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HOUSE BILL 1702

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By Representatives Horn, Romero, Cole, Carlson, Cody, Cooke, Rust, Poulsen, Veloria, Mitchell, Reams, Jacobsen, Fuhrman and Costa

Read first time 02/06/95. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to wheelchair warranties; and amending RCW  
2 19.184.010, 19.184.020, and 19.184.030.

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

4 **Sec. 1.** RCW 19.184.010 and 1994 c 104 s 1 are each amended to read  
5 as follows:

6 Unless the context clearly requires otherwise, the definitions in  
7 this section apply throughout this chapter.

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

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

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

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

1 (c) A person who may enforce a warranty on a ((motorized))  
2 wheelchair; or

3 (d) A person who leases a ((motorized)) wheelchair from a  
4 ((motorized)) wheelchair lessor under a written lease.

5 (3) "Demonstrator" means a ((motorized)) wheelchair used primarily  
6 for the purpose of demonstration to the public.

7 (4) "Early termination cost" means an expense or obligation that a  
8 ((motorized)) wheelchair lessor incurs as a result of both the  
9 termination of a written lease before the termination date set forth in  
10 the lease and the return of a ((motorized)) wheelchair to a  
11 manufacturer under RCW 19.184.030(2)(b). "Early termination cost"  
12 includes a penalty for prepayment under a finance arrangement.

13 (5) "Early termination savings" means an expense or obligation that  
14 a ((motorized)) wheelchair lessor avoids as a result of both the  
15 termination of a written lease before the termination date set forth in  
16 the lease and the return of a ((motorized)) wheelchair to a  
17 manufacturer under RCW 19.184.030(2)(b). "Early termination savings"  
18 includes an interest charge that the ((motorized)) wheelchair lessor  
19 would have paid to finance the ((motorized)) wheelchair or, if the  
20 ((motorized)) wheelchair lessor does not finance the ((motorized))  
21 wheelchair, the difference between the total amount for which the lease  
22 obligates the consumer during the period of the lease term remaining  
23 after the early termination and the present value of that amount at the  
24 date of the early termination.

25 (6) "Manufacturer" means a person who manufactures or assembles  
26 ((motorized)) wheelchairs and agents of the person, including an  
27 importer, a distributor, factory branch, distributor branch, and a  
28 warrantor of the manufacturer's ((motorized)) wheelchairs, but does not  
29 include a ((motorized)) wheelchair dealer.

30 ~~(7) ("Motorized wheelchair" means a motor driven wheelchair,~~  
31 ~~including a demonstrator, that a consumer purchases or accepts transfer~~  
32 ~~of in this state.~~

33 ~~(8) "Motorized wheelchair dealer" means a person who is in the~~  
34 ~~business of selling motorized wheelchairs.~~

35 ~~(9) "Motorized wheelchair lessor" means a person who leases a~~  
36 ~~motorized wheelchair to a consumer, or who holds the lessor's rights,~~  
37 ~~under a written lease.~~

38 ~~(10))~~ "Nonconformity" means a condition or defect that  
39 substantially impairs the use, value, or safety of a ((motorized))

1 wheelchair, and that is covered by an express warranty applicable to  
2 the ((motorized)) wheelchair or to a component of the ((motorized))  
3 wheelchair, but does not include a condition or defect that is the  
4 result of abuse, neglect, or unauthorized modification or alteration of  
5 the ((motorized)) wheelchair by a consumer.

