STATE OF NEW YORK

4500

2025-2026 Regular Sessions

IN SENATE

February 6, 2025

Introduced by Sen. FAHY -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection

AN ACT to amend the general business law, in relation to enacting the "consumer wheelchair repair bill of rights act"

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Short title. This act shall be known and may be cited as the "consumer wheelchair repair bill of rights act".

§ 2. Article 32 and section 670 of the general business law, as amended by chapter 219 of the laws of 2006, are renumbered article 32-A and section 676 and a new section 677 is added to read as follows:

§ 677. Right to repair wheelchairs. 1. For the purposes of this section, the following terms shall have the following meanings:

(a) (i) "Authorized repair provider" means a person that is unaffiliated with a manufacturer other than through an arrangement with such manufacturer, whether for a definite or an indefinite period, in which such manufacturer, for the purpose of offering to provide services to an equipment owner regarding the owner's equipment or a part, grants such person:

(1) a license to use a trade name, service mark, or other proprietary identifier; or

(2) authorization under any other arrangement to act on behalf of such manufacturer.

(ii) "Authorized repair provider" includes, but is not limited to, a manufacturer that offers to provide services to an owner of such manufacturer's equipment regarding such owner's equipment or a part if such manufacturer does not have an arrangement with an unaffiliated person, as described in subparagraph (i) of this subdivision.

(b) "Documentation" means a manual; diagram, including a schematic diagram; reporting output; service code description; or similar type of information, whether in an electronic or tangible format, that a

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD08308-01-5

manufacturer provides to an authorized repair provider for purposes of assisting such authorized repair provider with services performed on such manufacturer's equipment or a part.

(c) "Embedded software" means programmable instructions provided on firmware delivered with an electronic component of equipment or with any part for the purpose of restoring or improving operation of such equipment or part; and shall include but not be limited to all relevant patches and fixes that the manufacturer makes to equipment or to any part for the purpose of restoring or improving such equipment or part.

(d) "Equipment" means a powered wheelchair.

(e) (i) "Fair and reasonable costs" with respect to obtaining documentation, parts, embedded software, firmware, or tools from a manufacturer to provide services, means terms that are equivalent to the most favorable terms that such manufacturer offers to an authorized repair provider and costs that are no greater than such manufacturer's suggested retail price. Costs considered under this subparagraph shall be calculated using net costs incurred, accounting for any discounts, rebates, or incentives offered.

(ii) With respect to documentation, "fair and reasonable terms and costs" means that the manufacturer provides such documentation, including any relevant updates to such documentation, at no charge; except that such manufacturer may charge a fee for a printed copy of such documentation if the amount of such fee covers only such manufacturer's actual cost to prepare and send such printed copy of such documentation.

(iii) With respect to tools that are software programs, "fair and reasonable terms and costs" means that the manufacturer provides such tools that are software programs:

(1) at no charge and without requiring authorization or internet access or otherwise imposing impediments to access or use;

(2) in the course of effectuating the diagnosis, maintenance, or repair and enabling the full functionality of the equipment or part; and

(3) in a manner that does not impair the efficient and cost-effective performance of the equipment or part.

(f) "Firmware" means a software program or set of instructions programmed on equipment or a part to allow such equipment or part to communicate with itself or with other computer hardware.

(g) (i) "Independent repair provider", except as otherwise provided in subparagraph (ii) of this paragraph, means a person in the state that is:

(1) neither a manufacturer's authorized repair provider nor affiliated with a manufacturer's authorized repair provider; and

(2) engaged in offering or providing services.

(ii) "Independent repair provider" means:

(1) an authorized repair provider if such authorized repair provider is offering or providing services for a manufacturer other than a manufacturer with which such authorized repair provider has an arrangement described in paragraph (a) of this subdivision; or

(2) a manufacturer with respect to offering or providing services for another manufacturer's equipment or part.

(h) "Original equipment manufacturer" or "manufacturer" means a person doing business in the state and engaged in the business of selling, leasing, or otherwise supplying new equipment or parts manufactured by or on behalf of itself to any individual, business, or other entity.

