

STATE OF NEW YORK

4298

2023-2024 Regular Sessions

IN ASSEMBLY

February 14, 2023

Introduced by M. of A. LEMONDES -- read once and referred to the Committee on Consumer Affairs and Protection

AN ACT to amend the general business law, in relation to a warranty for new consumer goods with a purchase price of five hundred dollars or more per unit

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The general business law is amended by adding a new section
2 396-zz to read as follows:

3 § 396-zz. Warranty for new consumer goods. 1. If a consumer good with
4 a purchase price of five hundred dollars or more purchased in this state
5 does not conform to all express warranties during the period commencing
6 two years following the date of such purchase, the consumer shall,
7 during such period, report the nonconformity, defect or other condition
8 which substantially impairs the value of such consumer good to the
9 manufacturer, the manufacturer's agent, or the manufacturer's authorized
10 dealer as provided in this subdivision. Where any such notification is
11 received by the manufacturer's agent or authorized dealer or seller,
12 such agent, dealer, or seller shall, within seven days of receipt there-
13 of forward such written notice to the manufacturer by certified mail,
14 return receipt requested, and shall include with such notice a statement
15 indicating whether or not repairs have been undertaken. The manufactur-
16 er, its agent or its authorized seller shall thereafter repair or
17 correct such nonconformity, defect or condition at no charge to the
18 consumer, notwithstanding the fact that such repairs are made after the
19 expiration of such period of operation or such two-year period.

20 2. If a manufacturer's agent or authorized dealer or seller refuses to
21 undertake repairs within seven days of receipt of the notice by a
22 consumer of a nonconformity, defect, or condition pursuant to subdivi-
23 sion one of this section, the consumer may immediately forward written
24 notice of such refusal to the manufacturer by certified mail, return

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 receipt requested. The manufacturer or its authorized agent shall have
2 twenty days from receipt of such notice of refusal to commence such
3 repairs. If the manufacturer or its authorized dealer or seller fails to
4 commence such repairs within such twenty-day period, the manufacturer,
5 at the option of the consumer, shall replace the consumer good with a
6 comparable consumer good, or accept return of the consumer good from the
7 consumer and refund to the consumer the full purchase price.

8 3. If, within the period specified in subdivision two of this section,
9 the manufacturer or its agents or authorized dealers or sellers are
10 unable to repair or correct any nonconformity, defect, or condition
11 which substantially impairs the value of the consumer good to the
12 consumer after a reasonable number of attempts, the manufacturer, at the
13 option of the consumer, shall replace the consumer good with a compara-
14 ble consumer good, or accept return of the consumer good from the
15 consumer and refund to the consumer the full purchase price. Any return
16 of a consumer good may, at the option of the consumer, be made to the
17 dealer or seller or other authorized agent of the manufacturer who sold
18 such consumer good to the consumer or to the dealer or seller or other
19 authorized agent who attempted to repair or correct the defect or condi-
20 tion which necessitated the return and shall not be subject to any
21 further shipping charges.

22 4. It shall be an affirmative defense to any claim under this section
23 that: the nonconformity, defect or condition does not substantially
24 impair such value; or the nonconformity, defect or condition is the
25 result of abuse, neglect or unauthorized modifications or alterations of
26 the consumer good.

27 5. For any new consumer good with a purchase price of five hundred
28 dollars or more per unit, the following notice shall be provided to
29 consumers and shall be printed in conspicuous ten point bold face type:

30 "CONSUMER GOODS BILL OF RIGHTS"

31 (a) In addition to any warranties offered by the manufacturer, any new
32 consumer good with a purchase price of five hundred dollars or more per
33 unit, if purchased in New York state, is warranted against all material
34 defects for two years.

35 (b) You must report any problems to the manufacturer, its agent, or
36 authorized dealer or seller.

37 (c) Upon notification, the problem must be corrected free of charge.

38 (d) If the same problem cannot be repaired after four or more
39 attempts; or if your consumer good is inoperable for a total of thirty
40 days during the warranty period; or if the manufacturer or its agent
41 refuses to repair a substantial defect or condition within twenty days
42 of receipt of notice sent by you to the manufacturer by certified mail,
43 return receipt requested; then you may be entitled to either a compara-
44 ble consumer good or a refund of your purchase price, plus taxes or
45 other fees.

46 (e) A manufacturer may deny liability if the problem is caused by
47 abuse, neglect, or unauthorized modifications of the consumer good.

48 (f) A manufacturer may refuse to exchange a comparable consumer good
49 or refund your purchase price if the problem does not substantially
50 impair the value of your consumer good.

51 (g) If a manufacturer has established an arbitration procedure, the
52 manufacturer may refuse to exchange a comparable consumer good or refund
53 your purchase price until you first resort to the procedure.

54 (h) If the manufacturer does not have an arbitration procedure, you
55 may resort to any remedy by law and may be entitled to your attorney's
56 fees if you prevail.

- 1 (i) No contract or agreement can void any of these rights.
2 (j) As an alternative to the arbitration procedure made available
3 through the manufacturer, you may instead choose to submit your claim to
4 an independent arbitrator, approved by the attorney general. You may
5 have to pay a fee for such an arbitration. Contact your local consumer
6 office or attorney general's office to find out how to arrange for inde-
7 pendent arbitration.
8 § 2. This act shall take effect immediately.