

SENATE BILL REPORT

SB 6276

As of January 23, 2024

Title: An act relating to supporting the servicing and right to repair of certain products with digital electronics in a secure and reliable manner to increase access and affordability for Washingtonians.

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

Sponsors: Senators Stanford, Nguyen, Frame, Hasegawa, Hunt, Kuderer, Nobles, Pedersen, Saldaña and Valdez.

Brief History:

Committee Activity: Environment, Energy & Technology: 1/24/24.

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 IRP's.
- Makes a violation of the Act a violation of the Consumer Protection Act and enforceable only by the attorney general.

SENATE COMMITTEE ON ENVIRONMENT, ENERGY & TECHNOLOGY

Staff: Adam Brunmeier (786-7357)

Background: Digital electronic equipment often contains technology, such as

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microprocessors, that is difficult for consumers to fix and maintain. Service and repair of electronics may require specialized tools, parts, and access to proprietary software. Manufacturers may exercise control over repairs by restricting access to necessary information, components, and tools. Intellectual property rights, software locks, firmware updates, and end user license agreements may also be used to discourage or restrict independent repair.

Consumers can attempt to repair their own digital electronic products, or use the services of an authorized repair provider (ARP) or independent repair provider (IRP). ARPs are merchants that have an arrangement with a manufacturer to service their products. IRPs provide similar services, but are not affiliated with a manufacturer.

The Magnuson-Moss Warranty Act (MMWA), enforced by the Federal Trade Commission (FTC), governs how written warranties may be used when marketing products to consumers. The MMWA contains an anti-tying provision which prohibits the use of warranty coverage as a means of obstructing service and repair using third-party replacement parts or independent repair shops. The anti-tying provision has been enforced by the FTC to allow consumers to repair products on their own or through independent repair shops without voiding the product's warranty.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (Proposed Substitute): The Right to Repair Act. The Right to Repair Act (Act) is established, beginning January 1, 2025. The Act applies to products manufactured for the first time and first sold or leased in Washington on or after July 1, 2021. The Act requires that original manufacturers of digital electronic products and parts make available to owners and IRPs, on fair and reasonable terms, any parts, tools, and documentation required for diagnosis, maintenance, or repair of such products. Such parts, tools, and documentation shall be made available directly or via an authorized provider.

For a product that requires deactivating a lock for purposes of repair, the original manufacturers shall make available, with the express permission of the owner, any special parts, tools, and documentation needed to access and reset the lock or function when disabled in the course of diagnosis, maintenance, or repair of such product. Alternatively, manufacturers may make available options to repair products without the need to bypass the security code.

Notice Requirements. 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 that contains:

- the steps taken to ensure the privacy and security of products entrusted for repair, or a statement that no such steps have been taken;
- recommended steps for the customer to take to safeguard product data;
- a statement about the customer's legal right to privacy under the state constitution and

Washington law; and

- for IRPs, whether they use any parts provided by a supplier other than the original manufacturer.

Exceptions to the Right to Repair Act. The following are exceptions to the Act:

- manufacturers are not required to divulge trade secrets or license intellectual property, except as necessary to provide parts, tools, and documentation on fair and reasonable terms;
- manufacturers or ARPs are not required to make any parts, tools, or documentation available for the purpose of modifying products;
- manufacturers are not required to supply parts they no longer make available to their own ARP; and
- manufacturers are not required to provide parts, tools, or documentation if the manufacturer provides equivalent or better replacements at no charge.

The Act expressly identifies several manufacturers or products which are not covered in the act including, but not limited to: motor vehicles; power generation or storage equipment; agricultural equipment; marine vehicles; electronic vehicle charging infrastructure equipment; video game consoles; and electronic devices which read physical credit or debit cards in order to process debit and credit transactions.

Limited Liability. Manufacturers shall not be liable for any damage or injury to products caused by an IRP or owner during the course of repair, diagnosis, or maintenance. Such damage or injury is only attributable to the manufacturer where the failure is attributable to design or manufacturing defects. The manufacturer does not warrant any services provided by IRPs.

Consumer Protection Act. Violations of the Act constitute an unfair or deceptive act in trade or commerce and an unfair method of competition for the purpose of applying the Consumer Protection Act. The Act may be enforced solely by the attorney general under the Consumer Protection Act.

Appropriation: None.

Fiscal Note: Requested on January 22, 2024.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill takes effect on January 1, 2025.