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**HOUSE BILL 1801**

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**State of Washington 67th Legislature 2022 Regular Session**

**By** Representatives Gregerson, Ryu, Fitzgibbon, Berry, Cody, Macri, Peterson, Ramel, Wylie, Bergquist, Valdez, Pollet, Stonier, Ormsby, Harris-Talley, and Kloba

AN ACT Relating to the repair of digital electronic equipment; adding a new chapter to Title 19 RCW; prescribing penalties; and providing an effective date.

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

NEW SECTION. **Sec.**  The legislature finds that digital electronic equipment is often designed to be unrepairable by end users and independent repair shops, or repairable only at great expense. The legislature further finds that such design choices by original equipment manufacturers: Encourage consumers to purchase new devices instead of maintaining current devices; generate harmful electronic waste that clutters homes and landfills; damage the environment; waste finite resources that are essential to the manufacturing and functioning of digital electronic equipment; and impose an inequitable burden on individuals and groups that cannot readily afford to routinely replace expensive digital electronic equipment that has become an increasingly essential predicate to full participation in society. The legislature further finds that most digital electronic equipment is not currently marketed and sold with clear information on repairability, and thus consumers lack essential information they need when deciding whether to purchase digital electronic equipment. The legislature further finds that increased access to repairable digital electronic equipment will empower consumers, reduce electronic waste, reduce the costs of owning digital electronic equipment over time, and reduce inequities in access to digital electronic equipment.

Therefore, the legislature intends to require original equipment manufacturers of digital electronic equipment to assign a repairability score to all digital electronic equipment, and to clearly label all digital electronic equipment with its repairability score and other information that will assist consumers in identifying and purchasing repairable digital electronic equipment. The legislature further intends to require certain high volume sellers of digital electronic equipment to include the original equipment manufacturers' repairability scores and information in internet listings for digital electronic equipment. The legislature further intends to empower the department to develop and enforce standards for digital electronic equipment repairability scores. The legislature further intends to supplement the department's regulatory authority by providing the state and consumers with additional options for enforcing the requirements of this act through the consumer protection act, chapter 19.86 RCW. The legislature further intends to establish a commission on digital electronic equipment repairability to prepare reports and recommendations to the legislature related to developing local repairability standards that are compatible with emerging national and global repairability standards.

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

(1) "Department" means the department of commerce.

(2) "Digital electronic equipment" means a product that depends, for its functioning, in whole or in part, on digital electronics embedded in or attached to the product.

(3) "Original equipment manufacturer" means a company that manufactures or contracts another company to manufacture digital electronic equipment.

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

NEW SECTION. **Sec.**  (1) A commission on digital electronic equipment repairability is established. The purpose of the commission is to: (a) Study, analyze, and prepare reports on the status and development of local, national, and global repairability standards for digital electronic equipment; and (b) provide recommendations to the legislature regarding the creation, implementation, management, and enforcement of repairability standards for digital electronic equipment in Washington state.

(2) The members of the commission are as provided in this subsection.

(a) The president of the senate shall appoint one member from each of the two largest caucuses of the senate.

(b) The speaker of the house of representatives shall appoint one member from each of the two largest caucuses of the house of representatives.

(c) The president of the senate and the speaker of the house of representatives shall jointly appoint one member from each of the following:

(i) The department;

(ii) The department of ecology;

(iii) The office of the attorney general;

(iv) An advocacy group focused on sustainability of digital electronic equipment;

(v) An organization representing the interests of local technology companies;

(vi) A distributor or marketplace platform for digital electronic equipment; and

(vii) An original equipment manufacturer.

(3) In addition to the members appointed to the commission under subsection (2) of this section, individuals representing other communities and organizations may be invited by the chair of the commission, in consultation with the other appointed members of the commission, to participate in an advisory capacity in meetings of the commission.

(a) Individuals participating in an advisory capacity under this subsection are not members of the commission, may not vote, and are not subject to the appointment process established in this section.

(b) There is no limit to the number of individuals who may participate in commission meetings in an advisory capacity under this subsection.

(c) A majority of the commission members constitutes a quorum. If a member has not been designated for a position set forth in this section, that position may not be counted for the purpose of determining a quorum.

