

**House Business Affairs & Labor  
 Testimony - HB21-1199 Consumer Digital Repair Bill Of Rights**

<b>First Name</b>	<b>Last Name</b>	<b>Position</b>	<b>Representing</b>	<b>Text of Testimony</b>
Steven	Paulick	For	Computer Physicians, LLC	<p>I support this bill because many computers, tablets, mobile phones, and other electronics cannot be repaired in my repair shop. Here is a typical story of this problem: My customer dropped her laptop and broke the screen and then wanted my company to replace a Microsoft surface pro 4 laptop/tablet screen with an after-market generic screen she bought on Amazon. I replaced the screen, but it didn't fit right, and the customer complained. I then contacted Microsoft and they told me if the laptop is dropped, and the screen is damaged it voids the warranty and the screen is a non-replaceable part. If the screen is damaged the entire laptop needs to be replaced. Microsoft told me that that Amazon should not be selling an after-market generic screen since that screen is not replaceable for that model of laptop. YouTube also had videos on how to replace the laptop screen even through is not supposed to be replaced, the screen is a non-replaceable part. Many other laptops, tablets, phones and computers cannot be fixed, or parts replaced. All Apple products also cannot be fixed or replaced. You must buy a new Apple product. Many Cell phones are the same way. They are sealed at the factory and cannot be opened to replace batteries, etc." All mobile phones should also be unlocked to be used on different phone networks.</p>
Matthew	Gray	For	Self	<p>I think this is a great bill and a great concept. If I buy a thing I have the right to open repair or modify said item.</p> <p>A company should not be able to infringe this right. They no longer own equipment they have sold to me.</p> <p>I opened and replaced my own iPhone battery. But I had to do this with a 3rd party battery and instructions. No schemas or parts are made available by Apple.</p> <p>I think of this as an environmental issue as well. Let's return to a time where items are repaired instead of thrown away.</p>

## Witness Signup List

Dorothy	DuVall	For	CCDC	<p>Please pass HB21-1199 to require that persons with disabilities be able access providers of their choice to repair durable medical equipment. Currently the delays on such repairs create inconvenience and hazards for us which this crucial bill can prevent. Thank you.</p> <p>Dorothy DuVall Colorado Cross Disability Coalition Wheat Ridge CO</p>
Brian	Sump	For	Urban Autocare & Avalon Motorsports	<p>As an independent/aftermarket provider of automotive services including basic maintenance and complex diagnosis as well as repairs, I am writing to attest to the increasing demand from our clients to be able to have trusted resources outside of the OEM dealerships where they can have their vehicles serviced. We have grown each year in the number of locations as well as the car count at each location. Annual industry reports such as the Lang Report and others indicate that customer satisfaction at independent shops is higher than satisfaction at dealerships (<a href="https://worldclassautoservice.com/dealerships-vs-independent-repair-shops/">https://worldclassautoservice.com/dealerships-vs-independent-repair-shops/</a>). Reports also show that labor rates at independent shops are often 20-30% less than dealerships (<a href="https://www.ratchetandwrench.com/articles/6233-independents-pricing-advantage-over-dealerships">https://www.ratchetandwrench.com/articles/6233-independents-pricing-advantage-over-dealerships</a>). The end user deserves the right to choose where they have their vehicle serviced, as opposed to being pigeon-holed in succumbing to the arrogant, entitled attitude of most dealerships. Monopolization of pricing is absolutely dangerous and unfair. When the aftermarket has access to OEM parts and repair information the result to consumers equates to increased convenience, lower prices, and the ability to achieve transparency by receiving multiple opinions on 'needed' repairs. Manufacturers such as Toyota have embraced the aftermarket service industry because they understand that more options for repair results in higher overall brand satisfaction and that is a primary reason they are the top selling manufacturer of light duty vehicles in the world. It's time for the rest of the OEM's to follow suit....</p>
PETER	SCHIAVONI	For	Self	<p>I AM FOR THE RIGHT TO REPAIR ACT</p>
Zachery	Bazylak	For	Self	<p>Consumers deserve the right to choose where their repairs are done and customer satisfaction is typically higher at independent repair facilities. Dealerships should not have a monopoly on vehicle repair!</p>

