



# Disability Law Center's Self-Advocacy Materials

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Health Care

This document is designed for people with disabilities. The information is about your legal rights and how to advocate for yourself as a resident in Massachusetts.

Contact us to request this information in an alternative format.

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## Funding

DLC receives funding from government grants, private foundations, and individual contributions. For details about our funding and programs, please visit:

<http://www.dlc-ma.org/about/funding>

## Massachusetts Wheelchair Lemon Law

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### You Will Learn About:

- Massachusetts Wheelchair Lemon Law
- Finding Help

This document includes general information about legal issues and is intended to be used for informational purposes only. These informational materials should not be taken as legal advice, and do not create an attorney-client relationship. The outcome of any particular matter will depend on a variety of factors. For specific legal problems you would need to contact an attorney.

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# Massachusetts Wheelchair Lemon Law

## What Is The Massachusetts Wheelchair Lemon Law?

The wheelchair lemon law protects consumers. The law requires wheelchair vendors to replace or refund the cost of the chair, if within the first year the chair cannot meet safety standards after repair.

## How Do I Know If The Wheelchair Lemon Law Applies To My Situation?

You can use the wheelchair lemon law to pay for the complete cost of your wheelchair repair if you meet **ALL** of the following requirements:

- You purchased a customized wheelchair (tailored to your specific needs) from a customized wheelchair dealer or manufacturer **or** you rented a customized wheelchair from a customized wheelchair lessor under a written lease;
- Your wheelchair is adapted to meet your particular disability;
- Your customized wheelchair became defective within one year of being delivered to you (or more than a year if stated within the express warranty from the wheelchair manufacturer); **AND**
- The defect prompting your wheelchair repair is one that substantially impairs the safety, use, or value of your customized wheelchair.

## What Can I Do If My Chair Was Repaired But Is Still Defective?

First, you will have to determine if the manufacturer has made a reasonable attempt to repair the chair. How? Either:

- a) Your wheelchair is still defective after up to four repairs within the warranty time period **or**
- b) The customized wheelchair is out of service **for a minimum of 30 days in total** due to a defect.

Whichever condition occurs first is known as the **reasonable attempt to repair the wheelchair**, at which point the wheelchair manufacturer must take one of the following steps:

- Upon your return of the defective wheelchair, the manufacturer must provide you with a replacement wheelchair that has comparable customizations to your returned wheelchair, including payments for expenses that you had as a result of waiting for your wheelchair to be repaired (such as renting a temporary wheelchair)

### **OR**

- Upon your return of the defective wheelchair, the manufacturer must provide you with a complete refund of the wheelchair, including any additional costs paid up front and collateral expenses that you had as a result of waiting for your wheelchair to be repaired. A quantity called the “reasonable allowable use” (having to do with how long you used the wheelchair before reporting the defect/non-conformity) will be subtracted from your total refund. This number is usually very small in proportion to your total refund.

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## Finding Help

### Where Can I Find Help?

Violations of the wheelchair lemon law may also be a violation of the Massachusetts state consumer protection law. Businesses that violate this law may have to pay three times the amount of damages plus the consumer's attorney's fees. In some situations, consumer lawyers agree to accept such cases and to seek their attorney's fees from the wheelchair provider. The Massachusetts Bar Association (tel.: 617-654-0400) and the National Lawyers Guild (tel.: 617-227-7008) operate referral services that may be able to help you find a consumer rights attorney.