
**Consumer Protection & Business
Committee**

HB 1933

Brief Description: Supporting the servicing and right to repair of certain products with digital electronics in a secure and reliable manner.

Sponsors: Representatives Gregerson, Kretz, Fitzgibbon, Morgan, Paul, Berry, Duerr, Ramel, Klicker, Reed, Simmons, Ormsby, Peterson, Kloba, Macri, Street, Doglio, Bergquist, Riccelli, Fosse and Shavers.

Brief Summary of Bill

- Establishes the Right to Repair Act (Act), which requires manufacturers of digital electronic products to make available to independent repair providers (IRPs) certain parts, tools, and documentation on fair and reasonable terms for the diagnosis, maintenance, and repair of digital electronic products.
- Contains certain exceptions for when parts, tools, and documentation do not have to be made available to IRPs.
- Makes a violation of the Act a violation of the Consumer Protection Act and enforceable only by the Attorney General.

Hearing Date: 1/12/24

Staff: Megan Mulvihill (786-7304).

Background:

Modern digital electronic equipment often has technology, such as microprocessors, that has become harder for consumers to fix and maintain because of specialized tools, difficult-to-obtain

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parts, and access to proprietary diagnostic software. Manufacturers generally have control over repairs by restricting access to information, components, and tools necessary to diagnose, service, and repair their products, such as with application of patent rights, enforcement of trademarks, software locks, firmware updates, and end user license agreements. Consumers can attempt to repair their own digital electronic products, or use the services of an authorized or independent repair provider. Authorized repair providers are merchants that have an arrangement with a manufacturer to service their products. Independent repair providers provide similar services, but are not affiliated with a manufacturer.

The Magnuson-Moss Warranty Act (MMWA) is enforced by the Federal Trade Commission (Commission) and was passed in 1975 to clarify how written warranties may be used when marketing products to consumers. The MMWA has an anti-tying provision which prohibits manufacturers from using access to warranty coverage as a way of obstructing consumers' ability to have their products maintained or repaired using third-party replacement parts and independent repair shops. Manufacturers may seek a waiver from the Commission from the prohibition if: (1) the warrantor satisfies with the Commission that the manufacturer's parts or services are necessary for the product to function; and (2) the waiver is in the public interest.

Summary of Bill:

The Right to Repair Act.

Requirements.

The Right to Repair Act (Act) is established. Beginning January 1, 2025, a manufacturer of digital electronic products and parts that are manufactured for the first time and first sold or leased in Washington on or after January 1, 2021, must make available to independent repair providers (IRP), on fair and reasonable terms, any parts, tools, and documentation required for the diagnosis, maintenance, or repair of such product and its parts. The parts, tools, and documentation may be made available either directly from the manufacturer, an authorized repair provider (ARP), or an authorized third-party provider. Digital electronic product is defined as "any product or electronic that depends, in whole or in part, on digital electronics, such as a microprocessor or microcontroller, embedded in or attached to the product in order to function." Other defined terms include: agricultural equipment, authorized repair provider, diagnosis, documentation, fair and reasonable terms, independent repair provider, maintenance, modifications, original manufacturer, owner, part, powered wheelchair, repair, tool, trade secret, and video game console.

Security-Related Functions.

For products with a security lock, the manufacturer must make available any special parts, tools, and documentation needed to access and reset the lock or function when disabled during diagnosis, maintenance, or repair. Such parts, tools, and documentation may be made available through appropriate secure release systems.

Not Liable for Repairs or Functionality.

Manufacturers and ARPs are not liable for services performed by IRPs, and manufacturers do

not warrant services provided by IRPs. In addition, while manufacturers must offer tools upon fair and reasonable terms, the manufacturer is not responsible for the content and functionality of such tools.

Customer Education and Notice.

Before repairing digital electronic products, ARPs and IRPs must provide to the customer, publish on their website, or post at their business a written notice which:

- outlines the steps taken by the repair provider to ensure the privacy and security of the product;
- provides recommended steps for the customer to take to safeguard device data, including backing up data, sharing only those passwords necessary for repairs, and logging out of applications or websites that contain sensitive data or pose a security risk; and
- includes a statement about the customer's legal right to privacy, which is protected under the constitution and Washington law, including that violations may be referred to law enforcement and violators may be liable for damages.

Enforcement.

Violations of the Act are deemed to affect public interest and constitute an unfair or deceptive act in trade or commerce for purposes of the Consumer Protection Act. Violations are only enforceable by the Attorney General.

Right to Repair Act Exceptions.

- A manufacturer is not required to sell parts if the parts are no longer available to the ARP of the manufacturer.
- A manufacturer is not required to divulge trade secrets or license intellectual property, except as necessary to provide parts, tools, and documentation on fair and reasonable terms.
- The Act is not intended to alter an agreement between a manufacturer and an ARP.
- A manufacturer or an ARP are not required to provide an IRP access to information, other than documentation, that is provided by the manufacturer to the ARP pursuant to their agreement.
- A manufacturer does not need to make parts, tools, and documentation available for the purpose of making modifications to digital electronic products.

The following entities or equipment are excluded from the Act:

- public safety communications equipment which is intended for emergency response or prevention purposes by an emergency service organization;
- manufacturers and distributors of medical devices, except power wheelchairs, or digital electronic products or embedded software manufactured for use in a medical setting;
- vehicle manufacturers, manufacturers of motor vehicle equipment, motor vehicle dealers acting in that capacity, or any product or service of such an entity;
- manufacturers, distributors, importers, or dealers of any power generation or storage equipment, or equipment for fueling or charging motor vehicles;
- utility equipment, construction equipment, compact construction equipment, road building

equipment, electronic vehicle charging infrastructure equipment, mining equipment, and any tools, technology, attachments, accessories, components, and repair parts for any of the foregoing; and

- video game consoles and their components and peripherals.

Appropriation: None.

Fiscal Note: Preliminary fiscal note available.

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