## Witness Signup List

Nathanael	Rudesill	For	Self	<p>For the consumer realistically there should always be this option. How many times has a mom-and-pop shop taken care of you or a family member's car at a significant discount compared to a dealer? The right to repair issue is exclusively to take care of the end customer. Looking at Apple's model, where they make repairing their own cell phones so difficult and expensive people just buy new ones. This is great for apple but harder on the consumer and the environment. I can think of no argument that solidifies why right to repair should be an issue as there is nothing more American then finding someone who can do it better for cheaper. This is important and something automakers like Tesla realize. So much revenue is generated from maintenance and repairs that it can't not be ignored by these companies. "So where does the majority of a dealership's profit come from? It's not from car sales, at least not directly. It's from the service and parts department, which accounts for the other 49.6% of the dealership's gross profits, according to NADA." - Edmunds June 13th, 2019. Without extending protections to smaller repair facilities manufacturers will continue to push noncompetition through these "right to repair" laws and continue to attempt to drive competition out of the market. With vehicles becoming more and more complex the time is now to protect the consumer and help grow our independent repair facilities for the good of our communities, not the manufacturers.</p>
Geoffrey	Greene	For	Self	<p>In my experience in both dealers and independant shops, I have seen customer satisfaction is MUCH higher in the independent world where people get to pick and choose what works best for them rather being told what HAS to happen whether they want a different opinion or not.</p>
Lucas	Flageolle	For	Self	<p>As a small business employee, it is imperative that the clients have many options in the repair field whether it be automobiles, home improvement or any repair facility. When having multiple options at different labor rates, skill levels, and customer service experiences the client can feel more in control when deciding on where to go. The same way there are multiple choices for cable providers, loan agencies, cell phone providers (and the list goes on). Keeping all venues of choices for the client is the utmost importance in this field!</p>
Jeremy	Moss	For	Self	<p>I have been in the Automotive Industry for around 20 years. It is very important for clients to have the right to choose their repair facility. Dealerships treat you like a number and the independents out there deserve to be able to compete with them and provide clients the uplifting experience that they deserve. Taking away manufacturing information from the independent shops is not fair to the consumer or the shops out there that are trying to make a difference and serve our communities. Thank you for your time.</p>

## Witness Signup List

Anne	Patton	For	Self	<p>As a care coordinator at the Chanda Center for Health for 2 1/2 years, I have personally supported and watched as people languished for months in loaner chairs, or without chairs, while waiting for their wheelchair repairs to take place. During the time in loaner chairs, I watched people develop sores on their bodies from ill fitting chairs, developing pain in their bodies from ill-fitting chairs. I would call the companies on their behalf to see what was the hold-up in the repair to find there was no urgency, notes would be lost, they were waiting on dr instructions, those would get lost. There was no active follow through or care on the part of the company. While I would see and talk to our participants while they gamely moved ahead as best as possible, for months at a time, despite their pain and frustration while waiting for parts to come in our repairs to be made. It is criminal in my opinion. The wheelchairs are the freedom for people to access their work, their community, their world. How do you feel without a car for a week? You would have other options, a taxi, an uber, a bus, but not without a wheelchair you wouldnt. This is a basic human right and it needs to change. Disabled people needing access need options too. It is past time for these options to be available to ALL.</p>
Jaime	Jacob	For	Self	<p>I support this bill. Differently-abled people need to have their wheelchairs and other durable medical equipment fixed as quickly and efficiently as possible. Farmers need to be able to repair their tractors. Consumers should have the right to repair their electronic appliances.</p>
Thomas	Boyer	For	Self	<p>The right to repair act allows a consumer more options and a better experience when having to have vehicles, phones, or anything repaired. The ability to choose where to have something repaired leads to better experiences overall and allows for healthy competition amongst facilities and the ones with a better customer experience win and thus the consumer wins. Just as we can choose what doctor or cell phone provider we should be able to choose where to have anything repaired.</p>
Jose	Martinez	For	Self	<p>Customer satisfaction is higher at independent shops, pricing is lower and vehicle owners deserve more choices in where to have their vehicle serviced the same way they can choose from different doctors, attorneys, home builders, etc...</p>
Keith	Alexander	For	Self	<p>Simply put, in order to fix any type of machine, you need to first know how it works. Manufacturers not wanting anyone outside their "dealership" circle to have access to the same training and information is a huge disservice to the consumer. As vehicles become more and more technologically advanced the need for more training, and access to not just some of the technical information but ALL the information is crucial. Not only for safety in an ever evolving industry, but for cost effectiveness and quality for the consumer.</p>

## Witness Signup List

Barbara Steinmetz For Self

In Support of the bill....Here is why:

