

# HOUSE BILL REPORT

## HB 1483

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### **As Reported by House Committee On:**

Technology, Economic Development, & Veterans

**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:** Representatives Gregerson, Reeves, Wylie, Berry, Doglio, Fitzgibbon, Davis, Reed, Ramel, Bergquist, Peterson, Macri, Fosse, Ormsby, Hill and Simmons.

### **Brief History:**

#### **Committee Activity:**

Technology, Economic Development, & Veterans: 1/31/25, 2/11/25 [DPS].

#### **Brief Summary of Substitute Bill**

- Establishes the Right to Repair Act (Repair Act), which requires original manufacturers of digital electronic products to make available to independent repair providers on fair and reasonable terms certain parts, tools, and documentation for the diagnosis, maintenance, or repair of digital electronic products.
- Contains certain exceptions for when parts, tools, and documentation do not have to be made available to independent repair providers.
- Provides for enforcement by the Attorney General pursuant to the Consumer Protection Act.

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## HOUSE COMMITTEE ON TECHNOLOGY, ECONOMIC DEVELOPMENT, & VETERANS

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*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.*

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Ryu, Chair; Kloba, Vice Chair; Cortes, Donaghy, Paul, Shavers, Simmons and Thomas.

**Minority Report:** Do not pass. Signed by 5 members: Representatives Barnard, Ranking Minority Member; Keaton, Penner, Volz and Waters.

**Staff:** Emily Poole (786-7106).

### **Background:**

The Magnuson-Moss Warranty Act (MMWA), enforced by the Federal Trade Commission (FTC), limits how written warranties may be used when marketing products to consumers. The MMWA has an anti-tying provision, which prohibits manufacturers from using access to warranty coverage as a way of obstructing consumers' ability to have their products maintained or repaired using third-party replacement parts and independent repair shops.

In 2021 the FTC issued a report on consumer protection and antitrust issues related to repair restrictions. In the report, the FTC noted that repairs of consumer products increasingly require specialized tools, difficult-to-obtain parts, and access to proprietary diagnostic software, resulting in limited choices for consumers whose products break. The FTC's report described three general types of relationships between market participants, including relationships where: (1) manufacturers offer repair services for their products themselves, or through a network of affiliates, as the only authorized means of repair; (2) the original manufacturer has no presence in the sale of aftermarket parts or services, and independent service organizations sometimes provide repair and maintenance services; and (3) the original manufacturer participates in aftermarket service markets in competition with independent repair shops.

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### **Summary of Substitute Bill:**

The Right to Repair Act (Repair Act) is established.

#### Requirements.

Beginning January 1, 2026, an original manufacturer is required to make available to any independent repair provider or owner on fair and reasonable terms any parts, tools, and documentation intended for the diagnosis, maintenance, or repair of digital electronic products and parts. This requirement applies to digital electronic products and parts that are first manufactured, and first sold or used in Washington, on or after July 1, 2021.

For digital electronic products that are manufactured for the first time, and first sold or used in Washington, after January 1, 2025, an original manufacturer may not use parts pairing in certain ways that affect the ability of a digital electronic product to be repaired.

Digital electronic product is defined as "any product or electronic that: (a) 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; (b) is tangible personal property; (c) is generally used for personal, family, or household purposes; (d) is sold, used, or supplied in Washington 180 days or more after the product was first manufactured and 180 days or more after the product was first sold or used in Washington; and (e) might be, but is not necessarily, capable of attachment to or installation in real property."

Other defined terms include authorized repair provider, authorized third-party provider, diagnosis, documentation, fair and reasonable terms, independent repair provider, maintenance, modifications, original manufacturer, owner, part, parts pairing, repair, tool, trade secret, and video game console.

#### Customer Notice.

Before accepting digital electronic products for repair, authorized repair providers and independent repair providers must provide customers with a written notice that includes certain information, including:

- the steps taken to ensure the privacy and security of products entrusted for repair;
- recommended steps for the customer to take to safeguard product data;
- a statement about the customer's legal right to privacy and notice that violations of this right may result in criminal prosecution or civil liability; and
- for independent repair providers, whether the repair provider uses any replacement parts that are used or provided by a supplier other than the original manufacturer.

#### Not Liable for Repairs or Functionality.

An original manufacturer or authorized repair provider is not liable for any damage 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.

An original manufacturer does not warrant any services provided by independent repair providers.

#### Right to Repair Act Exceptions.

The Repair Act does not alter the terms of any arrangement in force between an original manufacturer and an authorized repair provider, subject to exceptions. The Repair Act also does not require an original manufacturer to:

- divulge a trade secret to an independent repair provider, except as necessary to provide parts, tools, and documentation on fair and reasonable terms; or
- make available special documentation, tools, parts, or other devices or implements that would disable or override, without an owner's authorization, antitheft or privacy security measures that the owner sets.

The Repair Act may not 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 an arrangement;
- make available any parts, tools, or documentation for the purposes of modifying digital electronic products;
- make available any parts, tools, or documentation required for the diagnosis, maintenance, or repair of certain public safety communications equipment or video game consoles; or
- make available documentation or tools used exclusively for repairs completed by machines that operate on several products simultaneously, if the original manufacturer makes available sufficient, alternative documentation and tools to repair the product.

