

Senate Bill 1596

Sponsored by Senators SOLLMAN, DEMBROW, Representative NERON, Senator GOLDEN, Representatives BYNUM, NOSSE; Senators CAMPOS, FREDERICK, GELSER BLOUIN, GORSEK, JAMA, LIEBER, MANNING JR, PATTERSON, PROZANSKI, TAYLOR, THATCHER, WAGNER, Representatives ANDERSEN, BOWMAN, CHAICHL, DEXTER, FAHEY, GOMBERG, HARTMAN, HELM, HOLVEY, HUDSON, LEVY E, LIVELY, MARSH, MCLAIN, NATHANSON, NELSON, NGUYEN D, NGUYEN H, PHAM K, REYNOLDS, RUIZ, SMITH G, TRAN, WALTERS (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: Requires a person that makes electronic items for consumers to give on fair terms to people who look at, maintain or repair the items what they need to do effective maintenance or make effective repairs. Fair terms means, in part, giving independent people what they need on the same terms as people the maker authorizes to make repairs. Lets the state fine people who violate the Act. Takes effect 91 days after session ends. (Flesch Readability Score: 61.1).

Requires an original equipment manufacturer to make available to an owner of consumer electronic equipment or an independent repair provider on fair and reasonable terms any documentation, tool, part or other device or implement that the original equipment manufacturer makes available to an authorized service provider for the purpose of diagnosing, maintaining or repairing consumer electronic equipment. Permits the Attorney General to make an investigative demand of a manufacturer that appears to have violated the Act. Specifies the contents of the investigative demand and the method of service. Subjects a manufacturer that violates the Act to a civil penalty of not more than \$1,000 for each day of the violation.

Takes effect on the 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to a right to repair consumer electronic equipment; and prescribing an effective date.

3 Whereas the Legislative Assembly finds and declares that reusing, repairing and extending the
4 product life of electronics is a critical component of Oregon's 2050 Vision and Framework for
5 Action, that repairing and reusing electronics rather than throwing out electronics reduces waste,
6 greenhouse gas emissions and raw material use and that barriers to repairing electronics make ac-
7 cess to technology difficult by increasing costs; now, therefore,

8 **Be It Enacted by the People of the State of Oregon:**

9 **SECTION 1. (1) As used in this section and section 2 of this 2024 Act:**

10 **(a) "Authorized service provider" means:**

11 **(A) A person that has an arrangement with an original equipment manufacturer under**
12 **which:**

13 **(i) The original equipment manufacturer grants a license to or otherwise permits the**
14 **person to use the original equipment manufacturer's trade name, service mark or other**
15 **proprietary identification for the purpose of offering the services of diagnosing, maintaining**
16 **or repairing consumer electronic equipment; or**

17 **(ii) The person offers the services of diagnosing, maintaining or repairing consumer**
18 **electronic equipment on behalf of the original equipment manufacturer or under the original**
19 **equipment manufacturer's warranty; or**

20 **(B) An original equipment manufacturer, but only in instances where the original equip-**
21 **ment manufacturer does not have an arrangement described in subparagraph (A) of this**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 paragraph and offers the services of diagnosing, maintaining or repairing consumer elec-
2 tronic equipment that the original equipment manufacturer makes or sells.

3 (b) "Cell phone" means a handheld product that includes a battery, microphone, speaker
4 and display designed to send and receive transmissions through a cellular radiotelephone
5 service.

6 (c) "Consumer electronic equipment" means a product that:

7 (A) Functions, in whole or in part, on the basis of digital electronics that are embedded
8 within or attached to the product;

9 (B) Is tangible personal property;

10 (C) Is generally used for personal, family or household purposes;

11 (D) Is sold, used or supplied in this state one year or more after the product was first
12 manufactured and sold or used in this state; and

13 (E) Might be, but is not necessarily, capable of attachment to or installation in real
14 property.