My brother in law now 87, came to the USA as an immigrant, ran his small business servicing shops needing to repair small machines, motors, connectors etc...Kept his customers fo 50 years goingfrom shop to shop, to pick up and deliver He purchases parts from manufacturers, or other sources. A man who knows how to 'fix' things. jA talent that many have, to 'fix' things, apply this to run small businesses or shops. "fix it "people have the patience and expertise to apply their know how, where to get replacement parts, sometimes from the manufacturer, or improvise, find parts which will do the trick. Should manufacturers not allow that, should they require that only they can provide replacement parts or fix the problem, it would infringe on the freedom of the owner of the product to decide how, when, and where to get repair. There is an entire industry of 'minds' who make a living 'tinkering', fixing on the spot, providing service saving time, expense, shipping, waiting. ! Aside from the efficacy, the rules change would strip the owner of the product the right to find alternatives to repair. It would guarantee the manufacture additional source of revenue. The repair business may become a conflict of interest in the manufacturing process, it guarantees the manufacturer added business; Manufacturer is guaranteed the 'extra change on the table' created by parts and service. It could in addition, create products with built in flaws. Who would monitor that? For the consumer, it would be a pain, an inconvenience, and probably higher repair costs. For the manufacturer, it would be like giving them a slot machine, a cash cow. . In our country, there is entrepreneurship based on skill, innovation, creativity, hard work, knowledge, not necessarily mega corporations, but small shops. Farmers, ranchers, computer geeks, machine jacks, tinkerers, do it yourselfers have long figured out how to repair. There are businesses, services , on which clientele have a trusted on going relationship. With pride, we often point to our own 'fix it' person because of proven, reliable, trustworthy service; the job completed in an acceptable, timely fashion at a reasonable price. It is an essential part of our economy.

## Witness Signup List

Kristin Ramey For Self

Dear Representatives and Senators,

I am writing, as the owner of a small, independent farm, about the importance of HB21-1199. From the perspective of Agriculture, we already deal with enough hurdles and roadblocks to getting through our day. Being able to get our equipment fixed is key. Any breakdown in our schedule may throw off a number of activities, such as planting, harvesting, weeding, winter preparations and more. Mother Nature does not put itself on pause while we wait for equipment to get fixed.

The current system forces farmers to get their equipment fixed at a dealership. This often incorporates having to wait for space for an appointment, having to pay extra for the gear to be picked up for repair or taking the time to load it and deliver it to the dealer. Many repairs could easily be done on the farm, by the equipment owner, and get us back into the business of producing food and sticking to our tight schedules.

Farmers are not interested in stealing source code, or IP and trying to start our own manufacturing enterprises. We just want to take care of our farms. Delays in repairs can cost us days and weeks of getting seed into the field at the right time for a proper harvest, unloading hay for our animals in the winter that rely on our gear. We have plenty of activities that can't be done by hand, and we rely on equipment. Farmers are by far not getting rich by any means, and delays can be costly. Not to mention, so can repairs! We can't afford to buy extra gear to back up the equipment we use if it goes down. There needs to be some help here in encouraging manufacturers to drop some of these software limitations they intentionally put in place to force us back to the dealerships to repair our gear. Please consider this when you listen to their testimony. Their profitability and business practices should not be built on the backs of farmers.

Thank you  
Kristin Ramey  
Long Shadow Farm, Berthoud, Colorado

## Witness Signup List

Sylvia          Angell          For          Self

To the Members of the Colorado House Business Affairs and Labor Committee

Good afternoon. My name is Sylvia Angell, and I live in Wheat Ridge. Thank you for allowing me to express my support of HB21-1199. I am a member of ADAPT and CCDC, but, most importantly, I am sister to Michael Angell, an elder with severe physical and cognitive disabilities.

Michael depends on his class 2 power wheelchair to live safely and independently in his home and community. A broken wheelchair means he has no mobility until it is repaired. Unfortunately, Michael and others frequently wait dangerously long periods for repair appointments and replacement parts. Consequences include complete isolation, pressure sores, accidents and more.

As it stands now, only the wheelchair seller can authorize repairs and order parts from the manufacturer. Because a single seller dominates the Colorado marketplace, consumers like Michael are forced to use that company for all repairs and parts, or risk warranty cancellation.

Michael and I believe that HB21-1199 will allow consumers to choose their repair technicians and free those technicians to order parts directly from manufacturers. Opening up competition will lead to improved service standards that power wheelchair users in Colorado so desperately need. Thank you.

