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Bill Analysis

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Primary Sponsor: Sen. Blessing

Logan Briggs, Attorney

SUMMARY

- Requires manufacturers of certain digital electronic equipment to provide documentation, tools, and parts to independent repair providers and owners as necessary for diagnosis, maintenance, and repair of that equipment.
- Defines “digital electronic equipment” as a product that depends on digital electronics for its functioning and is valued over \$10 (adjusted for inflation), but explicitly excludes numerous categories of devices, vehicles, and equipment.
- Requires manufacturers to make documentation and tools available free of charge or at the actual cost of producing them in physical form.
- Requires manufacturers to make parts available at the most favorable costs and terms under which the manufacturer offers the parts to an authorized repair provider.
- Prohibits the use of parts pairing to prevent or impair the functionality of replacement parts installed by device owners or independent repair providers.
- Creates a cause of action for a person aggrieved by a manufacturer that fails to provide documentation, tools, or parts under fair and reasonable terms, as required by the bill.
- Specifies that a manufacturer is not liable for damages caused by an independent repair provider or owner during diagnosis, maintenance, or repairs of digital electronic equipment.

DETAILED ANALYSIS

Digital Fair Repair Act

The bill requires persons engaged in the business of selling, leasing, or supplying digital electronic equipment sold or used in Ohio (“original equipment manufacturers”) to make available any documentation, parts, and tools necessary for diagnosis, maintenance, or repairs

of that equipment. This includes providing any updates to information or embedded software and, if the equipment contains an electronic security lock or other similar function, any documentation, tools, and parts needed to disable and reset the lock or function. In particular, the bill requires the documentation, parts, and tools to be made available under fair and reasonable terms to both independent repair providers and owners of the equipment.¹

Under the bill, “owner” includes both an owner and lessor of digital electronic equipment. The bill defines an “independent repair provider” as a person that does not have an authorized repair provider arrangement and that is engaged in the services of diagnosis, maintenance, or repair of digital electronic equipment. By contrast, an “authorized repair provider” is a person that has an arrangement with the original equipment manufacturer under which the manufacturer grants to the person a license to use a trade name, service mark, or other proprietary identifier for the purposes of offering diagnosis, maintenance, or repair services under the name of the original equipment manufacturer, or other arrangement with the original equipment manufacturer to offer such services on its behalf. Additionally, an “authorized repair provider” includes an original equipment manufacturer that offers diagnosis, maintenance, or repair services for its own digital electronic equipment.²

Digital electronic equipment

The bill applies only to digital electronic equipment sold or used in Ohio beginning 120 days after the bill’s effective date. It defines “digital electronic equipment” as any product that has a value over \$10, depends for its functioning, in whole or in part, on digital electronics embedded in or attached to the product, subject to certain exclusions (see “**Exclusions**” below). The bill requires the Director of Commerce to annually adjust the value threshold above which a product may qualify as digital electronic equipment. The adjustment will occur in November, or as soon as practicable thereafter, every year beginning after the effective date of the bill. It is based on the cumulative percentage change in the Consumer Price Index (all items, all urban consumers) prepared by the United States Bureau of Labor Statistics for the 12-month period ending on the immediately preceding September 30. The resulting amount, rounded to the nearest one cent, applies as the value threshold to the following calendar year.

For example, if the value threshold for Year A is \$10 and the Consumer Price Index for the one-year period ending on September 30 of Year A shows a 3% increase, then the Director would multiply \$10 by 1.03. As such, the value threshold for the following Year B would be \$10.30.

The bill requires the Director to publish the adjusted value threshold and the dates to which it applies on a website maintained by the Department of Commerce.³

¹ R.C. 1350.02.

² R.C. 1350.01(A), (G), and (L).

³ R.C. 1350.01(D), 1350.011, and 1350.05(J).

Fair and reasonable terms

Documentation

Under the bill, “documentation” means any manual, diagram, reporting output, service code description, schematic, security code, password, or other guidance or information used in effecting the services of diagnosis, maintenance, or repair of digital electronic equipment or its parts.

The bill requires an original equipment manufacturer to provide documentation to independent repair providers and equipment owners at no charge. However, if the independent repair provider or owner requests the documentation in physical printed form, the original equipment manufacturer may charge a fee for the reasonable, actual costs of preparing and sending the documentation.⁴

Tools

The bill defines “tool” to mean any software program, hardware implement, or other apparatus used for diagnosis, maintenance, or repair of digital electronic equipment or its parts. This includes software or other mechanisms that provide, program, or pair a part, calibrate functionality, or perform any other function required to bring the equipment or part back to a fully functional condition, including any updates.

