
HOUSE BILL 1810

State of Washington

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By Representatives Gregerson, Chase, Ryu, Berry, Taylor, Fitzgibbon, Cody, Macri, Peterson, Ramel, Paul, Simmons, Bergquist, Valdez, Pollet, Stonier, Ormsby, Harris-Talley, Kloba, and Frame

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1 AN ACT Relating to promoting the fair servicing and repair of
2 digital electronic products in a safe, secure, reliable, and
3 sustainable manner to increase access to appropriate and affordable
4 digital products, support small businesses and jobs, and enhance
5 digital connectivity in Washington state; adding a new chapter to
6 Title 19 RCW; and prescribing penalties.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8 NEW SECTION. **Sec. 1.** The legislature finds that access to
9 appropriate and affordable digital electronic products is necessary
10 to overcome digital inequities in Washington state and that broader
11 distribution of the information and tools necessary to repair digital
12 electronic products will shorten repair times and lower costs for
13 consumers.

14 The legislature further finds that the COVID-19 pandemic has made
15 the need for devices even more critical as people rely on digital
16 electronic devices to submit unemployment claims, join telehealth
17 appointments, attend work and school, connect with family and
18 friends, and generally access services from the safety of their home.
19 The legislature recognizes that people will continue to need digital
20 electronic products to function for the foreseeable future.

1 The legislature further finds that low-income and black
2 Washingtonians face disproportionate barriers to accessing internet
3 in their homes. Recent census household pulse survey data shows that
4 a computer is rarely or never available for children's educational
5 use in 59 percent of households experiencing poverty and 80 percent
6 of black households in Washington state. Also, electronic product
7 manufacturer shops or licensed repair shops can often be in urban
8 areas, requiring rural consumers to travel long distances for repair.

9 The legislature further finds that independent repair businesses
10 provide an important source of employment and contribute to a
11 competitive repair market. In addition, these small business
12 employees can more safely repair devices when appropriate parts and
13 information are readily accessible.

14 The legislature further finds that digital electronic products
15 are comprised of precious metals that are finite and unnecessary
16 early disposal can be avoided with proper repair.

17 Therefore, the legislature intends to broaden access to the
18 information and tools necessary to repair digital electronic products
19 in a safe, secure, reliable, and sustainable manner, thereby
20 increasing access to appropriate and affordable digital electronic
21 products, supporting small businesses and jobs, and making it easier
22 for all residents of Washington state to connect digitally.

23 NEW SECTION. **Sec. 2.** The definitions in this section apply
24 throughout this chapter unless the context clearly requires
25 otherwise.

26 (1) "Authorized repair provider" means a person or business that
27 has an arrangement for a definite or indefinite period with an
28 original manufacturer, in which the original manufacturer grants to a
29 person or business a license to use a trade name, service mark, or
30 related characteristic for the purposes of offering repair services
31 under the name of the original manufacturer.

32 (2) "Digital electronic product" means a desktop computer, laptop
33 computer, tablet computer, cell phone, or smart phone containing a
34 microprocessor and originally manufactured for distribution and sale
35 in the United States for general consumer purchase.

36 (3) "Digital electronic product repair credential program" means
37 a program that provides testing and certification for technical
38 competence in the diagnosis, service, maintenance, or repair of

1 digital electronic products, and includes, at minimum, the following
2 subjects as part of its curriculum:

3 (a) Identifying, using, and connecting hardware components and
4 devices;

5 (b) Installing, configuring, and troubleshooting software for
6 digital electronic products, including support for commonly used
7 operating systems;

8 (c) Troubleshooting hardware and network issues;

9 (d) Explaining types of networks and connections, including
10 TCP/IP, wi-fi, and SOHO;

11 (e) Identifying and protecting against security vulnerabilities
12 for digital electronic products and their network connections; and

13 (f) Following best practices for safety, environmental impacts,
14 and communication and professionalism.

15 (4) "Documentation" means any manual, diagram, reporting output,
16 service code description, schematic, if applicable, or other guidance
17 or information, or its equivalent, which is made available by an
18 original manufacturer to an authorized repair provider and that is
19 intended for use in providing the services of diagnosis or repair of
20 digital electronic equipment.

21 (5) "Embedded software" means any programmable instructions
22 provided on firmware delivered with the digital electronic product
23 for the purposes of product operation, including all relevant patches
24 and fixes made by the original manufacturer for this purpose
25 including, but not limited to, synonyms "basic internal operating
26 system," "internal operating system," "machine code," "assembly
27 code," "root code," and "microcode."

