

First Cars, Now Computers

Local Law Firm Says Computer Lemon Law Could Change Landscape

What do you do if your new computer doesn't work, you take it in to be repaired -- and it *still* doesn't work? After repeating the cycle again, with new problems and the same outcome, the computer remains broken. You or your company may be out thousands of dollars; the computer company seems clueless about what is wrong, yet is reluctant to replace the item or return your investment. And you are still left with -- that's right -- no computer and a lot of down time.

It isn't an isolated problem, according to James A. Young, a managing partner in the Philadelphia-based law firm of Christie Pabarue Mortensen and Young. "We are seeing more product liability complaints -- not less," says Young, who claims a proposed Computer Lemon Law -- House Bill No. 1817 -- could dramatically change the technology landscape throughout Pennsylvania.

Young notes Kimmel & Silverman, a law firm known for its specialization in automobile lemon law cases, recently filed *Lindsley v. Compaq Computer Corporation*, claiming the buyer suffered because of breach of warranty, unfair trade practices and negligence based on repeated opportunities -- and failures -- to fix his computer. Legal analysts are watching the issues closely.

HB No. 1817 would add computers to the products currently protected from defects under the law in the Keystone State. Further, it seeks to clarify the responsibilities of consumer and computer manufacturer in correcting known defects within two years of purchase. A computer found to be defective must be repaired or replaced. If not, the manufacturer will be forced to refund the price of the computer.

"If that sounds like the Commonwealth's current automotive lemon law, it should," Young points out. "It was drafted with nearly identical language." Young, whose firm has prepared a lengthy memorandum on the feasibility of the new Computer Lemon Law, has noted the new bill's proposed remedies have drawn the ire of the computer industry.

"If passed, the computer industry has warned they may have to move out of state or raise prices and fees to cover the cost of the new legislation," Young reports. "Although two other states have introduced similar legislation, they appear to be going nowhere. This bill could change all that."

In addition to the Computer Lemon Law, Young notes calls for a "software Lemon Law" are also gaining attention after scathing reports by *ZDNet AnchorDesk* and *PC Magazine*. "If this legislation is passed -- particularly with potential penalties to manufacturers between \$1,500 to \$6,000 in addition to a full refund, product replacement and reasonable attorney's fees, costs and expert expenses in resolving the litigation regardless of the cost of the product -- you will more than likely see movement on the software front as well," says Young.

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