

2024 -- H 8279

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LC006137
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2024

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A N A C T

RELATING TO COMMERCIAL LAW -- GENERAL REGULATORY PROVISIONS --
CONSUMER ENFORCEMENT OF ASSISTIVE TECHNOLOGY DEVICE WARRANTIES

Introduced By: Representatives Diaz, Cortvriend, Handy, Fogarty, Shallcross Smith,
Ajello, Slater, Kennedy, Azzinaro, and Perez

Date Introduced: May 16, 2024

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 6-45 of the General Laws entitled "Consumer Enforcement of
2 Assistive Technology Device Warranties" is hereby amended by adding thereto the following
3 section:

4 **6-45-9. Consumer wheelchair right to repair.**

5 (a) For the purpose of providing service and repair of equipment specified in subsection
6 (h) of this section, an original equipment manufacturer shall, with fair and reasonable terms and
7 costs, make available to an independent repair provider or owner of the manufacturer's equipment
8 in this state, any documentation, parts, embedded software, firmware, or tools that are intended for
9 use with the equipment or any part, including updates to documentation, parts, embedded software,
10 firmware, or tools.

11 (b) An original equipment manufacturer shall not use parts pairing or any other mechanism
12 to:

13 (1) Prevent the installation or functioning of any otherwise-functional part, including a
14 non-manufacturer approved replacement part or component;

15 (2) Inhibit or reduce the functioning of any part, so that replacement by an independent
16 repair provider or the device owner would cause the device to operate with reduced functionality
17 or performance;

18 (3) Create false, misleading, deceptive, or non-dismissible alerts or warnings about parts;

1 (4) Charge additional fees or increased prices for future repairs; or

2 (5) Limit who can purchase parts or perform repair services.

3 (c) As used in this section, "on fair and reasonable terms" means:

4 (1) At costs and terms that are equivalent to the most favorable costs and terms under which
5 an original equipment manufacturer offers to an authorized repair provider, accounting for any
6 discount, rebate, convenient and timely means of delivery, means of enabling fully restored and
7 updated functionality, rights of use, or other incentive and preference the original manufacturer
8 offers to an authorized repair provider, or any additional cost, burden, or impediment the original
9 equipment manufacturer imposes on an owner or independent repair provider.

10 (2) With respect to documentation, the documentation shall be made available by the
11 original equipment manufacturer at no charge, except that, when the documentation is requested in
12 physical printed form, a charge may be included for the reasonable actual costs of preparing and
13 sending the copy.

14 (3) With respect to tools, the tools shall be made available by the original equipment
15 manufacturer at no charge, unless the tool is requested in physical form.

16 (d) Except as provided in subsection (e) of this section, a violation of the provisions of this
17 section shall constitute a deceptive trade practice in violation of the provisions of chapter 13.1 of
18 title 6 and the attorney general acting in the name of the state may petition for recovery of civil
19 penalties and/or equitable relief.

20 (e) An original equipment manufacturer which fails to provide a replacement part because
21 the part is out of stock and the manufacturer is unable to obtain the part, shall not be subject to the
22 penalties as provided in chapter 13.1 of title 6 if the original equipment manufacturer does the
23 following:

24 (1) Informs the customer or independent repair provider that the part is out of stock, and,
25 consequently, the manufacturer is unable to obtain the part; and

26 (2) Makes the part available to the consumer or independent repair provider within three
27 (3) business days of when the part becomes available.

28 (f) Nothing in this section shall be construed to require an original equipment manufacturer
29 to:

30 (1) Divulge any trade secret to any owner or independent service provider, except as
31 necessary to perform diagnosis, maintenance, or repair on fair and reasonable terms;

32 (2) Alter the terms of any arrangement between an authorized repair provider and an
33 original equipment manufacturer including, but not limited to, the performance or provision of
34 warranty or recall repair work by an authorized repair provider on behalf of an original equipment

1 manufacturer; or

2 (3) Be liable for any damage or injury to any equipment caused by an independent repair
3 provider or owner which occurs during the course of repair, diagnosis, or maintenance and is not
4 attributable to the original equipment manufacturer or authorized repair provider other than if the
5 failure is attributable to design or manufacturing defects.

6 (g) No original equipment manufacturer shall include in any material or documentation
7 any waiver or avoidance language that restricts or limits the provisions of this section. Any material,
8 documentation or sales agreement that restricts or limits the rights of an owner or repair provider
9 in violation of the provisions of this section shall be void as violating the public policy of the state
10 and shall be unenforceable.

11 (h) The provisions of this section shall apply to assistive technology devices which are
12 wheelchairs and scooters of any kind and other aids that enhance the mobility or positioning of an
13 individual, such as motorized positioning features, and the switches and control for any motorized
14 features as provided pursuant to § 6-45-1(1)(i).

15 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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RELATING TO COMMERCIAL LAW -- GENERAL REGULATORY PROVISIONS --
CONSUMER ENFORCEMENT OF ASSISTIVE TECHNOLOGY DEVICE WARRANTIES

1 This act would require that manufacturers of assistive technology devices consisting of
2 wheelchairs and scooters and mobility positioning aids to make available to independent repair
3 providers or the owner of the devices, any documentation and or parts, software or other items
4 intended for use with the equipment or parts, including updates to software. Manufacturers would
5 be prohibited from using parts that would prevent installation of any non-manufacturer approved
6 replacement part or component. Violators could be subject to penalties for unfair or deceptive trade
7 practices.

8 This act would take effect upon passage.

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