28 (6) "Fair and reasonable terms" means an equitable price in light
29 of relevant factors including, but not limited to:

30 (a) The net cost to the authorized repair provider for
31 documentation, parts and tools obtained from an original
32 manufacturer, less any discounts, rebates, or other incentive
33 programs;

34 (b) The cost to the original manufacturer for preparing and
35 distributing the documentation, parts and tools, excluding any
36 research and development costs incurred in designing and
37 implementing, upgrading, or altering the software or product, but
38 including amortized capital costs for the preparation and
39 distribution of the documentation, parts and tools;

1 (c) The price charged by other original manufacturers for similar
2 documentation, parts and tools;

3 (d) The price charged by original manufacturers for similar
4 documentation, parts and tools prior to the launch of original
5 manufacturer websites;

6 (e) The ability of aftermarket technicians or shops to afford the
7 documentation, parts and tools;

8 (f) The means by which the documentation, parts and tools is
9 distributed;

10 (g) The extent to which the documentation, parts and tools is
11 used, which includes the number of users, and frequency, duration,
12 and volume of use; and

13 (h) Inflation.

14 (7) "Firmware" means a software program or set of instructions
15 programmed on a hardware device to allow the device to communicate
16 with other computer hardware.

17 (8) "Independent repair provider" means a person or business
18 operating in this state that is not affiliated with an original
19 manufacturer or an original manufacturer's authorized repair
20 provider, which is engaged in the diagnosis, service, maintenance, or
21 repair of digital electronic products and which is able to
22 demonstrate that it possesses the technical competence and financial
23 assurance required for the performance of safe, secure, reliable, and
24 sustainable repairs of applicable digital electronic equipment by
25 obtaining and maintaining certification by a qualifying digital
26 electronic product repair credential program. However, for the
27 purposes of this section, an original manufacturer may be considered
28 an independent repair provider for purposes of those instances when
29 such an original manufacturer engages in the diagnosis, service,
30 maintenance, or repair of equipment that is not affiliated with the
31 original manufacturer and obtains and maintains the required
32 certification.

33 (9) "Medical device" means an instrument, apparatus, implement,
34 machine, contrivance, implant, or other similar or related article,
35 including a component part, or accessory, as defined in the federal
36 food, drug, and cosmetic act (21 U.S.C. Sec. 321(h)), as amended,
37 that is intended for use in the diagnosis of disease or other
38 conditions, or in the cure, mitigation, treatment, or prevention of
39 disease, in humans or other animals.

1 (10) (a) "Motor vehicle" means any vehicle that is designed for
2 transporting persons or property on a street or highway and is
3 certified by the motor vehicle manufacturer under all applicable
4 federal safety and emissions standards and requirements for
5 distribution and sale in the United States.

6 (b) Motor vehicle does not include:

7 (i) A motorcycle; or

8 (ii) A recreational vehicle or manufactured home equipped for
9 habitation.

10 (11) "Motor vehicle dealer" means any person or business who, in
11 the ordinary course of business, is engaged in the business of
12 selling or leasing new motor vehicles to a person or business
13 pursuant to a franchise agreement, who has obtained a license under
14 the motor vehicle industry regulation act, and who is engaged in the
15 diagnosis, service, maintenance, or repair of motor vehicles or motor
16 vehicle engines pursuant to such a franchise agreement.

17 (12) "Motor vehicle manufacturer" means any person or business
18 engaged in the business of manufacturing or assembling new motor
19 vehicles.

20 (13) "Nonroad engine" means an internal combustion engine,
21 including the fuel system, that is not: (a) Used in a motor vehicle
22 or a vehicle used solely for competition; or (b) subject to the
23 standards of performance for new stationary sources or the emissions
24 standards for new motor vehicles or new motor vehicle engines
25 promulgated under the clean air act, (42 U.S.C. Secs. 7411 and 7521).

26 (14) "Nonroad engine, nonroad equipment, or nonroad vehicle
27 dealer" means any person who is engaged in the sale or the
28 distribution of new nonroad engines, new nonroad equipment, or new
29 nonroad vehicles to the ultimate purchaser.

30 (15) "Nonroad engine, nonroad equipment, or nonroad vehicle
31 manufacturer" means any person engaged in the manufacturing or
32 assembling of new nonroad engines, new nonroad equipment, or new
33 nonroad vehicles, or importing such engines, equipment, or vehicles
34 for resale, or who acts for and is under the control of any such
35 person in connection with the distribution of new nonroad engines,
36 new nonroad equipment, or new nonroad vehicles, but does not include
37 any dealer with respect to new nonroad engines, new nonroad
38 equipment, or new nonroad vehicles received by the dealer in
39 commerce.

1 (16) "Nonroad equipment" means equipment that is powered by a
2 nonroad engine and that is not a motor vehicle, a vehicle used solely
3 for competition, or a nonroad vehicle.

4 (17) "Nonroad vehicle" means a vehicle that is powered by a
5 nonroad engine and that is not a motor vehicle or a vehicle used
6 solely for competition.

