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OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
and Drafting

Legislative Budget
Office

S.B. 176
136th General Assembly

Fiscal Note & Local Impact Statement

[Click here for S.B. 176's Bill Analysis](#)

Version: As Introduced

Primary Sponsor: Sen. Blessing

Local Impact Statement Procedure Required: No

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Highlights

- The bill will not generate significant ongoing work for the Attorney General's Consumer Protection Section to enforce the Digital Fair Repair Act. Civil penalties deposited into the Consumer Protection Enforcement Fund (Fund 6310) may, to some degree, offset related costs.

Detailed Analysis

The bill enacts the Digital Fair Repair Act by (1) requiring manufacturers and sellers 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, and (2) prohibiting the use of parts pairing to prevent or impair the functionality of replacement parts installed by device owners or independent repair providers. It defines "digital electronic equipment" as a product that depends on digital electronics for its functioning and is valued over \$10, adjusted annually for inflation as calculated by the Department of Commerce.

The bill applies only to digital electronic equipment sold or used in Ohio 120 days after the bill's effective date. It also sets forth several exclusions to the requirement such as motor vehicles, farming and forestry equipment, and medical devices. See the [LSC bill analysis](#) for a complete list of exclusions.

The bill specifies that a manufacturer is not 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. As such, the owner assumes any risk of resulting damage.

Attorney General and courts

Failure to comply with the Digital Fair Repair Act is an unconscionable act or practice under the Consumer Sales Practices Act (CSPA). The Attorney General has broad authority to enforce the CSPA, including suing for injunctive relief and civil penalties. Depending upon the nature of the violation, the court is permitted to impose a civil penalty of up to between \$5,000 and \$25,000, some of which could be levied daily. Pursuant to current law, the civil penalties are distributed as follows: three-fourths, or 75%, to the state's Consumer Protection Enforcement Fund (Fund 6310) and one-fourth, or 25%, to the treasury of the county where the Attorney General's action is brought. The timing and magnitude of this potential revenue stream is uncertain. Typically, the Attorney General will try to negotiate a settlement and will take a matter to trial as a last resort.

Additionally, under the bill and the CSPA, a consumer has a private right of action and can sue the supplier to rescind the transaction or to recover the consumer's actual economic damages plus up to \$5,000 in noneconomic damages. If the supplier's violation is an act or practice that has already been declared unconscionable by the Attorney General or by a court, then the consumer may sue to rescind the transaction or recover three times the amount of the consumer's actual economic damages.

The manufacturer cannot be sued or held liable for damage caused by the actions independent repair shops or owners took to repair the equipment. The civil remedies under the CSPA are only for manufacturers that will not comply with providing the documentation, tools, and parts to keep a monopoly on the repair. Common pleas, municipal, and county courts in Ohio will use existing staff and resources to adjudicate the relatively small number of additional CSPA lawsuits that may stem from violations of the bill.

Department of Commerce

The bill requires the Department of Commerce (COM) to annually adjust the value threshold above which a product may qualify as digital electronic equipment. This adjustment would take place in November of each year and be based on the Consumer Price Index (all items, all urban consumers) as determined by the U.S. Department of Labor's Bureau of Labor Statistics. The bill requires this information to be published on COM's website. Although there might be some negligible administrative costs for doing so, this requirement otherwise has no fiscal effect on COM.