15 (d) "Documentation" means any manual, diagram, reporting output, service code de-
16 scription, schematic diagram, security code, password or other guidance or information that
17 enables a person to diagnose, maintain or repair consumer electronic equipment.

18 (e) "Fair and reasonable terms" means terms under which an original equipment man-
19 ufacturer:

20 (A) Makes documentation available at no charge, except that the original equipment
21 manufacturer may charge for the reasonable and actual costs of printing, preparing and
22 sending or preparing and sending documentation that a person requests in print;

23 (B) Makes tools for diagnosing, maintaining and repairing consumer electronic equipment
24 available at no charge and without impeding access to the tools or the efficient and cost-
25 effective use of the tools, except that the original equipment manufacturer may charge for
26 the reasonable and actual costs of preparing and shipping a physical tool that a person re-
27 quests; and

28 (C) Makes parts available directly or through an authorized service provider to:

29 (i) An independent repair provider and an owner at costs and on terms that are equiv-
30 alent to the most favorable costs and terms at which the original equipment manufacturer
31 offers the parts to an authorized service provider and that:

32 (I) Account for any discount, rebate, convenient means of delivery, means of enabling
33 fully restored and updated functionality, rights of use or other incentive or preference the
34 original equipment manufacturer offers to an authorized service provider, or that impose any
35 additional cost, burden or impediment the original equipment manufacturer also imposes on
36 an authorized service provider;

37 (II) Do not impose a substantial condition, obligation or restriction that is not reasonably
38 necessary to enable an independent repair provider or owner to diagnose, maintain or repair
39 consumer electronic equipment that the original equipment manufacturer makes or sells;
40 and

41 (III) Do not require an independent repair provider or owner to become an authorized
42 service provider or enter into an arrangement described in paragraph (a)(A) of this sub-
43 section; and

44 (ii) All authorized service providers that the original equipment manufacturer permits,
45 by contract or otherwise, to sell parts to independent repair providers and owners, without:

1 (I) Imposing allocation limitations or advertising restrictions upon the authorized service
2 provider as a means of retaliation or as a means of hindering the authorized service provider
3 in selling parts by any means; or

4 (II) Imposing a substantial condition, obligation or restriction that is not reasonably
5 necessary to enable an independent repair provider or owner to diagnose, maintain or repair
6 consumer electronic equipment that the original equipment manufacturer makes or sells.

7 (f) "Independent repair provider" means a person that:

8 (A) Engages in the business of diagnosing, maintaining or repairing consumer electronic
9 equipment in this state but is not an authorized service provider; and

10 (B) Possesses a valid and unexpired certification that demonstrates that the person has
11 the technical capabilities and competence necessary to safely, securely and reliably repair
12 consumer electronic equipment in accordance with widely accepted standards, such as a
13 Wireless Industry Service Excellence Certification, an A+ certification from the Computing
14 Technology Industry Association, a National Appliance Service Technician Certification or
15 another certification that an original equipment manufacturer accepts as evidence that the
16 person can perform safe, secure and reliable repairs to the manufacturer's consumer elec-
17 tronic equipment.

18 (g) "Original equipment manufacturer" means a person that engages in the business of
19 selling, leasing or otherwise supplying to another person new consumer electronic equipment
20 that the person makes or has made on the person's behalf.

21 (h) "Owner" means a person that owns or leases from a lessor consumer electronic
22 equipment that the person or the lessor purchased or used in this state.

23 (i) "Part" means a new or used replacement component for consumer electronic equip-
24 ment that an original equipment manufacturer makes available for the purpose of main-
25 taining or repairing consumer electronic equipment that the original equipment
26 manufacturer makes or sells.

27 (j) "Parts pairing" means a manufacturer's practice of using software to identify com-
28 ponent parts through a unique identifier.

29 (k) "Tool" means software, a hardware implement or an apparatus by means of which a
30 person can diagnose, maintain or repair consumer electronic equipment including any soft-
31 ware, or a mechanism that provisions, programs or pairs a new part, calibrates functionality
32 or performs another function that is necessary to update or restore a product to a fully
33 functional condition.

