

216E.1 Definitions.

As used in this chapter, unless the context otherwise provides:

1. “*Assistive device*” means any item, piece of equipment, or product system which is purchased, or whose transfer is accepted in this state, and which is used to increase, maintain, or improve the functional capabilities of individuals with disabilities concerning a major life activity. “*Assistive device*” does not mean any medical device, surgical device, or organ implanted or transplanted into or attached directly to an individual. “*Assistive device*” does not mean any device for which a certificate of title is issued by the state department of transportation but does mean any item, piece of equipment, or product system otherwise meeting the definition of “*assistive device*” that is incorporated, attached, or included as a modification in or to such a certificated device.
2. “*Assistive device dealer*” means a person who is in the business of selling assistive devices.
3. “*Assistive device lessor*” means a person who leases assistive devices to consumers, or who holds the lessor’s rights, under a written lease.
4. “*Collateral costs*” means expenses incurred by a consumer in connection with the repair of a nonconformity, including the cost of shipping, sales tax, and of obtaining an alternative assistive device.
5. “*Consumer*” means any one of the following:
 - a. The purchaser of an assistive device, if the assistive device was purchased from an assistive device dealer or manufacturer for purposes other than resale.
 - b. A person to whom the assistive device is transferred for purposes other than resale, if the transfer occurs before the expiration of an express warranty applicable to the assistive device.
 - c. A person who may enforce the warranty.
 - d. A person who leases an assistive device from an assistive device lessor under a written lease.
6. “*Demonstrator*” means an assistive device used primarily for the purpose of demonstration to the public.
7. “*Early termination costs*” means any expense or obligation that an assistive device lessor incurs as a result of both the termination of a written lease before the termination date set forth in the lease and the return of an assistive device to the manufacturer. “*Early termination costs*” includes a penalty for prepayment under a finance arrangement.
8. “*Early termination savings*” means any expense or obligation that an assistive device lessor avoids as a result of both the termination of a written lease before the termination date set forth in the lease and the return of an assistive device to a manufacturer which shall include an interest charge that the assistive device lessor would have paid to finance the assistive device or, if the assistive device lessor does not finance the assistive device, the difference between the total payments remaining for the period of the lease term remaining after the early termination and the present value of those remaining payments at the date of the early termination.
9. “*Loaner*” means an assistive device, provided free of charge to the consumer, for use by the consumer, that need not be new or be identical to, or have functional capabilities equal to or greater than, those of the original assistive device, but that meets all of the following conditions:
 - a. The loaner is in good working order.
 - b. The loaner performs, at a minimum, the most essential functions of the original assistive device, in light of the disabilities of the consumer.
 - c. Any differences between the loaner and the original assistive device do not create a threat to the consumer’s health or safety.
10. “*Major life activity*” includes functions such as caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, or working.
11. “*Manufacturer*” means a person who manufactures or assembles assistive devices and agents of that person, including an importer, a distributor, a factory branch, distributor branch, and any warrantors of the assistive device, but does not include an assistive device dealer or assistive device lessor.

12. “*Nonconformity*” means any defect, malfunction, or condition which substantially impairs the use, value, or safety of an assistive device or any of its component parts, but does not include a condition, defect, or malfunction that is the result of abuse, neglect, or unauthorized modification or alteration of the assistive device by the consumer.

13. “*Reasonable attempt to repair*” means any of the following occurring within the terms of an express warranty applicable to a new assistive device or within one year after first delivery of the assistive device to a consumer, whichever is sooner:

a. The manufacturer, assistive device lessor, or any of the manufacturer’s authorized assistive device dealers accepts return of the new assistive device for repair at least two times.

b. The manufacturer, assistive device lessor, or any of the manufacturer’s authorized assistive device dealers places the assistive device out of service for an aggregate of at least thirty cumulative days because of warranty nonconformities.

98 Acts, ch 1042, §1; 2006 Acts, ch 1159, §9, 10

Referred to in §321.1