



# LEGAL BRIEFS

*A Community Legal Education Publication  
from the Legal Services Corporation of Iowa*  
“Working for Equal Justice in Iowa Since 1977”

## Iowa's Assistive Devices “Lemon Law”

Many people use a wheelchair or some other piece of equipment to help them live with a disability. These are called assistive devices. What can you do when assistive equipment does not work right? In Iowa, the assistive devices “lemon law” gives you certain rights concerning the repair and replacement of a new assistive device. The assistive devices lemon law (The Assistive Devices Warranty Act) became law in 1998 and is at Iowa Code chapter 216E. Iowa law may give you other rights or remedies in addition to those which the lemon law provides.

### **Who Is Covered by the Assistive Devices “Lemon Law”**

The consumer is the person who buys or leases a new assistive device. Someone other than the original consumer who uses an assistive device might also be considered a consumer. The company that sells or leases an assistive device is the manufac-

turer or dealer. The company cannot require the consumer to give up any rights under the lemon law. Any other rights provided by law or by a guarantee of the manufacturer or dealer are in addition to what the lemon law provides.

### **What Devices Are Covered**

The lemon law covers a new assistive device for up to at least a year after it is delivered to the original consumer. The law covers many products such as a walker, a one-handed computer keyboard or a transfer bench for a bathtub. This law does not cover devices implanted into or directly attached to a person's body. The law does not cover hearing aids already covered by a warranty or service agreement from an audiologist or hearing aid dealer. A car is not an assistive device, but a wheelchair lift or a driving control a person with a disability uses to drive would be.

## **Warranties Under the “Lemon Law”**

The Assistive Devices Warranty Act creates a warranty on all new assistive devices sold or leased in Iowa. A warranty is a promise by a seller to a buyer that a product will work up to a certain standard. The lemon law warranty lasts for at least one year after the consumer gets the device. If an assistive device is transferred to someone other than the original consumer while the warranty is in effect, the warranty is good for the rest of the year, as long as the transfer was not a resale of the device. The lemon law warranty guarantees the device will not have any “nonconformity.” That means it will not have a serious defect, malfunction or condition that makes it not work right or makes it unsafe. The lemon law warranty does not cover damages a consumer causes by improper use or neglect.

An assistive device will be covered by the lemon law warranty no matter what the manufacturer or dealer says or puts in writing. Sometimes a business will state in writing that its product is sold “as is” or without any warranties. This may mean that some kinds of warranties do not apply to the product. But, a manufacturer or dealer cannot require a consumer

to give up the lemon law warranty on an assistive device. Also, the lemon law warranty covers an assistive device even if the manufacturer or dealer provides a different warranty.

## **A “Loaner” Device May Be Required During Repairs**

While the lemon law warranty is in effect, a consumer who owns or leases a piece of equipment covered by the warranty can return it to the manufacturer or dealer for repair of a serious defect. If repairs take more than ten days, the manufacturer has two options. One is to provide a temporary replacement (“a loaner”). The other option is to reimburse the customer up to twenty dollars a day to pay for a temporary replacement. If the consumer has already brought the device in to be repaired for the same defect at least two other times, the manufacturer must provide a loaner or reimbursement right away while the device is being repaired. A loaner does not have to be exactly the same as the device being repaired. A loaner must be able to do the important things the assistive device does and must not be dangerous to use.

## **Manufacturers' Obligations When a Device Under The Lemon Law Warranty Can't Be Fixed**

The lemon law says that while the lemon law warranty is in effect, the manufacturer of a defective assistive device must replace it or pay the consumer if the seller cannot fix the device. The law allows the consumer to ask for a refund or a replacement if:

- The consumer must have the device repaired at least two times because of serious defects; or
- The device is out of service for a total of at least thirty days while it is being repaired under the warranty.

In the case of a refund, the consumer who bought the device may be due more than just the purchase price. The manufacturer must also refund any finance charges and the amount the consumer spent trying to have the device repaired. When the consumer leased the device, the manufacturer must refund what the consumer already paid under the lease plus what the consumer spent trying to have the device repaired. The manufacturer may deduct a reasonable amount from the refund for use of the device, based on the number of days of use prior to bringing it in for repairs.

In some cases, a health insurance provider like Medicare or Medicaid pays for equipment you use for your disability. You should tell the insurance provider if you want the manufacturer to replace your device or give you a refund. If you want to get a replacement, your insurer may want to know if the replacement device is like the one it bought for you. If your insurer paid for the equipment, they should get the refund.

## **Other Protection Available to Consumers Under the Lemon Law**

The Assistive Devices Warranty Act protects consumers in other ways. A manufacturer or dealer cannot enforce a lease of an assistive device against a consumer who got a refund under the warranty. A manufacturer or dealer cannot resell or lease an assistive device returned under the warranty because of a defect without telling why the device was returned. A consumer harmed by a violation of the warranty act may sue the manufacturer or the dealer for damages. The assistive devices lemon law lets a consumer make any other legal claims he or she has in addition to what the lemon law provides.

## Other Laws May Cover Assistive Devices

Some other laws may cover an assistive device. You may be able to enforce promises made by the seller. The law may give you some rights if the seller made promises that he or she knew were false or if you paid far more than the device was worth. If you want advice on the laws that may cover an assistive device, you should speak to an attorney.

## Where to Get Help with Assistive Device Consumer Problems

Because an assistive device will perform an important role in your life, it's a good idea to do what you can to choose one that works for you. If you take some care in selecting a device, it may be possible to avoid future problems. For advice on shopping for the equipment you need to overcome your disability, you can call InfoTech at 1-800-331-3027. If you have problems with an assistive device, you may have some rights under Iowa law. If you need a lawyer but can't afford one, you may be able to get help from Legal Services Corporation of Iowa. You can also contact the Iowa Attorney General's Consumer Protection Division at 515-281-5926 to file a complaint or for advice.

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