## Witness Signup List

Wayne	Seltzer	For	Boulder U-Fix-It Clinic [ <a href="http://boulderufixitclinic.org">http://boulderufixitclinic.org</a> ]	<p>My name is Wayne Seltzer and I represent the Boulder U-Fix-It Clinic [<a href="http://boulderufixixclinic.org">http://boulderufixixclinic.org</a>], a volunteer organization that helps people safely repair their broken stuff, including digital electronic equipment. The Clinic is partnered with Eco-Cycle, Boulder's community recycling non-profit, the Boulder Public Library BLDG61 Makerspace, and other venues that have provided space and support for our events. Since 2014, over 1,000 people have participated in our free clinics, diverting tons of waste from our landfills, learning essential repair skills, and becoming better informed consumers.</p> <p>We are proud that our repair success rate is around 70%, but we find that newer, digital electronic equipment is increasingly difficult or impossible to repair.</p> <p>When our participants, with the help of our volunteers, conclude that a product cannot be repaired because the manufacturer has not provided service documentation, repair parts or specialized tools, they are disappointed. And, worse, they are upset because they did not know at the time of the purchase that the now-useless product was designed to be non-repairable! Unfortunately, the only outcome is recycling and disposal. Example products we see at our clinics include smartphones, electronic printers, home appliances, audio equipment, computers and more.</p> <p>Consider this scenario: You cannot fix your \$1000 phone with a dead \$20 battery because the manufacturer intentionally designed the product to prevent consumers from replacing the part!</p> <p>During the past year, we have worked together with similar fix-it clinic organizations around the world hosting frequent free virtual clinics. We have learned that there is widespread enthusiasm for consumer repair and have become impressed, if not jealous, of right-to-repair bills that have become law in the European Union.</p> <p>I am confident that the Colorado Consumer Digital Repair Bill Of Rights would encourage manufacturers to design and build competitive, high value, safe, and profitable products. As an MIT-educated Electrical Engineer and Computer Scientist, I have developed products at AT&amp;T Bell Labs, Sun Microsystems and other corporations that were designed for repairability, and have seen the positive outcomes. I ask you to move forward with HB1199 for the benefit of our economy, the buying power of our consumers, and for the health of our environment.</p> <p>Thank you.</p>
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## Witness Signup List

Carrol Jolley Against Self

Dear Committee Members:

As a consumer who uses a class 2 power wheelchair as my only mobility device for the past 43 years I would like to go on record in opposition of this bill. My wheelchair has computerized, electronic, hydraulic ,and mechanical components which are very complicated. All of these components must work simultaneously for my chair to operate safe and correctly. If there is a malfunction I take it to an approved Medicaid Durable Medical Equipment provider. I want a skilled licensed technician working on my chair. Medicaid spent \$32,000.to provide me with this equipment, as much as some of your cars. I wouldn't want to void the warranty or have work done that wasn't done with guaranteed parts would you? If something does go wrong after repairs are made I want someone who can make it right. I also want the option of legal recourse if needed. If the average unskilled laymen is allowed to work on our equipment there could be many safety and liability issues.

It is for these reasons I STRONGLY URGE YOU TO VOTE AGAINST HB21-1159

Thank you, for your time and consideration in this matter.

Sincerely,

Carrol Lynn Jolley

Diana Seals For Self

My wheelchair wheels had no traction i called NuMotion, I think the beginning of winter.

NUmotion called me for a signature to bill for something else. I asked about my wheelchair. The comment from person that called was to ask me "do we have your wheelchair?" I said yes and this has put me on hold all winter now it's almost spring. I been calling NuMotion the entire time asking about my wheelchair. I did get a call from NuMotion saying we are ready bring your chair back .i ask did you fix the problem i have with traction? They said oh we thought it was the charger. (A charger does not get repaired but replaced and should never take more than a day).

I'm more than mad and still have no result. I'm changing companies. I believe NuMotion lost my wheelchair and worry I will have trouble getting a replacement.

Posthumous testimony on behalf of Nellie Jean Benfield, written by her assistant, Jo Booms

I am writing this on behalf of Nellie Jean (“Jeanie”) Benfield, who passed away on 2/23/21. In 2017, Jeanie got a new wheelchair. The left rocker panel was defective – the metal was way too soft and the teeth that hold the tilt at the angle you need showed 5 mm of wear after only two months of use. Because of this, the seat would not stay upright, making Jeanie tilt back at random. Jeanie weighed about 100 pounds at the time, so this was not a case of the person’s weight being a problem. We called Numotion and explained the problem, but the tech did not believe us about the metal being defective. He assured us, as Jeanie was randomly tilting backward without warning, that the metal used was very strong and couldn’t have worn through significantly. He stated that we were just seeing bare metal where the paint had worn off, which was normal and not anything to worry about. I ended up having to text him a picture to prove we weren’t being hysterical. Additionally, one of the tilt controls had been installed improperly. Obviously, this made the chair unsafe for transport, leaving Jeanie homebound for nearly a year. Additionally, the Numotion tech who had done the seat mold didn’t ask Jeanie what she needed (Jeanie couldn’t speak clearly, but could communicate well via an interpreter. Jeanie’s staff who were present that day could have interpreted for her, but Numotion just never asked the necessary questions). Additionally, on the few things the tech did ask Jeanie about, he didn’t explain terminology. Though she was brilliant intellectually, Jeanie was denied a public education, so asking her if she needed an abductor pommel was pretty meaningless. So in addition to tilting without warning, the seat was also very uncomfortable and bad for Jeanie’s spine.

