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**HOUSE BILL 1933**

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**State of Washington 68th Legislature 2024 Regular Session**

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

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; and adding a new chapter to Title 19 RCW.

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

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

(a) Consumer access to affordable and reliable products that contain digital electronics, including computers, cell phones, appliances, agricultural equipment, powered wheelchairs, and other nonexempted products, is essential to overcome digital inequities in Washington state and that broader distribution of the information, parts, and tools necessary to repair digital electronic products will shorten repair times, lengthen the useful lives of digital electronic products, and lower costs for consumers;

(b) Consumers increasingly rely on these products to conduct personal and professional business daily. Many modern consumer products contain digital components, such as microprocessors and microchips, which create barriers to repairs. In some United States' households, everything from the coffee maker, to the washing machine, vacuum, thermostat, or doorbell may have a digital component as technology has evolved and smart products have increased in popularity;

(c) The need for more accessible and affordable repair options is felt more acutely among specific sectors of the population, notably Washington residents in rural areas and people who earn low incomes. Original manufacturer shops or authorized repair providers are often located in urban areas requiring consumers to travel long distances for repair or be without products for periods of time;

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

(e) Certain electronic products are comprised of precious metals that are finite, and unnecessary early disposal can be avoided with greater accessibility to proper and affordable repair; and

(f) Other states such as Minnesota, New York, California, and Colorado have enacted right to repair legislation, recognizing the need to increase access to the documentation, tools, and parts necessary to facilitate multiple repair options for all kinds of consumer products with digital electronics.

(2) Therefore, the legislature intends to broaden access to the information and tools necessary to repair digital electronic products, including computers, cell phones, appliances, agricultural equipment, powered wheelchairs, and other nonexempted products in a safe, secure, reliable, and sustainable manner, thereby increasing access to appropriate and affordable digital electronic products, supporting small businesses and jobs, and making it easier for all residents of Washington state to connect digitally.

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

(1) "Agricultural equipment" means a digital electronic product that is designed primarily for use in a farm operation, including any combine, tractor, sprayer, implement, or attachment, including attachments and repair parts thereof used in the planting, cultivating, irrigating, harvesting, or ranching of agricultural products, excluding self-propelled machines designed primarily for the transportation of persons or property on a street or highway.

(2) "Authorized repair provider" means an individual or business that is unaffiliated with an original manufacturer and that has an arrangement with the original manufacturer to use the original manufacturer's trade name, service mark, or other proprietary identifier for the purpose of offering the services of diagnosis, maintenance, or repair of digital electronic products under the name of the original manufacturer, or that has an arrangement with the original manufacturer under which the individual or business offers the services of diagnosis, maintenance, or repair of digital electronic products on behalf of the original manufacturer. An original manufacturer who offers the services of diagnosis, maintenance, or repair of its own digital electronic products shall be considered an authorized repair provider with respect to such products.

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

(4) "Digital electronic product" or "products" means 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.

(5) "Documentation" means any manual, maintenance procedures, functional and wiring diagrams, reporting output, service code description, circuit board schematics, security code, password, training material, troubleshooting information, list of required tools, parts list, or other guidance or information, or their equivalent, used in effecting the services of diagnosis, maintenance, or repair of digital electronic products.

(6) "Fair and reasonable terms" means each of the following, as applicable:

(a)(i)(A) For parts, other than agricultural equipment parts, at costs and terms that are equivalent to the most favorable costs and terms under which the manufacturer offers the part, tool, or documentation to an authorized repair provider, accounting for any discount, rebate, convenient and timely means of delivery, means of enabling fully restored and updated functionality, rights of use, or other incentive or preference the manufacturer offers to an authorized repair provider;

(B) For documentation, including any relevant updates, that the documentation is made available at no charge, except that, when the documentation is requested in physical printed form, a charge may be included for the reasonable actual costs of preparing and sending the copy;

(C) For tools, that the tools are made available by the manufacturer at no charge and without imposing impediments to access or use of the tools to diagnose, maintain, or repair and enable full functionality of the product, requiring internet access, or in a manner that impairs the efficient and cost-effective performance of any such diagnosis, maintenance, or repair, except that, when a tool is requested in physical form, a charge may be included for the reasonable, actual costs of preparing and sending the tool;

(ii) If a manufacturer does not use an authorized repair provider, "fair and reasonable terms" means at a price that reflects the actual cost to the manufacturer to prepare and deliver the part, tool, or documentation, exclusive of any research and development costs incurred;

(b) For agricultural equipment parts:

(i) Costs that are fair to both parties, considering the agreed-upon conditions, promised quality, and timeliness of delivery; and

(ii) Terms that:

(A) Do not impose on an owner or an independent repair provider any substantial obligation to use or any restriction on the use of the part to diagnose, maintain, or repair farm equipment sold, leased, or otherwise supplied by the manufacturer, including a condition that the owner or independent repair provider become an authorized repair provider of the manufacturer, or a requirement that a part be registered, paired with, or approved by the manufacturer or an authorized repair provider before such part is operational; and

(B) Prohibit a manufacturer from imposing any additional cost or burden that is not reasonably necessary or is designed to be an impediment on the owner or independent repair provider.

(7) "Independent repair provider" means an individual or business that engages in the services of diagnosis, maintenance, or repair of digital electronic products in this state without an arrangement with the original manufacturer of such products as described in subsection (2) of this section or an affiliation with an authorized repair provider for such products. "Independent repair provider" also means an original manufacturer or an original manufacturer's authorized repair provider that obtains and maintains a repair certification and engages in the services of diagnosis, maintenance, or repair of a digital electronic product that is not manufactured by or on behalf of, sold by, or supplied by such original manufacturer.