34 (L) "Trade secret" has the meaning given that term in ORS 646.461.

35 (m)(A) "Video game console" means a computing device, and components and peripherals
36 for the computing device, that is intended primarily for playing interactive video games.

37 (B) "Video game console" does not include a general purpose personal computer that has
38 the capability to run video games alongside other computing functions.

39 (2)(a) An original equipment manufacturer shall make available to an owner or an inde-
40 pendent repair provider on fair and reasonable terms any documentation, tool, part or other
41 device or implement that the original equipment manufacturer makes available to an au-
42 thorized service provider for the purpose of diagnosing, maintaining, repairing or updating
43 consumer electronic equipment that the original equipment manufacturer makes or sells and
44 that is sold or used in this state.

45 (b) An original equipment manufacturer shall make available to an owner or independent

1 repair provider on fair and reasonable terms any documentation, tool or part necessary to
2 disable and reset any electronic security lock or other security function in consumer elec-
3 tronic equipment that is or must be disabled or that must be reset while diagnosing, main-
4 taining or repairing the consumer electronic equipment. The original equipment
5 manufacturer may make the documentation, tool or part available by means of an appropri-
6 ate secure release system.

7 (c) An original equipment manufacturer may not use parts pairing to:

8 (A) Prevent or inhibit an independent repair provider or owner from installing or enabl-
9 ing the function of a replacement part or component of consumer electronic equipment, in-
10 cluding a replacement part or component that the original equipment manufacturer has not
11 approved;

12 (B) Reduce the functionality or performance of consumer electronic equipment; or

13 (C) Cause consumer electronic equipment to display unnecessary or misleading alerts or
14 warnings about unidentified parts, particularly if the alerts or warnings cannot be dismissed.

15 (3) This section does not:

16 (a) Require an original equipment manufacturer to disclose a trade secret or license in-
17 tellectual property, including copyrights or patents, to an independent service provider or
18 owner except as necessary to provide, on fair and reasonable terms, any documentation, tool,
19 part or other device or implement used to diagnose, maintain or repair consumer electronic
20 equipment.

21 (b) Alter the terms of any agreement or arrangement between an original equipment
22 manufacturer and an authorized service provider including, but not limited to, the authorized
23 service provider's performance or provision of warranty service or recall repair work on the
24 original equipment manufacturer's behalf under the agreement or arrangement, except that
25 any provision in the agreement or arrangement that purports to waive, restrict or limit the
26 original equipment manufacturer's compliance with this section is void and unenforceable.

27 (c) Impose liability upon an original equipment manufacturer for any bodily injury or
28 damage to consumer electronic equipment that an independent repair provider or owner
29 causes while diagnosing, maintaining or repairing the consumer electronic equipment using
30 documentation, tools or parts the original equipment manufacturer made available on fair
31 and reasonable terms to an authorized service provider, independent repair provider or
32 owner before the date of the diagnosis, maintenance or repair, except that an original
33 equipment manufacturer remains liable to the extent that the laws of this state provide for
34 strict liability for defects in the design or manufacture of the consumer electronic equip-
35 ment.

36 (d) Require an original equipment manufacturer to make available special documentation,
37 tools and parts that would disable or override, without an owner's authorization, anti-theft
38 security measures that the owner sets for consumer electronic equipment.