A Numotion tech went to Jeanie’s house to replace the left rocker panel, but showed up without all the parts he had ordered. By this time, the right rocker panel teeth had significant wear because they had been the only teeth holding the seat upright for weeks (the left teeth now had 8 mm of wear). The metal of the right rocker panel, though not as weak as the left, was also defective, so wear was quick and significant. Because Jeanie was at high risk for pneumonia, lying in bed was dangerous – so she just had to put up with being in pain 100% of the time she was in the chair that Numotion said would be made to meet her needs.

Numotion replaced the rocker panels. A new seat mold was made – but when it arrived, it immediately became obvious that it did not fit Jeanie at all, either.

It about a year for Numotion to get Jeanie a wheelchair that worked and fit her as it should. And that was with direct help from Julie Reiskin, who knew all the right people to contact. Jeanie was homebound for about a year and in pain the entire time, despite having the power of CCDC at her fingertips. What on earth happens to people who don’t have advocacy?

Jeanie had significant scoliosis, and was stuck in a chair that tilted back at random for months, and whose seat left her in constant pain for about a year. She was homebound the entire time. How did forcing her to use Numotion “protect” her?

Please vote yes on HB21-1199 Right to Repair. Jeanie would have been much safer, both physically and emotionally, if she had been able to use the company of her choice when getting her wheelchair repaired.

I apologize for not taking the time to get exact dates and timeframes – I wrote this while taking a break from writing Jeanie’s eulogy.



**Written Testimony in Opposition to House Bill 1199**  
**Submitted by Emily Roberts, Vice President, Colorado BioScience Association**  
**House Business Affairs & Labor Committee**  
**March 25, 2021**

On behalf of the Colorado BioScience Association (CBSA), thank you for the opportunity to submit written testimony on House Bill 1199.

CBSA represents over 720 life sciences organizations and 32,000 employees across the state that develop and deliver innovative products and solutions to improve and save lives. Our members play a crucial role in the development of breakthrough technologies and therapies that are leading to improved patient outcomes and reduced health care costs. Many of our members are also supporting the response to COVID-19, researching and developing new treatments and adapting technologies to address urgent needs during the pandemic.

CBSA respectfully opposes House Bill 1199, which would require original equipment manufacturers (OEMs) of digital electronic equipment to share diagnostic and repair information with unqualified repair technicians.

This bill mandates the disclosure of proprietary information without any contractual safeguards, which is a huge problem for the innovators in our state. Strong intellectual property protections are the foundation of the life sciences industry. Our members make significant investments in the research, development and commercialization of new products, and they also invest heavily in the development of servicing tools, training and protocols. This bill is requiring regulated manufacturers who have made investments in regulatory compliance and the development of servicing processes to provide confidential information to unregulated competitors. It would be devastating for innovation and competition in the technology industry.

We are also concerned that this bill specifically targets electric wheelchairs, which are categorized as a Class II medical device and highly regulated by the U.S. Food & Drug Administration (FDA). Federal regulatory requirements have been put in place to ensure medical devices such as wheelchairs are designed, manufactured and serviced according to specifications that support device quality, patient safety, and system security. This legislation undermines those regulatory requirements, and in doing so, creates unnecessary patient safety risks.

We know that this legislation is well intended, but requiring technology manufacturers to disclose proprietary information and work with unregulated third-party servicers will undermine the innovation ecosystem and jeopardize patient safety.

For these reasons, we ask you to vote no on House Bill 1199. Thank you.



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March 25, 2021

Representative Dylan Roberts  
Chair, House Committee on Business Affairs and Labor  
Colorado General Assembly  
200 E Colfax, Room 307  
Denver, CO 80203

**Re: Opposition to passage of House Bill HB 21-1199, the “Consumer Digital Repair Bill of Rights Act”.**

Dear Chair Roberts and Committee Members,

The following comments are submitted on behalf of National Seating & Mobility (NSM) in opposition to House Bill HB21-1199, the “Consumer Digital Repair Bill of Rights Act”.

National Seating & Mobility (NSM) is North America’s most experienced provider of Complex Rehab Technology (CRT). CRT products are a specialized subset of technology classified within the Durable Medical Equipment (DME) category. These items include medically necessary and individually configured manual and power wheelchairs, seating and positioning systems, and other adaptive equipment such as bathing equipment, standing devices, and gait trainers. Since our founding in 1992, we have grown to a nationwide network of respected professionals and dedicated specialists. NSM provides services in Colorado via our locations in Denver and Grand Junction, branches in New Mexico and Utah help to serve rural clients.

NSM echoes the comments and testimony given by the National Coalition for Assistive and Rehab Technology (NCART). We are committed to servicing our clients as quickly as possible while also meeting various payer requirements in order for repair services to be a covered benefit by Medicare, commercial health plans and Colorado Medicaid.

