

2019 DRAFTING REQUEST**Senate Amendment (SA-SB573)**

For: **Jerry Petrowski (608) 266-2502** Drafter: **zwyatt**
 By: **Lindsey** Secondary Drafters:
 Date: **11/22/2019** May Contact:

Same as LRB:

Submit via email: **YES**
 Requester's email: **Sen.Petrowski@legis.wisconsin.gov**
 Carbon copy (CC) to: **zachary.wyatt@legis.wisconsin.gov**
eric.mueller@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

IOH lemon law changes

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	zwyatt 11/22/2019	kfollett 11/25/2019			
/P1	zwyatt 12/17/2019	kfollett 12/17/2019	lparisi 11/25/2019		
/P2			mbarman 12/17/2019		
/1			mbarman 1/6/2020	mbarman 1/6/2020	

FE Sent For:

<END>

Wisconsin Lemon Law – Implements of Husbandry

Midwest-SouthEastern Equipment Dealers Association Requested Changes

- ✓ 1. Page 2 Line 10 – Change “vehicle” to “implement of husbandry”
- ✓ 2. Page 2 Line 16 – insert verbiage: “applicable to the implement of husbandry and extended when the implement of husbandry was new and sold to the initial purchaser from an authorized dealer for purposes other than resale.”
- ✓ 3. Page 2 Line 17 – insert verbiage: “A person who may enforce an express warranty applicable to an implement of husbandry and extended when the implement of husbandry was new and sold to the initial purchaser from an authorized dealer for purposes other than resale.”
- ✓ 4. Page 2 Line 19 – insert verbiage: “A person who leases a new implement of husbandry from a lessor under a written lease.”
- ✓ 5. Page 3 Line 7 – Change “a” to “the same”
- ✓ 6. Page 4 Line 6 – insert verbiage: “written lease (which shall be the purchase price paid by the lessor for the implement of husbandry plus the anticipated return arising from the receipt of all lease payments and reduced by payments made by the consumer to the lessor under the lease), and refund to the consumer the amount the consumer paid under the”
- ✓ 7. Page 4 Line 13 – delete “and provide the manufacturer with the”
- ✓ 8. Page 4 Lines 14-18 - delete
- ✓ 9. Page 5 Lines 1-6 – delete
- ✓ 10. Page 5 Line 8 – insert verbiage: “or lease, as a new implement of husbandry, any nonconforming implement of husbandry returned to the manufacturer”
- ✓ 11. Page 5 Line 11 – Add new sentence: “An authorized dealer will not be liable for non-compliance with this section unless the manufacturer discloses at the time of transfer or sale to the dealer that the implement of husbandry was previously a nonconforming implement of husbandry returned to the manufacturer by a consumer.”



✓ 11/22/2019
OUT 11/23/2019

LRBa07770
ZDW: /gjf

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION
SENATE AMENDMENT,
TO SENATE BILL 573

1 At the locations indicated, amend the bill as follows:

2 1. Page 2, line 10: delete "vehicle" and substitute "implement of husbandry".

3 2. Page 2, line 16: ^{after} delete "husbandry" and ^{insert} substitute "husbandry that was
4 extended when the implement of husbandry was new and sold to the initial
5 purchaser by an authorized dealer for purposes other than resale".

6 3. Page 2, line 18: ^{after} delete "husbandry" and ^{insert} substitute "husbandry that was
7 extended when the implement of husbandry was new and sold to the initial
8 purchaser by an authorized dealer for purposes other than resale".

9 4. Page 2, line 19: delete "an implement" and substitute "a new implement".

10 5. Page 3, line 7: delete "a nonconformity" and substitute "the same
11 nonconformity".

1 **6.** Page 4, line 8: after "use." insert "In this paragraph, "current value of the
2 *written* lease" means the purchase price paid by the lessor for the implement of husbandry,
3 in addition to the anticipated return that would accrue from receipt of all lease
4 payments, reduced by payments made by the consumer to the lessor under the
5 lease.".

6 **7.** Page 4, line 13: delete that line and substitute: "nonconformity to the
7 manufacturer.".

8 **8.** Page 4, line 14: delete lines 14 to 18.

9 **9.** Page 4, line 25: delete "manufacturer" and substitute "manufacturer."

10 **10.** Page 5, line 1: delete lines 1 to 6.

11 **11.** Page 5, line 8: delete "lease" and substitute "lease, as a new implement of
12 husbandry,".

13 **12.** Page 5, line 11: after "lessee." insert "An authorized dealer is not liable for
14 noncompliance with this subsection unless the manufacturer discloses, at the time
15 of transfer or sale to the dealer, that the implement of husbandry was previously a
16 nonconforming implement of husbandry returned to the manufacturer by a
17 consumer.".

