



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB3601

Introduced 2/17/2023, by Rep. Michelle Mussman

SYNOPSIS AS INTRODUCED:

New Act
815 ILCS 505/2BBBB new

Creates the Educational Technology Right to Repair Act. Provides that, for educational technology equipment and parts for educational technology equipment sold or used in the State, an original equipment manufacturer shall make available to an independent repair provider, solely for the purpose of repairing educational technology equipment, on fair and reasonable terms, any documentation, parts, service access methods, and tools, including, but not limited to, any updates to information, firmware, or embedded software that is needed for purposes of repair of educational technology equipment and training courses and materials on the operation, inspection, diagnosis, maintenance, and repair of educational technology equipment. Provides that a violation of any of the provisions of the Act is an unlawful practice under the Consumer Fraud and Deceptive Business Practices Act. Provides for penalties. Provides that nothing in the Act shall require an original equipment manufacturer to divulge a trade secret to an independent repair provider. Amends the Consumer Fraud and Deceptive Business Practices Act making a conforming change. Effective January 1, 2024.

LRB103 28339 SPS 54718 b

1 AN ACT concerning business.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

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

6 Section 5. Definitions. As used in this Act:

7 "Authorized repair provider" means an individual or
8 business who has an arrangement with the original equipment
9 manufacturer under which the original equipment manufacturer
10 grants to the individual or business a license to use a trade
11 name, service mark, or other proprietary identifier for the
12 purposes of offering the services of diagnosis, maintenance,
13 or repair of educational technology equipment under the name
14 of the original equipment manufacturer, or other arrangement
15 with the original equipment manufacturer to offer such
16 services on behalf of the original equipment manufacturer. An
17 original equipment manufacturer who offers the services of
18 diagnosis, maintenance, or repair of its own educational
19 technology equipment, and who does not have an arrangement
20 with an unaffiliated individual or business, shall be
21 considered an authorized repair provider with respect to
22 educational technology equipment.

23 "Documentation" means any manual, diagram, reporting

1 output, service code description, schematic diagram, security
2 codes, passwords, or other guidance or information used in
3 effecting the services of diagnosis, maintenance, or repair of
4 educational technology equipment.

5 "Educational technology equipment" means any
6 self-contained portable personal computer, including
7 accessories or attachments that come as standard equipment
8 with the computer, purchased by a publicly-funded school and
9 used by students at home or in the classroom. "Educational
10 technology equipment" does not include devices that are sold
11 through a retail seller or under a specific
12 business-to-business contract.

13 "Fair and reasonable terms" means making available parts,
14 tools, or documentation as follows:

15 (1) that documentation is made available by the
16 original equipment manufacturer at no charge, except that,
17 when the documentation is requested in physical printed
18 form, a charge may be included for the reasonable, actual
19 costs of preparing and sending the copy;

20 (2) that tools are made available by the original
21 equipment manufacturer at no charge and without requiring
22 authorization or internet access for use or operation of
23 the tool, or imposing impediments to access or use of the
24 tools to diagnose, maintain, or repair and enable full
25 functionality of digital electronic equipment, or in a
26 manner that impairs the efficient and cost-effective

1 performance of any the diagnosis, maintenance, or repair,
2 except that, when the tool is requested in physical form,
3 a charge may be included for the reasonable, actual costs
4 of preparing and sending the tool; and

5 (3) that parts are made available by the original
6 equipment manufacturer, either directly or through an
7 authorized repair provider, to independents repair
8 providers and owners at costs and terms that are
9 equivalent to the most favorable costs and terms under
10 which an original equipment manufacturer offers the parts
11 to an authorized repair provider and that:

12 (A) accounts for any discount, rebate, convenient
13 and timely means of delivery, means of enabling fully
14 restored and updated functionality, rights of use, or
15 other incentive and preference the original
16 manufacturer offers to an authorized repair provider,
17 or any additional cost, burden, or impediment the
18 original equipment manufacturer imposes on an owner or
19 independent repair provider;

20 (B) is not conditioned on or imposing a
21 substantial obligation or restriction that is not
22 reasonably necessary for enabling the owner or
23 independent repair provider to engage in the
24 diagnosis, maintenance, or repair of equipment made by
25 or on behalf of the original equipment manufacturer;
26 and

1 (C) is not conditioned on an arrangement with the
2 original equipment manufacturer.

3 "Independent repair provider" means an individual or
4 business operating in this State that is unaffiliated with an
5 original equipment manufacturer that is engaged in the
6 services of diagnosis, maintenance, or repair of educational
7 technology equipment.

