



2023 SENATE BILL 42

February 14, 2023 - Introduced by Senator JACQUE, cosponsored by Representatives TITTL, PRONSCHINSKE, EDMING, MURPHY, MURSAU, ROZAR, TUSLER and WICHGERS. Referred to Committee on Agriculture and Tourism.

1 **AN ACT** *to create* subchapter XI of chapter 218 [precedes 218.60] of the statutes;
2 **relating to:** repair and replacement of implements of husbandry under
3 warranty.

Analysis by the Legislative Reference Bureau

This bill creates requirements, commonly known as a “lemon law,” for the repair and replacement of an implement of husbandry that has a condition or defect (nonconformity) that substantially impairs the use, value, or safety of the implement of husbandry and that is covered by an express warranty.

Under the bill, if an implement of husbandry does not conform to an applicable express warranty, and the consumer reports the nonconformity to the manufacturer, the lessor, or any of the manufacturer’s authorized dealers and makes the implement of husbandry available for repair, the manufacturer, lessor, or authorized dealer must repair the nonconformity. If the same nonconformity has been subject to repair at least four times and the nonconformity continues, or if the implement of husbandry is out of service for an aggregate of at least 30 days because of warranty nonconformities, the consumer is entitled to a replacement implement of husbandry or a full refund.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SENATE BILL 42

1 (d) “Nonconformity” means a condition or defect that substantially impairs the
2 use, value, or safety of an implement of husbandry and that is covered by an express
3 warranty applicable to the implement of husbandry or to a component of the
4 implement of husbandry. “Nonconformity” does not include a condition or defect that
5 is the result of abuse, neglect, or unauthorized modification or alteration of the
6 implement of husbandry by a consumer.

7 (e) “Out of service” means that the implement of husbandry is unable to be used
8 by the consumer either because of a nonconformity for which one or more
9 unsuccessful attempts to repair have been made and the implement of husbandry
10 has been returned to the consumer or remains with the consumer awaiting further
11 repair attempts or because the implement of husbandry is in the possession of the
12 manufacturer, lessor, or any of the manufacturer’s authorized dealers for the
13 purpose of performing repairs to correct a nonconformity.

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

18 **(2)** If an implement of husbandry does not conform to an applicable express
19 warranty, and the consumer reports the nonconformity to the manufacturer, the
20 lessor, or any of the manufacturer’s authorized dealers and makes the implement of
21 husbandry available for repair before the expiration of the warranty or one year after
22 first delivery of the implement of husbandry to a consumer, whichever is sooner, the
23 manufacturer, lessor, or authorized dealer shall repair the nonconformity.

24 **(3)** If a manufacturer, lessor, or authorized dealer attempts to repair a
25 nonconformity not fewer than 4 times and the nonconformity is not repaired, or if an

SENATE BILL 42**SECTION 1**

1 implement of husbandry is out of service for an aggregate of not less than 30 days,
2 the consumer is entitled to a replacement or refund, and the manufacturer shall do
3 one of the following as directed by the consumer:

4 (a) Accept return of the implement of husbandry and replace the implement of
5 husbandry with a comparable new implement of husbandry and refund any
6 collateral costs.

7 (b) Accept return of the implement of husbandry and refund to the consumer
8 and to any holder of a perfected security interest in the consumer's implement of
9 husbandry, as their interest may appear, the full purchase price plus any sales tax,
10 finance charge, amount paid by the consumer at the point of sale, and collateral costs,
11 less a reasonable allowance for use.

12 (c) If the implement of husbandry is leased, accept return of the implement of
13 husbandry, refund to the lessor and to any holder of a perfected security interest in
14 the implement of husbandry, as their interest may appear, the current value of the
15 written lease, and refund to the consumer the amount the consumer paid under the
16 written lease plus any sales tax and collateral costs, less a reasonable allowance for
17 use.

18 (4) A consumer who elects to receive a refund under sub. (3) shall notify the
19 manufacturer. Not later than 30 days after receiving notice from the consumer, the
20 manufacturer shall provide the consumer with the refund. Upon receipt of the
21 refund, the consumer shall return the implement of husbandry having the
22 nonconformity to the manufacturer.

23 (5) A consumer who elects to receive a comparable new implement of
24 husbandry under sub. (3) shall notify the manufacturer. Not later than 45 days after
25 receiving notice from the consumer, the manufacturer shall provide either a

SENATE BILL 42

1 comparable new implement of husbandry or, if a comparable new implement of
2 husbandry does not exist or cannot be delivered within the 45-day period, a refund.
3 Upon receipt of the new implement of husbandry or the refund, the consumer shall
4 return the implement of husbandry having the nonconformity to the manufacturer.

5 (6) A manufacturer, lessor, or manufacturer's authorized dealer may not sell
6 or lease any nonconforming implement of husbandry returned to the manufacturer
7 by a consumer unless the manufacturer, lessor, or manufacturer's authorized dealer
8 discloses the reasons the implement of husbandry was returned to any prospective
9 buyer or lessee. If a manufacturer fails to disclose in writing at the time of transfer
10 or sale to a dealer that a nonconforming implement of husbandry was returned to the
11 manufacturer by a consumer, the manufacturer shall indemnify the dealer for all
12 costs and expenses the dealer incurs as the result of the manufacturer's failure to
13 disclose the nonconformity and shall be directly liable under this section to a
14 consumer who purchases a nonconforming implement of husbandry without having
15 received the disclosure required under this section.

16 (7) The department of revenue shall refund to a manufacturer any sales tax
17 the manufacturer refunded to a consumer under sub. (3) if the manufacturer
18 provides to the department of revenue a written request for a refund along with
19 evidence that the sales tax was paid when the implement of husbandry was
20 purchased and that the manufacturer refunded the sales tax to the consumer.

21 (8) This section does not limit rights or remedies available to a consumer under
22 any other law.

23 (9) (a) In addition to pursuing any other remedy, a consumer may bring an
24 action to recover for any damages caused by a violation of this section if the action
25 is commenced within 36 months after first delivery of the implement of husbandry

SENATE BILL 42**SECTION 1**

1 to a consumer. The court shall award a consumer who prevails in such an action the
2 amount of any pecuniary loss, together with costs, disbursements, and reasonable
3 attorney fees, and may award any equitable relief the court determines appropriate.

4 (b) Notwithstanding any other provision of this section or ch. 802, 804, or 806,
5 in an action for a violation under this section, if a court finds that any party to the
6 action has failed to reasonably cooperate with another party's efforts to comply with
7 obligations under this section, which hinders the other party's ability to comply with
8 or seek recovery under this section, the court may extend any deadlines specified in
9 this section, reduce any damages, attorney fees, or costs that may be awarded under
10 par. (a), strike pleadings, or enter default judgment against the offending party.

11 (END)