



General Assembly

January Session, 2023

Raised Bill No. 6702

LCO No. 4231



Referred to Committee on HUMAN SERVICES

Introduced by:
(HS)

**AN ACT CONCERNING A CONSUMER'S RIGHT TO REPAIR A
POWERED WHEELCHAIR.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective January 1, 2024*) (a) As used in this section:

2 (1) "Authorized repair provider" means a person authorized by an
3 original equipment manufacturer to service or repair a powered
4 wheelchair, whether or not such provider is affiliated with the
5 manufacturer;

6 (2) "Documentation" means a manual, diagram, including, but not
7 limited to, a schematic diagram, reporting output, service code
8 description, or similar type of information, whether in an electronic or
9 tangible format, that an original equipment manufacturer provides to
10 an authorized repair provider for purposes of repairing a powered
11 wheelchair;

12 (3) "Embedded software" means (A) programmable instructions
13 provided on firmware delivered with an electronic component of
14 equipment or with any part for the purpose of restoring or improving

15 operation of a powered wheelchair or part, and (B) all relevant patches
16 and fixes that the original equipment manufacturer makes to such
17 software for a powered wheelchair or to any part for the purpose of
18 restoring or improving the powered wheelchair or part;

19 (4) "Fair and reasonable terms and costs" means terms that are
20 equivalent to the most favorable terms that the original equipment
21 manufacturer offers to an authorized repair provider and costs that are
22 not greater than the manufacturer's suggested retail price, provided: (A)
23 Costs are calculated using net costs incurred, accounting for any
24 discounts, rebates or incentives offered, (B) with respect to
25 documentation, there is no charge by the manufacturer for
26 documentation or any relevant updates to the documentation, except
27 the manufacturer may charge a fee for a printed copy of the
28 documentation if the amount of the fee covers only the manufacturer's
29 actual cost to prepare and send the printed copy of the documentation,
30 and (C) with respect to tools that are software programs, there is no
31 charge by the manufacturer and no requirement by the manufacturer
32 for authorization or Internet access or other impediments to access or
33 use in a manner that impairs the efficient and cost-effective performance
34 of the equipment or part;

35 (5) "Firmware" means a software program or set of instructions
36 programmed for the powered wheelchair or part to allow the powered
37 wheelchair or part to communicate with itself or with other computer
38 hardware;

39 (6) "Independent repair provider" means a person who is (A) neither
40 a manufacturer's authorized repair provider nor affiliated with a
41 manufacturer's authorized repair provider or a manufacturer, and (B)
42 engaged in offering or providing services for the powered wheelchair;

43 (7) "Original equipment manufacturer" or "manufacturer" means a
44 person, as defined in section 20-419 of the general statutes, doing
45 business in the state and engaged in the business of selling, leasing or
46 otherwise supplying powered wheelchairs or parts manufactured by or

47 on behalf of itself for such wheelchair to any individual, business or
48 other entity;

49 (8) "Owner" means the owner of a powered wheelchair;

50 (9) "Part" means a new or used replacement part for a powered
51 wheelchair that a manufacturer offers for sale or otherwise makes
52 available for the purpose of providing services;

53 (10) "Powered wheelchair" means a motorized, wheeled device
54 designed for use by a person with a physical disability;

55 (11) "Services" means diagnostic, maintenance or repair services
56 performed on a powered wheelchair or part;

57 (12) "Tools" means any software program, hardware implement or
58 other apparatus used for diagnosis, maintenance or repair of a powered
59 wheelchair or parts, including software or another mechanism that
60 provides, programs or pairs a new part, calibrates functionality or
61 performs any other function required to return the powered wheelchair
62 or part to fully functional condition; and

63 (13) "Trade secret" has the same meaning as provided in section 31-
64 367 of the general statutes.

65 (b) (1) Except as provided in subdivision (2) of this subsection, an
66 original equipment manufacturer shall, with fair and reasonable terms
67 and costs, make available to an independent repair provider or owner
68 of a powered wheelchair made by the manufacturer any
69 documentation, parts, embedded software, firmware, or tools that are
70 intended for use with the powered wheelchair or any part, including
71 updates to documentation, parts, embedded software, firmware or
72 tools. With respect to a powered wheelchair that contains an electronic
73 security lock or other security-related function, a manufacturer shall,
74 with fair and reasonable terms and costs, make available to an
75 independent repair provider and owner any documentation, parts,
76 embedded software, firmware, or tools needed to reset the lock or

77 function when disabled in the course of providing services. The
78 manufacturer may make the documentation, parts, embedded software,
79 firmware, or tools available to an independent repair provider and
80 owners through appropriate secure release systems.

81 (2) The provisions of this subsection shall not apply to a part no
82 longer available to the original equipment manufacturer or material the
83 release of which would cause the manufacturer to divulge a trade secret,
84 except that a manufacturer shall not refuse to make available to an
85 independent repair provider or owner any documentation, part,
86 embedded software, firmware or tool necessary to provide services on
87 grounds that the documentation, part, embedded software, firmware or
88 tool itself is a trade secret. A manufacturer may (A) redact
89 documentation to remove a trade secret from the documentation before
90 providing access to the documentation if the usability of the redacted
91 documentation for the purpose of providing services is not diminished,
92 or (B) withhold information regarding a component of, design of,
93 functionality of, or process of developing a part, embedded software,
94 firmware or a tool if the information is a trade secret and the usability
95 of the part, embedded software, firmware or tool for the purpose of
96 providing services is not diminished.

97 (c) An original equipment manufacturer shall not be liable for faulty
98 or otherwise improper repairs provided by an independent repair
99 provider or owner, including faulty or otherwise improper repairs that
100 cause damage to powered wheelchairs or an inability to use, or a
101 reduced functionality of, a powered wheelchair resulting from the
102 faulty or otherwise improper repair.

103 (d) (1) Subject to subdivision (2) of this subsection, nothing in this
104 section (A) alters the terms of any contract or other arrangement in force
105 between an original equipment manufacturer and an authorized repair
106 provider, including the performance or provision of warranty or recall
107 repair work and any exclusivity or noncompete clause in a contract, (B)
108 requires a manufacturer to provide an independent repair provider or
109 owner access to information, other than documentation, that the

110 manufacturer provides to an authorized repair provider pursuant to a
111 contract or other arrangement with the authorized repair provider,
112 except as necessary to comply with the provisions of subsection (b) of
113 this section, or (C) exempts a manufacturer from a product liability
114 claim that is otherwise authorized under law.

115 (2) With respect to a contract or other arrangement, or renewal of a
116 contract or existing arrangement, that an original equipment
117 manufacturer enters into after January 1, 2024, any contract term,
118 provision, agreement or language in the contract or arrangement that
119 waives, avoids, restricts or limits the manufacturer's obligations under
120 this section is void and unenforceable.

121 Sec. 2. (NEW) (*Effective January 1, 2024*) Any violation of section 1 of
122 this act by an original equipment manufacturer, as defined in section 1
123 of this act, shall be deemed an unfair trade practice under subsection (a)
124 of section 42-110b of the general statutes.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>January 1, 2024</i>	New section
Sec. 2	<i>January 1, 2024</i>	New section

Statement of Purpose:

To require manufacturers of powered wheelchairs to provide documentation, tools, hardware and software, if necessary, to allow a consumer to repair, or hire an independent contractor to repair, a powered wheelchair.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]