

SENATE BILL REPORT

SB 5423

As of February 5, 2025

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, Shewmake, Dhingra, Frame, Hasegawa, Lias, Lovelett, Nobles, Pedersen, Ramos, Riccelli, Salomon and Valdez.

Brief History:

Committee Activity: Environment, Energy & Technology: 2/05/25.

Brief Summary of Bill

- Establishes the Right to 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.
- Specifies exceptions for certain entities and goods as well as 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.

SENATE COMMITTEE ON ENVIRONMENT, ENERGY & TECHNOLOGY

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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.

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.

Summary of Bill: Right to Repair Act. Effective January 1, 2026 an original manufacturer must make available to any independent repair provider or owner on fair and reasonable terms the parts, tools, and documentation intended for the diagnosis, maintenance, or repair of digital electronic products that are first manufactured, and first sold or used in Washington.

For digital electronic products that are manufactured for the first time, and first sold or used in this state after January 1, 2025 an original manufacturer may not use parts pairing to:

- prevent or inhibit an independent repair provider or owner from installing or enabling the function of a replacement part or component;
- reduce the functionality or performance of a digital electronic product; or
- cause a digital electronic product to display misleading alerts or warnings about the part.

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

- the steps taken by the authorized repair provider to ensure the privacy and security of the products;
- recommended steps the customer should take for safeguarding data;
- a statement about the customer's legal right to privacy; and
- for independent repair providers, whether the provider used replacement parts that are used or provided by a supplier other than the original manufacturer.

Exempt Entities and Goods. Several different types of entities and products are exempt from

provisions of the Right to Repair Act (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; and
- 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.

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.

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.

Appropriation: None.

Fiscal Note: Requested on February 3, 2025.

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

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: This bill is about fairness and competition. I believe that I should be able to try and repair things that I own if they break or I can take them to a local repair shop. This bill helps consumers, helps reduce waste, and helps bridge the digital divide by making it easier for people to keep their devices working. It will also help small businesses like repair shops in local communities. Many people describe feeling forced to buy new tech when it breaks because manufacturers set high prices for repairs. If

Washington households could repair their own devices it would save \$1 billion annually. Manufacturers create barriers to repair and this impacts students who rely heavily on technology for school.

Repair would allow a robust marketplace of secondhand electronics. E-waste is the fastest growing waste stream in the country. The restrictions on repair and reuse undermine peoples' resourcefulness and creativity. Through the Oregon law I'm beginning to see some success in obtaining critical documentation and tools to repair devices that were otherwise economically unrepairable. This law is essential to overcoming challenges with manufacturers. The vast majority of Washington residents support this bill.

Repair restrictions, lack of access to certified components, and needed materials, and a lack of readily available information means we are only able to refurbish a small fraction of the devices we get into our facility. This is a critical step to increase access to affordable devices. Our small repair shops are overwhelmed by demand for service but in danger of closing because the cost of business is so high. Repair is difficult everywhere but its especially damaging to rural communities because options are so limited. The carve out of vehicles is unfortunate. Cars are being built to be increasingly hostile to aftermarket and self repair. Small independent repair shops have been able to reasonably and affordably repair your device for decades. Manufacturers put up very high financial barriers that make it difficult for these small businesses to operate. This bill addresses that.

CON: Through the Wireless Industry Service Excellence Program 21,000 people nationwide have become certified to repair these devices. We are concerned about security. The effects of this bill would lead to physical and safety risks and threats to security and privacy. Mandating that companies outsource repairs prevents them from being able to stand behind their warranty. A study found that personal data was accessed 50 percent of the time when these devices are taken to third-party repair shops. Another study found that 88 percent of aftermarket battery brands fail to meet regional safety standards. Companies have invested heavily in creating secure, reliable products. This would force manufacturers to compromise carefully designed security standards. Systems ensure that replacement parts work securely with biometric systems. Biometrics is the ultimate privacy protection. These bills endanger consumer data security and personal security. Authorized repair shops respond to device users requests.

OTHER: We are here to request some amendments like making sure critical infrastructure is exempt.

Persons Testifying: PRO: Senator Derek Stanford, Prime Sponsor; Steven Bock; Steven Rhine, Rhine Labs; Andrew Villeneuve, Northwest Progressive Institute; Kathryn Horvath, PIRG; Aidan Silber; Moji Igun, Zero Waste Washington; Morgan Costello-Hostettler, PCs for People; Steven Nickel, Google; Kyle Wiens, iFixIt; Patrick Connor, National Federation of Independent Business (NFIB); Kami Bruner, Repair x Reuse Washington.

CON: Amy Bos, NetChoice; Dustin Brighton, Repair Done Right Coalition; David McGarry, Taxpayers Protection Alliance; Jeff Gombosky, CTIA - The Wireless Association.

OTHER: Rose Feliciano, TechNet.

Persons Signed In To Testify But Not Testifying: No one.