

A-Engrossed Senate Bill 1596

Ordered by the Senate February 16
Including Senate Amendments dated February 16

Sponsored by Senators SOLLMAN, DEMBROW, Representative NERON, Senators GOLDEN, WOODS, Representatives BYNUM, NOSSE; Senators CAMPOS, FREDERICK, GELSER BLOUIN, GORSEK, JAMA, LIEBER, MANNING JR, PATTERSON, PROZANSKI, TAYLOR, THATCHER, WAGNER, Representatives ANDERSEN, BOWMAN, CHAICHI, DEXTER, FAHEY, GOMBERG, HARTMAN, HELM, HOLVEY, HUDSON, LEVY E, LIVELY, MARSH, MCLAIN, NATHANSON, NELSON, NGUYEN D, NGUYEN H, PHAM K, REYNOLDS, RUIZ, SMITH G, TRAN, WALTERS (Presession filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: Requires someone that makes electronic items for consumers to give on fair terms to those who look at, maintain or fix the items what they need to maintain or fix the items. Fair terms means, in part, giving independent people what they need on the same terms as people the maker authorizes to make fixes. Lets the state fine people who violate the Act. (Flesch Readability Score: 61.8).

[Digest: Requires a person that makes electronic items for consumers to give on fair terms to people who look at, maintain or repair the items what they need to do effective maintenance or make effective repairs. Fair terms means, in part, giving independent people what they need on the same terms as people the maker authorizes to make repairs. Lets the state fine people who violate the Act. Takes effect 91 days after session ends. (Flesch Readability Score: 61.1).]

Requires an original equipment manufacturer to make available to an owner of consumer electronic equipment or an independent repair provider on fair and reasonable terms any documentation, tool, part or other device or implement that the original equipment manufacturer makes available to an authorized service provider for the purpose of diagnosing, maintaining or repairing consumer electronic equipment. Permits the Attorney General **in response to a consumer complaint** to make an investigative demand of a manufacturer that appears to have violated the Act. Specifies the contents of the investigative demand and the method of service. Subjects a manufacturer that violates the Act to a civil penalty of not more than \$1,000 for each day of the violation.

[Takes effect on the 91st day following adjournment sine die.]

A BILL FOR AN ACT

1
2 Relating to a right to repair consumer electronic equipment; creating new provisions; and amending
3 ORS 180.095.

4 Whereas the Legislative Assembly finds and declares that reusing, repairing and extending the
5 product life of electronics is a critical component of Oregon's 2050 Vision and Framework for
6 Action, that repairing and reusing electronics rather than throwing out electronics reduces waste,
7 greenhouse gas emissions and raw material use and that barriers to repairing electronics make ac-
8 cess to technology difficult by increasing costs; now, therefore,

9 **Be It Enacted by the People of the State of Oregon:**

10 **SECTION 1. (1) As used in this section and section 2 of this 2024 Act:**

11 **(a) "Authorized service provider" means:**

12 **(A) A person that has an arrangement with an original equipment manufacturer under**
13 **which:**

14 **(i) The original equipment manufacturer grants a license to the person for the use of,**
15 **or otherwise permits the person to use, the original equipment manufacturer's trade name,**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 service mark or other proprietary identification for the purpose of offering the services of
2 diagnosing, maintaining, repairing or updating consumer electronic equipment; or

3 (ii) The person offers the services of diagnosing, maintaining, repairing or updating con-
4 sumer electronic equipment on behalf of the original equipment manufacturer or under the
5 original equipment manufacturer's warranty; or

6 (B) An original equipment manufacturer, but only in instances where the original equip-
7 ment manufacturer does not have an arrangement described in subparagraph (A) of this
8 paragraph and offers the services of diagnosing, maintaining, repairing or updating consumer
9 electronic equipment that the original equipment manufacturer makes or sells.

10 (b) "Consumer electronic equipment" means a product that:

11 (A) Functions, in whole or in part, on the basis of digital electronics that are embedded
12 within or attached to the product;

13 (B) Is tangible personal property;

14 (C) Is generally used for personal, family or household purposes;

15 (D) Is sold, used or supplied in this state one year or more after the product was first
16 manufactured and one year or more after the product was first sold or used in this state;
17 and

18 (E) Might be, but is not necessarily, capable of attachment to or installation in real
19 property.

20 (c) "Documentation" means any manual, diagram, reporting output, service code de-
21 scription, schematic diagram, security code, password or other guidance or information that
22 enables a person to diagnose, maintain, repair or update consumer electronic equipment.