(8) "Maintenance" means any act necessary to keep currently working digital electronic products in fully working order.

(9) "Modifications" or "modifying" means any alteration to digital electronic products that is not maintenance or repair.

(10) "Original manufacturer" means an individual or business that, in the normal course of business, is engaged in the business of selling, leasing, or otherwise supplying new digital electronic products manufactured by or on behalf of itself, to any individual or business.

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

(12) "Part" means any replacement part, either new or used, or its equivalent, which is generally available or used by an original manufacturer or an authorized repair provider for purposes of effecting the services of maintenance or repair of digital electronic products manufactured or sold by the original manufacturer.

(13) "Powered wheelchair" means a motorized wheeled device designed for use by a person with a physical disability.

(14) "Repair" means any act needed to restore digital electronic products to fully working order.

(15) "Tool" means any software program, hardware implement, or other apparatus, used for diagnosis, maintenance, or repair of digital electronic products, including software or other mechanisms that provide, program, or pair a part, calibrate functionality, or perform any other function required to bring the product or part back to fully functional condition, including any updates.

(16) "Trade secret" has the same meaning as defined in 18 U.S.C. Sec. 1839, as that section existed on January 1, 2017.

(17) "Video game console" means a computing device, such as a console machine, a handheld console device, or another device or system, and its components and peripherals, that is primarily used by consumers for playing video games, but which is neither a general nor an all-purpose computer, such as a desktop computer, laptop, tablet, or cell phone.

NEW SECTION. **Sec.**  (1) Effective January 1, 2025, an original manufacturer of digital electronic products and parts for such products that are manufactured for the first time and first sold or leased in this state on or after January 1, 2021, shall make available to any independent repair provider and owner, on fair and reasonable terms, any parts, tools, and documentation required for the diagnosis, maintenance, or repair of such products and parts for such products. Such parts, tools, and documentation shall be made available either directly by the original manufacturer or via an authorized repair provider or authorized third-party provider. For a product that requires deactivating a lock for purposes of repair, the original manufacturer shall make available to any independent repair provider or owner, with the express permission of the owner, on fair and reasonable terms, 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. Such parts, tools, and documentation may be made available through an appropriate secure release system.

(2) Nothing in this chapter requires the original manufacturer to sell parts if the parts are no longer made available to authorized repair providers by the original manufacturer.

NEW SECTION. **Sec.**  Before repairing digital electronic products, authorized repair providers and independent repair providers shall provide to customers, publish on their website, or post at the place of business, a written notice that contains the following information:

(1) The steps taken by the authorized repair provider or the independent repair provider to ensure the privacy and security of products entrusted for repair;

(2) Recommended steps for the customer to take to safeguard product data, including:

(a) If appropriate, backing up data prior to repair and wiping backed-up data from a product;

(b) Sharing only the passwords or access to functions necessary for the relevant repairs; and

(c) Logging out of applications or websites that contain sensitive data or that otherwise pose a security risk, such as electronic mail, banking, and social media accounts; and

(3)(a) A statement about the customer's legal right to privacy, which is protected under Article I, section 7 of the state Constitution and under Washington law, which protects against:

(i) Washington cybercrimes under chapter 9A.90 RCW, including electronic data theft, electronic data tampering, spoofing, and computer trespass;

(ii) The disclosing of intimate images under RCW 9A.86.010;

(iii) The criminal impersonation of another under RCW 9A.60.040; and

(iv) Identity crimes under chapter 9.35 RCW.

(b) Violations of privacy may be referred to law enforcement for criminal prosecution, and violators may be liable for damages, including mental pain and suffering, that a violation of privacy may have caused to a customer's business, person, or reputation.

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

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

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

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

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

(6) Nothing in this chapter shall apply to manufacturers or distributors of a medical device, other than powered wheelchairs, as defined in the federal food, drug, and cosmetic act, Title 21 U.S.C. Sec. 301 et seq., a digital electronic product, or embedded software manufactured primarily for use in a medical setting, including diagnostic, monitoring, or control equipment.

(7) Nothing in this chapter shall apply to a:

(a) Motor vehicle manufacturer, manufacturer of motor vehicle equipment, or motor vehicle dealer acting in that capacity or to any product or service of a motor vehicle manufacturer, manufacturer of motor vehicle equipment, or motor vehicle dealer acting in that capacity; or

(b) Manufacturer, distributor, importer, or dealer of any power generation or storage equipment, or equipment for fueling or charging motor vehicles.

(8) Nothing in this section applies to 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.

(9) Nothing in this section shall be construed to require any original manufacturer or authorized repair provider to make available any parts, tools, or documentation required for the diagnosis, maintenance, or repair of a video game console and its components and peripherals.

NEW SECTION. **Sec.**  (1) No original manufacturer or authorized repair provider shall be liable for any damage or injury to any digital electronic product caused by an independent repair provider or owner which occurs during the course of repair, diagnosis, or maintenance and is not attributable to the original manufacturer or authorized repair provider other than if the failure is attributable to design or manufacturing defects.

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

NEW SECTION. **Sec.**  (1) 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.

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

NEW SECTION. **Sec.**  Sections 1 through 7 and 9 of this act constitute a new chapter in Title 19 RCW.

NEW SECTION. **Sec.**  This chapter may be known and cited as the right to repair act.

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