7 (18) "Original manufacturer" means a person or business who, in
8 the ordinary course of its business, is engaged in the business of
9 selling or leasing new digital electronic products that are
10 manufactured by that person or business to consumers or other end
11 users, and is engaged in the diagnosis, service, maintenance, or
12 repair of that product.

13 (19) "Owner" means a person or business who owns or leases a
14 digital electronic product purchased or used in this state.

15 (20) "Part" or "service part" means any replacement part, either
16 new or used, or its equivalent, which is made available by the
17 original manufacturer to an authorized repair provider for purposes
18 of effecting repair of the original manufacturer's digital electronic
19 equipment.

20 (21) "Remote diagnostic" means any remote data transfer function
21 between a digital electronic product and the provider of repair
22 services, including for the purposes of remote diagnostics, settings
23 controls, or location identification.

24 (22) "Stationary engine" means an internal combustion engine that
25 is not used in a motor vehicle, a vehicle used solely for
26 competition, a nonroad vehicle, or nonroad equipment.

27 (23) "Stationary engine or stationary equipment dealer" means any
28 person who is engaged in the sale or the distribution of new
29 stationary engines or new stationary equipment to the ultimate
30 purchaser.

31 (24) "Stationary engine or stationary equipment manufacturer"
32 means any person engaged in the manufacturing or assembling of new
33 stationary engines or new stationary equipment, or importing such
34 engines or equipment for resale, or who acts for and is under the
35 control of any such person in connection with the distribution of new
36 stationary engines or new stationary equipment, but does not include
37 any dealer with respect to new stationary engines or new stationary
38 equipment received by the dealer in commerce.

1 (25) "Stationary equipment" means equipment that is powered by a
2 stationary engine and that is not a motor vehicle, a vehicle used
3 solely for competition, a nonroad vehicle, or nonroad equipment.

4 (26) "Tool" means any software program, hardware implement, or
5 other apparatus, or its equivalent, which is made available by an
6 original manufacturer to an authorized repair provider, and that is
7 used for diagnosis, or repair of the original manufacturer's digital
8 electronic equipment, including software or other mechanisms that
9 provision, program, or pair a new part, calibrate functionality, or
10 perform any other function required to bring the product back to
11 fully functional condition.

12 (27) "Trade secret" means anything tangible or intangible or
13 electronically stored or kept that constitutes, represents,
14 evidences, or records intellectual property, including secret or
15 confidentially held designs, processes, procedures, formulas,
16 inventions, or improvements, or secret or confidentially held
17 scientific, technical, merchandising, production, financial,
18 business, or management information, or any other trade secret as
19 defined in 18 U.S.C. Sec. 1839, as that section existed on January 1,
20 2017.

21 NEW SECTION. **Sec. 3.** (1) Original manufacturers of digital
22 electronic products sold in Washington state must make available:

23 (a) To independent repair providers of digital electronic
24 products manufactured by the original manufacturer the documentation,
25 parts and tools, including corrections to embedded software, and
26 safety and security patches on fair and reasonable terms that the
27 original manufacturer makes available to its authorized repair
28 provider, effective January 1, 2023; and

29 (b) For purchase by the owner, documentation, parts, tools,
30 inclusive of any updates to the embedded software of the equipment or
31 parts, upon fair and reasonable terms, except where the diagnosis,
32 maintenance, or repair of such products presents a reasonably
33 foreseeable risk of property damage or personal injury, effective
34 January 1, 2024.

35 (2) Nothing in this section requires the original manufacturer to
36 sell service parts if the service parts are no longer available to
37 the authorized repair provider of the original manufacturer.

38 (3) Any original manufacturer that sells any documentation,
39 parts, or tools to any independent repair provider in a format that

1 is standardized with other original manufacturers, and on terms and
2 conditions more favorable than the manner and the terms and
3 conditions pursuant to which the authorized repair provider obtains
4 the same diagnostic, service, or repair documentation, is prohibited
5 from requiring any authorized repair provider to continue purchasing
6 diagnostic, service, or repair documentation in a proprietary format,
7 unless the proprietary format includes diagnostic, service, or repair
8 documentation or functionality that is not available in such a
9 standardized format.

10 (4) (a) Each original manufacturer of digital electronic products
11 sold or used in the state must make available for purchase by
12 independent repair providers all documentation, parts, and tools that
13 the original manufacturer makes available to its own authorized
14 repair providers.

15 (b) Each original manufacturer must offer tools for sale to
16 independent repair providers upon fair and reasonable terms. Each
17 original manufacturer that provides tools has fully satisfied its
18 obligations under this section and thereafter is not responsible for
19 the content and functionality of such tools.

