

## **KANSAS A.T. LEMON LAW FACT SHEET – K.S.A. 50-696**

**SUMMARY:** *Consumers with disabilities have a right to Assistive Technology (AT) devices that work as advertised. If a device is defective and does not work the consumer has a right to demand that the seller repair or replace the device for free. If that does not remedy the problem, the consumer is entitled to a full or partial refund.*

**Coverage:** The Kansas AT Lemon Law covers any “assistive device,” which means any device, including a demonstration model, that a consumer purchases or accepts transfer of in this state which is used for a major life activity. Examples of devices include: manual wheelchairs, motorized wheelchairs, motorized scooters and other aides that enhance the mobility of an individual; hearing aide, telephone communication devices for the deaf (TTD), assistive listening devices and other aides that enhance an individual's ability to hear; voice synthesized computer modules, optical scanners, talking software, Braille printers and other devices that enhance a sight impaired individual's ability to communicate; and any other assistive device that enables a person with a disability to communicate, see, hear or maneuver.

**Warranty:** The law imposes, for a period not less than one year after first delivery:

- An express warranty for the assistive device, that the assistive device will be free from any condition or defect which substantially impairs the use or value, or both, of the assistive device to the consumer.
- The law states that an assistive device having a defect or “nonconformity” that occurs four times during the warranty period, or that is out of commission for 30 consecutive days, must be replaced or a refund offered. A “nonconformity” is defined as a “condition or defect that substantially impairs the use, value or safety of an assistive device, and that is covered by an express warranty.” This does not cover problems caused by abuse, neglect, or unauthorized modification.

**Remedies:**

- 1) Repair the defect
- 2) Replace the device
- 3) Refund the purchase price upon return of the device. The law allows for a seller to retain part of the purchase price as an allowance for use.
- 4) Terminate any lease and refund the consumer the amount paid less a reasonable allowance for use.

**Consumer's Obligations:** Notify the manufacturer and return the device for replacement or refund if repair is not possible.

**Resale:** Resale of any returned device is prohibited without full written disclosure of the problems leading to the return and the repair made is provided to the prospective consumer before the sale.

**Arbitration:** A consumer with a defective assistive technology device is entitled to insist on arbitration of their complaint under the Kansas Arbitration act.

**Waiver:** None of the rights given to consumers by this act may be waived or taken away by language in any contract between a consumer and seller or manufacturer of any AT device.

**Enforcement:** A consumer may recover any damages caused by a violation of this act. The court shall award a consumer who prevails in such an action double the amount of any money lost, together with costs, disbursements and reasonable attorney fees and any equitable relief that the court determines is appropriate. The Kansas Attorney General has jurisdiction to enforce this section in the event the consumer elects not to pursue violations of this act through arbitration or private action

**How do I contact DRC Kansas? How can DRC Kansas help?**

If you are a person with a disability, parent of minor child with a disability or a legal guardian, and you have questions about your rights under the AT Lemon Law or other disability rights issues, you can call Disability Rights Center of Kansas (DRC) for help. DRC has attorneys and advocates on staff and offers a variety of levels of help from information and referral to advocacy to litigation. DRC can be reached at: Toll Free Voice 877-776-1541, Topeka Voice – 273-9661, Toll Free TTD 877-335-3725, via fax 785-273-9414, or email us at [info@drckansas.org](mailto:info@drckansas.org)

DRC Kansas is a private, 501(c)(3) nonprofit corporation, independent of both state government and disability service providers. This independence allows DRC to focus on the needs of Kansans with disabilities, including providing legally-based disability rights advocacy and protecting the rights of Kansans with disabilities under state or federal laws.

DRC is the official protection and advocacy system for Kansas, granted special powers under federal law, including access authority to conduct comprehensive investigations of abuse and neglect committed against Kansans with disabilities. DRC is the only entity in Kansas with both the authority to investigate abuse and neglect while also possessing the corresponding legal and advocacy services to support the victim to obtain justice through civil legal representation.

Simply put, DRC obtains justice for people with disabilities, for all disability rights issues – including abuse & neglect, ADA, HCBS Waivers, Rehabilitation Act, Medicaid Act, Assistive Technology, etc.

DRC's Core Services:

1. Legally-based disability rights advocacy (litigation, advocacy and self advocacy advice)
2. Educate policymakers and public policy advocacy
3. Training, education and outreach activities

***THIS FACT SHEET IS FOR INFORMATIONAL PURPOSES ONLY. THIS FACT SHEET DOES NOT CONSTITUTE LEGAL ADVICE. If you believe you have a legal question or need legal advice, you are urged to contact DRC or a licensed attorney of your choosing.***