
A BILL FOR AN ACT

RELATING TO THE RIGHT TO REPAIR.

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

1 SECTION 1. The legislature finds that the vast majority of
2 electronic products available for purchases today are repair
3 monopolized, with tech companies often withholding the
4 information and parts needed to repair, modify, or even recycle
5 their products.

6 The legislature also find that Hawaii entrepreneurs are
7 capable of offering the same services, and in the interest of
8 business and consumers alike, should be provided this right.

9 The legislature further finds that the ability to repair
10 electronic equipment rather than replace it would allow
11 residents to save money and reduce waste.

12 The purpose of this Act is to expand consumer choice by
13 requiring manufacturers of certain electronic products to
14 provide necessary information and parts to allow consumers to
15 either repair their own products or provide the option for local
16 repair businesses to do so.



1 SECTION 2. The Hawaii Revised Statutes is amended by adding
2 a new chapter to be appropriately designated and to read as
3 follows:

4 "CHAPTER

5 DIGITAL RIGHT TO REPAIR ACT

6 § -1 Definitions. As used in this chapter:

7 "Authorized repair provider" means, with respect to an
8 original equipment manufacturer, an individual or business that
9 is un affiliated with the original equipment manufacturer and
10 that has an intellectual property arrangement with the original
11 equipment manufacturer.

12 "Authorized repair provider" includes an original equipment
13 manufacturer that offers to provide diagnostic, maintenance, or
14 repair services for digital electronic equipment manufactured by
15 or on behalf of, or sold or otherwise supplied by, an original
16 manufacturer, and that does not have an intellectual property
17 arrangement with an unaffiliated individual or business.

18 "Digital electronic equipment" or "equipment" means any
19 product that is used or sold in the State and the functioning
20 for which it depends, in whole or in part, on digital
21 electronics embedded in, or attached to, the product.



1 "Documentation" means any manual, diagram, reporting
2 output, service code description, schematic diagram, or other
3 information provided to an authorized repair provider for use in
4 effecting the provision of diagnostic, maintenance, or repair
5 services for digital electronic equipment.

6 "Embedded software" means any programmable instructions
7 provided on firmware delivered with digital electronic
8 equipment, or with an application part thereof, for purposes of
9 equipment operation. "Embedded software" includes all relevant
10 patches and fixes to digital electronic equipment, or any
11 application part thereof, made by the original equipment
12 manufacturer for purposes of equipment operation.

13 "Fair and reasonable terms" with respect to:

14 (1) Obtaining a part or tool or documentation, means at
15 cost and upon terms, including rights of use,
16 convenience of delivery, and convenience of enabling
17 functionality, that are equivalent to the most
18 favorable costs and terms under which the original
19 equipment manufacturer offers the part, tool, or
20 documentation to an authorized repair provider using:



- 1 (A) The net costs that would be incurred by the
2 authorized repair provider in obtaining an
3 equivalent part or tool; or
- 4 (B) Documentation from the original equipment
5 manufacturer accounting for any discounts, rebates,
6 or other incentive programs in arriving at the
7 actual net costs;
- 8 (2) Documentation requested in physical printed form,
9 including any relevant documentation updates, means
10 only the reasonable actual costs of preparing and
11 sending physical documentation; and
- 12 (3) Documentation not requested in physical printed form,
13 including any relevant documentation updates, means at
14 no charge.
- 15 "Firmware" means a software program or set of instructions
16 programmed on digital electronic equipment, or any part thereof,
17 to allow the equipment or part to communicate with other
18 computer hardware.
- 19 "Independent repair provider:



- 1 (1) Means, with respect to an original equipment
2 manufacturer, an individual or business operating in
3 the State, that:
- 4 (A) Is engaged in the services of diagnosis,
5 maintenance, or repair of digital electronic
6 equipment;
- 7 (B) Does not have an intellectual property arrangement
8 with the original equipment manufacturer of the
9 subject digital electronic equipment; and
- 10 (C) Is not affiliated with any individual or business
11 having an intellectual property arrangement with
12 the original equipment manufacturer of the subject
13 digital electronic equipment; and
- 14 (2) Includes an original equipment manufacturer or an
15 individual business that:
- 16 (A) Has an arrangement with that original equipment
17 manufacturer⁴ or is affiliated with an individual
18 or business that has an arrangement with that
19 original equipment manufacturer; and
- 20 (B) Engages in the services of diagnosis, maintenance,
21 or repair of digital electronic equipment that is



1 not manufactured by or on behalf of, or sold or
2 otherwise supplied by, that original equipment
3 manufacturer.

