

SB 1596 A STAFF MEASURE SUMMARY
Senate Committee On Energy and Environment

Carrier: Sen. Sollman

Action Date: 02/13/24

Action: Do pass with amendments and requesting subsequent referral to Ways and Means be rescinded. (Printed A-Eng.)

Vote: 4-1-0-0

Yeas: 4 - Findley, Golden, Lieber, Sollman

Nays: 1 - Hayden

Fiscal: Has minimal fiscal impact

Revenue: No revenue impact

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Meeting Dates: 2/8, 2/13

WHAT THE MEASURE DOES:

The measure requires a manufacturer to make available to an owner or independent repair provider on fair and reasonable terms any documentation, tool, part, or other device or implement that is used to diagnose, maintain, repair, or update certain electronic devices if it is made available to an authorized service provider. The measure authorizes the Attorney General to initiate a civil action for violations outlined in measure that occur on or after July 1, 2027.

Detailed Summary:

Requires an “original equipment manufacturer” (Manufacturer) to make available to an owner or an independent repair provider (Independent Provider) on fair and reasonable terms any documentation, tool, part, or other device or implement that is made available to an “authorized service provider” (Authorized Provider) to diagnose, maintain, repair, or update consumer electronic equipment (Equipment). Defines "parts pairing" as a Manufacturer’s practice of using software to identify component parts through a unique identifier. Prohibits the use of parts pairing in equipment that is manufactured and sold in this state, after January 1, 2025, to:

- prevent or inhibit an Independent Provider or owner from installing or enabling the function of an otherwise functional replacement part or a component of Equipment, including a part that the Manufacturer has not approved;
- reduce functionality or performance of Equipment; or
- cause Equipment to display misleading alerts or warnings about unidentified parts that the owner cannot immediately dismiss.

Stipulates the requirements do not:

- require a Manufacturer to disclose trade secret or license intellectual property;
- alter the terms of agreement between a Manufacturer and an Authorized Provider;
- impose liability on a Manufacturer for any injury or damage the Independent Provider or owner causes while diagnosing, maintaining, repairing or updating Equipment;
- require a Manufacturer to make anything available that would disable or override, without an owner’s authorization, any anti-theft measures set by an owner;
- require a Manufacturer to provide any part the Manufacturer no longer makes or provides to Authorized Providers;
- prohibits parts pairing for the purpose of reducing functionality of a battery if thermal event occurs.

Exempts certain items from requirements of Act.

Requires an Authorized Provider and an Independent Provider to post a notice with certain information at the place of business, on their website, or provide directly to customers and display all provider’s repair certifications.

This summary has not been adopted or officially endorsed by action of the committee.

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Requires, prior to repair, the Independent Provider discloses that they are not an Authorized Provider and whether the replacement parts are used or are provided by suppliers other than the Manufacturer.

Authorizes the Attorney General (AG) to execute and cause investigative demand to be served on a Manufacturer if the AG determines, in response to a consumer complaint, that a Manufacturer has, or controls, information relevant to an investigation of a violation of requirements of the Act. Authorizes the AG to bring a civil action in circuit court to impose a civil penalty of not more than \$1,000 a day, or to obtain an injunction if the AG finds a Manufacturer has violated the requirements of the Act. Requires AG to deposit proceeds from civil penalties to the Department of Justice Protection and Education Revolving Account. Requires AG to submit report to Interim Legislative Committee concerned with consumer protection on the number and nature of complaints received related to Act no later than December 31, 2025. Stipulates AG's authority to enforce Act applies to violations that occur on or after July 1, 2027.

Stipulates the Act does not apply to cell phones manufactured and first sold in state before July 1, 2021; or consumer electronic equipment, other than a cell phone, that was manufactured and first sold before July 1, 2015.

ISSUES DISCUSSED:

- Purpose of parts pairing technology
- Operations of independent and authorized repair providers
- Cost of repairing consumer electronic equipment
- Typical types of equipment repairs
- Keeping personal information secure
- Policies enacted by other states

EFFECT OF AMENDMENT:

Replaces measure but maintains majority of Act with exception of certain provisions.

Amended provisions include:

- Removes the requirement that a Manufacturer makes available any documentation, tool, or part necessary to disable and reset any electronic security lock or other security function that is, or must be, disabled or reset while diagnosing, maintaining, or repairing the Equipment.
- Clarifies that a Manufacturer is not required to make anything available that would disable or override any privacy measures set by an owner without the owner's authorization.
- Stipulates that Manufacturer is not required to provide any part the Manufacturer no longer makes or provides to Authorized Provider.
- Stipulates requirement does not apply to electric toothbrushes.
- Clarifies that AG action is in response to consumer complaint.
- Clarifies that any trade secret information obtained by the AG under Act is confidential and not subject to disclosure.
- Stipulates AG's authority applies to violations that occur on or after July 1, 2027 and requires AG to deposit civil penalty proceeds to the Department of Justice Protection and Education Revolving Account.
- Requires AG to submit report to Interim Legislative Committee concerned with consumer protection on the number and nature of complaints received related to Act.
- Modifies parts pairing provisions. Stipulates that consumer electronic equipment that is manufactured and sold in this state, after January 1, 2025 may not use parts pairing to:
 - prevent or inhibit an Independent Provider or owner from installing or enabling the function of an otherwise functional replacement part or a component of consumer equipment, including a part that the Manufacturer has not approved;
 - reduce functionality or performance; or
 - cause equipment to display misleading alerts or warnings about unidentified parts that the owner cannot immediately dismiss.

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- Clarifies parts pairing provisions does not prohibit parts pairing for the purpose of reducing the functionality of a battery if a thermal event occurs.
- Expands required steps by an authorized Provider and an Independent Provider must take prior to repairing consumer electronic equipment to include informing the customer about any potential safety concerns about the parts being installed.

BACKGROUND:

According to "[Nixing the Fix: An FTC Report to Congress on Repair Restrictions](#)," many consumer products have become difficult to fix and maintain and many repairs require specialized tools, difficult-to-obtain parts, and access to proprietary diagnostic software. When certain home electronics are not functioning properly, the consumer may face the choice of replacing the product or paying for repair services of a business authorized by the original manufacturer to make the repair. In addition, attempting to repair the product at home or through a service not authorized by the original manufacturer may void the product's warranty, and the tools and instructions necessary to make the repair may not be available.