or remedies in this  
21 chapter do not preclude recovery under the consumer protection act,  
22 chapter 19.86 RCW.

23 NEW SECTION. **Sec. 11.** If any provision of this act or its  
24 application to any person or circumstance is held invalid, the  
25 remainder of the act or the application of the provision to other  
26 persons or circumstances is not affected.

1        NEW SECTION.    **Sec. 12.**        Sections 1 through 11 of this act shall  
2    constitute a new chapter in Title 19 RCW.

3        NEW SECTION.    **Sec. 13.**        This act is necessary for the immediate  
4    preservation of the public peace, health, or safety, or support of the  
5    state government and its existing public institutions, and shall take  
6    effect July 1, 1991.