

HOUSE BILL NO. 195

INTRODUCED BY A. BUCKLEY, E. KERR-CARPENTER, J. KASSMIER

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING CONSUMER RIGHTS LAWS RELATED TO POWERED WHEELCHAIRS; PROVIDING DEFINITIONS; AND PROVIDING A DELAYED EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Short title.** [Sections 1 through 5] may be cited as the "Powered Wheelchair Right to Repair Act".

NEW SECTION. **Section 2. Definitions.** As used in [sections 1 through 5], the following definitions apply:

(1) "Authorized repair provider" means:

(a) an original equipment manufacturer who offers the services of diagnosis, maintenance, or repair of its own powered wheelchair; or

(b) an individual or business who offers the services of diagnosis, maintenance, or repair of a powered wheelchair under the name of the original equipment manufacturer as part of an agreement with the manufacturer.

(2) "Documentation" means any manual, diagram, reporting output, service code description, schematic diagram, security codes, passwords, or other guidance or information used in effecting the services of diagnosis, maintenance, or repair of a powered wheelchair.

(3) "Independent repair provider" means an individual or business operating in the state that does not have an arrangement described in subsection (1)(b) with an original equipment manufacturer and who is engaged in the services of diagnosis, maintenance, or repair of a powered wheelchair.

(4) "Original equipment manufacturer" means a business that sells, leases, or otherwise supplies new powered wheelchairs manufactured by or on behalf of itself.

(5) "Owner" means an individual or business who owns or leases a powered wheelchair purchased

1 or used in this state.

2 (6) "Part" means a new or used replacement part made available by an original equipment
3 manufacturer for the maintenance or repair of a powered wheelchair manufactured by or on behalf of or sold or
4 otherwise supplied by the original equipment manufacturer.

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

7 (8) "Tools" means any software program, hardware implement, or other apparatus used for the
8 diagnosis, maintenance, or repair of a powered wheelchair, including software or other mechanisms that
9 provision, program, or pair a new part, calibrate functionality, access and reset electronic security locks and
10 other security-related functions, or perform any other function required to bring the product back to fully
11 functional condition, including installing updates.

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13 **NEW SECTION. Section 3. Responsibilities and duties of powered wheelchair manufacturers.**

14 (1) The original equipment manufacturer shall provide any independent repair provider and owner with
15 documentation, parts, and tools in a way that enables the efficient and cost-effective diagnosis, maintenance,
16 and repair of powered wheelchairs that are sold or used in this state.

17 (2) For powered wheelchairs that contain electronic security locks or other security functions, the
18 original equipment manufacturer shall make available to any independent repair provider and owner
19 documentation, parts, and tools needed to access and reset the security lock or security function when disabled
20 to facilitate diagnosis, maintenance, or repair. The documentation, parts, and tools may be made available
21 through appropriate secure release systems.

22 (3) Documentation, tools, and parts must be made available either by the original equipment
23 manufacturer or through an authorized repair provider under the following fair and reasonable terms:

24 (a) There may be a charge for the actual cost of preparing and sending a physical printed copy of
25 documentation. Electronic copies of documentation must be made available free of charge.

26 (b) There may be a charge for the actual cost of preparing and sending a tool in physical form.
27 Otherwise, tools must be made available at no charge and without requiring authorization or internet access for
28 the use or operation of a tool.

1 (c) Original equipment manufacturers shall make parts available to any independent repair
2 provider and owner at costs and terms that are equivalent to the most favorable costs and terms that an original
3 equipment manufacturer offers the parts to an authorized repair provider and that:

4 (i) account for any discount, rebate, convenient and timely means of delivery, means of enabling
5 fully restored and updated functionality, rights of use, or other incentive or preference the original manufacturer
6 offers to an authorized repair provider;

7 (ii) account for any additional cost, burden, or impediment the original equipment manufacturer
8 imposes on an independent repair provider or owner;

9 (iii) do not impose a substantial obligation or restriction that is not reasonably necessary for the
10 diagnosis, maintenance, or repair of a powered wheelchair; and

11 (iv) are not conditioned on an arrangement with an authorized repair provider as defined in [section
12 2].

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14 **NEW SECTION. Section 4. Enforcement.** Violation of any of the provisions of [sections 1 through 5]
15 is an unlawful practice under the Montana Unfair Trade Practices and Consumer Protection Act, Title 30,
16 chapter 14, part 1.

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18 **NEW SECTION. Section 5. Limitations.** (1) Nothing in [sections 1 through 5] may be construed to
19 require an original equipment manufacturer to divulge any trade secret to any independent repair provider or
20 owner.

21 (2) Nothing in [sections 1 through 5] may be construed to alter the terms of any arrangement
22 between an authorized repair provider and an original equipment manufacturer.

23 (3) An original equipment manufacturer or an authorized repair provider may not be liable for any
24 damage or injury caused to a powered wheelchair by an independent repair provider or owner that occurs
25 during the course of diagnosis, maintenance, or repair.

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27 **NEW SECTION. Section 6. Codification instruction.** [Sections 1 through 5] are intended to be
28 codified as an integral part of Title 30, chapter 14, and the provisions of Title 30, chapter 14, apply to [sections

1 1 through 5].

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3 NEW SECTION. **Section 7. Effective date.** [This act] is effective January 1, 2024.

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