The Right-to-Repair legislation does not take the following into consideration:

- In order for wheelchair repairs to be considered a covered benefit by Medicare, commercial insurance or Medicaid, suppliers must be enrolled or contracted with each plan. Should consumers obtain repairs from an independent repair center who is not enrolled with a particular insurance plan they would be responsible for the cost of the repair.
- Warranty protection and legal recourse for negligent repairs. Our technicians are certified by our manufacturing partners to service their equipment, just like in other industries.
- There are real challenges for users of CRT wheelchairs and their ability to access timely repairs that are beyond our control for which this bill does not address:
  - Most health plans require a prescription in order to bill for wheelchair repairs to be a covered benefit, if the individual hasn’t seen their physician recently this requires an office visit. Repairs should not require a written prescription. The medical need has already been established at the time of provision. Our clients have lifelong needs, their conditions are not going to improve and the need for a wheelchair will not go away. As an example, requesting an Rx to replace wheelchair batteries is not conducive to immediate service, power wheelchairs are inoperable without functioning batteries.

- Most health plans require prior authorization BEFORE performing the repair. This needs to be addressed. Our analytics show that repair prior authorization requests are approved over 95% of the time, this is an un-necessary requirement and the medical need has already been established at the time of original provision.
- Other contributing factors to access issues are:
  - Inadequate labor rates
  - Lack of reimbursement for total hours worked
  - Lack of reimbursement for travel time. Repair services require at least one, if not two roundtrips to the consumer's location.
  - Inadequate reimbursement for parts supplied, in some cases reimbursement does not cover equipment costs let alone the costs to roll a truck.

This legislation will not provide resolutions to the true barriers to timely access. However, the legislative interest and attention is sincerely appreciated and should be redirected to focus on needed actions in the policy and regulatory area.

Thank you for considering our comments and opposition and not pursuing passage of HB21-1199 based on serious concerns and the risk that would result for individuals with disabilities residing in Colorado that depend on complex rehabilitative wheelchairs.

NSM is happy to provide additional information or collaborate with the state in working towards better outcomes for Colorado residents that depend on CRT equipment.

Sincerely,



Tonya Hammatt  
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TESTIMONY OF  
THE AIR-CONDITIONING, HEATING, AND REFRIGERATION INSTITUTE

BEFORE THE COLORADO LEGISLATURE  
HOUSE BUSINESS AFFAIRS AND LABOR COMMITTEE

HEARING ON HB 1199

MARCH 25, 2021

Chair Kraft-Tharp, Vice Chair Coleman, and members of the House Business Affairs and Labor Committee Committee, thank you for allowing the Air-Conditioning, Heating, and Refrigeration Institute (AHRI) to submit written testimony with respect to House Bill 1199 (HB 1199), related to digital electronic equipment repair.

AHRI represents more than 320 manufacturers of air conditioning, heating, water heating, and commercial refrigeration (HVACR) equipment. It is an internationally recognized advocate for the HVACR industry, and certifies the performance of many of the products manufactured by its members. In North America, the annual output of the HVACR industry is worth more than \$20 billion. In the United States alone, AHRI members employ approximately 130,000 people and support another 800,000 dealers, contractors, and technicians nationwide.

AHRI respectfully opposes HB 1199 as currently drafted. The draft legislation would mandate that original equipment manufacturers (OEMs) make available to owners of digital electronic equipment or independent repair providers any part, tool, service manual, or other device, implement, or information for the purposes of diagnosing, maintaining, or repairing digital electronic equipment made by the OEM.

AHRI represents companies dedicated to manufacturing and installing highly effective and efficient heating, cooling, water heating, and commercial refrigeration systems for the health, safety, comfort, and productivity of the residents of Colorado. However, the equipment our companies manufacture and install is complex and requires highly skilled professionals to service and install it. Our industry places a high value on the use of skilled, trained, and certified contractors to handle the sophisticated equipment our manufacturers produce.

One of the primary reasons AHRI believes it is critical that HVACR equipment only be repaired or maintained by licensed professionals is to protect the environment. If not properly installed, maintained, and repaired, HVACR equipment, including cutting-edge energy efficient technologies, will not provide important energy saving benefits and will undermine energy efficiency initiatives.

In addition to the aforementioned concerns, equipment warranties could potentially be nullified if service were conducted by an unqualified contractor. A manufacturer's warranty is critical for consumer protection and confidence in the equipment they are purchasing. Should a homeowner's equipment malfunction, a warranty can be crucial for saving costs and having the equipment properly serviced. Manufacturers rely on qualified contractors to perform maintenance and repairs, ensuring that any future warranty issues or product recalls can be honored.

AHRI respects the intent of this legislation, but to avoid these unintended consequences, we believe it is necessary to narrow the definition of "digital electronic product" and amend the bill's language to include an exemption for HVACR equipment, similar to the exclusion for motor vehicles and for medical devices contained in the draft.

