
**Technology & Economic Development
Committee**

HB 2279

Brief Description: Concerning the fair servicing and repair of digital electronic products.

Sponsors: Representatives Morris, Cody, Hudgins, Santos, Smith, Lytton, Stanford, Young, Ormsby, Pollet, Doglio and Gregerson.

Brief Summary of Bill

- Requires digital electronic product manufacturers to make available certain information, parts, and tools related to independent repair.
- Prohibits digital electronic product manufacturers from requiring the purchase of certain proprietary information, excluding certain information, or preventing certain functions related to independent repair.

Hearing Date: 1/9/18

Staff: Lily Smith (786-7175).

Background:

Digital electronic products.

Consumer products increasingly include microprocessors with software controls. Software can now perform functions previously performed by mechanical components such as switches or gears. Software can also enable additional product functions. The replacement of mechanical components with software affects the information and materials needed for repair of those products.

Laws relating to unauthorized use of certain information and materials.

State law prohibits the manufacture of an article or product while using stolen or misappropriated information technology, where it is in competition with an article or product otherwise manufactured. Trade secrets are information that an owner takes reasonable steps to keep secret

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and that have independent economic value from not being known or readily accessible. Trade secrets are protected from misappropriation under state and federal law.

Federal copyright law applies to original tangible works that express ideas, such as certain software. Copyright law does not apply to ideas, methods, or processes. An owner of a copyright for an original work has the exclusive rights to copy, distribute, and adapt that work. A person may not circumvent technology that controls access to work protected by copyright. There are exceptions to copyright protection for the fair use of a work and for copying a computer program for purposes of maintenance or repair of a machine.

Consumer Protection Act

The state Consumer Protection Act (CPA) prohibits unfair or deceptive acts or practices in trade or commerce. A private person or the Attorney General may bring a civil action to enforce the provisions of the CPA. A person or entity found to have violated the CPA is subject to treble damages and attorney's fees.

Summary of Bill:

Original digital electronic product manufacturers are required to make available:

- the same diagnostic and repair information to independent repair providers or the product owner as is made available to authorized repair providers;
- equipment or service parts for purchase by the product owner, owner's agent, or independent repair provider; and
- diagnostic repair tools for purchase by owners and independent repair providers with the same capabilities as made available to the manufacturer's staff or authorized repair providers.

Equipment, service parts, and diagnostic repair tools made available for purchase must be offered on fair and reasonable terms.

Original digital electronic product manufacturers are prohibited from:

- requiring the purchase of repair-related documentation in a proprietary format in certain circumstances;
- designing or manufacturing products to prevent reasonable diagnostic or repair functions by an independent repair provider; and
- excluding diagnostic, service, and repair information necessary to reset a security-related electronic function from information provided to owners and repair facilities of equipment or parts providing security-related functions.

A violation of the act is enforceable under the Consumer Protection Act, RCW 19.86 and subject to a civil penalty of \$500.

"Digital electronic product" is a part or machine containing a microprocessor and flat panel computer monitor originally manufactured for distribution and sale in the United States. It includes handheld portable devices.

Motor vehicle manufacturers, dealers, products and services are excluded from the provisions.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.