(i) "Owner" means a person that owns equipment or an agent of such person.

(j) "Part" means a new or used replacement part for equipment that a manufacturer offers for sale or otherwise makes available for the purpose of providing services.

(k) "Powered wheelchair" means a motorized wheeled device designed for use by a person with a physical disability.

(l) "Services" means diagnostic, maintenance, or repair services performed on equipment or a part.

(m) "Tools" means any software program, hardware implement, or other apparatus used for diagnosis, maintenance, or repair of equipment or parts, including software or other mechanism that provides, programs, or pairs a new part; calibrates functionality; or performs any other function required to return such equipment or part to fully functional condition.

(n) "Trade secret" means the whole or any portion or phase of any scientific or technical information, design, process, procedure, formula, improvement, confidential business or financial information, listing of names, addresses, or telephone numbers, or other information relating to any business or profession which is secret and of value. To be a "trade secret" the owner thereof shall have taken measures to prevent the secret from becoming available to persons other than those selected by the owner to have access thereto for limited purposes.

2. (a) Except as provided under paragraph (b) of this subdivision:

(i) For the purpose of providing services for equipment in the state, an original equipment manufacturer shall, with fair and reasonable terms and costs, make available to an independent repair provider or owner of such manufacturer's equipment any documentation, parts, embedded software, firmware, or tools that are intended for use with the equipment or any part, including updates to documentation, parts, embedded software, firmware, or tools.

(ii) With respect to equipment that contains an electronic security lock or other security-related function, a manufacturer shall, with fair and reasonable terms and costs, make available to independent repair providers and owners any documentation, parts, embedded software, firmware, or tools needed to reset the lock or function when disabled in the course of providing services. The manufacturer may make the documentation, parts, embedded software, firmware, or tools available to independent repair providers and owners through appropriate secure release systems.

(b) (i) Paragraph (a) of this subdivision shall not apply to:

(1) a part that is no longer available to the original equipment manufacturer; or

(2) conduct that would require the manufacturer to divulge a trade secret; except that a manufacturer shall not refuse to make available to an independent repair provider or owner any documentation, part, embedded software, firmware, or tool necessary to provide services on grounds that such documentation, part, embedded software, firmware, or tool itself is a trade secret.

(ii) (1) A manufacturer may redact documentation to remove trade secrets from such documentation before providing access to such documentation if the usability of such redacted documentation for the purpose of providing services is not diminished.

(2) A manufacturer may withhold information regarding a component of, design of, functionality of, or process of developing a part, embedded software, firmware, or a tool if such information is a trade secret and the usability of such part, embedded software, firmware, or tool for the purpose of providing services is not diminished.

(c) An original equipment manufacturer shall not be liable for faulty or otherwise improper repairs provided by independent repair providers or owners, including faulty or otherwise improper repairs that cause:

(i) damage to powered wheelchairs that occur during such repairs;

(ii) any indirect, incidental, special, or consequential damages; or

(iii) an inability to use, or a reduced functionality of, a powered wheelchair resulting from the faulty or otherwise improper repair.

3. (a) Except as provided under paragraph (b) of this subdivision, nothing in this section shall:

(i) alter the terms of any contract or other arrangement in force on the effective date of this section between an original equipment manufacturer and an authorized repair provider, including the performance or provision of warranty or recall repair work and any exclusivity or noncompete clause in a contract;

(ii) require a manufacturer to provide an independent repair provider or owner access to information, other than documentation, that such manufacturer provides to an authorized repair provider pursuant to a contract or other arrangement with such authorized repair provider except as necessary to comply with paragraph (a) of subdivision two of this section; or

(iii) exempt a manufacturer from a products liability claim that is otherwise authorized under law.

(b) With respect to a contract or other arrangement, or renewal of a contract or existing arrangement, that an original equipment manufacturer enters into after the effective date of this section, any contract term, provision, agreement, or language in such contract or arrangement that waives, avoids, restricts, or limits such manufacturer's obligations under this section shall be void and unenforceable.

§ 3. This act shall take effect January 1, 2026.