

---

THE GENERAL ASSEMBLY OF PENNSYLVANIA

---

**HOUSE BILL**

**No. 1519** Session of  
1993

---

INTRODUCED BY LAUB, PESCI, BAKER, FARMER, MASLAND, FICHTER,  
FARGO, KUKOVICH, KING, KASUNIC, DURHAM, STERN, TRELLO,  
JAROLIN, RAYMOND, GEIST, BELARDI, TOMLINSON, OLASZ, BELFANTI,  
SAURMAN AND E. Z. TAYLOR, MAY 5, 1993

---

REFERRED TO COMMITTEE ON CONSUMER AFFAIRS, MAY 5, 1993

---

AN ACT

1 Providing for express warranties for motorized wheelchairs.

2 The General Assembly of the Commonwealth of Pennsylvania  
3 hereby enacts as follows:

4 Section 1. Short title.

5 This act shall be known and may be cited as the Motorized  
6 Wheelchair Warranty Act.

7 Section 2. Definitions.

8 The following words and phrases when used in this act shall  
9 have the meanings given to them in this section unless the  
10 context clearly indicates otherwise:

11 "Collateral costs." Expenses incurred by a consumer in  
12 connection with the repair of a nonconformity, including the  
13 costs of obtaining an alternative wheelchair or other assistive  
14 device for mobility.

15 "Consumer." Any of the following:

16 (1) The purchaser of a motorized wheelchair, if the

1 motorized wheelchair was purchased from a motorized  
2 wheelchair dealer or manufacturer for purposes other than  
3 resale.

4 (2) A person to whom the motorized wheelchair is  
5 transferred for purposes other than resale, if the transfer  
6 occurs before the expiration of an express warranty  
7 applicable to the motorized wheelchair.

8 (3) A person who may enforce the warranty.

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

11 "Demonstrator." A motorized wheelchair used primarily for  
12 the purpose of demonstration to the public.

13 "Early termination cost." Any expense or obligation that a  
14 motorized wheelchair lessor incurs as a result of both the  
15 termination of a written lease before the termination date set  
16 forth in that lease and the return of a motorized wheelchair to  
17 a manufacturer under section 4(b)(2). The term includes a  
18 penalty for prepayment under a finance arrangement.

19 "Early termination savings." Any expense or obligation that  
20 a motorized wheelchair lessor avoids as a result of both the  
21 termination of a written lease before the termination date set  
22 forth in that lease and the return of a motorized wheelchair to  
23 a manufacturer under section 4(b)(2). The term includes an  
24 interest charge that the motorized wheelchair lessor would have  
25 paid to finance the motorized wheelchair or, if the motorized  
26 wheelchair lessor does not finance the motorized wheelchair, the  
27 difference between the total amount for which the lease  
28 obligates the consumer during the period of the lease term  
29 remaining after the early termination and the present value of  
30 that amount at the date of the early termination.

1 "Manufacturer." A person who manufactures or assembles  
2 motorized wheelchairs and agents of that person, including an  
3 importer, a distributor, factory branch, distributor branch and  
4 any warrantors of the manufacturer's motorized wheelchairs, but  
5 does not include a motorized wheelchair dealer.

6 "Motorized wheelchair." Any motor-driven wheelchair or cart,  
7 including a demonstrator, that a consumer purchases or accepts  
8 transfer of in this Commonwealth.

9 "Motorized wheelchair dealer." A person who is in the  
10 business of selling motorized wheelchairs.

11 "Motorized wheelchair lessor." A person who leases a  
12 motorized wheelchair to a consumer, or who holds the lessor's  
13 rights, under a written lease.

14 "Nonconformity." A condition or defect that substantially  
15 impairs the use, value or safety of a motorized wheelchair and  
16 that is covered by an express warranty applicable to the  
17 motorized wheelchair or to a component of the motorized  
18 wheelchair, but does not include a condition or defect that is  
19 the result of abuse, neglect or unauthorized modification or  
20 alteration of the motorized wheelchair by a consumer.

21 "Reasonably attempt to repair." Any of the following  
22 occurring within the term of an express warranty applicable to a  
23 new motorized wheelchair or within one year after first delivery  
24 of the motorized wheelchair to a consumer, whichever is sooner:

25 (1) The same nonconformity with the warranty is subject  
26 to repair by the manufacturer, motorized wheelchair lessor or  
27 any of the manufacturer's authorized motorized wheelchair  
28 dealers at least four times and the nonconformity continues.

29 (2) The motorized wheelchair is out of service for an  
30 aggregate of at least 30 days because of warranty

1 nonconformities.

2 Section 3. Express warranty provision.

3 A manufacturer who sells a motorized wheelchair to a  
4 consumer, either directly or through a motorized wheelchair  
5 dealer, shall furnish the consumer with an express warranty for  
6 the motorized wheelchair. The duration of the express warranty  
7 shall be not less than one year after first delivery of the  
8 motorized wheelchair to the consumer. If a manufacturer fails to  
9 furnish an express warranty as required by this act, the  
10 motorized wheelchair shall be covered by an express warranty as  
11 if the manufacturer had furnished an express warranty to the  
12 consumer as required by this act.

13 Section 4. Nonconformities.

14 (a) General rule.--If a new motorized wheelchair does not  
15 conform to an applicable express warranty and the consumer  
16 reports the nonconformity to the manufacturer, the motorized  
17 wheelchair lessor or any of the manufacturer's authorized  
18 motorized wheelchair dealers and makes the motorized wheelchair  
19 available for repair before one year after first delivery of the  
20 motorized wheelchair to a consumer, the nonconformity shall be  
21 repaired.

