

**2019 DRAFTING REQUEST**

**Bill**

For: **Paul Tittl (608) 266-0315** Drafter: **zwyatt**  
 By: **Mike** Secondary Drafters:  
 Date: **4/8/2019** May Contact:

Same as LRB:

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

**Pre Topic:**

No specific pre topic given

**Topic:**

Implements of husbandry lemon law

**Instructions:**

See attached

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	zwyatt 4/17/2019	kfollett 4/22/2019			
/P1	zwyatt 10/9/2019	kfollett 10/10/2019	mbarman 4/22/2019		
/P2			mbarman 10/10/2019		
/1			lparisi 10/29/2019	lparisi 10/29/2019	

FE Sent For: *Not Needed*

**<END>**

## Pfotenhauer, Mary

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**From:** Neuwohner, Michael  
**Sent:** Monday, April 08, 2019 11:28 AM  
**To:** Pfotenhauer, Mary  
**Subject:** FW: Lemon Law Question

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Hi Mary, here is the information on lemon laws put together by Leg Council. Let us know if you have any questions.

Thanks again.

***Mike Neuwohner***  
Legislative Assistant

Office of Representative Paul Tittl  
State Capitol Room 219 North

Madison, WI 53708

(608) 237-9292

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**From:** Brauer, Andrea <Andrea.Brauer@legis.wisconsin.gov>  
**Sent:** Thursday, February 14, 2019 3:14 PM  
**To:** Luke, Ashley <Ashley.Luke@legis.wisconsin.gov>  
**Subject:** RE: Lemon Law Question

Hi Ashley,

Wisconsin's lemon law is found in [s. 218.0171, Stats.](#), and is summarized on DOT's website [here](#). Below is a general overview of the law (which includes some of DOT's language that I just copied and pasted, since their summary is really good).

In Wisconsin, the lemon law protections apply to new vehicles purchased in Wisconsin that are ***no more than a year old and are still under warranty*** if the vehicle has either of the following:

- A serious defect the manufacturer or dealer(s) didn't fix in four tries. To qualify, the defect must seriously affect the use, value or safety of the vehicle, must be covered by the warranty, and can't have been caused by abuse, neglect, or an unauthorized modification or alteration; or
- One or more defects that prevent the person from using the vehicle for 30 days or more (the 30 days need not be consecutive).

Note that the lemon law protections do ***not*** apply to used vehicles, vehicles purchased outside of Wisconsin or online, mopeds, trailers, or semitrailers.

When lemon law protections apply, the owner can direct the manufacturer to give him or her one of the following:

1. A comparable replacement vehicle plus all collateral costs.

[The manufacturer may, at its option, provide a complete refund of the full purchase price paid for the vehicle in lieu of a comparable replacement vehicle. The full refund must include a refund of any sales tax, finance charge, amount paid by you (the consumer) at the point of sale and all collateral costs. This is to be provided:

- within 45 days, for a vehicle having a gross vehicle weight rating and actual weight of 10,000 pounds or less
- Within 120 days for a vehicle having a gross vehicle weight rating or actual weight in excess of 10,000 pounds.]

2. A refund of the full purchase price of the vehicle plus any sales tax, finance charge, amount paid by you at the point of sale and collateral costs, less a reasonable amount for mileage/use. The manufacturer has 30 days to provide the refund.

3. If you leased the vehicle, a refund for the current value of the written lease should be given to the motor vehicle lessor and to any holder of a perfected security interest in the vehicle, and you should be refunded all amounts you paid under the written lease plus any sales tax and collateral costs, less a reasonable allowance for mileage/use.

For heavy vehicles with a gross vehicle weight rating or actual gross weight of more than 10,000 pounds, a person can lose the benefits of the lemon law if he or she enters into a negotiated written settlement with the manufacturer.

There is also a three-year window for filing a claim under the lemon law.

This is just a general overview of the law, so please let me know if there is anything else I can do to help!

Andrea Brauer  
Staff Attorney  
Wisconsin Legislative Council  
(608) 504-5714

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**From:** Luke, Ashley <[Ashley.Luke@legis.wisconsin.gov](mailto:Ashley.Luke@legis.wisconsin.gov)>  
**Sent:** Friday, February 08, 2019 3:41 PM  
**To:** Brauer, Andrea <[Andrea.Brauer@legis.wisconsin.gov](mailto:Andrea.Brauer@legis.wisconsin.gov)>  
**Subject:** Lemon Law Question

Hi Andrea,

I hope you are staying warm in this crazy weather! Rep. Tittl was contacted by a constituent who thinks the Lemon Law should be expanded to include tractors and farm machinery. Do any other states have these protections? Could you provide some background on the Lemon Law situation in Wisconsin?

