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5 Strike everything after the enacting clause and insert the  
6 following:

7 "NEW SECTION. **Sec. 1.** Unless the context clearly requires  
8 otherwise, the definitions in this section apply throughout this  
9 chapter.

10 (1) "Collateral costs" means expenses incurred by a consumer in  
11 connection with the repair of a nonconformity, including the costs of  
12 obtaining an alternative wheelchair or other device assisting mobility.

13 (2) "Consumer" means any of the following:

14 (a) The purchaser of a wheelchair, if the wheelchair was purchased  
15 from a wheelchair dealer or manufacturer for purposes other than  
16 resale;

17 (b) A person to whom a wheelchair is transferred for purposes other  
18 than resale, if the transfer occurs before the expiration of an express  
19 warranty applicable to the wheelchair;

20 (c) A person who may enforce a warranty on a wheelchair; or

21 (d) A person who leases a wheelchair from a wheelchair lessor under  
22 a written lease.

23 (3) "Demonstrator" means a wheelchair used primarily for the  
24 purpose of demonstration to the public.

25 (4) "Early termination cost" means an expense or obligation that a  
26 wheelchair lessor incurs as a result of both the termination of a  
27 written lease before the termination date set forth in the lease and  
28 the return of a wheelchair to a manufacturer under section 3(2)(b) of  
29 this act. "Early termination cost" includes a penalty for prepayment  
30 under a finance arrangement.

31 (5) "Early termination savings" means an expense or obligation that  
32 a wheelchair lessor avoids as a result of both the termination of a  
33 written lease before the termination date set forth in the lease and  
34 the return of a wheelchair to a manufacturer under section 3(2)(b) of  
35 this act. "Early termination savings" includes an interest charge that  
36 the wheelchair lessor would have paid to finance the wheelchair or, if

1 the wheelchair lessor does not finance the wheelchair, the difference  
2 between the total amount for which the lease obligates the consumer  
3 during the period of the lease term remaining after the early  
4 termination and the present value of that amount at the date of the  
5 early termination.

6 (6) "Manufacturer" means a person who manufactures or assembles  
7 wheelchairs and agents of the person, including an importer, a  
8 distributor, factory branch, distributor branch, and a warrantor of the  
9 manufacturer's wheelchairs, but does not include a wheelchair dealer.

10 (7) "Nonconformity" means a condition or defect that substantially  
11 impairs the use, value, or safety of a wheelchair, and that is covered  
12 by an express warranty applicable to the wheelchair or to a component  
13 of the wheelchair, but does not include a condition or defect that is  
14 the result of abuse, neglect, or unauthorized modification or  
15 alteration of the wheelchair by a consumer.

16 (8) "Reasonable attempt to repair" means any of the following  
17 occurring within the term of an express warranty applicable to a new  
18 wheelchair or within one year after first delivery of a wheelchair to  
19 a consumer, whichever is sooner:

20 (a) An attempted repair by the manufacturer, wheelchair lessor, or  
21 the manufacturer's authorized dealer is made to the same warranty  
22 nonconformity at least four times and the nonconformity continues; or

23 (b) The wheelchair is out of service for an aggregate of at least  
24 thirty days because of warranty nonconformity.

25 (9) "Wheelchair" means a wheelchair, including a demonstrator, that  
26 a consumer purchases or accepts transfer of in this state.

27 (10) "Wheelchair dealer" means a person who is in the business of  
28 selling wheelchairs.

29 (11) "Wheelchair lessor" means a person who leases a wheelchair to  
30 a consumer, or who holds the lessor's rights, under a written lease.

31 NEW SECTION. **Sec. 2.** A manufacturer who sells a wheelchair to a  
32 consumer, either directly or through a wheelchair dealer, shall furnish  
33 the consumer with an express warranty for the wheelchair. The duration  
34 of the express warranty must be for at least one year after the first  
35 delivery of the wheelchair to the consumer. If the manufacturer fails  
36 to furnish an express warranty as required under this section, the  
37 wheelchair is covered by an implied warranty as if the manufacturer had

1 furnished an express warranty to the consumer as required under this  
2 section.

3 NEW SECTION. **Sec. 3.** (1) If a new wheelchair does not conform to  
4 an applicable express warranty and the consumer reports the  
5 nonconformity to the manufacturer, the wheelchair lessor, or any of the  
6 manufacturer's authorized wheelchair dealers and makes the wheelchair  
7 available for repair before one year after first delivery of the  
8 wheelchair to the consumer, the nonconformity must be repaired.