8 "Necessary software updates" means security updates to
9 patch exploits that, if left unaddressed, leave the user
10 vulnerable to cyber crime, bug fixes, patches, corrections, or
11 other modifications to Software which do not necessarily add
12 enhanced features or performance characteristics released by
13 the original equipment manufacturer or operating system
14 developer.

15 "Original equipment manufacturer" means a business engaged
16 in the business of selling, leasing, or otherwise supplying
17 new educational technology equipment manufactured by or on
18 behalf of itself, to any individual or business.

19 "Operating system" means a program that acts as the
20 interface between educational technology equipment's hardware
21 and its software, managing the resources of the equipment and
22 providing common services for computer programs.

23 "Operating system developer" means a business engaged in
24 the business of selling, leasing, licensing, or otherwise
25 supplying operating system executable code, embedded software,
26 or firmware for use by educational technology equipment by or

1 on behalf of itself, to any individual or business.

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 educational technology equipment manufactured by or on behalf
6 of, sold, or otherwise supplied by the original equipment
7 manufacturer.

8 "School" means an elementary or secondary school or
9 another entity which owns or leases educational technology
10 equipment for use by students in such an institution. It
11 includes personnel who manage and service educational
12 technology equipment in their official capacity at a school,
13 including, but not limited to, information technology
14 professionals and technology specialists.

15 "Tools" means any software program, hardware implement, or
16 other apparatus used for diagnosis, maintenance, or repair of
17 educational technology equipment, including software or other
18 mechanisms that provision, program, or pair a new part,
19 calibrate functionality, or perform any other function
20 required to bring the product back to fully functional
21 condition, including any updates.

22 "Trade secret" has the meaning given to that term in
23 subsection (d) of Section 2 of the Illinois Trade Secrets Act.

24 Section 10. Requirements.

25 (a) For educational technology equipment and parts for

1 educational technology equipment that are sold or used in this
2 State, an original equipment manufacturer shall make available
3 to any independent repair provider and owner of educational
4 technology equipment manufactured by on behalf of, or sold by
5 such original equipment manufacturer, on fair and reasonable
6 terms, any documentation, parts, and tools, required for the
7 diagnosis, maintenance, or repair of educational technology
8 equipment and parts for educational technology equipment,
9 inclusive of any updates to information. The documentation
10 parts and tools shall be made available either directly by the
11 original equipment manufacturer or via an authorized repair
12 provider.

13 (b) For equipment that contains an electronic security
14 lock or other security-related function, the original
15 equipment manufacturer shall make available to any owner and
16 independent repair provider, on fair and reasonable terms, any
17 special documentation, tools, and parts needed to access and
18 reset the lock or function when disabled in the course of
19 diagnosis, maintenance, or repair of educational technology
20 equipment. The documentation, tools, and parts may be made
21 available through appropriate secure release systems.

22 (c) For educational technology equipment sold or used in
23 this State, an original equipment manufacturer shall provide
24 functional parts to effect the repair of equipment for at
25 least 10 years after the date a product model or type was
26 manufactured.

1 (d) For educational technology equipment sold or used in
2 this State, an original equipment manufacturer operating
3 system developer shall provide necessary software updates of
4 equipment for at least 10 years after the date a product model
5 or type was manufactured.

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

12 Section 20. Limitations.

13 (a) Nothing in this Act shall require an original
14 equipment manufacturer to divulge any trade secret to any
15 owner or independent service provider.

16 (b) Nothing in this Act shall alter the terms of any
17 arrangement in force between an authorized repair provider and
18 an original equipment manufacturer, including, but not limited
19 to, the performance or provision of warranty or recall repair
20 work by an authorized repair provider on behalf of an original
21 equipment manufacturer and pursuant to such arrangement,
22 except that any provision in the terms that purports to waive,
23 avoid, restrict or limit the original equipment manufacturer's
24 obligations to comply with this Act shall be void and

1 unenforceable.

2 (c) No original equipment manufacturer or authorized
3 repair provider shall be liable for any damage or injury
4 caused to any educational technology equipment by an
5 independent repair provider or owner which occurs during the
6 course of repair, diagnosis, or maintenance.

7 Section 25. Exclusions. Nothing in this Act shall apply to
8 any smartphones, tablets without an attached keyboard, or
9 similar devices.

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

13 Section 90. The Consumer Fraud and Deceptive Business
14 Practices Act is amended by adding Section 2BBBB as follows:

15 (815 ILCS 505/2BBBB new)

16 Sec. 2BBBB. Violations of the Educational Technology Right
17 to Repair Act. A person who violates the Educational
18 Technology Right to Repair Act commits an unlawful practice
19 within the meaning of this Act.

20 Section 99. Effective date. This Act takes effect January
21 1, 2024.