39 (e) Apply to:

40 (A) A person that is engaged in the business of manufacturing or assembling new motor
41 vehicles or in the business of selling or leasing new motor vehicles and offering the service
42 of diagnosing, maintaining or repairing motor vehicles or motor vehicle engines under the
43 terms of a franchise agreement, or to the person's products or services;

44 (B) A product or equipment that:

45 (i) Has never been available for retail sale to a consumer;

1 (ii) Is a medical device, as defined in the federal Food, Drug, and Cosmetic Act, 21 U.S.C.
2 301 et seq., or a digital electronic product, software, control equipment or related products
3 or services manufactured for or provided for use in diagnosis or monitoring in an acute care
4 hospital, a long term care facility such as a nursing home or skilled nursing facility, a
5 physician's office, an urgent care center, an outpatient clinic, a home setting where health
6 care is provided by or at the direction of a licensed health care provider, an emergency
7 medical service facility or at a site where health care is routinely delivered on premises that
8 are not otherwise a health care facility, such as a medical clinic within a school;

9 (iii) Provides heat, ventilation or air conditioning or recharges refrigerant gases;

10 (iv) Is a system, mechanism or series of mechanisms that generates, stores or combines
11 generation and storage of electrical energy from solar radiation;

12 (v) Is a video game console; or

13 (vi) Is a system that stores electrical energy for a period of time and transmits the en-
14 ergy after storage, that is interconnected with a transmission or distribution system and is
15 approved by an electric utility or located on a customer's side of an electric utility meter in
16 accordance with an applicable utility tariff or interconnection agreement;

17 (C) A vehicle, an engine, equipment or a power source, or a person that engages directly
18 in, or acts for or is subject to the control of another person that engages directly in, man-
19 ufacturing, assembling, distributing, selling, importing for resale, maintaining, servicing or
20 repairing a vehicle, an engine, equipment or a power source with any of the following char-
21 acteristics:

22 (i) An internal combustion engine, including the engine's fuel system or other power
23 sources such as an electric battery or fuel cell, that is not used in a motor vehicle or a ve-
24 hicle used solely for competition or that is not subject to standards of performance for sta-
25 tionary sources or emission standards for new motor vehicles or new motor vehicle engines
26 under the federal Clean Air Act, 42 U.S.C. 7411 and 7521 et seq.;

27 (ii) A vehicle or equipment that is not a motor vehicle or a vehicle used solely for com-
28 petition and is powered by an engine described in sub-subparagraph (i) of this subparagraph,
29 together with any tools, technology, attachments, accessories, components or repair parts
30 for the vehicle or engine;

31 (iii) An internal combustion engine or another power source, including an electric battery
32 or fuel cell, that is not used in a motor vehicle, a vehicle used solely for competition or a
33 vehicle described in sub-subparagraph (ii) of this subparagraph, or equipment that is powered
34 by the internal combustion engine or power source, together with tools, technology, attach-
35 ments, accessories, components or repair parts for the internal combustion engine or the
36 equipment; or

37 (iv) An engine or other power source, including an electric battery or fuel cell, that is
38 used for propulsion or power generation in a maritime environment or waterway, together
39 with any tools, technology, attachments, accessories, components or repair parts for the
40 engine or power source; or

41 (D) A manufacturer, distributor or dealer of any off-road equipment and tools, technol-
42 ogy, attachments, accessories, components and repair parts for off-road equipment including,
43 but not limited to, farm and utility tractors, farm implements and machinery, equipment for
44 forestry, industry, utilities, construction, mining or maintaining a yard, garden or turf,
45 outdoor power equipment and portable generators, vehicles used in marine environments, for

1 sports, recreation and racing, all-terrain vehicles, power tools and stand-alone or integrated
 2 mobile or stationary internal combustion engines or power sources such as generator sets
 3 and battery or fuel cell power.

4 **SECTION 2. (1) As used in this section:**

5 (a) “Certification entity” means a person that engages in evaluating and certifying the
 6 technical capabilities and competence of independent repair providers in accordance with
 7 standards that the person adopts or that an original equipment manufacturer specifies.

8 (b) “Repair certification” means evidence that an independent repair provider has the
 9 technical and financial capability and competence necessary to safely, securely and reliably
 10 repair digital electronic equipment in accordance with standards that a certification entity
 11 specifies.