The bill requires an original equipment manufacturer to provide tools to independent repair providers and equipment owners at no charge. However, when the independent repair provider or owner requests a tool in physical form, the original equipment manufacturer may charge a fee for the reasonable, actual costs of preparing and sending the tool.

The bill prohibits an original equipment manufacturer from requiring authorization or internet access for the use or operation of the tool. The bill also prohibits an original equipment manufacturer from impeding access to, or use of, a tool needed to diagnose, maintain, or repair and enable full functionality of digital electronic equipment or parts for the equipment. More generally, an original equipment manufacturer cannot impair the efficient and cost-effective performance of any diagnosis, maintenance, or repair of digital electronic equipment by an independent repair provider or equipment owner.⁵

Parts

Under the bill, “part” means any piece or component, including board-level components, that is essential to the full functionality of digital electronic equipment, including any auxiliary attachments that improve the performance, safety, operation, or efficiency of such equipment. “Board-level component” means any electrical part attached to a circuit board, such as microchips, sensors, transistors, and capacitors.

⁴ R.C. 1350.01(E), 1350.02, and 1350.03(A).

⁵ R.C. 1350.01(P), 1350.02, and 1350.03(B).

The bill requires an original equipment manufacturer to provide parts to independent repair providers and equipment owners at costs and terms that are equivalent to the most favorable costs and terms under which the manufacturer offers the parts to an authorized repair provider. However, if a part is no longer available to the original equipment manufacturer, then the manufacturer is not required to make that part available.

The cost and terms at which parts are provided to independent repair providers and owners must account for any discount, rebate, convenient and timely means of delivery, means of enabling fully restored and updated functionality, right of use, or other incentive or preference the original equipment manufacturer offers to an authorized repair provider. The costs and terms may also account for any reasonable, actual costs, burdens, or impediments the original equipment manufacturer incurs to provide the part to the owner or to an independent repair provider.

The original equipment manufacturer may not include any condition or substantial obligation or restriction that is not reasonably necessary for enabling the independent repair provider or owner to engage in the diagnosis, maintenance, or repair of the equipment, and may not condition these costs and terms on an authorized repair provider arrangement.⁶

Parts pairing prohibition

The bill prohibits any original equipment manufacturer from using parts pairing or any other mechanism to prevent or impair the installation or function of an otherwise functional part installed by an independent repair provider or device owner. “Parts pairing” means any practice by a product manufacturer of using software to identify component parts through a unique identifier. Some manufacturers prevent the installation of replacement parts or board-level components through software which will not permit those replacement parts to function properly if they do not have a serial number or other identifier which is “paired” to the device by the manufacturer itself. This can prevent device owners or independent repair providers from repairing devices with otherwise functional replacement parts or board-level components.⁷

Under the bill, parts pairing cannot be used to prevent the installation or functioning of any otherwise functional part, including a nonmanufacturer approved replacement part or component, or to inhibit or reduce the functioning of any part or board-level component, such that replacement by an independent repair provider or the device owner would cause the device to operate with reduced functionality or performance.⁸

Exclusions

The bill does not apply to the following items, equipment, and products due to their exclusion from the definition of “digital electronic equipment”:

⁶ R.C. 1350.01(B) and (M), 1350.02(A), and 1350.03(C).

⁷ [Nixing the Fix: An FTC Report to Congress on Repair Restrictions](#), which may be accessed by conducting a keyword “Nixing the fix” search on the Federal Trade Commission website: [ftc.gov](https://www.ftc.gov).

⁸ R.C. 1350.02(C).

