



## Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

# Final Fiscal Note

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<b>Drafting Number:</b>	LLS 22-0041	<b>Date:</b>	August 17, 2022
<b>Prime Sponsors:</b>	Rep. Titone; Ortiz Sen. Zenzinger	<b>Bill Status:</b>	Signed into Law
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**Bill Topic:** CONSUMER RIGHT TO REPAIR POWERED WHEELCHAIRS

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**Summary of Fiscal Impact:**

<input checked="" type="checkbox"/> State Revenue	<input checked="" type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure	<input checked="" type="checkbox"/> Local Government
<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

This bill outlines requirements for manufacturers of powered wheelchairs to provide documentation and tools to independent repair providers or owners, and creates a deceptive trade practice for failure to abide by these requirements. The bill may increase state and local government revenue and workload on an ongoing basis.

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**Appropriation Summary:** No appropriation is required.

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**Fiscal Note Status:** The fiscal note reflects the enacted bill.

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## Summary of Legislation

The bill outlines requirements and allowances for manufacturers of powered wheelchairs to provide documentation and tools to independent repair providers or owners, and creates a deceptive trade practice for failure to abide by these requirements. Under the bill, a manufacturer must reasonably provide any necessary firmware, tools, or parts to an independent repair provider or owner, including those required to reset a security feature. Except in situations where usability would be diminished, a manufacturer is allowed to redact trade secrets before providing necessary documentation, and may withhold information regarding embedded software, firmware, or a tool, if the information is a trade secret. A manufacturer is not liable for certain faulty or improper repairs.

## State Revenue

The bill potentially increases state revenue from civil penalties and fees beginning in FY 2022-23, as described below.

**Civil penalties.** Under the Colorado Consumer Protection Act, a person committing a deceptive trade practice may be subject to a civil penalty of up to \$20,000 for each violation, deposited into the General Fund. Additional penalties may be imposed for subsequent violations of a court order or injunction. This revenue is classified as a damage award and not subject to TABOR. Given the uncertainty about

the number of cases that may be pursued by the Attorney General and district attorneys, as well as the wide range in potential penalty amounts, the fiscal note cannot estimate the potential impact of these civil penalties.

**Judicial Department.** The bill may increase revenue to the Judicial Department from an increase in civil and liability case filings. Revenue from filing fees is subject to TABOR, and any change in revenue is expected to have a minimal impact on any TABOR refunds owed.

## State Expenditures

The bill will increase workload in the Department of Law and the Judicial Department beginning in FY 2022-23.

**Department of Law.** Workload in the Department of Law will increase to the extent that deceptive trade practice complaints are filed. The department will review complaints under the bill and prioritize investigations as necessary within the overall number of deceptive trade practice complaints and available resources.

**Judicial Department.** The trial courts in the Judicial Department may have an increase in cases filed under the Colorado Consumer Protection Act from the addition of a new deceptive trade practice. It is assumed that most powered wheelchair manufacturers will comply with the requirements of the bill, and that the number of unqualified individuals conducting repairs will be minimal. The fiscal note assumes that any increase in workload can be accomplished within existing resources and that no change in appropriations is required.

## Local Government

Similar to the state, to the extent district attorneys receive deceptive trade practice complaints related to the new deceptive trade practice under the bill, workload will increase to investigate complaints and seek relief when appropriate.

## Effective Date

The bill was signed into law by the Governor on June 2, 2022, and takes effect on January 1, 2023, assuming no referendum petition is filed.

## State and Local Government Contacts

District Attorneys  
Law

Information Technology  
Regulatory Agencies

Judicial