



Sen. Melinda Bush

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1 AMENDMENT TO SENATE BILL 715

2 AMENDMENT NO. _____. Amend Senate Bill 715 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Digital Right to Repair Act.

6 Section 5. Definitions. In this Act:

7 "Authorized repair provider" means an individual or
8 business that is unaffiliated with an original equipment
9 manufacturer and that has an arrangement with the original
10 equipment manufacturer, for a definite or indefinite period,
11 under which the original equipment manufacturer grants to the
12 individual or business a license to use a trade name, service
13 mark, or other proprietary identifier for the purposes of
14 offering the services of diagnosis, maintenance, or repair of
15 digital electronic equipment under the name of the original
16 equipment manufacturer, or other arrangement with the original

1 equipment manufacturer to offer such services on behalf of the
2 original equipment manufacturer. An original equipment
3 manufacturer that offers the services of diagnosis,
4 maintenance, or repair of its own digital electronic
5 equipment, and that does not have an arrangement described in
6 this subsection with an unaffiliated individual or business,
7 shall be considered an authorized repair provider with respect
8 to such equipment.

9 "Digital electronic equipment" or "equipment" means any
10 product that depends for its functioning, in whole or in part,
11 on digital electronics embedded in or attached to the product.

12 "Documentation" means any manual, diagram, reporting
13 output, service code description, schematic, or other guidance
14 or information used in effecting the services of diagnosis,
15 maintenance, or repair of digital electronic equipment.

16 "Embedded software" means any programmable instructions
17 provided on firmware delivered with digital electronic
18 equipment, or with a part for such equipment, for purposes of
19 equipment operation, including all relevant patches and fixes
20 made by the manufacturer of such equipment or part for these
21 purposes.

22 "Fair and reasonable terms" for obtaining a part or tool
23 or documentation means at costs and terms that are equivalent
24 to the most favorable costs and terms under which an original
25 equipment manufacturer offers the part, tool, or documentation
26 to an authorized repair provider:

1 (1) accounting for any discount, rebate, convenient
2 means of delivery, means of enabling fully restored and
3 updated functionality, rights of use, or other incentive
4 or preference the original equipment manufacturer offers
5 to an authorized repair provider, or any additional cost,
6 burden, or impediment the original equipment manufacturer
7 imposes on an independent repair provider;

8 (2) that are not conditioned on or imposing a
9 substantial obligation or restriction that is not
10 reasonably necessary for enabling the owner or independent
11 repair provider to engage in the diagnosis, maintenance,
12 or repair of digital electronic equipment made by or on
13 behalf of the original equipment manufacturer; and

14 (3) that are not conditioned on an arrangement as an
15 authorized repair provider.

16 For documentation, including any relevant updates, "fair
17 and reasonable terms" also means at no charge, except that,
18 when the documentation is requested in physical printed form,
19 a charge may be included for the reasonable actual costs of
20 preparing and sending the copy.

21 For software tools, "fair and reasonable terms" also means
22 at no charge and without requiring authorization or Internet
23 access or imposing impediments to access or use in the course
24 of effecting the diagnosis, maintenance, or repair and
25 enabling full functionality of digital electronic equipment,
26 in a manner that impairs the efficient and cost-effective

1 performance of any of those activities.

2 "Firmware" means a software program or set of instructions
3 programmed on digital electronic equipment, or on a part for
4 such equipment, to allow the equipment or part to communicate
5 within itself or with other computer hardware.

6 "Independent repair provider" means an individual or
7 business operating in this State that does not have an
8 arrangement as an authorized repair provider with an original
9 equipment manufacturer, is not affiliated with any individual
10 or business that has such an arrangement, and is engaged in the
11 services of diagnosis, maintenance, or repair of digital
12 electronic equipment, except that an original equipment
13 manufacturer or, with respect to that original equipment
14 manufacturer, an individual or business that has such an
15 arrangement with that original equipment manufacturer or that
16 is affiliated with an individual or business that has such an
17 arrangement with that original equipment manufacturer, shall
18 be considered an independent repair provider for purposes of
19 those instances in which it engages in the services of
20 diagnosis, maintenance, or repair of digital electronic
21 equipment that is not manufactured by or sold under the name of
22 that original equipment manufacturer.

23 "Manufacturer of motor vehicle equipment" means a business
24 engaged in the business of manufacturing or supplying
25 components that are used in the manufacture, maintenance, or
26 repair of a motor vehicle.

1 "Motor vehicle" means a vehicle that is designed for
2 transporting persons or property on a street or highway and is
3 certified by the manufacturer under all applicable federal
4 safety and emissions standards and requirements for
5 distribution and sale in the United States. "Motor vehicle"
6 does not include:

7 (1) a motorcycle; or

8 (2) a recreational vehicle or an auto home equipped
9 for habitation.

