

Chapter 546

(House Bill 31)

AN ACT concerning

Consumer Protection – Right to Repair – Powered Wheelchairs

FOR the purpose of requiring, in order to make repairs to powered wheelchairs, that a certain manufacturer make available certain documentation, parts, embedded software, firmware, and tools to a certain independent repair provider or owner of a powered wheelchair; and generally relating to the repair of powered wheelchairs.

BY repealing and reenacting, with amendments,

Article – Commercial Law

Section 13–301(14)(xlv)

Annotated Code of Maryland

(2013 Replacement Volume and 2024 Supplement)

(As enacted by Chapters 262, 454, 455, 460, 461, 463, and 962 of the Acts of the General Assembly of 2024)

BY repealing and reenacting, without amendments,

Article – Commercial Law

Section 13–301(14)(xlv)

Annotated Code of Maryland

(2013 Replacement Volume and 2024 Supplement)

(As enacted by Chapters 262, 454, 455, 460, 461, 463, and 962 of the Acts of the General Assembly of 2024)

BY adding to

Article – Commercial Law

Section 13–301(14)(xlv); and 14–5001 through 14–5004 to be under the new subtitle
“Subtitle 50. Powered Wheelchairs Repair”

Annotated Code of Maryland

(2013 Replacement Volume and 2024 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Commercial Law

13–301.

Unfair, abusive, or deceptive trade practices include any:

(14) Violation of a provision of:

(xlv) Title 14, Subtitle 49 of this article; [or]

(xlv) Section 12–6C–09.1 of the Health Occupations Article; or

(XLVI) TITLE 14, SUBTITLE 50 OF THIS ARTICLE; OR

SUBTITLE 50. POWERED WHEELCHAIRS REPAIR.

14–5001.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) (1) “AUTHORIZED REPAIR PROVIDER” MEANS A PERSON THAT IS UNAFFILIATED WITH A MANUFACTURER AND, FOR THE PURPOSE OF OFFERING TO PROVIDE SERVICES TO AN OWNER OF THE MANUFACTURER’S EQUIPMENT REGARDING THE OWNER’S EQUIPMENT OR PART, HAS:

(I) AN ARRANGEMENT WITH THE MANUFACTURER UNDER WHICH THE MANUFACTURER GRANTS TO THE PERSON A LICENSE TO USE A TRADE NAME, A SERVICE MARK, OR ANY OTHER PROPRIETARY IDENTIFIER; OR

(II) AUTHORIZATION UNDER ANOTHER ARRANGEMENT TO ACT ON BEHALF OF THE MANUFACTURER.

(2) “AUTHORIZED REPAIR PROVIDER” INCLUDES A MANUFACTURER WHEN THE MANUFACTURER:

(I) OFFERS TO PROVIDE SERVICES TO AN OWNER OF THE MANUFACTURER’S EQUIPMENT REGARDING THE OWNER’S EQUIPMENT OR PART; AND

(II) DOES NOT HAVE ANY ARRANGEMENT DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION WITH AN UNAFFILIATED PERSON.

(C) “DOCUMENTATION” MEANS ANY MANUAL, DIAGRAM, REPORTING OUTPUT, SERVICE CODE DESCRIPTION, SCHEMATIC, OR OTHER INFORMATION, WHETHER IN ELECTRONIC OR TANGIBLE FORMAT, THAT A MANUFACTURER PROVIDES TO AN AUTHORIZED REPAIR PROVIDER FOR THE PURPOSE OF ASSISTING THE AUTHORIZED REPAIR PROVIDER WITH SERVICES PERFORMED ON THE MANUFACTURER’S EQUIPMENT OR PART.

(D) (1) “EMBEDDED SOFTWARE” MEANS PROGRAMMABLE INSTRUCTIONS PROVIDED ON FIRMWARE DELIVERED WITH AN ELECTRONIC

COMPONENT OF EQUIPMENT OR A PART TO RESTORE OR IMPROVE OPERATION OF THE EQUIPMENT OR PART.

