

1 the name of the original equipment manufacturer, or other
2 arrangement with the original equipment manufacturer to offer
3 the services on behalf of the original equipment manufacturer.
4 "Authorized repair provider", with respect to equipment,
5 includes an original equipment manufacturer who offers the
6 services of diagnosis, maintenance, or repair of its own covered
7 device, and who does not have an arrangement described in this
8 definition with an unaffiliated individual or business.

9 "Covered device" means any wheelchair. "Covered device"
10 includes charging equipment and other related equipment for the
11 use of the covered device.

12 "Documentation" means any manual, diagram, reporting
13 output, service code description, schematic diagram, or similar
14 kinds of information provided to an authorized repair provider
15 for purposes of its effecting the services of diagnosis,
16 maintenance, or repair of a covered device.

17 "Embedded software" means any programmable instructions
18 provided on firmware delivered with a covered device, or with a
19 part for the equipment, for purposes of equipment operation,
20 including all relevant patches and fixes made by the
21 manufacturer of the equipment or part for these purposes.



1 "Fair and reasonable terms" for obtaining a part, tool, or
2 documentation means at costs and terms, including convenience of
3 delivery and rights of use, equivalent to what is offered by the
4 original equipment manufacturer to an authorized repair
5 provider, using the net costs that would be incurred by an
6 authorized repair provider in obtaining an equivalent part,
7 tool, or documentation from the original equipment manufacturer,
8 accounting for any discounts, rebates, or other incentive
9 programs in arriving at the actual net costs. For
10 documentation, including any relevant updates, "fair and
11 reasonable terms" means at no charge, except that, when the
12 documentation is requested in physical printed form, a charge
13 may be included for the reasonable actual costs of preparing and
14 sending the copy.

15 "Firmware" means a software program or set of instructions
16 programmed on a covered device, or on a part for the equipment,
17 to allow the equipment or part to communicate with other
18 computer hardware.

19 "Independent repair provider" means an individual or
20 business operating in the State, who:



1 (1) Does not have an arrangement with an original
2 equipment manufacturer;
3 (2) Is not affiliated with any individual or business who
4 has an arrangement; and
5 (3) Is engaged in the services of diagnosis, maintenance,
6 or repair of a covered device,
7 except that an original equipment manufacturer or, with respect
8 to that original equipment manufacturer, an individual or
9 business who has an arrangement with that original equipment
10 manufacturer, or who is affiliated with an individual or
11 business who has an arrangement with that original equipment
12 manufacturer, shall be considered an independent repair provider
13 for purposes of those instances in which it engages in the
14 services of diagnosis, maintenance, or repair of a covered
15 device that is not manufactured by or sold under the name of
16 that original equipment manufacturer.

17 "Manufacturer of motor vehicle equipment" means a business
18 engaged in the business of manufacturing or supplying components
19 that are used in the manufacture, maintenance, or repair of a
20 motor vehicle.



1 "Motor vehicle" means a vehicle that is designed for
2 transporting persons or property on a street or highway and is
3 certified by the motor vehicle manufacturer under all applicable
4 federal safety and emissions standards and requirements for
5 distribution and sale in the United States.

6 "Motor vehicle dealer" means an individual or business who,
7 in the ordinary course of business, is engaged in the business
8 of selling or leasing new motor vehicles to an individual or
9 business pursuant to a franchise agreement, has obtained a
10 license under section 437-2, and is engaged in the services of
11 diagnosis, maintenance, or repair of motor vehicles or motor
12 vehicle engines pursuant to that franchise agreement.

13 "Motor vehicle manufacturer" means a business engaged in
14 the business of manufacturing or assembling new motor vehicles.

15 "Original equipment manufacturer" means a business engaged
16 in the business of selling or leasing a new covered device
17 manufactured by or on behalf of itself, to any individual or
18 business.

19 "Owner" means an individual or business who owns or leases
20 covered devices purchased or used in the State.



1 "Part" means any replacement part, either new or used, made
2 available by an original equipment manufacturer for purposes of
3 effecting the services of maintenance or repair of a covered
4 device manufactured or sold by the original equipment
5 manufacturer.

