



## 2019 ASSEMBLY BILL 631

December 2, 2019 - Introduced by Representatives TITTL, EDMING, HORLACHER, MAGNAFICI, MURSAU, RAMTHUN, SKOWRONSKI, TAUCHEN, TUSLER and WICHGERS, cosponsored by Senators PETROWSKI and OLSEN. Referred to Committee on Consumer Protection.

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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### ***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.

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



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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,

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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

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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.

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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)