(2) “EMBEDDED SOFTWARE” INCLUDES ALL RELEVANT PATCHES AND FIXES THAT THE MANUFACTURER MAKES TO EQUIPMENT OR A PART TO RESTORE OR IMPROVE THE EQUIPMENT OR PART.

(E) “EQUIPMENT” MEANS A POWERED WHEELCHAIR.

(F) “FAIR AND REASONABLE TERMS AND COSTS” MEANS:

(1) WITH RESPECT TO OBTAINING FROM A MANUFACTURER ANY DOCUMENTATION, PARTS, EMBEDDED SOFTWARE, FIRMWARE, OR TOOLS IN ORDER TO PROVIDE SERVICES:

(I) TERMS THAT ARE EQUIVALENT TO THE MOST FAVORABLE TERMS THE MANUFACTURER OFFERS TO AN AUTHORIZED REPAIR PROVIDER; AND

(II) COSTS THAT DO NOT EXCEED THE MANUFACTURER’S SUGGESTED RETAIL PRICE, CALCULATED USING NET COSTS INCURRED AND ACCOUNTING FOR ANY DISCOUNTS, REBATES, OR INCENTIVES OFFERED;

(2) WITH RESPECT TO OBTAINING FROM A MANUFACTURER ANY DOCUMENTATION TO PROVIDE SERVICES, TERMS AND COSTS ON WHICH THE MANUFACTURER AGREES TO PROVIDE THE DOCUMENTATION AND ANY RELEVANT UPDATES AT NO CHARGE OTHER THAN, AT MOST, A CHARGE FOR THE MANUFACTURER’S ACTUAL COSTS TO PREPARE AND SEND THE PRINTED COPY OF THE DOCUMENTATION; AND

(3) WITH RESPECT TO OBTAINING FROM A MANUFACTURER TOOLS THAT ARE SOFTWARE PROGRAMS, TERMS AND COSTS ON WHICH THE MANUFACTURER AGREES TO PROVIDE THE TOOLS:

(I) AT NO CHARGE AND WITHOUT REQUIRING AUTHORIZATION OR INTERNET ACCESS, OR IMPOSING IMPEDIMENTS TO ACCESS OR USE THE TOOLS;

(II) DURING THE COURSE OF PERFORMING A DIAGNOSIS, MAINTENANCE, OR A REPAIR AND IN A MANNER THAT ENABLES FULL FUNCTIONALITY OF THE EQUIPMENT OR PART; AND

(III) IN A MANNER THAT DOES NOT IMPAIR THE EFFICIENT AND COST-EFFECTIVE PERFORMANCE OF THE EQUIPMENT OR PART.

(G) “FIRMWARE” MEANS A SOFTWARE PROGRAM OR SET OF INSTRUCTIONS PROGRAMMED ON EQUIPMENT OR A PART TO ALLOW THE EQUIPMENT OR PART TO COMMUNICATE WITH ITSELF OR WITH OTHER COMPUTER HARDWARE.

(H) (1) “INDEPENDENT REPAIR PROVIDER” MEANS A PERSON IN THE STATE THAT IS:

(I) EXCEPT AS PROVIDED IN PARAGRAPH (2)(I) OF THIS SUBSECTION, NEITHER A MANUFACTURER’S AUTHORIZED REPAIR PROVIDER NOR AFFILIATED WITH A MANUFACTURER’S AUTHORIZED REPAIR PROVIDER; AND

(II) ENGAGED IN OFFERING OR PROVIDING SERVICES.

(2) “INDEPENDENT REPAIR PROVIDER” INCLUDES:

(I) AN AUTHORIZED REPAIR PROVIDER IF THE AUTHORIZED REPAIR PROVIDER IS OFFERING OR PROVIDING SERVICES FOR A DIFFERENT MANUFACTURER OTHER THAN THE MANUFACTURER WITH WHOM THE AUTHORIZED REPAIR PROVIDER HAS AN ARRANGEMENT AS DESCRIBED SUBSECTION (B)(1) OF THIS SECTION; AND

(II) A MANUFACTURER THAT OFFERS OR PROVIDES SERVICES FOR ANOTHER MANUFACTURER’S EQUIPMENT OR PART.