12 (2) Before repairing consumer electronic equipment, an authorized service provider and
 13 an independent repair provider shall:

14 (a) Post at the authorized service provider’s or independent repair provider’s place of
 15 business or on the authorized service provider’s or independent repair provider’s website, or
 16 provide directly to customers, a notice that:

17 (A) Specifies the steps the authorized service provider or independent repair provider
 18 takes to ensure the customer’s privacy and the security of consumer electronic equipment
 19 the customer entrusts to the authorized service provider or independent repair provider;

20 (B) Recommends steps the consumer should take to ensure privacy and security, in-
 21 cluding but not limited to:

22 (i) Backing up data from the consumer electronic equipment onto another device and
 23 permanently erasing the data from the consumer electronic equipment the customer will
 24 bring in for repair;

25 (ii) Sharing only those passwords or access to functions that are necessary to effect the
 26 repair; and

27 (iii) Logging out of applications and closing websites and deleting caches or records of
 28 application or website use that have sensitive information or that otherwise pose a security
 29 risk, such as financial applications or websites, electronic mail or messaging or social media
 30 accounts; and

31 (C) Informs the customer about the customer’s rights to privacy under the laws of this
 32 state.

33 (b) Display all of the authorized service provider’s or independent repair provider’s repair
 34 certifications.

35 (3) Before repairing consumer electronic equipment, an independent repair provider shall
 36 disclose to each customer:

37 (a) That the independent repair provider is not an authorized service provider; and

38 (b) Whether replacement parts the independent repair provider incorporates into repairs
 39 are used replacement parts or are replacement parts provided by suppliers other than the
 40 original equipment manufacturer of the consumer electronic equipment.

41 **SECTION 3. (1) If the Attorney General determines that a manufacturer has or controls**
 42 **any information, documents, physical evidence or other material that is relevant to an in-**
 43 **vestigation of a violation of section 1 of this 2024 Act, or that could lead to a discovery of**
 44 **relevant information in an investigation of a violation of section 1 of this 2024 Act, the At-**
 45 **torney General may execute and cause an investigative demand to be served upon the man-**

1 **ufacturer. The investigative demand may require that the manufacturer:**

2 **(a) Appear and testify under oath at the time and place stated in the investigative de-**
3 **mand;**

4 **(b) Answer written interrogatories; and**

5 **(c) Produce relevant information, documents, physical evidence or other material for**
6 **examination at the time and place stated in the investigative demand.**

7 **(2) An investigative demand under this section must be served as provided in ORS 646.622**
8 **and may be enforced as provided in ORS 646.626. Within the earlier of the return date spec-**
9 **ified in the investigative demand or 20 days after the date on which the investigative demand**
10 **was served, a manufacturer may petition a circuit court of this state to extend the return**
11 **date or modify or set aside the investigative demand. The petition must state good cause,**
12 **including any privileged material.**

13 **(3) If the Attorney General finds that a manufacturer has violated section 1 of this 2024**
14 **Act, the Attorney General may bring a civil action in a circuit court of this state to:**

15 **(a) Impose a civil penalty of not more than \$1,000 for each day in which the violation**
16 **continues; or**

17 **(b) Obtain an injunction to restrain the violation.**

18 **SECTION 4. (1) Except as provided in subsection (2) of this section, section 1 of this 2024**
19 **Act applies to consumer electronic equipment that is sold or is in use on or after the effec-**
20 **tive date of this 2024 Act.**

21 **(2) Section 1 of this 2024 Act does not apply to:**

22 **(a) A cell phone that was manufactured for the first time, and first sold or used in this**
23 **state, before July 1, 2021; or**

24 **(b) Consumer electronic equipment other than a cell phone that was manufactured for**
25 **the first time, and first sold or used in this state, before July 1, 2015.**

26 **SECTION 5. Section 3 of this 2024 Act applies to violations of section 1 of this 2024 Act**
27 **that occur on or after July 1, 2026.**

28 **SECTION 6. This 2024 Act takes effect on the 91st day after the date on which the 2024**
29 **regular session of the Eighty-second Legislative Assembly adjourns sine die.**

30