18

(END)

Wyatt, Zachary

From: Brabender, Lindsey
Sent: Monday, December 16, 2019 3:20 PM
To: Wyatt, Zachary
Cc: Neuwohner, Michael
Subject: RE: Amendment to IOH Lemon Law Bill

Hi Zach,

So, we've been going over those requested amendments and have decided to make some of them, and not others. Below I've detailed the changes we want to make. If I include language, just take that as a suggestion to illustrate what we're after – you can rework it if you'd like.

1. Page 2, line 10 – Change “vehicle” to “implement of husbandry”
2. Page 2, line 19 – “A person who leases an implement of husbandry not then covered by a manufacturer’s warranty from a lessor under a written lease”
3. Page 3, sub (e) – I spoke with an attorney who practices lemon law and he suggested some language change here to the definition. Below I’ll include his suggestions and reasoning behind it.
 - a. Change “for which at least 2 repair attempts have been made” to “for which one or more unsuccessful repairs have been attempted and the implement of husbandry has been returned to the consumer, or remains with the consumer, awaiting further attempted repair, or..” He feels that this would prevent the dealer from simply dropping the unusable IOH back on the consumer while awaiting parts or technical assistance which may take over 30 days for the wait. He said that, in many cases, a large IOH doesn’t leave the farm for repairs, only certain parts do.
 - b. He also suggested adding a definition for an attempt to repair – “An attempt to repair is an unsuccessful attempt any time active work on the Implement of Husbandry stops and does not restart and continue within 24 hours of the last active repair labor performed.” His reasoning is that otherwise, a new nonconforming combine could be left in the farmer’s field for a month and not qualify.
4. Page 4, Line 13 – delete “and provide the manufacturer with the”
5. Page 4, Lines 14-18 – delete
6. Page 5, Lines 1-6 – delete
7. Page 5, Line 11 – add language “If a manufacturer fails to disclose, in writing, that the non-conforming implement of husbandry was returned to the manufacturer by a consumer at the time of transfer or sale to the dealer, it shall be obligated to indemnify the dealer for all costs and expenses the dealer may incur as the result of that failure to disclose, and shall be directly liable under this section to the consumer who purchased without receiving disclosure.” We want to prevent the letting the manufacturer off the hook if the dealer just claims that they know nothing. Trying to provide dealer protection, but with more structure.

I think that about covers it. Just let me know if you have any questions or alternate suggestions.

Lindsey Brabender
Office of State Senator Jerry Petrowski
29th Senate District
608-266-2502

From: Wyatt, Zachary <Zachary.Wyatt@legis.wisconsin.gov>
Sent: Friday, November 22, 2019 3:29 PM

To: Brabender, Lindsey <Lindsey.Brabender@legis.wisconsin.gov>

Subject: RE: Amendment to IOH Lemon Law Bill

Items 2-4 would only be problematic if there are commonly warranties made to the original purchaser at some point after the initial sale. Or if, as a policy preference, you think a warranty should remain valid for its term, even if the IOH is sold. But it may already be the case that the typical IOH warranty is non-transferable. I don't know.

Item 6 is just adding some clarification about how a lease will be valued.

Item 10 does give me pause because that could mean that a manufacturer, lessor, or dealer could sell or lease a nonconforming IOH without disclosing the previous nonconformity so long as they did not claim the IOH was "new."

Item 11 seems fair to me as a dealer protection.

I went ahead and drafted this as an amendment (19a0777) since I will be out all next week and did not want to hold your office up. You should see the amendment on Monday. We can of course discuss and modify after the holiday if need be.

Thanks,

Zachary D. Wyatt

Senior Legislative Attorney

Wisconsin Legislative Reference Bureau

zachary.wyatt@legis.wisconsin.gov

608.504.5843

The information contained in this communication may be confidential and protected by the attorney-client privilege.

From: Brabender, Lindsey <Lindsey.Brabender@legis.wisconsin.gov>

Sent: Thursday, November 21, 2019 2:50 PM

To: Wyatt, Zachary <Zachary.Wyatt@legis.wisconsin.gov>; Neuwohner, Michael <Michael.Neuwohner@legis.wisconsin.gov>

Subject: Amendment to IOH Lemon Law Bill

Hi Zach,

Attached are some changes we've had proposed to us from the lobbyist for the Midwest-SouthEastern Equipment dealers. A few of them make sense, and I don't have any concerns with. The ones that I'm not 100% sure about are 2-4, 6, and 10-11. During our meeting he said that he wanted those changes in order to make sure that this is not applied to used equipment. I'm sure they're trying to limit exposure to the dealer, but I want to make sure that these changes don't skew things too far in that direction.