(I) “MANUFACTURER” MEANS A PERSON DOING BUSINESS IN THE STATE AND ENGAGED IN THE BUSINESS OF SELLING, LEASING, OR SUPPLYING NEW EQUIPMENT OR PARTS MANUFACTURED BY OR ON BEHALF OF ITSELF TO ANY INDIVIDUAL, BUSINESS, OR OTHER ENTITY.

(J) “OWNER” MEANS A PERSON THAT OWNS EQUIPMENT OR AN AGENT OF THE OWNER.

(K) “PART” MEANS A NEW OR USED REPLACEMENT COMPONENT FOR EQUIPMENT THAT A MANUFACTURER OFFERS FOR SALE OR MAKES AVAILABLE FOR THE PURPOSE OF PROVIDING SERVICES.

(L) “POWERED WHEELCHAIR” MEANS A MOTORIZED WHEELED DEVICE DESIGNED FOR USE BY A PERSON WITH A PHYSICAL DISABILITY.

(M) “SERVICES” MEANS DIAGNOSTICS, MAINTENANCE, OR REPAIRS PERFORMED ON EQUIPMENT OR PARTS.

(N) (1) “TOOL” MEANS ANY SOFTWARE PROGRAM, HARDWARE IMPLEMENT, OR OTHER APPARATUS USED FOR DIAGNOSIS, MAINTENANCE, OR REPAIR OF EQUIPMENT OR PARTS.

(2) “TOOL” INCLUDES SOFTWARE OR OTHER MECHANISMS THAT PROVIDE, PROGRAM, OR PAIR A NEW PART, CALIBRATE FUNCTIONALITY, OR PERFORM ANY OTHER FUNCTION REQUIRED TO RETURN THE EQUIPMENT OR PART TO FULLY FUNCTIONAL CONDITION.

(O) “TRADE SECRET” HAS THE MEANING STATED IN § 11-1201 OF THIS ARTICLE.

14-5002.

(A) THIS SECTION APPLIES ONLY TO DOCUMENTATION, PARTS, EMBEDDED SOFTWARE, FIRMWARE, OR TOOLS THAT ARE NECESSARY FOR AN INDEPENDENT REPAIR PROVIDER OR OWNER TO PERFORM SERVICES WITH RESPECT TO THE FOLLOWING PARTS:

(1) BATTERIES AND BATTERY CHARGERS;

(2) NONPROGRAMMABLE JOYSTICKS;

(3) JOYSTICK HOUSINGS OR BRACKETS;

(4) WHEEL ASSEMBLIES;

(5) NONPOSITIONING ACCESSORIES;

(6) ANTI-TIP DEVICES;

(7) EXCEPT FOR POSITIONING COMPONENTS DESIGNED FOR ADJUSTMENT BY A THERAPIST OR AN ASSISTIVE TECHNOLOGY PROFESSIONAL, ARMRESTS;

(8) CASTER SPHERES;

(9) COSMETIC SHROUDING; AND

(10) NONPOWERED LEG LOWERERS.

(B) EXCEPT AS PROVIDED IN SUBSECTION ~~(C)~~ (D) OF THIS SECTION, TO PROVIDE SERVICES FOR EQUIPMENT IN THE STATE, A MANUFACTURER SHALL, ON FAIR AND REASONABLE TERMS AND COSTS, MAKE AVAILABLE TO AN INDEPENDENT

REPAIR PROVIDER OR OWNER OF THE 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.

~~(B)~~ (C) (1) FOR EQUIPMENT THAT CONTAINS AN ELECTRIC SECURITY LOCK OR OTHER SECURITY-RELATED FUNCTIONS, A MANUFACTURER SHALL, ON FAIR AND REASONABLE TERMS AND COSTS, MAKE AVAILABLE TO INDEPENDENT REPAIR PROVIDERS ANY DOCUMENTATION, PARTS, EMBEDDED SOFTWARE, FIRMWARE, OR TOOLS NEEDED TO RESET THE LOCK OR FUNCTION WHEN DISABLED IN THE COURSE OF PROVIDING SERVICES.

