
HOUSE BILL 1392

State of Washington

68th Legislature

2023 Regular Session

By Representatives Gregerson, Kretz, Ryu, Dent, Berry, Fitzgibbon, Reed, Ramel, Pollet, and Macri

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

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

9 NEW SECTION. **Sec. 1.** (1) The legislature finds that:

10 (a) Consumer access to affordable and reliable digital electronic
11 equipment is essential to overcome digital inequities in Washington
12 state and that broader distribution of the information and tools
13 necessary to repair digital electronic equipment will shorten repair
14 times, lengthen the useful lives of electronic equipment, and lower
15 costs for consumers.

16 (b) The COVID-19 pandemic further highlighted the increased and
17 ongoing need for access to digital electronic equipment as consumers
18 increasingly rely on these products to conduct personal and
19 professional business daily.

20 (c) The need for more accessible and affordable repair options is
21 felt more acutely among specific sectors of the population, notably

1 Washington residents in rural areas and people who earn low incomes.
2 Original manufacturer shops or authorized repair providers are often
3 located in urban areas requiring consumers to travel long distances
4 for repair or being without equipment for periods of time.

5 (d) Small, independent businesses play a vital role in
6 Washington's economy. Providing access to information, parts, and
7 tools is essential in contributing to a competitive repair market,
8 allowing small repair shop employees to repair equipment more safely.

9 (e) Certain electronic equipment are comprised of precious metals
10 that are finite and unnecessary early disposal can be avoided with
11 greater accessibility to proper and affordable repair.

12 (2) Therefore, the legislature intends to broaden access to the
13 information and tools necessary to repair digital electronic
14 equipment in a safe, secure, reliable, and sustainable manner,
15 thereby increasing access to appropriate and affordable digital
16 electronic equipment, supporting small businesses and jobs, and
17 making it easier for all residents of Washington state to connect
18 digitally.

19 NEW SECTION. **Sec. 2.** The definitions in this section apply
20 throughout this chapter unless the context clearly requires
21 otherwise.

22 (1) "Authorized repair provider" means an individual or business
23 that is unaffiliated with an original manufacturer and that has an
24 arrangement with the original manufacturer to use the original
25 manufacturer's trade name, service mark, or other proprietary
26 identifier for the purpose of offering the services of diagnosis,
27 maintenance, or repair of digital electronic equipment under the name
28 of the original manufacturer, or that has an arrangement with the
29 original manufacturer under which the individual or business offers
30 the services of diagnosis, maintenance, or repair of digital
31 electronic equipment on behalf of the original manufacturer.
32 "Authorized repair provider" also means an original manufacturer that
33 offers the services of diagnosis, maintenance, or repair of digital
34 electronic equipment manufactured by or on behalf of, sold by, or
35 supplied by the original manufacturer, provided that the original
36 manufacturer does not have an arrangement with an unaffiliated
37 individual or business as described in this subsection.

1 (2) "Diagnosis" means the process of identifying the issue or
2 issues that cause digital electronic equipment to not be in fully
3 working order.

4 (3) "Digital electronic equipment" or "equipment" means a desktop
5 computer, laptop computer, tablet computer, cell phone, or smart
6 phone containing a microprocessor and originally manufactured for
7 distribution and sale in the United States for general consumer
8 purchase.

9 (4) "Documentation" means any manual, diagram, reporting output,
10 service code description, schematic diagram, security code, password,
11 or similar kinds of information used in effecting the services of
12 diagnosis, maintenance, or repair of digital electronic equipment.

13 (5) "Fair and reasonable terms" means making parts, tools, and
14 documentation used in effecting the services of diagnosis,
15 maintenance, or repair of digital electronic equipment available as
16 follows:

17 (a) Parts for such equipment must be made available by the
18 original manufacturer, either directly or through an authorized
19 repair provider, to independent repair providers and owners at costs
20 and terms that are equivalent to the most favorable costs and terms
21 under which the original manufacturer offers the parts to an
22 authorized repair provider, and which:

23 (i) Account for any discount, rebate, convenient, and timely
24 means of delivery, means of enabling fully restored and updated
25 functionality, rights of use, or other incentive or preference the
26 original manufacturer offers to an authorized repair provider, or any
27 additional cost, burden, or impediment the original manufacturer
28 imposes on an owner or independent repair provider;

29 (ii) Are not conditioned on or imposing a substantial obligation
30 or restriction that is not reasonably necessary for enabling the
31 owner or independent repair provider to engage in the diagnosis,
32 maintenance, or repair of digital electronic equipment made by or on
33 behalf of the original manufacturer; and

34 (iii) Are not conditioned on an arrangement described in
35 subsection (1) of this section.