6 "Power wheelchair" means any self-propelled vehicle capable
7 of traveling no more than fifteen miles per hour, usable
8 indoors, designed as a mobility aid for individuals with
9 mobility impairments, and operated by such an individual in a
10 seated position.

11 "Trade secret" has the same meaning as defined in
12 section 482B-2.

13 "Wheelchair" includes manual wheelchairs and power
14 wheelchairs.

15 § -2 **Requirements.** (a) For a covered device, and parts
16 for the covered device, sold or used in the State, an original
17 equipment manufacturer shall make available for purposes of
18 diagnosis, maintenance, or repair to any independent repair
19 provider or owner of a covered device manufactured by or on
20 behalf of or sold by the original equipment manufacturer, on
21 fair and reasonable terms, any documentation, parts, and tools,



1 including any updates to information or embedded software.
2 Nothing in this section requires an original equipment
3 manufacturer to make available a part if the part is no longer
4 available to the original equipment manufacturer.

5 (b) For equipment that contains an electronic security
6 lock or other security-related function, the original equipment
7 manufacturer shall make available to the owner or independent
8 repair provider, on fair and reasonable terms, any special
9 documentation, tools, and parts needed to reset the lock or
10 function if the function is disabled in the course of diagnosis,
11 maintenance, or repair of the equipment. The documentation,
12 tools, and parts may be made available through appropriately
13 secure release systems.

14 § -3 **Enforcement by attorney general.** Violation of any
15 provision of this chapter shall be deemed an unfair or deceptive
16 act or practice under section 480-2. All remedies, penalties,
17 and authority granted to the attorney general by chapter 480
18 shall be available to the attorney general in the enforcement of
19 this chapter.

20 § -4 **Limitations.** (a) Nothing in this chapter shall be
21 construed to require an original equipment manufacturer to



1 divulge a trade secret to an owner or independent repair
2 provider except as necessary to provide documentation, parts,
3 and tools on fair and reasonable terms.

4 (b) Nothing in this chapter shall be construed to alter
5 the terms of any arrangement in force between an authorized
6 repair provider and an original equipment manufacturer,
7 including the performance or provision of warranty or recall
8 repair work by an authorized repair provider on behalf of an
9 original equipment manufacturer pursuant to the arrangement,
10 except that any provision in the terms that purports to waive,
11 avoid, restrict, or limit the original equipment manufacturer's
12 obligations to comply with this chapter shall be void and
13 unenforceable.

14 (c) Nothing in this chapter shall be construed to require
15 an original equipment manufacturer or authorized repair provider
16 to provide an owner or independent repair provider access to
17 information, other than documentation, that is provided by the
18 original equipment manufacturer to an authorized repair provider
19 pursuant to the terms of the arrangement between the original
20 equipment manufacturer and authorized repair provider.



1 (d) Nothing in this chapter shall be construed to create a
2 cause of action against an original equipment manufacturer for
3 any damage or injury caused by a repair made by an independent
4 repair provider or an owner.

5 § -5 **Exclusions.** This chapter shall not apply to:

6 (1) A manufacturer of motor vehicle equipment, motor
7 vehicle dealer, or motor vehicle manufacturer acting
8 in that capacity or to any product or service of the
9 manufacturer of motor vehicle equipment, motor vehicle
10 dealer, or motor vehicle manufacturer;

11 (2) A manufacturer, distributor, importer, or dealer of
12 any off-road equipment, including all-terrain sports
13 and recreational vehicles, racing vehicles,
14 motorcycles, and heavy construction equipment; or

15 (3) A manufacturer, distributor, importer, or dealer of
16 any medical equipment valued at \$100,000 or more that
17 is used in the treatment, monitoring, or diagnosis of
18 a patient.

19 § -6 **Applicability.** This chapter shall apply with
20 respect to covered devices sold or in use on or after the
21 effective date of this chapter."



1 SECTION 3. This Act shall take effect on July 1, 3000.



Report Title:

Right To Repair; Consumer Protection; Wheelchair

Description:

Establishes a right to repair for wheelchairs. Effective
7/1/3000. (HD1)

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