Any information would be appreciated. No real rush on this request, I just wanted to get some background information for Rep. Tittl before he will most likely see the constituent on Feb. 18<sup>th</sup>.

Thanks so much and have a nice weekend!

Sincerely,

Ashley

***Ashley Luke***

**Legislative Assistant**

Office of Representative Paul Tittl

State Capitol Room 219 North

Madison, WI 53708

(608) 237-9292



in 4/17/2019  
out 4/22/2019

LRB-2695/3  
ZDW:...

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

1 AN ACT ...; relating to: repair and replacement of implements of husbandry  
2 under warranty.

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***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 4 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.

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

3 SECTION 1. Subchapter XI of chapter 218 [precedes 218.60] of the statutes is  
4 created to read:



1 (e) "Out of service" means that the implement of husbandry is unable to be used  
2 by the consumer either because of a nonconformity for which at least 2 repair  
3 attempts have been made or because the implement of husbandry is in the possession  
4 of the manufacturer, lessor, or any of the manufacturer's authorized dealers for the  
5 purpose of performing repairs to correct a nonconformity.

6 (2) If an implement of husbandry does not conform to an applicable express  
7 warranty and the consumer reports the nonconformity to the manufacturer, the  
8 lessor, or any of the manufacturer's authorized dealers and makes the implement of  
9 husbandry available for repair before the expiration of the warranty or one year after  
10 first delivery of the implement of husbandry to a consumer, whichever is sooner, the  
11 manufacturer, lessor, or authorized dealer shall repair the nonconformity.

12 (3) If a manufacturer, lessor, or authorized dealer attempts to repair a  
13 nonconformity not less than 4 times and the nonconformity is not repaired or if an  
14 implement of husbandry is out of service for an aggregate of not less than 30 days,  
15 the consumer is entitled to a replacement or refund and the manufacturer shall do  
16 one of the following as directed by the consumer:

17 (a) Accept return of the implement of husbandry and replace the implement of  
18 husbandry with a comparable new implement of husbandry and refund any  
19 collateral costs.

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



1 (c) If the implement of husbandry is leased, accept return of the implement of  
2 husbandry, refund to the lessor and to any holder of a perfected security interest in  
3 the implement of husbandry, as their interest may appear, the current value of the  
4 written lease, and refund to the consumer the amount the consumer paid under the  
5 written lease plus any sales tax and collateral costs, less a reasonable allowance for  
6 use.

7 (4) A consumer who elects to receive a refund under sub. (3) shall notify the  
8 manufacturer. Not later than 30 days after receiving notice from a consumer, the  
9 manufacturer shall provide the consumer with the refund. Upon receipt of the  
10 refund, the consumer shall return the implement of husbandry having the  
11 nonconformity to the manufacturer and provide the manufacturer with the  
12 certificate of title and all endorsements necessary to transfer title to the  
13 manufacturer. If another person is in possession of the certificate of title, as shown  
14 by the records of the department of transportation, that person shall, upon request  
15 of the consumer, provide the certificate of title to the manufacturer upon satisfaction  
16 of any security interest in the implement of husbandry.

17 (5) A consumer who elects to receive a comparable new implement of  
18 husbandry under sub. (3) shall notify the manufacturer. Not later than 45 days after  
19 receiving notice from a consumer, the manufacturer shall provide either a  
20 comparable new implement of husbandry or, if a comparable new implement of  
21 husbandry does not exist or cannot be delivered within the 45-day period, a refund.  
22 Upon receipt of the new implement of husbandry or a refund, the consumer shall  
23 return the implement of husbandry having the nonconformity to the manufacturer  
24 and provide the manufacturer with the certificate of title and all endorsements  
25 necessary to transfer title to the manufacturer. If another person is in possession of

1 the certificate of title, as shown by the records of the department of transportation,  
2 that person shall, upon request of the consumer, provide the certificate of title to the  
3 manufacturer upon satisfaction of any security interest in the implement of  
4 husbandry.

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.

10 (7) The department of revenue shall refund to a manufacturer any sales tax  
11 the manufacturer refunded to a consumer under sub. (3) if the manufacturer  
12 provides to the department of revenue a written request for a refund along with  
13 evidence that the sales tax was paid when the implement of husbandry was  
14 purchased and that the manufacturer refunded the sales tax to the consumer.

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

17 (9) (a) In addition to pursuing any other remedy, a consumer may bring an  
18 action to recover for any damages caused by a violation of this section if the action  
19 is commenced within 36 months after first delivery of the implement of husbandry  
20 to a consumer. The court shall award a consumer who prevails in such an action the  
21 amount of any pecuniary loss, together with costs, disbursements, and reasonable  
22 attorney fees, and may award any equitable relief the court determines appropriate.