36 (b) Tools for such equipment must be made available by the
37 original manufacturer:

38 (i) Without requiring authorization or internet access for use or
39 operation of the tools;

1 (ii) Without imposing impediments to access or use of the tools
2 to diagnose, maintain, or repair and enable full functionality of
3 digital electronic equipment;

4 (iii) In a manner that does not impair the efficient and cost-
5 effective performance of any such diagnosis, maintenance, or repair;
6 and

7 (iv) At no charge, except for the reasonable, actual costs of
8 preparing and sending tools that are requested in physical form.

9 (c) Documentation for such equipment must be made available by
10 the original manufacturer at no charge, except for the reasonable,
11 actual costs of preparing and sending documentation that is requested
12 in printed form.

13 (d) Parts, tools, and documentation for such equipment must be
14 made available to an authorized repair provider, and shall further be
15 made available by an authorized repair provider to any independent
16 repair provider or owner, provided that such authorized repair
17 provider is contractually and practically permitted by the original
18 manufacturer to sell such parts, tools, and documentation to any
19 independent repair provider or owner, and provided further that such
20 original manufacturer shall not:

21 (i) Retaliate against or hinder the ability of any authorized
22 repair provider to sell such parts, tools, or documentation through
23 any means, including advertising restrictions or product allocation
24 limitations unrelated to legitimate product shortages; or

25 (ii) Condition or impose a substantial obligation or restriction
26 that is not reasonably necessary for enabling the owner or
27 independent repair provider to engage in the diagnosis, maintenance,
28 or repair of digital electronic equipment made by or on behalf of the
29 original manufacturer.

30 (6) "Independent repair provider" means an individual or business
31 that obtains and maintains a repair certification and engages in the
32 services of diagnosis, maintenance, or repair of digital electronic
33 equipment in this state without an arrangement with the original
34 manufacturer of such equipment as described in subsection (1) of this
35 section or an affiliation with an authorized repair provider for such
36 equipment. "Independent repair provider" also means an original
37 manufacturer or an original manufacturer's authorized repair provider
38 that obtains and maintains a repair certification and engages in the
39 services of diagnosis, maintenance, or repair of digital electronic

1 equipment that is not manufactured by or on behalf of, sold by, or
2 supplied by such original manufacturer.

3 (7) "Maintenance" means any act necessary to keep currently
4 working digital electronic equipment in fully working order.

5 (8) "Modifications" or "modify" means any alteration to digital
6 electronic equipment that is not maintenance or repair.

7 (9) "Original manufacturer" means an individual or business that,
8 in the normal course of business, is engaged in the business of
9 selling or leasing digital electronic equipment manufactured by or on
10 behalf of itself.

11 (10) "Owner" means an individual or business that owns or leases
12 digital electronic equipment purchased or used in this state.

13 (11) "Part" means any replacement part, either new or used, made
14 available by an original manufacturer for purposes of effecting the
15 services of maintenance or repair of digital electronic equipment
16 manufactured or sold by the original manufacturer.

17 (12) "Repair" means any act needed to restore digital electronic
18 equipment or equipment to fully working order.

19 (13) "Repair certification" means a valid and up-to-date
20 certification issued by an appropriate third-party certification
21 entity, which certifies that the repair provider possesses the
22 technical competence and financial assurance necessary for the
23 performance of safe, secure, and reliable repair of digital
24 electronic equipment to which the certification applies. Eligible
25 certifications include CompTIA's A+ certification, CTIA's wireless
26 industry service excellence certification, additional certifications
27 deemed eligible by the original manufacturer, and additional
28 certifications established as eligible by the department of commerce.

29 (14) "Tool" means any software program, hardware implement, or
30 other apparatus used for diagnosis, maintenance, or repair of digital
31 electronic equipment, including software or other mechanisms that
32 provide, program, or pair a part, calibrate functionality, or perform
33 any other function required to bring the equipment or part back to
34 fully functional condition, including any updates.

35 (15) "Trade secret" means anything tangible or intangible or
36 electronically stored or kept that constitutes, represents,
37 evidences, or records intellectual property, including secret or
38 confidentially held designs, processes, procedures, formulas,
39 inventions, or improvements, or secret or confidentially held
40 scientific, technical, merchandising, production, financial,

1 business, or management information, or any other trade secret as
2 defined in 18 U.S.C. Sec. 1839, as that section existed on January 1,
3 2017.

4 NEW SECTION. **Sec. 3.** (1) Effective January 1, 2024, an original
5 manufacturer of digital electronic equipment and parts for such
6 equipment that are sold or used in this state shall make available to
7 any independent repair provider and owner, on fair and reasonable
8 terms, any parts, tools, and documentation required for the
9 diagnosis, maintenance, or repair of such equipment and parts for
10 such equipment. Such parts, tools, and documentation shall be made
11 available either directly by the original manufacturer or via an
12 authorized repair provider. For equipment that contains an electronic
13 security lock or other security-related function, the original
14 manufacturer shall make available to any independent repair provider
15 or owner, on fair and reasonable terms, any special parts, tools, and
16 documentation needed to access and reset the lock or function when
17 disabled in the course of diagnosis, maintenance, or repair of such
18 equipment. Such parts, tools, and documentation may be made available
19 through appropriate secure release systems.

