The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Commerce and Tourism

BILL:	SB 412
INTRODUCER:	Senator Smith
SUBJECT:	Repair of Motorized Wheelchairs
DATE:	February 28, 2025 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Dike	McKay	CM	**Favorable**
2.			AEG	
3.			FP	

I. Summary:

SB 412 creates the Motorized Wheelchair Right to Repair Act under ss. 559.971-559.976, F.S. The bill requires original equipment manufacturers of wheelchairs to provide documents, tools, and parts necessary to repair motorized wheelchairs to third party repair providers and owners of wheelchairs sold or used in this state.

This bill takes effect on July 1, 2025.

II. Present Situation:

Right to Repair Laws

In recent years, state legislatures across the country have been contemplating "right to repair" laws, requiring manufacturers to share repair information and tools so that consumers may repair their products more easily and less costly.[1] This type of legislation is founded on the idea that consumers should be able to choose how to repair their products.[2] Advocates are concerned due to the amount of products that are utilizing computer chips and advanced technology, which are becoming increasingly difficult to repair without sending the entire product back to the manufacturer.[3] Many products, ranging from cars and appliances to wheelchairs, use proprietary tools and parts.[4] Manufacturers may decline to publish documents necessary for a third party or

[1] Luyi Wang, et al., HARV. BUS. REV., *Research: The Unintended Consequences of Right-to-Repair Laws*, available at https://hbr.org/2023/01/research-the-unintended-consequences-of-right-to-repair-laws (last visited Feb. 28, 2025).
[2] Mike Serra, *Looking Under the Hood on the Right to Repair*, 101 MICH. B.J. 34 (May 2022), available at https://www.michbar.org/journal/Details/Looking-under-the-hood-on-the-right-to-repair?ArticleID=4428 (last visited Feb. 28, 2025).
[3] Thorin Klosowski, *What You Should Know About Right to Repair*, available at https://www.nytimes.com/wirecutter/blog/what-is-right-to-repair/ (last visited Feb. 28, 2025).
[4] *Id.*

consumer to repair.[5] The policy objectives of these laws are to ensure customers have access to manuals, schematics, and software updates, as well as diagnostic tools needed to service the product themselves.[6]

While there is a push for this type of legislation, manufacturers have been concerned about electronic privacy and preservation of intellectual property.[7] Technological advances in electronic equipment, such as fitness monitors, home security devices, and smart home appliances, have led to consumer data being collected at a higher volume.[8] Opponents of right to repair legislation are concerned that proprietary access to tools and information needed to repair these electronic products may undermine consumers' digital privacy, as diagnostic tools may provide access to an entire device and improper repair can disable security features.[9] Additionally, there is a concern that unrestricted access into product software design may compromise intellectual property protections.[10] If proprietary knowledge is embedded in the products they sell, some manufacturers worry that trade secrets will become public knowledge when required to disclose digital locks and other information.[11]

Wheelchair Usage and Repairs

In the United States, millions of Americans rely on wheelchairs due to impaired mobility.[12] As of 2014, about 21% of adults in the U.S. have difficulty or are unable to walk a quarter mile.[13] The use of mobility devices like wheelchairs provides independence to users who may otherwise have difficulty with physical functioning.[14]

In the last decade, there has been a significant increase in the number of repairs that wheelchair users must make.[15] One survey of wheelchair users found that a result of wheelchair breakdown,

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[5] *Id.*
[6] *Id.*
[7] Ike Brannon, CATO INST., *A Criticism of Right to Repair Laws*, available at https://www.cato.org/regulation/spring-2024/criticism-right-repair-laws (last visited Feb. 28, 2025).
[8] *See id.*
[9] *Id.*
[10] *Id.*
[11] *Id.*
[12] Sources vary on the exact number of wheelchair users. *See* Laura A. McClure, et al., *Wheelchair repairs, breakdown, and adverse consequences for people with traumatic spinal cord* injury, 90:12 ARCHIVES OF PHYSICAL MED. AND REHAB. 2034 (2009, available at https://pubmed.ncbi.nlm.nih.gov/19969165/ (last visited Feb. 28, 2025) (citing more than 2.8 million wheelchair users); Danielle M. Taylor, U.S. DEPT. OF COM., *Americans With Disabilities: 2014*, available at https://www.census.gov/content/dam/Census/library/publications/2018/demo/p70-152.pdf (last visited Feb. 28, 2025) (citing more than 5.5 million wheelchair users).
[13] Taylor, *supra* note 12, at 7.
[14] Lynn Worobey, et al., *Increases in Wheelchair Breakdowns, Repairs, and Adverse Consequences for People with Traumatic Spinal Cord Injury*, 91:6 AM. J. OF PHYSICAL MED. AND REHAB. 463 (2012), available at https://pmc.ncbi.nlm.nih.gov/articles/PMC4886332/ (last visited Feb. 28, 2025).
[15] One study found that over half of all full-time wheelchair users had to repair their wheelchair at least once over a six-month period. Worobey, *supra* note 12; *see also* Lynn A. Worobey, et al., *Factors Influencing Incidence of Wheelchair Repairs and Consequences Among Individuals with Spinal Cord Injury*, 103:4 ARCHIVES OF PHYSICAL MED. AND REHAB. 779 (2022), available at https://pmc.ncbi.nlm.nih.gov/articles/PMC8501145/#:~:text=The%20primary%20objectives%20of%20this%20study%20were%20to,consequences%20were%20experienced%2C%20and%20participant%20and%20wheelchair%20charact (last visited Feb. 28, 2025).