10 "Motor vehicle dealer" means an individual or business
11 that, in the ordinary course of business, is engaged in the
12 business of selling or leasing new motor vehicles to an
13 individual or business pursuant to a franchise agreement, has
14 obtained a license under the Illinois Vehicle Code, and is
15 engaged in the services of diagnosis, maintenance, or repair
16 of motor vehicles or motor vehicle engines pursuant to that
17 franchise agreement.

18 "Motor vehicle manufacturer" means a business engaged in
19 the business of manufacturing or assembling new motor
20 vehicles.

21 "Original equipment manufacturer" means a business engaged
22 in the business of selling, leasing, or otherwise supplying
23 new digital electronic equipment manufactured by or on behalf
24 of itself to any individual or business.

25 "Owner" means an individual or business that owns or
26 leases digital electronic equipment purchased or used in this

1 State.

2 "Part" means any replacement part, either new or used,
3 made available by an original equipment manufacturer for
4 purposes of effecting the services of maintenance or repair of
5 digital electronic equipment manufactured by or on behalf of,
6 sold, or otherwise supplied by the original equipment
7 manufacturer.

8 "Tools" means any software program, hardware implement, or
9 other apparatus used for diagnosis, maintenance, or repair of
10 digital electronic equipment, including software or other
11 mechanisms that provision, program, or pair a new part,
12 calibrate functionality, or perform any other function
13 required to bring the product back to fully functional
14 condition.

15 "Trade secret" has the meaning ascribed to that term in
16 the Illinois Trade Secrets Act.

17 Section 10. Availability of parts; requirements.

18 (a) For digital electronic equipment and parts for such
19 equipment sold or used in this State, an original equipment
20 manufacturer shall make available, for purposes of diagnosis,
21 maintenance, or repair of such equipment, to any independent
22 repair provider or to the owner of digital electronic
23 equipment manufactured by or on behalf of, or sold or
24 otherwise supplied by the original equipment manufacturer, on
25 fair and reasonable terms, documentation, parts, and tools,

1 inclusive of any updates to information or embedded software.
2 Nothing in this subsection requires an original equipment
3 manufacturer to make available a part if the part is no longer
4 available to the original equipment manufacturer.

5 (b) For equipment that contains an electronic security
6 lock or other security-related function, the original
7 equipment manufacturer shall make available to the owner and
8 to independent repair providers, on fair and reasonable terms,
9 any special documentation, tools, and parts needed to disable
10 the lock or function, and to reset it when disabled in the
11 course of diagnosis, maintenance, or repair of the equipment.
12 Such documentation, tools, and parts may be made available by
13 means of an appropriate secure system.

14 (c) When the original equipment manufacturer has made an
15 express warranty with respect to digital electronic equipment
16 and the wholesale price of the equipment is \$100 or more, the
17 manufacturer shall provide such parts, tools, and
18 documentation as needed to enable the repair of the equipment
19 during the warranty period, at an equitable price and
20 convenience of delivery and of enabling functionality, in
21 light of:

22 (1) the actual cost to the original equipment
23 manufacturer to prepare and distribute the part, tool, or
24 documentation, exclusive of any research and development
25 costs incurred;

26 (2) the ability of owners and independent repair

1 providers to afford the part, tool, or documentation; and

2 (3) the means by which the part, tool, or
3 documentation is distributed.

4 Section 15. Enforcement by Attorney General. Violation of
5 any of the provisions of this Act is an unlawful practice under
6 the Consumer Fraud and Deceptive Business Practices Act. All
7 remedies, penalties, and authority granted to the Attorney
8 General by that Act shall be available to him or her for the
9 enforcement of this Act.

10 Section 20. Limitations.

11 (a) Nothing in this Act shall be construed to require an
12 original equipment manufacturer to divulge a trade secret to
13 an owner or an independent service provider except as
14 necessary to provide documentation, parts, and tools on fair
15 and reasonable terms.

16 (b) No provision in this Act shall be construed to alter
17 the terms of any arrangement in force between an authorized
18 repair provider and an original equipment manufacturer,
19 including, but not limited to, the performance or provision of
20 warranty or recall repair work by an authorized repair
21 provider on behalf of an original equipment manufacturer
22 pursuant to such arrangement, except that any provision in
23 such terms that purports to waive, avoid, restrict, or limit
24 the original equipment manufacturer's obligations to comply

1 with this Act shall be void and unenforceable.

2 Section 25. Exclusions. Nothing in this Act applies to a
3 motor vehicle manufacturer, manufacturer of motor vehicle
4 equipment, or motor vehicle dealer acting in that capacity, or
5 to any product or service of a motor vehicle manufacturer,
6 manufacturer of motor vehicle equipment, or motor vehicle
7 dealer acting in that capacity.

8 Section 30. Applicability. This Act applies with respect
9 to equipment sold or in use on or after the effective date of
10 this Act.

11 Section 99. Effective date. This Act takes effect January
12 1, 2022.".