



2019 SENATE BILL 573

November 22, 2019 - Introduced by Senators PETROWSKI and OLSEN, cosponsored by Representatives TITTL, EDMING, HORLACHER, MAGNAFICI, MURSAU, RAMTHUN, SKOWRONSKI, TAUCHEN, TUSLER and WICHGERS. Referred to Committee on Transportation, Veterans and Military Affairs.

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 573**SECTION 1**

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

CHAPTER 218**SUBCHAPTER XI****IMPLEMENTS OF HUSBANDRY**

6 **218.60 Repair and replacement of implements of husbandry under**
7 **warranty. (1)** In this section:

8 (a) “Collateral costs” means expenses incurred by a consumer in connection
9 with the repair of a nonconformity, including the costs of obtaining an alternative
10 vehicle.

11 (b) “Consumer” means any of the following:

12 1. The purchaser of a new implement of husbandry, if the implement of
13 husbandry was purchased from an authorized dealer for purposes other than resale.

14 2. A person to whom an implement of husbandry is transferred for purposes
15 other than resale if the transfer occurs before the expiration of an express warranty
16 applicable to the implement of husbandry.

17 3. A person who may enforce a warranty applicable to an implement of
18 husbandry.

19 4. A person who leases an implement of husbandry from a lessor under a
20 written lease.

21 (c) “Implement of husbandry” has the meaning given in s. 340.01 (24).

22 (d) “Nonconformity” means a condition or defect that substantially impairs the
23 use, value, or safety of an implement of husbandry and that is covered by an express
24 warranty applicable to the implement of husbandry or to a component of the
25 implement of husbandry. “Nonconformity” does not include a condition or defect that

SENATE BILL 573

1 is the result of abuse, neglect, or unauthorized modification or alteration of the
2 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
6 of the manufacturer, lessor, or any of the manufacturer's authorized dealers for the
7 purpose of performing repairs to correct a nonconformity.

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

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

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

22 (b) Accept return of the implement of husbandry and refund to the consumer
23 and to any holder of a perfected security interest in the consumer's implement of
24 husbandry, as their interest may appear, the full purchase price plus any sales tax,

SENATE BILL 573**SECTION 1**

1 finance charge, amount paid by the consumer at the point of sale, and collateral costs,
2 less a reasonable allowance for use.

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

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

19 (5) A consumer who elects to receive a comparable new implement of
20 husbandry under sub. (3) shall notify the manufacturer. Not later than 45 days after
21 receiving notice from a consumer, the manufacturer shall provide either a
22 comparable new implement of husbandry or, if a comparable new implement of
23 husbandry does not exist or cannot be delivered within the 45-day period, a refund.
24 Upon receipt of the new implement of husbandry or a refund, the consumer shall
25 return the implement of husbandry having the nonconformity to the manufacturer

SENATE BILL 573

1 and provide the manufacturer with the certificate of title and all endorsements
2 necessary to transfer title to the manufacturer. If another person is in possession of
3 the certificate of title, as shown by the records of the department of transportation,
4 that person shall, upon request of the consumer, provide the certificate of title to the
5 manufacturer upon satisfaction of any security interest in the implement of
6 husbandry.

7 (6) A manufacturer, lessor, or manufacturer's authorized dealer may not sell
8 or lease any nonconforming implement of husbandry returned to the manufacturer
9 by a consumer unless the manufacturer, lessor, or manufacturer's authorized dealer
10 discloses the reasons the implement of husbandry was returned to any prospective
11 buyer or lessee.

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

SENATE BILL 573**SECTION 1**

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

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(END)