- A motor vehicle, utility vehicle, low-speed vehicle, under-speed vehicle, or all-purpose vehicle;
- A watercraft;
- An aircraft, an unmanned aerial vehicle system, or a satellite;
- A medical device;
- Construction equipment, including industrial, compact construction, mining, or road-building equipment;
- A product purchased, installed, and maintained by a public utility;
- Safety communications equipment, for which the intended use is emergency response or prevention purposes by an emergency response organization, such as fire and rescue services, law enforcement, or emergency medical services;
- A device, such as a set-top box, modem, or all-in-one device, that is distributed by a cable service provider or a telecommunications carrier, and delivers internet, video, or voice services to a customer, if the service provider offers equivalent or better, readily available replacement equipment at no charge to the customer;
- Fire alarm systems, intrusion detection equipment that is provided with a security monitoring service, life safety systems, and physical access control equipment, including electronic keypads and similar building access control electronics.⁹

Additionally, the bill sets forth following exclusions to the requirement that original equipment manufacturers provide documentation, parts, and tools to independent repair providers and owners:

- Documentation, tools, and parts needed to unlock or reset an electronic security lock or other similar function may be made available by a means of an appropriate secure system.¹⁰
- An original equipment manufacturer is not required to divulge a trade secret to any owner or independent service provider, except as necessary to provide documentation, parts, and tools on fair and reasonable terms.¹¹

⁹ R.C. 1350.01(D)(2); R.C. 4501.01, 4519.01, 1546.01, 4561.01, 4561.50, 1353.01, 4905.02, 1332.01, and the “Telecommunications Act of 1996,” 47 United States Code 153, not in the bill.

¹⁰ R.C. 1350.02.

¹¹ The bill does not define “trade secret,” but the Uniform Trade Secrets Act, adopted in R.C. 1333.61, not in the bill, defines a trade secret as information, including the whole or any portion or phase of any scientific or technical information, design, process, procedure, formula, pattern, compilation, program, device, method, technique, or improvement, or any business information or plans, financial information, or listing of names, addresses, or telephone numbers, if that information derives independent economic value from not being generally known by other people who can obtain economic value from it, and is the subject efforts that are reasonable under the circumstances to maintain its secrecy.

- An original equipment manufacturer is not required to alter the terms of any authorized repair provider arrangement, unless it contains a provision that waives, avoids, restricts, or limits the original equipment manufacturer's obligations under the bill.
- An original equipment manufacturer is not required to provide access to information that is provided to an authorized repair provider under the terms of its arrangement, except information that is necessary for the diagnosis, maintenance, or repair of digital electronic equipment.
- An original equipment manufacturer is not required to make available special documentation, tools, parts, or other devices or implements that would disable or override, without an owner's authorization, anti-theft, privacy, or security measures that the owner activates for digital electronic equipment. In other words, if a device has some sort of "repair mode" which the owner can activate which restricts access to or use of the device while it is being repaired by a third-party, the manufacturer is not required to provide the necessary tools or implements necessary to disable or bypass that "repair mode" on the device.
- An original equipment manufacturer is not required to make available any parts, tools, or documentation for the purposes of modifying digital electronic equipment or for the diagnosis, maintenance, or repair of such equipment in a manner that is in violation of federal law.
- The bill does not apply to a motor vehicle manufacturer, manufacturer of motor vehicle equipment, motor vehicle dealer acting in that capacity, or to any product or service of those entities.
- The bill does not apply to a medical device or other digital electronic product that are found in a medical setting, primarily and customarily used in the cure, mitigation, treatment, or prevention of disease in humans or animals, and that are generally not useful for other purposes. This would include specialized medical equipment, but would not include a cell phone or laptop being used by a medical professional during diagnosis or treatment, because they are generally useful for other purposes.
- The bill does not apply to a manufacturer or dealer of farming or forestry equipment acting in that capacity, or to any product or service of that manufacturer or dealer.¹²

Liability

The bill specifies that no original equipment manufacturer or authorized repair provider is liable for any damage or injury to digital electronic equipment by an independent repair provider or an equipment owner that occurs during the course of repair, diagnosis, maintenance, or modification of the equipment. By undertaking a repair, diagnosis, maintenance, or modification, the repair provider or owner assumes any risk of resulting damage. This includes:

¹² R.C. 1350.05.

- Indirect, incidental, special, or consequential damages;
- Loss of data, privacy, or profits; and
- Inability to use, or reduced functionality of, the digital electronic equipment.¹³

Penalties

Failure by an original equipment manufacturer to provide documentation, tools, or parts as required by the bill is an unfair or deceptive act or practice under the Consumer Sales Practices Law. The bill creates a cause of action for any person injured by such a violation and vests the Attorney General with the same powers and remedies available in the Consumer Sales Practices Law to enforce these provisions.¹⁴

HISTORY

Action	Date
Introduced	04-17-25

ANSB0176IN-136/ts

¹³ R.C. 1350.04(B).

¹⁴ R.C. 1350.04(A).