9 (2) If, after a reasonable attempt to repair, the nonconformity is  
10 not repaired, the manufacturer shall do one of the following, whichever  
11 is appropriate:

12 (a) At the direction of a consumer described under section 1(2)(a),  
13 (b), or (c) of this act, do one of the following:

14 (i) Accept return of the wheelchair and replace the wheelchair with  
15 a comparable new wheelchair and refund any collateral costs; or

16 (ii) Accept return of the wheelchair and refund to the consumer and  
17 to a holder of a perfected security interest in the consumer's  
18 wheelchair, as their interest may appear, the full purchase price plus  
19 any finance charge, amount paid by the consumer at the point of sale,  
20 and collateral costs, less a reasonable allowance for use. Under this  
21 subsection (2)(a)(ii), a reasonable allowance for use may not exceed  
22 the amount obtained by multiplying the full purchase price of the  
23 wheelchair by a fraction, the denominator of which is one thousand  
24 eight hundred twenty-five and the numerator of which is the number of  
25 days that the wheelchair was driven before the consumer first reported  
26 the nonconformity to the wheelchair dealer; or

27 (b)(i) For a consumer described in section 1(2)(d) of this act,  
28 accept return of the wheelchair, refund to the wheelchair lessor and to  
29 a holder of a perfected security interest in the wheelchair, as their  
30 interest may appear, the current value of the written lease and refund  
31 to the consumer the amount that the consumer paid under the written  
32 lease plus any collateral costs, less a reasonable allowance for use.

33 (ii) Under this subsection (2)(b), the current value of the written  
34 lease equals the total amount for which the lease obligates the  
35 consumer during the period of the lease remaining after its early  
36 termination, plus the wheelchair dealer's early termination costs and  
37 the value of the wheelchair at the lease expiration date if the lease

1 sets forth the value, less the wheelchair lessor's early termination  
2 savings.

3 (iii) Under this subsection (2)(b), a reasonable allowance for use  
4 may not exceed the amount obtained by multiplying the total amount for  
5 which the written lease obligates the consumer by a fraction, the  
6 denominator of which is one thousand eight hundred twenty-five and the  
7 numerator of which is the number of days that the consumer drove the  
8 wheelchair before first reporting the nonconformity to the  
9 manufacturer, wheelchair lessor, or wheelchair dealer.

10 (3) To receive a comparable new wheelchair or a refund due under  
11 subsection (2)(a) of this section, a consumer described under section  
12 1(2) (a), (b), or (c) of this act shall offer to the manufacturer of  
13 the wheelchair having the nonconformity to transfer possession of the  
14 wheelchair to the manufacturer. Within thirty days after the offer,  
15 the manufacturer shall provide the consumer with a comparable new  
16 wheelchair or a refund. When the manufacturer provides a new  
17 wheelchair or refund under this subsection, the consumer shall return  
18 to the manufacturer the wheelchair having the nonconformity.

19 (4)(a) To receive a refund due under subsection (2)(b) of this  
20 section, a consumer described under section 1(2)(d) of this act shall  
21 offer to return the wheelchair having the nonconformity to its  
22 manufacturer. Within thirty days after the offer, the manufacturer  
23 shall provide the refund to the consumer. When the manufacturer  
24 provides the refund, the consumer shall return to the manufacturer the  
25 wheelchair having the nonconformity.

26 (b) To receive a refund due under subsection (2)(b) of this  
27 section, a wheelchair lessor shall offer to transfer possession of the  
28 wheelchair having the nonconformity to the manufacturer. Within thirty  
29 days after the offer, the manufacturer shall provide a refund to the  
30 wheelchair lessor. When the manufacturer provides the refund, the  
31 wheelchair lessor shall provide to the manufacturer the endorsements  
32 necessary to transfer legal possession to the manufacturer.

33 (c) A person may not enforce the lease against the consumer after  
34 the consumer receives a refund due under subsection (2)(b) of this  
35 section.

36 (5) A person may not sell or lease again in this state a wheelchair  
37 returned by a consumer or wheelchair lessor in this state under  
38 subsection (2) of this section or by a consumer or wheelchair lessor in

1 another state under a similar law of that state, unless full disclosure  
2 of the reasons for return is made to a prospective buyer or lessee.

3 NEW SECTION. **Sec. 4.** This chapter does not limit rights or  
4 remedies available under other law to a consumer.

5 NEW SECTION. **Sec. 5.** A waiver by a consumer of rights under this  
6 section is void.

7 NEW SECTION. **Sec. 6.** In addition to pursuing another remedy, a  
8 consumer may bring an action to recover damages caused by a violation  
9 of this chapter. The court shall award a consumer who prevails in an  
10 action under this section twice the amount of pecuniary loss, together  
11 with costs, disbursements, reasonable attorneys' fees, and equitable  
12 relief that the court determines is appropriate.

13 NEW SECTION. **Sec. 7.** Sections 1 through 6 of this act shall  
14 constitute a new chapter in Title 19 RCW."

15 **HB 1466** - S COMM AMD  
16 By Committee on Labor & Commerce

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18 On page 1, line 1 of the title, after "Relating to" strike the  
19 remainder of the title and insert "wheelchair warranties; and adding a  
20 new chapter to Title 19 RCW."

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