Let me know what you think OR we could set up a time to talk over the phone.

Lindsey Brabender

Office of State Senator Jerry Petrowski

29th Senate District

608-266-2502



in 12/17/2019
out 12/18/2019

WSEET

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION
SENATE AMENDMENT ,
TO SENATE BILL 573

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 2, line 10: delete “vehicle” and substitute “implement of husbandry”.

3 **2.** Page 2, line 16: after “husbandry” insert “that was extended when the
4 implement of husbandry was new and sold to the initial purchaser by an authorized
5 dealer for purposes other than resale”.

6 **3.** Page 2, line 18: after “husbandry” insert “that was extended when the
7 implement of husbandry was new and sold to the initial purchaser by an authorized
8 dealer for purposes other than resale”.

9 **4.** Page 2, line 19: delete “an implement” and substitute “a new implement”.

10 **5.** Page 3, line 7: delete “a nonconformity” and substitute “the same
11 nonconformity”.

1 **6.** Page 4, line 8: after “use.” insert “In this paragraph, “current value of the
2 written lease” means the purchase price paid by the lessor for the implement of
3 husbandry, in addition to the anticipated return that would accrue from receipt of all
4 lease payments, reduced by payments made by the consumer to the lessor under the
5 lease.”.

INS 2-6
6 **7.** Page 4, line 13: delete that line and substitute “nonconformity to the
7 manufacturer.”.

8 **8.** Page 4, line 14: delete lines 14 to 18.

9 **9.** Page 4, line 25: delete “manufacturer” and substitute “manufacturer.”.

10 **10.** Page 5, line 1: delete lines 1 to 6.

11 **11.** Page 5, line 8: delete “lease” and substitute “lease, as a new implement of
12 husbandry,”.

INS 2-13
13 **12.** Page 5, line 11: after “lessee.” insert “An authorized dealer is not liable for
14 noncompliance with this subsection unless the manufacturer discloses, at the time
15 of transfer or sale to the dealer, that the implement of husbandry was previously a
16 nonconforming implement of husbandry returned to the manufacturer by a
17 consumer.”.

18 (END)

INS 2-6

1. Page 2, line 19: after “husbandry” insert “not then covered by a manufacturer’s warranty”.

2. Page 3, line 4: delete the material beginning with “at least” and ending with “made” on page 3, line 5 and substitute: “one or more unsuccessful attempts to repair have been made and the implement of husbandry has been returned to the consumer or remains with the consumer awaiting further repair attempts”.

3. Page 3, line 7: after that line insert:

“(f) “Unsuccessful attempt to repair” means a repair attempt that does not correct the nonconformity for which the repair work is conducted and for which active repair work on the nonconformity stops and does not begin again within 24 hours of the previous repair work.”.

INS 2-13

“If a manufacturer fails to disclose in writing at the time of transfer or sale to a dealer that a nonconforming implement of husbandry was returned to the manufacturer by a consumer, the manufacturer shall indemnify the dealer for all costs and expenses the dealer incurs as the result of the manufacturer’s failure to disclose the nonconformity and shall be directly liable under this section to a consumer who purchases a nonconforming implement of husbandry without having received the disclosure required under this section.”.



No
change

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3 **2.** Page 2, line 19: after “husbandry” insert “not then covered by a
4 manufacturer’s warranty”.

5 **3.** Page 3, line 4: delete the material beginning with “at least” and ending with
6 “made” on line 5 and substitute “one or more unsuccessful attempts to repair have
7 been made and the implement of husbandry has been returned to the consumer or
8 remains with the consumer awaiting further repair attempts”.

9 **4.** Page 3, line 7: after that line insert:

10 “(f) “Unsuccessful attempt to repair” means a repair attempt that does not
11 correct the nonconformity for which the repair work is conducted and for which active

1 repair work on the nonconformity stops and does not begin again within 24 hours of
2 the previous repair work.”.

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4 manufacturer.”.

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7 **8.** Page 5, line 1: delete lines 1 to 6.

8 **9.** Page 5, line 11: after “lessee.” insert “If a manufacturer fails to disclose in
9 writing at the time of transfer or sale to a dealer that a nonconforming implement
10 of husbandry was returned to the manufacturer by a consumer, the manufacturer
11 shall indemnify the dealer for all costs and expenses the dealer incurs as the result
12 of the manufacturer’s failure to disclose the nonconformity and shall be directly
13 liable under this section to a consumer who purchases a nonconforming implement
14 of husbandry without having received the disclosure required under this section.”.

15

(END)