(4) The commission shall hold its first meeting by July 1, 2023. The commission shall elect a chair from among its legislative members at the first meeting. The election of the chair must be by a majority vote of the commission members who are present at the meeting. The chair of the commission is responsible for arranging subsequent meetings, developing meeting agendas, and shall appoint one or more qualified attorneys to serve as commission counsel. The chair or their designee shall have full authority to administer oaths and take testimony thereunder on any subject relevant to the commission's duties.

(5) Commission counsel shall provide legal advice and analysis to all commission members. Any individual serving as commission counsel must be a licensed attorney familiar with Washington and federal jurisprudence, laws, and constitutional provisions governing discrimination and equal protection. Commission counsel's work product and attorney-client communications with commission members are privileged against discovery and use in civil litigation and exempt from disclosure under the public records act, chapter 42.56 RCW. A majority of the commission members may vote to waive the foregoing privilege or exemption for any specific document or communication, but no individual member may unilaterally waive the privilege or exemption.

(6) Staff support for the commission, including arranging the first meeting of the commission and assisting the chair of the commission in arranging subsequent meetings, shall be provided by the department. After the commission holds its first meeting, the department shall provide the chair with the names of one or more experienced qualified attorneys who are willing and able to serve as commission counsel.

(7) Legislative members of the commission may be reimbursed for travel expenses in accordance with RCW 44.04.120. Nonlegislative members are not entitled to be reimbursed for travel expenses if they are elected officials or are participating on behalf of an employer, governmental entity, or other organization. Any reimbursement for other nonlegislative members is subject to chapter 43.03 RCW.

(8) The commission is a class one group under chapter 43.03 RCW.

(9) A public comment period must be provided at every meeting of the commission.

(10) Beginning in 2024, and every other year thereafter, the commission shall submit to the legislature a report on the status and development of local, national, and global repairability standards for digital electronic equipment, and provide recommendations to the legislature regarding the creation, implementation, management, and enforcement of repairability standards for digital electronic equipment in Washington state, with a focus on achieving compatibility with emerging national and global repairability standards. The commission's first report and recommendations must be submitted to the legislature by October 1, 2024. Subsequent reports and recommendations must be submitted to the legislature by October 1st of every other year thereafter.

(11) A majority of the commission members may vote to issue a subpoena to obtain documents or testimony from any entity or individual for the purpose of gathering information that will assist the commission in the execution of its duties. Any subpoena issued by the commission shall be statewide in effect. If an individual fails to obey the subpoena, or obeys the subpoena but refuses to produce documents or provide testimony concerning any matter under examination or investigation, a majority of the commission members may vote to refer the matter to the office of the attorney general for enforcement. If the commission refers a subpoena to the office of the attorney general, the attorney general or their designee shall file a written report thereof and proof of service of the subpoena, in any court of competent jurisdiction in the county where the examination, hearing, or investigation is being conducted. Thereupon, the court shall forthwith cause the individual to be brought before it and, upon being satisfied that the subpoena is within the jurisdiction of the commission and otherwise in accordance with law, shall punish him or her as if the failure or refusal related to a subpoena from or testimony in that court.

NEW SECTION. **Sec.**  Original equipment manufacturers must comply with the following requirements:

(1) For digital electronic equipment sold or used in this state, original equipment manufacturers shall make available, for the purposes of diagnosis and consumer information, a repairability score for the categories listed under subsection (2) of this section. The average repairability score required under subsection (3) of this section shall be placed on a label on the digital electronic equipment packaging by sticker or other printing, in one of the two following formats:

|  |  |
| --- | --- |
| REPAIRABILITY SCORE  \_\_\_ / 10 | REPAIRABILITY SCORE: \_\_\_ / 10 |

The repairability score label shall appear on the front and rear panels of the container or package containing the digital electronic equipment. The repairability score label's text shall appear in capital letters in conspicuous and legible type, and the text shall be black on a white background or white on a black background. Quick response codes, other codes, or a web address may be used to guide a consumer to the full repairability information available on the manufacturer's or department's publicly accessible website as required under section 3 of this act.