Several different types of entities and products are exempt from the Repair Act, including but not limited to:

- motor vehicle manufacturers;
- manufacturers of power generation or storage equipment and certain products that store electrical energy and transmit the energy after storage;
- products that generate or store electrical energy from solar radiation;
- products that have never been available for retail sale;
- manufacturers or distributors of products primarily intended for use in a medical setting;
- utility, agricultural, construction, and mining equipment;
- off-road equipment, including tractors, farm and yard equipment, outdoor power equipment, marine and recreational vehicles, and power sources;
- set-top boxes, modems, routers, or all-in-one devices delivering internet, video, and voice systems that are distributed by a video, internet, or voice service provider if the service provider offers equivalent or better, readily available replacement equipment at no charge to the customer; and
- life safety systems, fire alarm systems, intrusion detection devices, and physical access control equipment.

#### Enforcement.

Violations of requirements under the Repair Act are deemed to affect public interest and constitute an unfair or deceptive act in trade or commerce for purposes of the Consumer Protection Act. The Repair Act may only be enforced by the Attorney General under the Consumer Protection Act.

#### **Substitute Bill Compared to Original Bill:**

The substitute bill:

- specifies that an original manufacturer who offers repair services of its own digital electronic products is considered an authorized repair provider with respect to such products only in instances where the original manufacturer does not have an arrangement with an authorized repair provider covering such products;
- modifies the definition of "fair and reasonable terms" as it relates to parts by specifying that costs must be fair to both parties and removing the requirement that discounts, rebates, or other incentives must be accounted for in the consideration of fair and reasonable terms;
- modifies the definition of "part" to include replacement parts that are generally available or made available by an original manufacturer to an authorized provider, instead of parts that are generally available or used by an original manufacturer or an authorized provider;
- establishes a new exemption for a "life safety system, fire alarm system, or intrusion detection device, including its components, that is provided or configured to be provided with a security monitoring service; and physical access control equipment, including electronic keypads and similar building access control electronics;" and
- clarifies that exemptions identified in the bill are exemptions from requirements throughout the bill, not just from the section containing the exemptions.

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**Appropriation:** None.

**Fiscal Note:** Preliminary fiscal note available.

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

**Staff Summary of Public Testimony:**

(In support) People should be able to fix what they own. This bill is good for consumers and the public. If every household could fix their products instead of having to buy new ones, it would save money and be good for both the environment and small businesses. Consumers should not have to pay for specialized repair parts when companies can use generic parts for their own products. Parts pairing is a practice that some manufacturers use to prevent customers and small businesses from replacing parts by limiting the functionality of a device that is repaired by a third party. This bill prohibits this practice while keeping customers secure. People should not be forced to use expensive repair processes. Efficiency is lost when repair information is subject to paywalls and needless authorizations. Electronic waste is the fastest growing category of waste. Many old laptops and other devices end up in landfills. This bill will help reduce carbon emissions by limiting the overproduction of products. People are overwhelmed by piles of old technology, and they do not know what to do with it. Small businesses will benefit from the ability to provide repair services to their communities. There is a high demand for repair cafes. This bill should be expanded to other devices, like video games. This bill is good

antitrust policy, because it supports a free market approach. Devices are a key part of digital equity. This bill would still allow manufacturers to replace their products, instead of repairing them. The complaints against small businesses providing less secure repairs are unfounded. A lot of this bill is based on Oregon legislation, and it also includes parts from California and Minnesota laws. This will move the electronics industry toward a more sustainable future.

(Opposed) This bill undermines security efforts, and it could harm manufacturers' reputations if devices are not repaired correctly and securely. Phones and other devices hold sensitive data, and they are a common target for malicious actors. Companies have invested significantly in developing secure, reliable products. Restrictions on parts pairing will inhibit important quality control measures. Forcing people to accept replacement parts with suspicious national origin is a risk. Right to repair bills are well intended, but they can cause harm to consumers and businesses. Products should be repaired in a safe, private, and authorized manner. Manufacturers currently offer safe repair options. Mandating companies to outsource repairs keeps them from being able to stand behind their products. Repair shops often access the personal information of consumers. Market forces are already supporting solutions, and many major manufacturers have launched self-repair programs. This bill will harm innovation.

(Other) The bill should be made more similar to right to repair laws in Minnesota and Colorado. Critical infrastructure should be exempt. There should be changes to the language regarding shipping costs.

**Persons Testifying:** (In support) Representative Mia Gregerson, prime sponsor; Steven Bock; Charlie Fisher, Public Interest Research Group (PIRG); Moji Igun, Zero Waste Washington; Aiden Prather; Steven Rhine, Rhine Labs; Tarah Wheeler, Red Queen Dynamics; Kyle Wiens, iFixIt; Morgan Costello-Hostettler, InterConnection; Steven Nickel, Google; and Patrick Connor, National Federation of Independent Business (NFIB).

(Opposed) Juan Londono, Taxpayers Protection Alliance; Turner Loesel, James Madison Institute; Dustin Brighton, Repair Done Right Coalition; Jeff Gombosky, CTIA - The Wireless Association; and Amy Bos, NetChoice.

(Other) Rose Feliciano, TechNet; and Crystal Leatherman, Washington Retail Association.

**Persons Signed In To Testify But Not Testifying:** None.