

Department of Legislative Services
Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 382

(Senator Kagan, *et al.*)

Finance

Rules and Executive Nominations

Consumer Protection - Right to Repair - Powered Wheelchairs

This bill generally requires a manufacturer to make available (on fair and reasonable terms and costs, as specified) any documentation, parts, embedded software, firmware, or tools that are intended for use with a powered wheelchair (or any part), inclusive of any updates, to an independent repair provider or owner. The bill 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 specified parts (*e.g.*, batteries and battery chargers, nonprogrammable joysticks, joystick housings or brackets, etc.). The bill only applies 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 before the bill's effective date. Violation of the bill is an unfair, abusive, or deceptive trade practice under the Maryland Consumer Protection Act (MCPA), subject to MCPA's civil and criminal penalty provisions.

Fiscal Summary

State Effect: The bill's imposition of existing penalty provisions does not have a material impact on State finances or operations. The Office of the Attorney General, Consumer Protection Division, can handle the bill's requirements with existing resources.

Local Effect: The bill's imposition of existing penalty provisions does not have a material impact on local government finances or operations.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: The bill's right-to-repair requirements do not apply to (1) a part that is no longer available to the original manufacturer and (2) conduct that would require a manufacturer to divulge a trade secret, unless compliance is necessary to provide services on the grounds that the documentation, part, embedded software, firmware, or tool is itself a trade secret. A manufacturer may make redactions to remove trade secrets from the documentation before providing it if the usability of the documentation is not diminished for purposes of providing services.

For equipment that contains an electric security lock or other security-related functions, a manufacturer must (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. This requirement may be satisfied through appropriate secure release systems.

A manufacturer is not liable for faulty or improper repairs provided by independent repair providers or owners, including faulty or improper repairs that cause certain outcomes, as specified.

The bill's requirements may not 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 that the manufacturer provides to an authorized repair provider under a contract or other arrangement (other than documentation necessary for compliance with the bill).

The requirements and remedies provided under the bill may not be waived or limited by a contract or other arrangement.

Current Law: An unfair, abusive, or deceptive trade practice under MCPA includes, among other acts, any false, falsely disparaging, or misleading oral or written statement, visual description, or other representation of any kind which has the capacity, tendency, or effect of deceiving or misleading consumers. The prohibition against engaging in any unfair, abusive, or deceptive trade practice encompasses the offer for or actual sale, lease, rental, loan, or bailment of any consumer goods, consumer realty, or consumer services; the extension of consumer credit; the collection of consumer debt; or the offer for or actual purchase of consumer goods or consumer realty from a consumer by a merchant whose business includes paying off consumer debt in connection with the purchase of any consumer goods or consumer realty from a consumer.

The Consumer Protection Division is responsible for enforcing MCPA and investigating the complaints of aggrieved consumers. The division may attempt to conciliate the matter,

issue a cease and desist order, or file a civil action in court. A merchant who violates MCPA is subject to a fine of up to \$10,000 for each violation and up to \$25,000 for each repetition of the same violation. In addition to any civil penalties that may be imposed, any person who violates MCPA is guilty of a misdemeanor and, on conviction, is subject to a fine of up to \$1,000 and/or imprisonment for up to one year.

Small Business Effect: Small businesses that repair powered wheelchairs may meaningfully benefit under the bill, which requires manufacturers to make information available that allows for the diagnosis, maintenance, or repair of a powered wheelchair. However, authorized repair providers, to the extent they are small businesses, may face greater competition.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: HB 31 (Delegates Kaufman and Hornberger) - Economic Matters.

Information Source(s): Office of the Attorney General (Consumer Protection Division); Department of Legislative Services

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