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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**HOUSE BILL**  
**No. 1391** Session of  
1977

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INTRODUCED BY MESSRS. GREENFIELD, CIANCIULLI, GRAY, GIAMMARCO,  
COHEN, BORSKI, MRS. SCANLON, MESSRS. GLEESON, BROWN AND  
SCHMITT, JUNE 22, 1977

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SENATOR KURY, CONSUMER AFFAIRS, IN SENATE, AS AMENDED,  
APRIL 3, 1978

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AN ACT

1 Providing for the return of certain defective goods and for a  
2 refund of the purchase price; providing for enforcement  
3 powers of the Attorney General for certain actions in equity  
4 and for the payment of costs and restitution.

5 The General Assembly of the Commonwealth of Pennsylvania  
6 hereby enacts as follows:

7 Section 1. The following words and phrases when used in this  
8 act shall have, unless the context clearly indicates otherwise,  
9 the meanings given to them in this section:

10 "DEPARTMENT." THE DEPARTMENT OF JUSTICE OF THE COMMONWEALTH <—  
11 OF PENNSYLVANIA.

12 "Goods." All things (including specially manufactured goods)  
13 which are movable at the time of identification to the contract  
14 for sale other than the money in which the price is to be paid,  
15 investment securities, things in action, and motor vehicles.

16 "Merchant." A person who deals in goods of the kind or  
17 otherwise by his occupation holds himself out as having

1 knowledge or skill peculiar to the practices or goods involved  
2 in the transaction or to whom such knowledge or skill may be  
3 attributed by his employment of an agent or broker or other  
4 intermediary who by his occupation holds himself out as having  
5 such knowledge or skill.

6 "Motor vehicle." Any self-propelled device in which, upon  
7 which, or by which any person or property is or may be  
8 transported or drawn upon a public highway, excepting tractors,  
9 power shovels, road machinery, agricultural machinery and other  
10 machinery not designed primarily for highway transportation, but  
11 which may incidentally transport persons or property on a public  
12 highway, and excepting such devices which move upon or are  
13 guided by a track or travel through the air and shall include  
14 trailers and semitrailers.

15 Section 2. (a) If the seller of new (unused) goods which  
16 were purchased for use for primarily personal, family or  
17 household purposes breaches an implied warranty of  
18 merchantability arising under section 2-314 of the act of April  
19 6, 1953 (P.L.3, No.1), known as the "Uniform Commercial Code,"  
20 or implied warranty of fitness for a particular purpose arising  
21 under section 2-315 of the said act, the buyer may revoke his  
22 acceptance of the goods by returning the goods to the place of  
23 sale within seven full business days following the day on which  
24 the sale was made, in the same condition as at the time of sale,  
25 excepting such change in condition which is necessarily caused  
26 in discovering the breach of warranty and tendering a sales  
27 receipt or other documentary proof of purchase. If the buyer  
28 revokes his acceptance pursuant to this section, the seller  
29 shall give a cash refund to the buyer in the amount of the  
30 purchase price if the goods cannot be replaced with conforming

1 goods or repaired to a condition of conformity with the  
2 warranties within seven full business days following the day  
3 that the goods are returned. The buyer may at any time after the  
4 purchase agree to extend or waive the time for repairs provided  
5 in this section but such extension or waiver shall be effective  
6 only if it is stated in a writing signed by the buyer. If a  
7 warranty of merchantability or warranty of fitness for a  
8 particular purpose is implied in a sale of goods which were  
9 purchased for use for primarily personal, family or household  
10 purposes, the seller shall not limit the right of the buyer to  
11 receive a cash refund under this act and any such limitation of  
12 the buyer's right shall be void and unenforceable.

13 (b) This section shall not apply in cases where the buyer  
14 has recourse to the Public Utility Commission.

15 (c) When the seller delivers goods by United States mail or  
16 other delivery service, the buyer shall be deemed to have  
17 returned such goods upon depositing the merchandise in the  
18 United States mail, or with the same delivery service as used  
19 for delivery to the buyer, with the proper delivery fee and  
20 instructions for return to the seller, provided that the  
21 merchandise is subsequently delivered to the seller.

22 Section 3. A cash refund may be a credit to the account of  
23 the buyer if the original sale is a credit sale: Provided, That  
24 any credit balance in the account after such credit is entered  
25 shall be refunded upon request of the buyer. Such credit may be  
26 entered and any credit balance may be refunded within a  
27 reasonable time after the return of the goods: And, provided  
28 further, That the credit to the account shall be effective as of  
29 the date on which the goods were returned. If the payment was by  
30 personal check, the cash refund shall be made after the check

1 has been honored.

2 Section 4. The ~~Attorney General~~ DEPARTMENT shall have the <—  
3 power to enforce this act.

4 Section 5. In the administration of this act, the ~~Attorney~~ <—  
5 ~~General~~ DEPARTMENT may accept an assurance of voluntary <—  
6 compliance with respect to any method, act or practice deemed to  
7 be violative of the act from any person who has engaged or was  
8 about to engage in such method, act or practice. Such assurance  
9 may include a stipulation for voluntary payment by the alleged  
10 violator providing for the restitution by the alleged violator  
11 to buyers of money, property or other things received from them  
12 in connection with the violation of this act. Any such assurance  
13 shall be in writing and be filed with the court of common pleas  
14 in the county in which the alleged violator resides, has his  
15 principal place of business, or is doing business, or the  
16 Commonwealth Court. Such assurance of voluntary compliance shall  
17 not be considered an admission of violation for any purpose.  
18 Matters thus closed may at any time be reopened by the ~~Attorney~~ <—  
19 ~~General~~ DEPARTMENT for further proceedings in the public <—  
20 interest.

21 Section 6. Whenever the ~~Attorney General~~ DEPARTMENT has <—  
22 reason to believe that any person is using or is about to use  
23 any method, act or practice declared in this act to be unlawful  
24 and that proceedings would be in the public interest, he IT may <—  
25 bring an action in the name of the Commonwealth against such  
26 person to restrain by temporary or permanent injunction the use  
27 of such method, act or practice. The action may be brought in  
28 the court of common pleas of the county in which such person  
29 resides, has his principal place of business, or is doing  
30 business, or may be brought in the Commonwealth Court. The said

1 courts are authorized to issue temporary or permanent  
2 injunctions to restrain and prevent violations of this act, and  
3 such injunctions shall be issued without bond.

4 Section 7. Whenever any court issues a permanent injunction  
5 to restrain and prevent violations of this act, the court may in  
6 its discretion provide for payment by defendant or defendants to  
7 the Commonwealth of the court costs of the action. In addition,  
8 the court may in its discretion direct that the defendant or  
9 defendants restore to any person in interest any moneys or  
10 property, real or personal, which may have been acquired by  
11 means of any violation of this act, under terms and conditions  
12 established by the court.

13 Section 8. Whenever goods shall be returned to the seller  
14 and the seller fails to comply with the provisions of this act  
15 such seller shall be liable to the buyer for the lesser of three  
16 times the purchase price or the purchase price plus \$200.

17 Section 9. Except as provided in section 8, the rights,  
18 duties and remedies established in this act shall be in addition  
19 to other rights, duties and remedies under the law, including  
20 the act of April 6, 1953 (P.L.3, No.1), known as the "Uniform  
21 Commercial Code." This act shall not limit the right of the  
22 seller to disclaim warranties.

23 Section 10. This act shall take effect immediately.