4 "Intellectual property arrangement" means an arrangement
5 between an original equipment manufacturer and an authorized
6 repair provider under which the original equipment manufacturer
7 grants to the individual or business a license to use a trade
8 name, service mark, or other proprietary identifier for the
9 purposes of offering to provide diagnostic, maintenance, or
10 repair services for digital electronic equipment manufactured
11 by, or on behalf of, or sold or otherwise supplied by, an
12 original equipment manufacturer.

13 "Original equipment manufacturer" means a business engaged
14 in the business of selling or leasing to any individual or
15 business new digital electronic equipment manufactured by or on
16 behalf of the manufacturing business.

17 "Owner" means an individual or business that owns or leases
18 digital electronic information.

19 "Part" means any new or used replacement part made
20 available by an original equipment manufacturer for purposes of
21 effecting the service of maintenance or repair of digital



1 electronic equipment manufactured by or on behalf of or sold or
2 otherwise supplied by, the original equipment manufacturer.

3 "Trade secret" shall have the same meaning as in section
4 482B-12.

5 § -2 **Requirements.** (a) Each original equipment
6 manufacturer shall make available to each applicable owner and
7 independent repair provider, on fair and reasonable terms,
8 documentation, parts, tools, including any updates to
9 information or embedded software, used in the diagnosis,
10 maintenance, or repair of the applicable equipment; provided
11 that nothing in this section shall be construed as requiring an
12 original equipment manufacturer to make available a part that is
13 no longer available to the original equipment manufacturer.

14 (b) For digital electronic equipment containing an
15 electronic security lock or other security-related function, the
16 original equipment manufacturer shall make available to each
17 applicable owner and independent repair provider, on fair and
18 reasonable terms, any special documentation, tools, and parts,
19 necessary to reset any lock or function that is disabled during
20 the diagnosis, maintenance, or repair of the equipment; provided
21 that the original equipment manufacturer may make available the



1 special documentation, tools, and parts through appropriate
2 secure release systems.

3 § -3 **Remedies.** Any person who violates this chapter shall
4 be deemed to have engaged in an unfair method of competition and
5 unfair or deceptive act or practice in the conduct of any trade
6 or commerce within the meaning of section 480-2.

7 § -4 **Limitations and exclusions.** (a) Nothing in this
8 chapter shall be construed as:

- 9 (1) Requiring an original equipment manufacturer to divulge
10 a trade secret to an owner or independent repair
11 provider, except as necessary to provide documentation,
12 parts, and tools on fair and reasonable terms;
- 13 (2) Altering the terms of any intellectual property
14 arrangement in force between an authorized repair
15 provider and an original equipment manufacturer,
16 including the performance or provision of warranty or
17 including the performance or provision of warranty or
18 recall repair work by an authorized repair provider on
19 behalf of an original equipment manufacturer pursuant
20 to the arrangement; provided that any provision in the
21 terms that purports to waive, avoid, restrict, or limit



1 the original equipment manufacturer's obligations to
2 comply with this chapter shall be void and
3 unenforceable; or

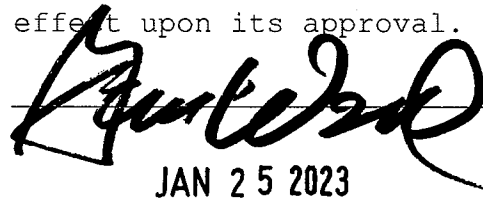
4 (3) Requiring an original equipment manufacturer or
5 authorized repair provider to provide to an owner or
6 independent repair provider access to information,
7 other than documentation, that is provided by the
8 original equipment manufacturer to an authorized
9 repair provider pursuant to the terms of an
10 intellectual property arrangement.

11 (b) Nothing in this chapter shall apply to a motor vehicle
12 manufacturer, motor vehicle equipment manufacturer, or motor
13 vehicle dealer acting in the manufacturer or dealer's capacity
14 as a motor vehicle manufacturer, motor vehicle equipment
15 manufacturer, or motor vehicle dealer.

16 § -5 **Applicability.** This chapter shall apply to
17 equipment sold or in use on or after the effective date of this
18 Act."

19 SECTION 3. This Act shall take effect upon its approval.

INTRODUCED BY:


JAN 25 2023



H.B. NO. 1287

Report Title:

Right to Repair; Digital Electronic Equipment; Repairs; Original Equipment Manufacturers; Independent Repair Providers

Description:

Requires manufacturers of digital electronic equipment to make available to owners and independent repair providers, on fair and reasonable terms, the documentation, parts, and tools used to diagnose, maintain, and repair the equipment.

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