

STATE OF NEW YORK

4500--A

Cal. No. 1129

2025-2026 Regular Sessions

IN SENATE

February 6, 2025

Introduced by Sens. FAHY, ASHBY, RHOADS, ROLISON, C. RYAN, SCARCELLA-SPANTON -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the general business law and the social services 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:

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

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

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

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

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

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

18 (ii) "Authorized repair provider" includes, but is not limited to, a
19 manufacturer that offers to provide services to an owner of such
20 manufacturer's equipment regarding such owner's equipment or a part if

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

LBD08308-02-5

1 such manufacturer does not have an arrangement with an unaffiliated
2 person, as described in subparagraph (i) of this subdivision.

3 (b) "Documentation" means a manual; diagram, including a schematic
4 diagram; reporting output; service code description; or similar type of
5 information, whether in an electronic or tangible format, that a
6 manufacturer provides to an authorized repair provider for purposes of
7 assisting such authorized repair provider with services performed on
8 such manufacturer's equipment or a part.

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

15 (d) "Equipment" means a powered wheelchair.

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

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

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

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

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

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

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

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

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

47 (2) engaged in offering or providing services.

48 (ii) "Independent repair provider" means:

49 (1) an authorized repair provider if such authorized repair provider
50 is offering or providing services for a manufacturer other than a
51 manufacturer with which such authorized repair provider has an arrange-
52 ment described in paragraph (a) of this subdivision; or

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

55 (h) "Original equipment manufacturer" or "manufacturer" means a person
56 doing business in the state and engaged in the business of selling,

1 leasing, or otherwise supplying new equipment or parts manufactured by
2 or on behalf of itself to any individual, business, or other entity.

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

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

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

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

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

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

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

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

34 (ii) With respect to equipment that contains an electronic security
35 lock or other security-related function, a manufacturer shall, with fair
36 and reasonable terms and costs, make available to independent repair
37 providers and owners any documentation, parts, embedded software, firm-
38 ware, or tools needed to reset the lock or function when disabled in the
39 course of providing services. The manufacturer may make the documenta-
40 tion, parts, embedded software, firmware, or tools available to inde-
41 pendent repair providers and owners through appropriate secure release
42 systems.

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

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

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

52 (ii) (1) A manufacturer may redact documentation to remove trade
53 secrets from such documentation before providing access to such documen-
54 tation if the usability of such redacted documentation for the purpose
55 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. The general business law is amended by adding a new section 678 to read as follows:

§ 678. Timely repair of wheelchairs. 1. No later than one year after the effective date of this section, and after consultation with the deputy secretary for human services and mental hygiene, the office of the chief disability officer shall establish a "timely repair for wheelchair program" under which wheelchair manufacturers and authorized wheelchair dealers or wheelchair lessors shall be held accountable for wheelchair repairs requested by wheelchair owners as provided in this section.

2. The chief disability officer shall require all wheelchair repairs in the state to be completed within ten days of a request for such repair. Such ten-day period shall start on the first business day following the date of the request, provided that such wheelchair owner permits a wheelchair manufacturer, authorized wheelchair dealer or wheelchair lessor to access the device by either delivery to the custody of such wheelchair manufacturer, authorized wheelchair dealer or wheelchair lessor, or alternatively, to the identified agent or other representative. This election by the wheelchair owner can include at their personal home, the home of a specified friend, a school, a dayhab program, place of employment, or medical facility.

3. During the repair process, if any condition or defect renders a wheelchair out of service for a total of thirty days or longer, the

1 owner of such wheelchair shall be entitled to receive a temporary wheel-
2 chair from the manufacturer of such owner's wheelchair for use until
3 such wheelchair owner's wheelchair is repaired and returned.

4 4. A wheelchair manufacturer, authorized wheelchair dealer or wheel-
5 chair lessor shall maintain an electronic mail address and a phone line
6 that is dedicated solely to receiving wheelchair repair requests. Such
7 electronic mail address and phone line shall be accessible each day and
8 capable of receiving and recording messages. Authorized wheelchair deal-
9 ers shall: (a) respond to a request for wheelchair repair no later than
10 one business day after the date such request was made; and (b) order
11 parts necessary for a wheelchair repair no later than three business
12 days after assessing the need for such repair.

13 5. The office of the chief disability officer shall maintain a phone
14 number and electronic mail address to be posted conspicuously on its
15 website, to receive and record complaints regarding timely wheelchair
16 repairs. No later than January first, two thousand twenty-seven, and
17 annually thereafter, the chief disability officer shall submit a report
18 to the governor and the legislature regarding any complaints received
19 and recorded pursuant to this subdivision. Such report shall be
20 published on the website of the office of the chief disability officer
21 and visible to the general public.

