

Urge NO Vote HB 2688
Testimony of the Computing Technology Industry Association
By Amanda Dalton, CompTIA-Oregon

Chair Barker and members of the Committee, thank you for the opportunity to testify today. My name is Amanda Dalton and I serve as counsel for the western region of the Computing Technology Industry Association, or CompTIA. CompTIA's western region plays an active role in national tech growth, particularly in Oregon.

As background, CompTIA is a global tech industry trade association representing over 2,000 member companies of all sizes, including companies in the telecom, software, hardware, and system integration verticals. We operate an extensive advocacy and public policy practice that touches all fifty states, and we champion member-driven priorities that impact all tech companies.

It is important to state up front that we support the ability of consumers to freely and safely repair their electronic devices. In fact, there are currently many different choices available to consumers to repair a device, either by a professional or through their own efforts. But that's not really what HB 2688 is about. This legislation would mandate the disclosure of proprietary information, access to diagnostic and repair documentation, updates to software, and original equipment manufacturer parts for a predetermined cost to anyone who requests it. While this may seem fair to some, dictating how a company operates when it comes to use and access to their intellectual property is in fact, anything but fair.

Of particular concern with this bill is the potential to weaken the security features in a host of different electronic devices. To be clear, this bill isn't about a broken screen on a phone or a dead battery. As specified in the bill, manufacturers of any product that connects to embedded software on which it operates will be subject to the information disclosure requirements to any party requesting. This includes servers that host critical infrastructure including servers like those utilized by the State of Oregon and security systems designed to keep us safe.

The security of user information on these products is of the utmost importance to manufacturers and the consumers that use them. Most electronics are highly-integrated products, only intended to be dismantled by properly trained professionals. Improper handling of high-risk components or alterations threaten consumer safety and may lead to serious injuries such as burns, blindness, and death. Additionally, as you are all well aware, personally identifiable information about Oregon citizens are kept on secured servers used by State agencies. Should an inexperienced repair person have access to that equipment, that security could easily be compromised. While we recognize Rep. Nosse's stated intent for this bill is to provide convenience to owners for repairing their devices, we believe that there would be serious unintended consequences to the safety and security of those devices should HB 2688 be enacted.

Furthermore, manufacturers will be required to give up sensitive and protected intellectual property. HB 2688 requires the copyright holder to provide the copyrighted work to the service provider carte blanche. The bill brings much grey area to intellectual property law and does not sufficiently address the terms, consequences and resultant rights' relationships such an ownership transfer would create. Providing unauthorized repair facilities and individuals with access to proprietary information, parts, tools and equipment without contractual safeguards creates OEM (original equipment manufacturer), supplier, distributor and repair network risk that would essentially be mandated by the State of Oregon.

While HB 2688 does have an exemption for "trade secrets" this exemption is weak and doesn't account for intellectual property that would have to be disclosed in order to access the part at issue. For example, if a printer's motor is the piece that has broken down, but there are three other proprietary parts that must be accessed prior to the motor, would the manufacturer be required to give up all the IP in order to be compliant with this bill? Or would repair shops be upset that they do not have full access to all information and choose to bring litigation against the manufacturer for non-compliance?

It's also important to recognize that this type of legislation pits small businesses against each other, creating a winners and losers scenario. We understand that independent repair shops want access to confidential and proprietary information from manufacturers' supply chains to help their own businesses, but the legislation could invalidate the contracts, investments, employment, and the hard work of authorized repair shops here in Oregon and across the country by allowing independent repair shops to circumvent required training and compliance provisions established by manufacturers.

As you can see there are several large questions that remain unanswered by this legislation. For these reasons and more, we ask you to oppose HB 2688.