20 (2) Nothing in this chapter requires the original manufacturer to
21 sell service parts if the service parts are no longer available to
22 the authorized repair provider of the original manufacturer.

23 (3) Any original manufacturer that sells any parts, tools, and
24 documentation to any independent repair provider in a format that is
25 standardized with other original manufacturers, and on terms and
26 conditions more favorable than the manner and the terms and
27 conditions pursuant to which the authorized repair provider obtains
28 the same diagnostic, maintenance, or repair documentation, is
29 prohibited from requiring any authorized repair provider to continue
30 purchasing diagnostic or repair documentation in a proprietary
31 format, unless the proprietary format includes diagnostic,
32 maintenance, or repair documentation or functionality that is not
33 available in such a standardized format.

34 (4) (a) Each original manufacturer of digital electronic equipment
35 sold or used in the state must make available for purchase by
36 independent repair providers all parts, tools, and documentation that
37 the original manufacturer makes available to its own authorized
38 repair providers.

1 (b) Each original manufacturer must offer tools for sale to
2 independent repair providers upon fair and reasonable terms. Each
3 original manufacturer that provides tools has fully satisfied its
4 obligations under this subsection and thereafter is not responsible
5 for the content and functionality of such tools.

6 (5) Original manufacturer equipment or parts sold or used in this
7 state for the purpose of providing security-related functions may not
8 exclude diagnostic, maintenance, and repair information necessary to
9 reset a security-related electronic function from information
10 provided to owners and independent repair providers. If excluded
11 under this subsection, the information necessary to reset an
12 immobilizer system or security-related electronic module may be
13 obtained by owners and independent repair providers through the
14 appropriate secure data release systems.

15 NEW SECTION. **Sec. 4.** (1) Nothing in this chapter shall be
16 construed to require an original manufacturer to divulge a trade
17 secret to an owner or to an independent repair provider, except as
18 necessary to provide parts, tools, and documentation on fair and
19 reasonable terms.

20 (2) Nothing in this chapter shall be construed to alter the terms
21 of any arrangement described in section 2(1) of this act in force
22 between an authorized repair provider and an original manufacturer
23 including, but not limited to, the performance or provision of
24 warranty or recall repair work by an authorized repair provider on
25 behalf of an original manufacturer pursuant to such arrangement,
26 except that any provision in such terms that purports to waive,
27 avoid, restrict, or limit the original manufacturer's obligations to
28 comply with this section shall be void and unenforceable.

29 (3) Nothing in this chapter shall be construed to require an
30 original manufacturer or an authorized repair provider to provide to
31 an owner or independent repair provider access to information, other
32 than documentation, that is provided by the original manufacturer to
33 an authorized repair provider pursuant to the terms of an arrangement
34 described in section 2(1) of this act.

35 (4) Nothing in this chapter shall be construed to require an
36 original manufacturer or authorized repair provider to make available
37 any parts, tools, or documentation for the purposes of modifying or
38 making modifications to any digital electronic equipment.

1 (5) Nothing in this chapter shall be construed to require an
2 original manufacturer or authorized repair provider to make available
3 any parts, tools, or documentation required for the diagnosis,
4 maintenance, or repair of public safety communications equipment, the
5 intended use of which is for emergency response or prevention
6 purposes by an emergency service organization such as a police, fire,
7 or emergency medical services agency.

8 NEW SECTION. **Sec. 5.** (1) Original manufacturers and authorized
9 repair providers shall not be liable for services performed by
10 independent repair providers, including damage to digital electronic
11 equipment that occurs during repairs conducted by independent repair
12 providers, including any indirect, incidental, special, or
13 consequential damages; any loss of data, privacy, or profits; or any
14 inability to use, or reduced functionality of, the digital electronic
15 equipment resulting from diagnosis, maintenance, repair, or
16 modification.

17 (2) The original manufacturer does not warrant any services
18 provided by independent repair providers.

19 NEW SECTION. **Sec. 6.** (1) The legislature finds that the
20 practices covered by this chapter are matters vitally affecting the
21 public interest for the purpose of applying the consumer protection
22 act, chapter 19.86 RCW. A violation of this chapter is not reasonable
23 in relation to the development and preservation of business and is an
24 unfair or deceptive act in trade or commerce and an unfair method of
25 competition for the purpose of applying the consumer protection act,
26 chapter 19.86 RCW.

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

29 NEW SECTION. **Sec. 7.** This chapter may be known and cited as the
30 fair repair act.

31 NEW SECTION. **Sec. 8.** Sections 1 through 7 of this act
32 constitute a new chapter in Title 19 RCW.

33 NEW SECTION. **Sec. 9.** If specific funding for the purposes of
34 this act, referencing this act by bill or chapter number, is not

1 provided by June 30, 2023, in the omnibus appropriations act, this
2 act is null and void.

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