AHRI has seen similar legislation introduced in other states. In most cases, the primary focus of such legislation is digital, handheld products such as tablets and other mobile devices. We recommend that the definition of “digital electronic product” used in Section 2 be stricken and replaced with a definition that more clearly describes the products in the intended scope of the draft. As an example, such a definition can be found in legislation introduced in the State of Washington in 2018 (HB 2279):

***“Digital electronic product” means a handheld or portable electronic device containing a microprocessor and flat panel computer monitor originally manufactured for distribution and sale in the United States for general consumer purchase. Digital electronic product includes but is not limited to smartphones, electronic reading devices, laptop computers and tablets.***

To further clarify, an additional provision may be added, stating: “A digital electronic product shall not include any home appliance that has a digital electronic product embedded within it.” Examples could be provided. AHRI believes that clarifying the definition of digital electronic equipment would allow the legislation to serve its intended purpose without creating any unintended consequences for products manufactured, distributed, or installed by our members.

Thank you for the opportunity to submit testimony at this hearing.

HB21-1199 Consumer Digital Repair Bill of Rights

Thursday, March 25 2021

Business Affairs & Labor

Kelly Brough, President and CEO, Denver Metro Chamber of Commerce

I'd like to start by thanking the Chair and committee members for your consideration of this testimony. My name is Kelly Brough and I submit this testimony on behalf of the Denver Metro Chamber of Commerce and its affiliate the Colorado Competitive Council in opposition to HB 1199. The Denver Metro Chamber represents 3,000 businesses and their 400,000 employees, and C3 is a statewide coalition of employers, associations and chambers of commerce.

Our opposition to this bill is rooted in two main issues. The first is that this bill is unnecessary, given the current process available for small businesses to be certified to repair products. Today, manufacturers already work with small local businesses to certify them as authorized repair providers, giving consumers more options while also providing manufacturers the assurance that repair providers have received proper training and have appropriate tools. The expansion of sharing proprietary information with any independent repair provider not only puts manufacturers in a challenging position to guarantee the work of a third party that is completely out of their control, but also violates the intellectual property rights of digital equipment manufacturers.

Additionally and importantly, this bill would mandate the sharing of sensitive proprietary information including how electronic products operate, specific schematic diagrams and service code descriptions. The sharing of that information raises major cybersecurity concerns for some manufacturers.

Due to the unnecessary nature of the bill, the violation of intellectual property rights and cybersecurity concerns, we respectfully request a no vote on this bill.

# Please **Oppose** HB21 1199, Consumer Digital Repair Bill of Rights



*The Colorado Association of Medical Equipment Services is opposed to the bill as a result of the inclusion of class 2 powered wheelchairs in the legislation.*

**What the Bill Does:** The bill requires a manufacturer to provide parts, embedded software, firmware, tools, or documentation, such as diagnostic, maintenance, or repair manuals, diagrams, or similar information, to independent repair providers and owners of the manufacturer's equipment to allow an independent repair provider or owner to conduct diagnostic, maintenance, or repair services. A manufacturer's failure to comply with the requirement is an unfair or deceptive trade practice. Manufacturers need not divulge any trade secrets to independent repair providers and owners.

The bill does not apply to motor vehicle manufacturers or dealers acting in that capacity, powersports vehicle manufacturers or dealers acting in that capacity, or medical devices; **except that the bill does apply to class 2 powered wheelchairs.**

## **Reasons to Oppose:**

1. Powered wheelchairs are extremely technical pieces of machinery that require expert CRT training to repair. Lack of knowledge of how these chairs operate is a **safety hazard** to patients who utilize these devices.
2. Powered wheelchairs require a prescription to obtain and operate because they provide quality of life, and mobility to patients who use them. **Repairs that are done incorrectly to these chairs could be detrimental to the well-being, health, and safety of these patients.**
3. Repairing and replacing a part by oneself, or outside of the service provider would **void the warranty** that accompanies the chair resulting in costly bills to properly repair the chair for the consumer. These chairs cost anywhere from \$10,000-\$80,000!
4. It is unlikely that manufacturers would sell these parts to consumers directly for fear of these costly, and dangerous instances occurring.

