

HOUSE BILL REPORT

HB 1801

As Reported by House Committee On:
Consumer Protection & Business

Title: An act relating to the repair of digital electronic equipment.

Brief Description: Concerning the repair of digital electronic equipment.

Sponsors: Representatives Gregerson, Ryu, Fitzgibbon, Berry, Cody, Macri, Peterson, Ramel, Wylie, Bergquist, Valdez, Pollet, Stonier, Ormsby, Harris-Talley and Kloba.

Brief History:

Committee Activity:

Consumer Protection & Business: 1/19/22, 2/2/22 [DPS].

Brief Summary of Substitute Bill

- Establishes a digital electronic equipment repairability task force to report on emerging local, national, and global repairability standards for digital electronic equipment and make corresponding recommendations to the Governor and the Legislature.
- Requires the Department of Commerce to contract with a third-party entity to provide staff support to the digital electronic equipment repairability task force.

HOUSE COMMITTEE ON CONSUMER PROTECTION & BUSINESS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 4 members: Representatives Kirby, Chair; Walen, Vice Chair; Ryu and Santos.

Minority Report: Do not pass. Signed by 3 members: Representatives Vick, Ranking Minority Member; Dufault, Assistant Ranking Minority Member; Corry.

Staff: Corey Patton (786-7388).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Background:

Digital electronic equipment may be considered a product that depends, in whole or in part, on digital electronics embedded in or attached to the product for the product to function. An original equipment manufacturer (OEM) may be considered a company that manufactures or contracts another company to manufacture digital electronic equipment.

Original equipment manufacturers of digital electronic equipment generally control and can restrict access to information, components, and tools necessary to diagnose, service, and repair their products, which may make their products difficult or impractical to repair by end users and independent repair shops.

Summary of Substitute Bill:

A digital electronic equipment repairability task force is established. The task force is comprised of the following membership:

- two House Members (one from each caucus);
- two Senators (one from each caucus);
- one member representing the Department of Commerce (Commerce);
- one member representing the Department of Ecology;
- one member representing the Office of the Attorney General;
- one member representing an advocacy group focused on sustainability of digital electronic equipment;
- one member representing an organization representing the interests of local technology companies;
- one member representing a distributor or marketplace platform for digital electronic equipment; and
- one member representing an original equipment manufacturer.

Commerce must select and contract with a third-party entity by August 1, 2022, to administer and provide staff support and facilitation services to the task force. Commerce must select the entity based on the following criteria:

- impartiality regarding policy outcomes;
- qualifications and relevant experience in the subject of digital electronic equipment repairability; and
- ability to provide data analysis, research, drafting, and other services to the task force.

The entity may, when deemed necessary by the task force, subcontract with one or more appropriate consultants to provide additional data analysis, research, drafting, and other services. The entity must convene the initial meeting of the task force by October 1, 2022. The task force must elect a chair from among its legislative members at the initial meeting by a majority vote. The task force must provide a public comment period at every meeting.

The task force must submit annual reports to the Governor and the Legislature on the status and development of local, national, and global repairability standards for digital electronic equipment, and provide recommendations regarding the creation, implementation, management, and enforcement of repairability standards for digital electronic equipment in Washington, with a focus on achieving compatibility with emerging national and global repairability standards. The task force's recommendations must include the following subjects:

- the use of specific criteria to objectively measure the repairability of a product;
- the use of a numeric scoring system to effectively convey repairability information to consumers;
- the use of clear, conspicuous labeling to enable consumers to quickly discern the repairability of a product;
- the application of repairability standards to products that are sold online; and
- enforcement of repairability standards.

The task force must submit its initial report and recommendations by July 1, 2023. The task force must submit its updated report and recommendations by July 1, 2024. The task force must submit its final report and recommendations by July 1, 2025. The task force expires on August 1, 2025.

Substitute Bill Compared to Original Bill:

The substitute bill: (1) eliminates all provisions related to the creation and enforcement of repairability score labeling requirements; (2) establishes a digital electronic equipment repairability task force, rather than a commission, to research, analyze, and prepare reports and recommendations related to the status and development of local, national, and global repairability standards for digital electronic equipment; (3) requires the Department of Commerce to select and contract with a third-party entity by August 1, 2022, to administer and provide staff support and facilitation services to the task force and subcontract with appropriate consultants when deemed necessary; and (4) requires the task force to submit annual reports and recommendations to the Governor and Legislature until the task force expires on August 1, 2025.

Appropriation: None.

Fiscal Note: Requested on January 18, 2022.

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

Staff Summary of Public Testimony:

(In support) The best way to achieve zero waste is to delay buying new products by

continuing to repair and use old ones. However, it is difficult to distinguish between nearly identical products that only differ in terms of repairability. Without systematically dismantling a product, there is no way for a consumer to know how long that product will last. Knowing the repairability of a product allows consumers to make educated purchasing decisions based on their needs. Many manufacturers are looking at the repairability index developed in France as a possible model for other jurisdictions. Emulating a familiar, trusted labeling system like the Environmental Protection Agency's Energy Star program could be an effective option. A future amendment to this bill is forthcoming and will create a task force, rather than a commission, to further explore possible solutions for repairability labeling.

There is some concern that this bill does not do enough to address consumer repairability concerns. Repairability standards should be established and regulated by an independent standards body, not by manufacturers. Manufacturers have fought against repairability legislation for years and will not give their products honest scores. A small fine is nothing to a billion dollar company. It is unclear how consumers will see repairability scores for products sold online.

(Opposed) Although there is some industry-wide recognition of the repairability index developed in France, this bill goes too far in implementing that model at the state level. Repairability is only one aspect of a product that may matter to consumers. For example, a product with a high repairability score might be less durable or lack other important features. This bill would give consumers an incomplete picture of the quality of electronic devices, require the release of sensitive information prior to a product going on sale, and create state-level policies that are better implemented at the national or international level. Any model that Washington adopts should be consistent with global standards and a work group is the right way to approach developing and integrating those standards.

There is some concern that the definition of digital electronic equipment includes electronics found in automobiles. The auto industry is the gold standard in terms of fostering a competitive marketplace for repair options. Since the auto industry serves as a model for repairability solutions and already has a national framework, auto manufacturers should be excluded from the scope of this bill.

The Department of Commerce (Commerce) does not have the right experience to take on the regulatory role described in the bill. Commerce can help support a work group to inform the best approach to developing a repairability index.

Persons Testifying: (In support) Representative Mia Gregerson, prime sponsor; Owen Rubel, bottledwind.com; Kyle Wiens, iFixit; and Heather Trim, Zero Waste Washington.

(Opposed) Charlie Brown, Consumer Technology Association; Curt Augustine, Alliance for Automotive Innovation; David Edmonson, TechNet; Robert Battles, Association of Washington Business; Lisa McCabe, CTIA; Robert Duff, Washington State Department of

Commerce; and John Keane, Association of Home Appliance Manufacturers.

Persons Signed In To Testify But Not Testifying: None.