(2) The original equipment manufacturer shall provide a numeric score for each of the following criteria for the digital electronic equipment. Subject to any requirements established by the department, the repairability score shall range from one, least repairable, to 10, most repairable, and shall be based on the ability to conduct maintenance or repair on digital electronic equipment manufactured by, on behalf of, or sold by, the original equipment manufacturer:

(a) Duration and availability of technical documents and related advice on the use and maintenance of the digital electronic equipment;

(b) Ease of dismantling, tools required, and other characteristics of the fasteners used or other parts;

(c) Original equipment manufacturer's estimation of the duration of parts for the digital electronic equipment;

(d) The amount of time the original equipment manufacturer plans on manufacturing replacement parts for the digital electronic equipment;

(e) Price ratio of replacement parts to the price of new equipment;

(f) Potential to recycle or dispose of the digital electronic equipment;

(g) Expertise required to safely effect the repair; and

(h) Any other information deemed necessary by the department.

(3) The original equipment manufacturer shall compile the average repairability score. The average repairability score shall be the average of each score criterion under subsection (2) of this section.

(4) The original equipment manufacturer shall include the following information with the repairability scores:

(a) Details of the digital electronic equipment:

(i) Model number;

(ii) Manufacturer's suggested retail price;

(b) Information on the nature of software updates provided by the original equipment manufacturer;

(c) Potential for a factory reset of the digital electronic equipment;

(d) Whether or not remote assistance is available from the original equipment manufacturer and the price charged for providing assistance; and

(e) Other information deemed necessary by the department.

(5) Any person or entity that sold 1,000 or more digital electronic equipment products in the prior calendar year, and which lists digital electronic equipment for sale in this state on a website, shall include in the website listing the original equipment manufacturer's repairability score and all other information required by subsections (1) and (4) of this section. The repairability score shall be prominently featured in the listing in one of the two following formats:

|  |  |
| --- | --- |
| REPAIRABILITY SCORE  \_\_\_ / 10 | REPAIRABILITY SCORE: \_\_\_ / 10 |

The repairability score's text shall appear in capital letters in conspicuous and legible type, and the text shall be black on a white background or white on a black background. The repairability score shall not be placed behind a link, drop-down, toggle, or any other feature that requires a consumer's interaction or the passage of time before it is made visible. Quick response codes, other codes, or a web address may be used to guide a consumer to the full repairability information available on the manufacturer's or department's publicly accessible website as required under section 3 of this act.

NEW SECTION. **Sec.**  Ninety days prior to selling digital electronic equipment in this state, an original equipment manufacturer must submit to the department the following information for the digital electronic equipment:

(1) The numeric score for each criterion listed in section 4(2) of this act and the repairability score that will be listed on the equipment's repairability score label;

(2) Reasons given for how the equipment meets the scores chosen; and

(3) All other information required under section 4 of this act.

The department shall post this information on its publicly accessible website. The department may publish its own comments alongside the information and scores provided by the original equipment manufacturer if it determines the original equipment manufacturer's information or scores are materially incomplete, inaccurate, unsupported, or misleading. Before publishing any comments regarding an original equipment manufacturer's submission, the department shall attempt to notify the original equipment manufacturer of any problems in the original equipment manufacturer's submission and afford the original equipment manufacturer up to 30 days to amend its submission.

The department may make reasonable rules for effectuating any provision of this act. The department shall establish specific standards for digital electronic equipment and its original equipment manufacturer must meet them for each criterion identified in section 4(2) of this act before the original equipment manufacturer may assign the device a repairability score higher than five for a specific criterion. The department may establish additional standards for any or all score values between one and 10 for each criterion identified in section 4(2) of this act.

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

An individual that brings a successful action under the consumer protection act for a violation of this chapter may recover all remedies established in RCW 19.86.090 and shall further recover $1,000 in statutory damages for each violation of this chapter.

NEW SECTION. **Sec.**  Any person who knowingly falsifies information required by this chapter, knowingly submits fraudulent information to the department in connection with this chapter, or conspires to mislead consumers in violation of this chapter, is guilty of a gross misdemeanor punishable under chapter 9A.20 RCW.

NEW SECTION. **Sec.**  This act applies to digital electronic equipment sold on or after the effective date of this section.

NEW SECTION. **Sec.**  This act takes effect January 1, 2023.

NEW SECTION. **Sec.**  This chapter may be known and cited as the repairability index act.

NEW SECTION. **Sec.**  Sections 1 through 10 of this act constitute a new chapter in Title 19 RCW.

**--- END ---**