(2) THE MANUFACTURER MAY MAKE THE DOCUMENTATION, PARTS, EMBEDDED SOFTWARE, FIRMWARE, OR TOOLS AVAILABLE TO INDEPENDENT REPAIR PROVIDERS AND OWNERS THROUGH APPROPRIATE SECURE RELEASE SYSTEMS.

~~(C)~~ (D) (1) THE REQUIREMENTS OF SUBSECTION ~~(A)~~ (B) OF THIS SECTION DO NOT APPLY TO:

(I) A PART THAT IS NO LONGER AVAILABLE TO THE ORIGINAL MANUFACTURER; AND

(II) CONDUCT THAT WOULD REQUIRE THE MANUFACTURER TO DIVULGE A TRADE SECRET, UNLESS COMPLIANCE WITH SUBSECTION ~~(A)~~ (B) OF THIS SECTION IS NECESSARY TO PROVIDE SERVICES ON THE GROUNDS THAT THE DOCUMENTATION, PART, EMBEDDED SOFTWARE, FIRMWARE, OR TOOL IS ITSELF A TRADE SECRET.

(2) A MANUFACTURER MAY MAKE REDACTIONS TO REMOVE TRADE SECRETS FROM THE DOCUMENTATION BEFORE PROVIDING THE DOCUMENTATION IF THE USABILITY OF THE REDACTED DOCUMENTATION IS NOT DIMINISHED FOR PURPOSES OF PROVIDING SERVICES.

~~(D)~~ (E) A MANUFACTURER IS NOT LIABLE FOR FAULTY OR IMPROPER REPAIRS PROVIDED BY INDEPENDENT REPAIR PROVIDERS OR OWNERS, INCLUDING FAULTY OR IMPROPER REPAIRS THAT CAUSE:

(1) DAMAGE TO EQUIPMENT THAT OCCURS DURING THE REPAIRS;

(2) ANY DIRECT, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES; OR

(3) AN INABILITY TO USE, OR A REDUCED FUNCTIONALITY OF, EQUIPMENT THAT RESULTS FROM THE FAULTY OR IMPROPER REPAIR.

14-5003.

(A) NOTHING IN THIS SUBTITLE MAY BE CONSTRUED TO:

(1) LIMIT THE LIABILITY OF A PERSON UNDER A PRODUCTS LIABILITY CLAIM; OR

(2) REQUIRE A MANUFACTURER TO PROVIDE AN INDEPENDENT REPAIR PROVIDER OR OWNER ACCESS TO INFORMATION, OTHER THAN DOCUMENTATION NECESSARY FOR COMPLIANCE WITH THIS SUBTITLE, THAT THE MANUFACTURER PROVIDES TO AN AUTHORIZED REPAIR PROVIDER UNDER A CONTRACT OR OTHER ARRANGEMENT.

(B) THE REQUIREMENTS AND REMEDIES PROVIDED UNDER THIS SUBTITLE MAY NOT BE WAIVED OR LIMITED BY A CONTRACT OR OTHER ARRANGEMENT.

14-5004.

A VIOLATION OF THIS SUBTITLE IS:

(1) AN UNFAIR, ABUSIVE, OR DECEPTIVE TRADE PRACTICE WITHIN THE MEANING OF TITLE 13 OF THIS ARTICLE; AND

(2) SUBJECT TO THE ENFORCEMENT AND PENALTY PROVISIONS CONTAINED IN TITLE 13 OF THIS ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any contract that is executed between an authorized repair provider and a manufacturer, as those terms are defined in § 14-5001 of the Commercial Law Article, as enacted by Section 1 of this Act, before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2025.

Approved by the Governor, May 13, 2025.