20 (5) Original manufacturer equipment or parts sold or used in this
21 state for the purpose of providing security-related functions may not
22 exclude diagnostic, service, and repair information necessary to
23 reset a security-related electronic function from information
24 provided to owners and independent repair facilities. If excluded
25 under this subsection, the information necessary to reset an
26 immobilizer system or security-related electronic module may be
27 obtained by owners and independent repair facilities through the
28 appropriate secure data release systems.

29 (6) As an alternative to the obligations set forth in subsections
30 (1) through (5) of this section, original manufacturers of digital
31 electronic products sold on or after January 1, 2023, may provide a
32 training program and allow any licensed Washington business to get
33 certified as a "manufacturer certified repair facility" in an open
34 and fair certification process.

35 NEW SECTION. **Sec. 4.** (1) Nothing in this chapter may be
36 construed to require an original manufacturer to divulge a trade
37 secret.

38 (2) Notwithstanding any law or rule to the contrary, no provision
39 in this chapter may be read, interpreted, or construed to abrogate,

1 interfere with, contradict, or alter the terms of any agreement
2 executed and in force between an authorized repair provider and an
3 original manufacturer including, but not limited to, the performance
4 or provision of warranty or recall repair work by an authorized
5 repair provider on behalf of an original manufacturer pursuant to
6 such an authorized repair agreement, except that any provision in
7 such an authorized repair agreement that purports to waive, avoid,
8 restrict, or limit an original manufacturer's compliance with this
9 section is void and unenforceable.

10 (3) Nothing in this chapter may be construed to require original
11 manufacturers or authorized repair providers to provide an
12 independent repair provider access to nondiagnostic and repair
13 information by an original manufacturer to an authorized repair
14 provider pursuant to the terms of an authorizing agreement.

15 NEW SECTION. **Sec. 5.** (1) Original manufacturers shall not be
16 liable for repairs provided by independent repair providers,
17 including damage to digital electronic products that occur during
18 repairs conducted by independent repair providers, including any
19 indirect, incidental, special, or consequential damages; any loss of
20 data, privacy, or profits; or any inability to use, or reduced
21 functionality of the digital electronic products resulting from
22 repair.

23 (2) The original manufacturer does not warrant any repairs
24 provided by independent repair providers.

25 NEW SECTION. **Sec. 6.** (1) Nothing in this chapter applies to
26 motor vehicle manufacturers, any product or service of a motor
27 vehicle manufacturer, or motor vehicle dealers.

28 (2) Nothing in this chapter applies to:

29 (a) Nonroad engine, nonroad equipment, or nonroad vehicle
30 manufacturers, any product or service of a nonroad engine, nonroad
31 equipment, or nonroad vehicle manufacturer, or nonroad engine,
32 nonroad equipment, or nonroad vehicle dealers; or

33 (b) Stationary engine or stationary equipment manufacturers, any
34 product or service of a stationary engine or stationary equipment
35 manufacturer, or stationary engine or stationary equipment dealers.

36 (3)(a) Nothing in this chapter applies to manufacturers or
37 distributors of a medical device as defined in the federal food,
38 drug, and cosmetic act (21 U.S.C. Sec. 301 et seq.) or a digital

1 electronic product or software manufactured for use in a medical
2 setting including diagnostic, monitoring, or control equipment or any
3 product or service that they offer. For the purposes of this chapter,
4 "medical setting" includes, but is not limited to, acute care
5 hospitals, long-term care facilities, such as nursing homes or
6 skilled nursing facilities, physicians' offices, urgent care centers,
7 outpatient clinics, home settings where health care is provided at
8 home by or at the direction of licensed health care providers,
9 emergency medical services, and specific sites within nonhealth care
10 settings where health care is routinely delivered, such as a medical
11 clinic embedded within a school.

12 (b) A digital electronic product otherwise subject to the
13 provisions of this chapter is not considered a medical device or
14 considered manufactured for use in a medical setting by virtue of its
15 ability to be used in conjunction with a medical device or with a
16 digital electronic product or software manufactured for use in a
17 medical setting.

18 NEW SECTION. **Sec. 7.** (1) The legislature finds that the
19 practices covered by this chapter are matters vitally affecting the
20 public interest for the purpose of applying the consumer protection
21 act, chapter 19.86 RCW. A violation of this chapter is not reasonable
22 in relation to the development and preservation of business and is an
23 unfair or deceptive act in trade or commerce and an unfair method of
24 competition for the purpose of applying the consumer protection act,
25 chapter 19.86 RCW.

26 (2) This chapter may be enforced solely by the attorney general
27 under the consumer protection act, chapter 19.86 RCW.

28 NEW SECTION. **Sec. 8.** This chapter may be known and cited as the
29 fair repair act.

30 NEW SECTION. **Sec. 9.** Sections 1 through 8 of this act
31 constitute a new chapter in Title 19 RCW.

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