6 ((+11)) (8) "Reasonable attempt to repair" means any of the  
7 following occurring within the term of an express warranty applicable  
8 to a new ((motorized)) wheelchair or within one year after first  
9 delivery of a ((motorized)) wheelchair to a consumer, whichever is  
10 sooner:

11 (a) An attempted repair by the manufacturer, ((motorized))  
12 wheelchair lessor, or the manufacturer's authorized ((motorized))  
13 dealer is made to the same warranty nonconformity at least four times  
14 and the nonconformity continues; or

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

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

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

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

23 **Sec. 2.** RCW 19.184.020 and 1994 c 104 s 2 are each amended to read  
24 as follows:

25 A manufacturer who sells a ((motorized)) wheelchair to a consumer,  
26 either directly or through a ((motorized)) wheelchair dealer, shall  
27 furnish the consumer with an express warranty for the ((motorized))  
28 wheelchair. The duration of the express warranty must be for at least  
29 one year after the first delivery of the ((motorized)) wheelchair to  
30 the consumer. If the manufacturer fails to furnish an express warranty  
31 as required under this section, the ((motorized)) wheelchair is covered  
32 by an implied warranty as if the manufacturer had furnished an express  
33 warranty to the consumer as required under this section.

34 **Sec. 3.** RCW 19.184.030 and 1994 c 104 s 3 are each amended to read  
35 as follows:

36 (1) If a new ((motorized)) wheelchair does not conform to an  
37 applicable express warranty and the consumer reports the nonconformity

1 to the manufacturer, the ((motorized)) wheelchair lessor, or any of the  
2 manufacturer's authorized ((motorized)) wheelchair dealers and makes  
3 the ((motorized)) wheelchair available for repair before one year after  
4 first delivery of the ((motorized)) wheelchair to the consumer, the  
5 nonconformity must be repaired.

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

9 (a) At the direction of a consumer described under RCW  
10 19.184.010(2) (a), (b), or (c), do one of the following:

11 (i) Accept return of the ((motorized)) wheelchair and replace the  
12 ((motorized)) wheelchair with a comparable new ((motorized)) wheelchair  
13 and refund any collateral costs; or

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

26 (b)(i) For a consumer described in RCW 19.184.010(2)(d), accept  
27 return of the ((motorized)) wheelchair, refund to the ((motorized))  
28 wheelchair lessor and to a holder of a perfected security interest in  
29 the ((motorized)) wheelchair, as their interest may appear, the current  
30 value of the written lease and refund to the consumer the amount that  
31 the consumer paid under the written lease plus any collateral costs,  
32 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 ((motorized)) wheelchair dealer's early  
37 termination costs and the value of the ((motorized)) wheelchair at the  
38 lease expiration date if the lease sets forth the value, less the  
39 ((motorized)) wheelchair lessor's early termination savings.

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

9 (3) To receive a comparable new ((motorized)) wheelchair or a  
10 refund due under subsection (2)(a) of this section, a consumer  
11 described under RCW 19.184.010(2) (a), (b), or (c) shall offer to the  
12 manufacturer of the ((motorized)) wheelchair having the nonconformity  
13 to transfer possession of the ((motorized)) wheelchair to the  
14 manufacturer. Within thirty days after the offer, the manufacturer  
15 shall provide the consumer with a comparable new ((motorized))  
16 wheelchair or a refund. When the manufacturer provides a new  
17 ((motorized)) wheelchair or refund under this subsection, the consumer  
18 shall return to the manufacturer the ((motorized)) wheelchair having  
19 the nonconformity.

20 (4)(a) To receive a refund due under subsection (2)(b) of this  
21 section, a consumer described under RCW 19.184.010(2)(d) shall offer to  
22 return the ((motorized)) wheelchair having the nonconformity to its  
23 manufacturer. Within thirty days after the offer, the manufacturer  
24 shall provide the refund to the consumer. When the manufacturer  
25 provides the refund, the consumer shall return to the manufacturer the  
26 ((motorized)) wheelchair having the nonconformity.

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

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

38 (5) A person may not sell or lease again in this state a  
39 ((motorized)) wheelchair returned by a consumer or ((motorized))

1 wheelchair lessor in this state under subsection (2) of this section or  
2 by a consumer or (~~motorized~~) wheelchair lessor in another state under  
3 a similar law of that state, unless full disclosure of the reasons for  
4 return is made to a prospective buyer or lessee.

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