23 (b) Notwithstanding any other provision of this section or ch. 802, 804, or 806,  
24 in an action for a violation under this section, if a court finds that any party to the  
25 action has failed to reasonably cooperate with another party's efforts to comply with

1 obligations under this section, which hinders the other party's ability to comply with  
2 or seek recovery under this section, the court may extend any deadlines specified in  
3 this section, reduce any damages, attorney fees, or costs that may be awarded under  
4 par. (a), strike pleadings, or enter default judgment against the offending party.

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**(END)**

## Wyatt, Zachary

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**From:** Hall, Steve  
**Sent:** Monday, October 07, 2019 3:30 PM  
**To:** Brabender, Lindsey; Wyatt, Zachary  
**Subject:** Farm Equipment Lemon Law

Lindsey.

I agree with you. Leaving it in place makes sense. If there is a better idea, the hearing process provides an opportunity for someone to suggest a change.

Thanks for your work in reviewing the p/1 and improving the language.

Steve

**From:** Brabender, Lindsey <Lindsey.Brabender@legis.wisconsin.gov>  
**Sent:** Monday, October 07, 2019 3:05 PM  
**To:** Wyatt, Zachary <Zachary.Wyatt@legis.wisconsin.gov>; Hall, Steve <Steve.Hall@legis.wisconsin.gov>  
**Subject:** RE: Farm Equipment Lemon Law

I agree, let's put the "or to a component" language back in. As to the second issue, I really don't know. I guess that's something we could leave as is for now? I certainly don't think I'm equipt to come up with the calculation.

**From:** Wyatt, Zachary <Zachary.Wyatt@legis.wisconsin.gov>  
**Sent:** Monday, October 07, 2019 12:36 PM  
**To:** Hall, Steve <Steve.Hall@legis.wisconsin.gov>; Brabender, Lindsey <Lindsey.Brabender@legis.wisconsin.gov>  
**Subject:** RE: Farm Equipment Lemon Law

I think it makes sense to add back in the "or to a component" language, just to avoid multiple warranties giving manufacturers a way around the lemon law.

**From:** Hall, Steve <Steve.Hall@legis.wisconsin.gov>  
**Sent:** Monday, October 07, 2019 12:01 PM  
**To:** Wyatt, Zachary <Zachary.Wyatt@legis.wisconsin.gov>; Brabender, Lindsey <Lindsey.Brabender@legis.wisconsin.gov>  
**Subject:** Farm Equipment Lemon Law

Lindsey and Zach,

In preparation for calling our constituent about the lemon law, I did some checking online. Here's what I found.

1. Warranty Issue: Here is a link to a tractor manufacturer's warranty information (Kubota). Page 12 mentions a basic warranty and a powertrain or engine warranty. The BASIC warranty covers the entire unit, whereas the POWERTRAIN or ENGINE warranty covers only the driveline and/or engine components.

Page 12 also includes a battery warranty.

Note: John Deere's warranty for agricultural equipment is available for the local dealer, but the online warranty page also refers to "Engine & Drivetrain" warranties.

2. Calculation of damages in the auto lemon law statute: Page 12 mentions differing bases of limitation depending on the model of tractor. Some models have a specified period (6 months, one year, etc.). Others have both a specified time as well as an hourmeter limitation. In the latter case, the limitation first occurring (date or hours) determines whether or not a product is within the warranty period.

Issue: Should amend our language?

I'm happy to phone the constituent, but I'm not certain he is going to be able to add anything. I thought I would send this information your way first.

Thanks,

Steve

**Steve Hall**

Office of Representative Paul Tittl

25<sup>th</sup> Assembly District

State of Wisconsin

608-266-0315

[Steve.Hall@legis.wi.gov](mailto:Steve.Hall@legis.wi.gov)



**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

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.

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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.

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1 include a condition or defect that is the result of abuse, neglect, or unauthorized  
2 modification or alteration of the implement of husbandry by a consumer.

3 (e) "Out of service" means that the implement of husbandry is unable to be used  
4 by the consumer either because of a nonconformity for which at least 2 repair  
5 attempts have been made or because the implement of husbandry is in the possession  
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16 purchased and that the manufacturer refunded the sales tax to the consumer.

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

19 (9) (a) In addition to pursuing any other remedy, a consumer may bring an  
20 action to recover for any damages caused by a violation of this section if the action  
21 is commenced within 36 months after first delivery of the implement of husbandry  
22 to a consumer. The court shall award a consumer who prevails in such an action the  
23 amount of any pecuniary loss, together with costs, disbursements, and reasonable  
24 attorney fees, and may award any equitable relief the court determines appropriate.





State of Wisconsin  
2019 - 2020 LEGISLATURE

LRB-2695/P2  
ZDW:kjf

11  
NO  
changes

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

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