22 (b) Duties of manufacturer.--If, after a reasonable attempt  
23 to repair, the nonconformity is not repaired, the manufacturer  
24 shall carry out the requirements of one of the following:

25 (1) At the direction of a "consumer" as defined in  
26 section 2(1), (2) or (3), do one of the following:

27 (i) Accept return of the motorized wheelchair and  
28 replace the motorized wheelchair with a comparable new  
29 motorized wheelchair and refund any collateral costs.

30 (ii) Accept return of the motorized wheelchair and

1 refund to the consumer and to any holder of a perfected  
2 security interest in the consumer's motorized wheelchair,  
3 as their interest may appear, the full purchase price  
4 plus any finance charge, amount paid by the consumer at  
5 the point of sale and collateral costs, less a reasonable  
6 allowance for use. Under this subparagraph, a reasonable  
7 allowance for use may not exceed the amount obtained by  
8 multiplying the full purchase price of the motorized  
9 wheelchair by a fraction, the denominator of which is  
10 1,825 and the numerator of which is the number of days  
11 that the motorized wheelchair was driven before the  
12 consumer first reported the nonconformity to the  
13 motorized wheelchair dealer.

14 (2) With respect to a "consumer" as defined in section  
15 2(4), accept return of the motorized wheelchair, refund to  
16 the motorized wheelchair lessor and to any holder of a  
17 perfected security interest in the motorized wheelchair, as  
18 their interest may appear, the current value of the written  
19 lease and refund to the consumer the amount that the consumer  
20 paid under the written lease plus any collateral costs, less  
21 a reasonable allowance for use.

22 (c) Lease provisions.--

23 (1) The current value of the written lease equals the  
24 total amount for which that lease obligates the consumer  
25 during the period of the lease remaining after its early  
26 termination, plus the motorized wheelchair dealer's early  
27 termination costs and the value of the motorized wheelchair  
28 at the lease expiration date if the lease sets forth that  
29 value, less the motorized wheelchair lessor's early  
30 termination savings.

1           (2) A reasonable allowance for use may not exceed the  
2 amount obtained by multiplying the total amount for which the  
3 written lease obligates the consumer by a fraction, the  
4 denominator of which is 1,825 and the numerator of which is  
5 the number of days that the consumer drove the motorized  
6 wheelchair before first reporting the nonconformity to the  
7 manufacturer, motorized wheelchair lessor or motorized  
8 wheelchair dealer.

9           (d) Remedies.--

10           (1) To receive a comparable new motorized wheelchair or  
11 a refund due under subsection (b)(1), a consumer shall offer  
12 to the manufacturer of the motorized wheelchair having the  
13 nonconformity to transfer possession of that motorized  
14 wheelchair to that manufacturer. No later than 30 days after  
15 that offer, the manufacturer shall provide the consumer with  
16 the comparable new motorized wheelchair or refund. When the  
17 manufacturer provides the new motorized wheelchair or refund,  
18 the consumer shall return the motorized wheelchair having the  
19 nonconformity to the manufacturer, along with any  
20 endorsements necessary to transfer real possession to the  
21 manufacturer.

22           (2) To receive a refund due under subsection (b)(2), a  
23 consumer shall offer to return the motorized wheelchair  
24 having the nonconformity to its manufacturer. No later than  
25 30 days after that offer, the manufacturer shall provide the  
26 refund to the consumer. When the manufacturer provides the  
27 refund, the consumer shall return to the manufacturer the  
28 motorized wheelchair having the nonconformity.

29           (3) To receive a refund due under subsection (b)(2), a  
30 motorized wheelchair lessor shall offer to transfer

1 possession of the motorized wheelchair having the  
2 nonconformity to its manufacturer. No later than 30 days  
3 after that offer, the manufacturer shall provide the refund  
4 to the motorized wheelchair lessor. When the manufacturer  
5 provides the refund, the motorized wheelchair lessor shall  
6 provide to the manufacturer any endorsements necessary to  
7 transfer legal possession to the manufacturer.

8 (4) No person may enforce the lease against the consumer  
9 after the consumer receives a refund due under subsection  
10 (b)(2).

11 (e) Returned motorized wheelchair provision.--No motorized  
12 wheelchair returned by a consumer or motorized wheelchair lessor  
13 in this Commonwealth under subsection (b), or by a consumer or  
14 motorized wheelchair lessor in another state under a similar law  
15 of that state, may be sold or leased again in this Commonwealth  
16 unless full disclosure of the reasons for return is made to any  
17 prospective buyer or lessee.

18 Section 5. Limitation.

19 This section does not limit rights or remedies available to a  
20 consumer under any other law.

21 Section 6. Waiver invalid.

22 Any waiver by a consumer of rights under this section is  
23 void.

24 Section 7. Damage action.

25 In addition to pursuing any other remedy, a consumer may  
26 bring an action to recover for any damages cause by a violation  
27 of this section. The court shall award a consumer who prevails  
28 in such an action twice the amount of any pecuniary loss,  
29 together with costs, disbursements and reasonable attorney fees,  
30 and any equitable relief that the court determines is

1 appropriate.

2 Section 8. Effective date.

3 This act shall take effect in 60 days.