

CONSUMER WARRANTIES ON ASSISTIVE TECHNOLOGY

1999 GENERAL SESSION

STATE OF UTAH

Sponsor: Gene Davis

AN ACT RELATING TO THE UNIFORM COMMERCIAL CODE; AMENDING REMEDIES FOR NONCONFORMING ASSISTIVE TECHNOLOGY; AND MAKING TECHNICAL CHANGES.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

70A-2-804, as enacted by Chapter 166, Laws of Utah 1997

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **70A-2-804** is amended to read:

70A-2-804. Nonconforming assistive technology -- Remedies.

(1) (a) If assistive technology does not conform to any applicable warranties, and the consumer reports the nonconformity to the manufacturer, its agent, or authorized dealer or lessor within one year from the date of original delivery to the consumer, the manufacturer, its agent, or authorized dealer or lessor shall make repairs necessary to conform the assistive technology to the warranties, whether or not the repairs are made after one year from the date of original delivery.

(b) Repairs, including parts and labor, made under warranty shall be at no charge to the consumer.

(2) After a reasonable attempt to repair the assistive technology, if the manufacturer, its agent, or authorized dealer or lessor is unable to conform the assistive technology to applicable warranties by repairing or correcting any defect, condition, or malfunction that substantially impairs the use, value, or safety of the assistive technology, the manufacturer shall, within 30 days of notice from and at the direction of the consumer:

(a) (i) replace the assistive technology with comparable new assistive technology; and

(ii) refund any collateral costs; or

(b) (i) accept return of the assistive technology; and

(ii) refund;

(A) the full purchase price, collateral costs, and any finance charges paid at the point of sale[
less]; minus

(B) a reasonable allowance for the use of the assistive technology.

(3) (a) A "reasonable attempt to repair" has been made to conform assistive technology to applicable warranties if:

[(a)] (i) the assistive technology has been subject to repair three or more times, for the same reason, by the manufacturer, its agent, or authorized dealer or lessor; or

[(b)] (ii) the assistive technology is out of service to the consumer for an aggregate of 30 or more calendar days because of warranty nonconformities.

(b) The [~~30 days~~] 30-day period described in Subsection (3)(a)(ii) shall begin [~~upon~~] on the day the consumer first makes the assistive technology available for repair to the manufacturer, its agent, or authorized dealer or lessor.