
**Consumer Protection & Business
Committee**

HB 1810

Brief Description: Promoting the fair servicing and repair of digital electronic products in a safe, secure, reliable, and sustainable manner to increase access to appropriate and affordable digital products, support small businesses and jobs, and enhance digital connectivity in Washington state.

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

Brief Summary of Bill

- Requires original manufacturers of digital electronic products sold on or after January 1, 2023, to either make certain documentation, parts, and tools available to owners and independent repair providers on fair and reasonable terms, or provide a training program and allow any licensed Washington business to obtain certification as a manufacturer certified repair facility.
- Provides exceptions for certain categories of manufacturers and products.
- Provides that violations may be enforced solely by the Office of the Attorney General through the Consumer Protection Act.

Hearing Date: 1/13/22

Staff: Corey Patton (786-7388).

Background:

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.

Digital electronic products are electronic devices containing a microprocessor manufactured for distribution and sale in the United States for general consumer purchase.

Digital electronic products include but are not limited to smartphones, electronic reading devices, appliances, laptop computers, and tablets.

Manufacturers of digital electronic products generally control and can restrict access to information, components, and tools necessary to diagnose, service, and repair their products.

Consumers can attempt to repair their own digital electronic products, or use the services of an authorized repair provider 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. Independent repair providers may receive certifications from third-party.

Summary of Bill:

Regulatory Compliance - Option One.

Original manufacturers of digital electronic products sold on or after January 1, 2023, must comply with the following regulatory requirements:

- Beginning January 1, 2023, original manufacturers must make available to independent repair providers any documentation, parts, and tools that the original manufacturer makes available to its authorized repair providers, upon fair and reasonable terms.
- Beginning January 1, 2024, original manufacturers must make available for purchase by owners any documentation, parts, and tools, except where the diagnosis, maintenance, or repair of such products presents a reasonably foreseeable risk of property damage or personal injury, upon fair and reasonable terms.
- Original manufacturers must make diagnostic repair tools available to independent repair providers that incorporate the same diagnostic, repair, and remote diagnostic capabilities the original manufacturer makes available to its own repair or engineering staff or authorized repair providers.
- Original manufacturers that sell documentation, parts, or tools to independent repair providers in a standardized format, and on terms and conditions more favorable than to the original manufacturers' authorized repair providers, are prohibited from requiring authorized repair providers to purchase diagnostic, service, or repair documentation in a proprietary format, unless the proprietary format includes documentation or functionality that is not available in the standardized format.
- Original manufacturer equipment or parts sold or used for the purpose of providing security-related functions may not exclude diagnostic, service, and repair information necessary to reset a security-related electronic function from information provided to owners and independent repair facilities.

Original manufacturers are not required to sell service parts that are no longer available to authorized repair providers. Original manufacturer that provides tools are not responsible for the content and functionality of such tools.

Alternative to Regulatory Compliance - Option Two.

As an alternative to complying with the regulatory requirements described above, original manufacturers may instead provide a training program and allow any licensed Washington business to obtain certification as a manufacturer certified repair facility in an open and fair certification process.

Limitations.

Original manufacturers are not required to divulge trade secrets. Agreements between original manufacturers and authorized repair providers are not abrogated or altered, but any provision purporting to waive or limit an original manufacturer's compliance with statutory requirements is unenforceable. Original manufacturers and authorized repair providers are not required to provide owners or independent repair providers with nondiagnostic and repair information subject to the terms of an authorizing agreement. Original manufacturers shall not be liable for repairs provided by independent repair providers, including any indirect, incidental, special, or consequential damages; any loss of data, privacy, or profits; or any inability to use, or reduced functionality of the digital electronic products resulting from repair. Original manufacturers do not warrant any repairs provided by independent repair providers.

Exceptions.

The regulatory obligations imposed on original manufacturers do not apply to:

- motor vehicle manufacturers, any product or service of a motor vehicle manufacturer, or motor vehicle dealers;
- nonroad engine, nonroad equipment, or nonroad vehicle manufacturers; any product or service of a nonroad engine, nonroad equipment, or nonroad vehicle manufacturer; or nonroad engine, nonroad equipment, or nonroad vehicle dealers;
- stationary engine or stationary equipment manufacturers; any product or service of a stationary engine or stationary equipment manufacturer; or stationary engine or stationary equipment dealers; or
- manufacturers or distributors of a medical device or a digital electronic product or software manufactured for use in a medical setting.

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Enforcement.

Violations are deemed to affect the public interest and constitute an unfair or deceptive act in trade or commerce for purposes of a Consumer Protection Act claim and shall be enforced solely by the Office of the Attorney General.

Appropriation: None.

Fiscal Note: Requested on January 6, 2022.

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