***Please VOTE NO on HB21 1199 as it presents a health and safety risk to Coloradans in powered wheelchairs!***

For more information contact Edie Busam at [ebusam@aponte-busam.com](mailto:ebusam@aponte-busam.com), 303-523-6236



March 24, 2021

Representative Dylan Roberts  
Chair, House Committee on Business Affairs and Labor  
Colorado General Assembly  
200 E Colfax, Room 307  
Denver, CO 80203

Submitted electronically to:

<https://www2.leg.state.co.us/CLICS/CLICS2021A/commsumm.nsf/signup.xsp?h=SWT>

**Re: Opposition to passage of House Bill HB21-1199, the “Consumer Digital Repair Bill of Rights Act”**

Dear Chair Roberts and Committee Members,

I am writing in opposition to House Bill HB 21-1199, the “Consumer Digital Repair Bill of Rights Act”. Permobil is the premier manufacturer of complex rehabilitative technology (CRT) power wheelchairs, manual wheelchairs and seating systems and we have serious concerns about the implications of the bill for users from a safety standpoint as well as the liability placed upon the manufacturer of the power wheelchair products.

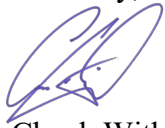
The well-being of our users is something that Permobil takes very seriously, and we believe this bill would create serious implications to safety. The United States Food and Drug Administration (FDA) classifies CRT power wheelchairs as class II medical devices and manufacturers must go through a rigorous process for approval with a major emphasis on user safety. As manufacturers, we and our authorized dealers who repair our products are held to stringent safety and reporting requirements. If this bill were to become law, third party technicians would be authorized to perform repairs on our products without the same regulatory and reporting oversight requirements. If a user were to be injured as a result of a bad repair from an unauthorized third party, then the burden is still upon the manufacturer to report to the FDA. This not only creates further burden and liability on the manufacturers, but also undermines the FDA’s data since it will be initially difficult and potentially impossible to distinguish between poor repairs or poor quality.

While we recognize that repairs of CRT power wheelchair products are challenging for users, we do not believe this bill addresses the root causes. Many of the challenges and delays that users face are as a result of prior authorization and funding requirements from both public and private payers which can in many cases, unnecessarily delay the process. Policy makers should work with users and the payers to reform the system to ensure it is operating in the most efficient way rather than shifting the burden to the manufacturers. One possible solution would be for the state and commercial payers to remove the prior authorization requirements on the front end for

repairs and instead conduct post payment audits of the claims. This one simple step would remove thirty (30) to sixty (60) days from the process guaranteeing users get the repairs they need in a timely manner while still having oversight on where the dollars are spent.

We would welcome the opportunity to work with proponents of the bill to ensure that the proper steps are taken to ensure safe and timely access repairs are available for those who user and depend upon our products in their daily lives.

Sincerely,



Chuck Witkowski  
President  
Permobil, Inc.

Dear Esteemed members of the of the Business Affairs and Labor Committee

I am writing to you in to request that you strongly support **HB21-1199**.

I am an allied healthcare provider to the autism community in Colorado and Washington State. I have worked in both acute care and outpatient care. Many of my clients require the use of wheelchairs and electric scooters for mobility as well as other durable medical equipment.

One of the concerns I have for my clients is how they are literally a prisoner to repair companies when their equipment doesn't work. For my client this means, days of being without the necessary medical services they need because they have lost their "transportation". Or worse yet, it puts their safety at risk as they have to find their way to their appointments, jobs and responsibilities in an unsafe chair/scooter or other equipment.

Not to mention, the toll that this takes on their mental health, worrying about their safety and others. It is also a matter of dignity and respect. In most cases there are no other substitutes for "transportation". To have to live your life at the beck and call of a specific repairman and their timetable is shameful and should not be happening. I have had clients wait over 6 months for something that is essential to how they live their daily lives.

In clinical settings, dealing with machines that are allowed to be maintained only by the manufacturer. I have seen and been a part of huge back-ups in patient care and other hospital scheduling issues because our needs had to be "worked into" some manufacturers repair schedule. This added huge costs to my department (physical therapy) alone, not to mention the costs to the hospital because of how long it takes to get someone to come out and look at the equipment. Then they need to order parts and we wait some more, and our patients wait. When then they finally show up to repair the equipment with part in hand, we have waited weeks, if not months and lose thousands, perhaps millions of dollars.

The argument manufacturers make about it being a safety risk is not borne out by the evidence. A growing body of evidence shows faulty repair is incredibly rare and doesn't justify tens of billions of dollars in extra health care spending.

<https://drive.google.com/file/d/0B-uUP5FmNN16QzEzY2N5a2hMSjIkdEg3OWFIdkJjVnhjU3Qw/view>

I know that my clients are more knowledgeable about their needs and their equipment than most of the repairmen that they currently are required to use. They should be able to decide what repairs are needed and have choices that allow them timely, quality and affordable service from the provider of their choice.

**Please strongly support HB21-1199!**

Thank you for listening. And thank you for your tireless efforts to represent all Coloradoans.

Sincerely,

Dori Babcock M.S., EP-C  
Executive Director  
Valiant Health Solutions LLC  
Member of the Colorado Cross Disability Coalition