22 6. (a) No later than December thirty-first, two thousand twenty-eight,
23 and annually thereafter, an authorized wheelchair dealer that contracts
24 with the state to sell or lease wheelchairs to Medicaid recipients shall
25 submit a report to the office of the chief disability officer regarding
26 repair of such wheelchairs. Such report shall include, but not be limit-
27 ed to, minimum, maximum and average times from the date and time of a
28 wheelchair repair request for such authorized wheelchair dealer to: (i)
29 respond; (ii) conduct a repair assessment (1) in the home or other
30 community location, (2) remotely, or (3) at a repair facility; (iii)
31 request any necessary prior authorization from the department of social
32 services and receive a decision from the department of social services
33 on such request; (iv) order any wheelchair parts needed; (v) receive
34 delivery of any needed repair parts; and (vi) complete repairs (1) in
35 the home or other community location, (2) remotely, or (3) at a repair
36 facility.

37 (b) The office of the chief disability officer shall make the report
38 submitted under paragraph (a) of this subdivision available to the
39 public within sixty days of receiving it.

40 7. The chief disability officer, in conjunction with the attorney
41 general's office, shall promulgate rules, regulations, reporting
42 requirements, and penalties necessary to establish the timely repair for
43 wheelchair program and implement the provisions of this section.

44 § 4. The social services law is amended by adding a new section 367-j
45 to read as follows:

46 § 367-j. Reimbursement and billing procedures for wheelchairs. 1. The
47 commissioner shall maintain specific reimbursement and billing proce-
48 dures under this title for the evaluation, diagnosis and repair of
49 wheelchairs, to ensure that Medicaid payments for such service permit
50 adequate access to such products and services for complex needs of
51 patients and take into account the significant resources, infrastruc-
52 ture, and staff needed to make such evaluation, diagnosis and repair of
53 wheelchairs.

54 2. The commissioner shall monitor the addition of new billing codes
55 for the evaluation, diagnosis and repair of wheelchairs by the Medicare

1 program and shall expeditiously incorporate such codes under this
2 section.

3 3. Where reimbursement rates are determined by a managed care organ-
4 ization, such rates shall be determined consistent with this subdivi-
5 sion. The commissioner of social services may establish minimum bench-
6 mark reimbursement rates to be paid by managed care organizations under
7 this paragraph.

8 4. For the purposes of this section, the term "wheelchair" means a
9 manual or motorized wheeled device designed for use by a person with a
10 physical disability, and shall apply to such devices whether owned or
11 leased.

12 § 5. Paragraph a and subparagraphs 1 and 2 of paragraph b of subdivi-
13 sion 2 and paragraph a of subdivision 3 of section 676 of the general
14 business law, as amended by chapter 219 of the laws of 2006 and such
15 section as renumbered by section two of this act, are amended to read as
16 follows:

17 a. A manufacturer who sells a wheelchair to a consumer, either direct-
18 ly or through a wheelchair dealer, shall furnish the consumer with an
19 express warranty for the wheelchair. The duration of the express warran-
20 ty shall be not less than [~~one year~~] two years after first delivery of
21 the wheelchair to the consumer. In the absence of an express warranty
22 from the manufacturer, the manufacturer shall be deemed to have express-
23 ly warranted to the consumer of a wheelchair that, for a period of [~~one~~
24 ~~year~~] two years from the date of first delivery to the consumer, the
25 wheelchair will be free from any condition or defect which substantially
26 impairs the value of the wheelchair to the consumer.

27 (1) By law, the manufacturer shall be deemed to have provided to you,
28 the purchaser of a wheelchair, a [~~one~~] two year warranty which starts on
29 the date of first delivery to you. This warranty provides that the
30 wheelchair will be free from any condition or defect that substantially
31 impairs its use, value or safety.

32 (2) To ensure you receive the benefits of this warranty, you must
33 report any problems and make the wheelchair available to the manufactur-
34 er, authorized wheelchair dealer or wheelchair lessor for repair before
35 [~~one year~~] two years after first delivery.

36 a. If a new wheelchair does not conform to an applicable express
37 warranty and the consumer reports the nonconformity to the manufacturer,
38 the wheelchair lessor or any of the manufacturer's authorized wheelchair
39 dealers and makes the wheelchair available for repair before [~~one year~~]
40 two years after first delivery of the wheelchair to a consumer, the
41 nonconformity shall be repaired at no charge to the consumer.

42 § 6. The general business law is amended by adding a new section 679
43 to read as follows:

44 § 679. Medically necessary wheelchair repairs. 1. Notwithstanding any
45 other provision of law, any wheelchair repair that is needed within five
46 years of the initial prescription shall be deemed medically necessary
47 and shall not require a new prescription or prior authorization from
48 insurance before proceeding with repair.

49 2. The chief disability officer shall seek any federal approval neces-
50 sary, including amending the Medicaid state plan or applying for a Medi-
51 caid waiver, to implement the provisions of this section.

52 3. The department of financial services shall promulgate any rules
53 and/or regulations to implement the provisions of this section.

54 § 7. This act shall take effect January 1, 2026.