out-of-pocket repair costs ranged from $50-$620.[16] Wheelchair users experienced adverse consequences from wheelchair breakdown, with 27% stranded at home, 12% stuck in bed, and 9% stranded outside their home, anywhere from two to seventeen days.[17]

A 2022 survey performed by PIRG of 141 wheelchair users found that 93% of respondents have needed at least one repair in the last year, with 68% of respondents needing two or more repairs in the last year.[18] When asked how long these repairs take to complete, around 62% of respondents said the average repair took four or more weeks, while around 40% of respondents estimated it took seven or more weeks.[19]

Typically, when a person with a motorized wheelchair experiences a repair issue, they cannot fix the wheelchair with parts not from the manufacturer without voiding the warranty on the wheelchair.[20] If a wheelchair user goes through the manufacturer for the repair, parts can take weeks to arrive to the user or repair provider.[21] Moreover, a motorized wheelchair costs anywhere from $1,000 to $15,000, depending on the customizations tailored to that individual wheelchair user's needs.[22] Custom and higher-end models, which may be necessary for more severe impairment, can cost upward of $15,000 per wheelchair.[23]

III. Effect of Proposed Changes:

Requirements for Repair

Section 4 creates s. 559.973, F.S., mandating that an original equipment manufacturer[24] must make available to independent repair providers[25] and owners[26] any documentation,[27] parts,[28] and

[16] Lisa I. Iezzoni, HARV. HEALTH PUBL'G, *Millions rely on wheelchairs for mobility, but repair delays are hurting users*, available at https://www.health.harvard.edu/blog/millions-rely-on-wheelchairs-for-mobility-but-repair-delays-are-hurting-users-202207212785 (last visited Feb. 28, 2025).
[17] *Id.*
[18] PIRG, *Stranded: Repair Restrictions Immobilize Wheelchair Users*, available at https://publicinterestnetwork.org/wp-content/uploads/2022/05/USPIRGEF_Stranded_June2022.pdf (last visited Feb. 28, 2025).
[19] *Id.*
[20] *See* Markian Hawryluk, KFF HEALTH NEWS, *Despite a First-Ever 'Right-to-Repair' Law, There's No Easy Fix for Wheelchair Users*, available at https://kffhealthnews.org/news/article/power-wheelchair-users-right-to-repair-law-no-easy-fix/ (last visited Feb. 28, 2025); Mass. Disability Law Center, *Questions And Answers About The Wheelchair Repair Bill*, available at https://www.dlc-ma.org/2022/06/09/questions-and-answers-about-the-wheelchair-repair-bill-s-2567/#_ftnref2 (last visited Feb. 28, 2025).
[21] Hawryluk, *supra* note 20.
[22] Evan Drake, *Wheelchair Cost: A Breakdown of Value in 2025*, available at https://www.restoremobility.com/blogs/mobility/wheelchair-cost (last visited Feb. 28, 2025).
[23] *See id.*
[24] "Original equipment manufacturer" means a business engaged in selling, leasing, or supplying new motorized wheelchairs manufactured by, or on behalf of, the business to any individual or business.
[25] "Independent repair provider" means an individual or business operating in this state which is unaffiliated with an original equipment manufacturer that is engaged in the services of diagnosis, maintenance, or repair of motorized wheelchairs.
[26] "Owner" means an individual or business that owns or leases a motorized wheelchair purchased or used in this state.
[27] "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 motorized wheelchair.
[28] "Part" means any replacement part, either new or used, made available by an original equipment manufacturer for purposes of effecting the services of maintenance or repair of a motorized wheelchair manufactured by or on behalf of, sold, or otherwise supplied by the original equipment manufacturer.

tools[29] required for diagnosis, maintenance, and repair of motorized wheelchairs and parts for the motorized wheelchair, if that wheelchair or parts were sold by the manufacturer in this state. The documentation, parts, and tools must be made available either directly by the original equipment manufacturer or via an authorized repair provider.[30]

Regarding equipment that contains an electronic security lock or security-related function:

- The original equipment manufacturer must make certain information and items available to owners and independent repair providers.
- On fair and reasonable terms, the manufacturer must provide any special documentation, tools, and parts needed to access and reset the lock or function when disabled in the course of diagnosis, maintenance, or repair of the motorized wheelchair.
- The documentation, tools, and parts must be made available through appropriate secure release systems.

Limitations

Section 6 creates s. 559.975, F.S., providing that:

- This bill does not require that an original equipment manufacturer divulge a trade secret[31] to an owner or independent repair provider.
- This bill does not alter the terms of an arrangement—other than those which limit or avoid compliance with this bill—between an authorized repair provider and an original equipment manufacturer.
- An original equipment manufacturer or authorized repair provider is not liable for any damage caused to a motorized wheelchair by an independent repair provider or any injury to an owner which occurs during repair, diagnosis, or maintenance.

Enforcement

Section 5 creates s. 559.974, F.S., providing that violations of this bill are punishable under the Florida Deceptive and Unfair Trade Practices Act (FDUTPA), ss. 501.201-501.213, F.S. It is unlawful under the FDUTPA for a party to take part in "unfair methods of competition, unconscionable acts or practices, and unfair or deceptive acts of practices in the conduct of any

[29] "Tool" means any software, hardware, or other apparatus used for the diagnosis, maintenance, or repair of a motorized wheelchair, including software or other mechanisms that program a new part, calibrate functionality, or perform any other function required to return the wheelchair to fully function condition, including any updates.

[30] "Authorized repair provider" means an individual or a business that has an arrangement with the original equipment manufacturer under which the original equipment manufacturer grants to the individual or business a license to use a trade name, service mark, or other proprietary identifier for the purposes of offering the services of diagnosis, maintenance, or repair of a motorized wheelchair under the name of the original equipment manufacturer, or other arrangement with the original equipment manufacturer to offer such services on behalf of the original equipment manufacturer. An original equipment manufacturer that offers the services of diagnosis, maintenance, or repair of its own motorized wheelchair, and that does not have an arrangement with an unaffiliated individual or business, must be considered an authorized repair provider with respect to motorized wheelchairs.

[31] Trade secret means "information, including a formula, pattern, compilation, program, device, method, technique, or process that: (a) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and (b) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy." Section 688.002, F.S.

trade or commerce."[32] Such practices include fraudulent billing,[33] misleading a consumer or misrepresenting a product's characteristics,[34] or other behavior determined to be unfair by a court.[35] Under the FDUTPA, the office of the state attorney or Department of Legal Affairs, either by their own inquiry or through complaints, may investigate violations of the FDUTPA.[36] In addition to other remedies under state and federal law, the enforcing authority may bring actions for declaratory judgment, injunctive relief, actual damages on behalf of consumers and businesses, cease and desist orders, and civil penalties up to $10,000 per violation.[37] Moreover, consumers may bring private actions against parties for violating the FDUTPA, resulting in either:

- Declaratory judgment and injunctive relief when the consumer is aggrieved by a FDUTPA violation, or
- Actual damages, attorney fees, and court costs, when the consumer has suffered a loss due to the FDUTPA violation.[38]

Other Provisions

Sections 1 and 2 creates Part XIV of ch. 559, F.S., "Repair of Motorized Wheelchairs," and provides that the part may be cited as the Motorized Wheelchair Right to Repair Act.

Section 3 creates s. 559.972, F.S., providing definitions for terms used throughout the bill.

Section 7 creates s. 559.976, F.S., clarifying that Part XIV of ch. 559, F.S., applies to motorized wheelchairs sold or in use on or after July 1, 2025.

Effective Date

Section 8 provides an effective date of July 1, 2025.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

[32] Section 501.204, F.S.
[33] *State Farm Mut. Auto. Ins. Co. v. Medical Service Center of Florida, Inc.*, 103 F. Supp. 3d 1343 (S.D. Fla. 2015).
[34] *Lewis v. Mercedes-Benz USA, LLC*, 530 F. Supp. 3d 1183 (S.D. Fla. 2021); *Marty v. Anheuser-Busch Companies, LLC*, 43 F. Supp. 3d 1333 (S.D. Fla. 2014).
[35] *See Siever v. BWGaskets, Inc.*, 669 F. Supp. 2d 1286, 1292-93 (M.D. Fla. 2009).
[36] The enforcing authority under the FDUTPA may "administer oaths and affirmations, subpoena witnesses or matter, and collect evidence." Section 501.206, F.S.
[37] Sections 501.207, 501.2077, 501.2075, 501.208, F.S.
[38] Sections 501.2105, 501.211, F.S.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Indeterminate. Manufacturers may have to adjust costs due to making repair information and tools available to customers. Repair costs may be affected by increased competition for independent repair providers.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates the following sections of the Florida Statutes: 559.971, 559.972, 559.973, 559.974, 559.975, 559.976.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.