23 (d) "Fair and reasonable terms" means terms under which an original equipment man-
24 ufacturer:

25 (A) Makes documentation available at no charge, except that the original equipment
26 manufacturer may charge for the reasonable and actual costs of printing, preparing and
27 sending or preparing and sending documentation that a person requests in print;

28 (B) Makes tools for diagnosing, maintaining, repairing or updating consumer electronic
29 equipment available at no charge and without impeding access to the tools or the efficient
30 and cost-effective use of the tools, except that the original equipment manufacturer may
31 charge for the reasonable and actual costs of preparing and shipping a physical tool that a
32 person requests; and

33 (C) Makes parts available directly or through an authorized service provider to:

34 (i) An independent repair provider or an owner at costs and on terms that are equivalent
35 to the most favorable costs and terms at which the original equipment manufacturer offers
36 the parts to an authorized service provider and that:

37 (I) Account for any discount, rebate, convenient means of delivery, means of enabling
38 fully restored and updated functionality, rights of use or other incentive or preference the
39 original equipment manufacturer offers to an authorized service provider, or that impose any
40 additional cost, burden or impediment on an independent repair provider or an owner that
41 the original equipment manufacturer also imposes on an authorized service provider;

42 (II) Do not impose a substantial condition, obligation or restriction that is not reasonably
43 necessary to enable an independent repair provider or an owner to diagnose, maintain, repair
44 or update consumer electronic equipment that the original equipment manufacturer makes
45 or sells; and

1 (III) Do not require an independent repair provider or an owner to enter into an ar-
2 rangement described in paragraph (a)(A) of this subsection; and

3 (ii) All authorized service providers that the original equipment manufacturer permits,
4 by contract or otherwise, to sell parts to independent repair providers and owners, without:

5 (I) Imposing allocation limitations or advertising restrictions upon the authorized service
6 provider as a means of retaliation or as a means of hindering the authorized service provider
7 in selling parts by any means; or

8 (II) Imposing a substantial condition, obligation or restriction that is not reasonably
9 necessary to enable an independent repair provider or an owner to diagnose, maintain, repair
10 or update consumer electronic equipment that the original equipment manufacturer makes
11 or sells.

12 (e) "Independent repair provider" means a person that:

13 (A) Engages in the business of diagnosing, maintaining, repairing or updating consumer
14 electronic equipment in this state but is not an authorized service provider; and

15 (B) Possesses a valid and unexpired certification that demonstrates that the person has
16 the technical capabilities and competence necessary to safely, securely and reliably repair
17 consumer electronic equipment in accordance with widely accepted standards, such as a
18 Wireless Industry Service Excellence Certification, an A+ certification from the Computing
19 Technology Industry Association, a National Appliance Service Technician Certification or
20 another certification that an original equipment manufacturer accepts as evidence that the
21 person can perform safe, secure and reliable repairs to consumer electronic equipment that
22 the original equipment manufacturer makes or sells.

23 (f) "Original equipment manufacturer" means a person that engages in the business of
24 selling, leasing or otherwise supplying to another person new consumer electronic equipment
25 that the person makes or has made on the person's behalf.

26 (g) "Owner" means a person that owns or leases from a lessor consumer electronic
27 equipment that the person or the lessor purchased or used in this state.

28 (h) "Part" means a new or used replacement component for consumer electronic equip-
29 ment that an original equipment manufacturer makes available for the purpose of main-
30 taining, repairing or updating consumer electronic equipment that the original equipment
31 manufacturer makes or sells.

32 (i) "Parts pairing" means a manufacturer's practice of using software to identify com-
33 ponent parts through a unique identifier.

34 (j) "Tool" means software, a hardware implement or an apparatus by means of which a
35 person can diagnose, maintain, repair or update consumer electronic equipment including
36 any software, or a mechanism that provisions, programs or pairs, a new part, calibrates
37 functionality or performs another function that is necessary to update or restore a product
38 to a fully functional condition.

39 (k) "Trade secret" has the meaning given that term in ORS 646.461.

40 (L)(A) "Video game console" means a computing device, and components and peripherals
41 for the computing device, that is intended primarily for playing interactive video games.

42 (B) "Video game console" does not include a general purpose personal computer that has
43 the capability to run video games alongside other computing functions.

44 (2)(a) An original equipment manufacturer shall make available to an owner or an inde-
45 pendent repair provider on fair and reasonable terms any documentation, tool, part or other

1 device or implement that the original equipment manufacturer makes available to an au-
2 thorized service provider for the purpose of diagnosing, maintaining, repairing or updating
3 consumer electronic equipment that the original equipment manufacturer makes or sells and
4 that is sold or used in this state.

5 (b) For consumer electronic equipment that is manufactured for the first time, and first
6 sold or used in this state, after January 1, 2025, an original equipment manufacturer may
7 not use parts pairing to:

8 (A) Prevent or inhibit an independent repair provider or an owner from installing or en-
9 abling the function of an otherwise functional replacement part or a component of consumer
10 electronic equipment, including a replacement part or a component that the original equip-
11 ment manufacturer has not approved;

12 (B) Reduce the functionality or performance of consumer electronic equipment; or

13 (C) Cause consumer electronic equipment to display misleading alerts or warnings, which
14 the owner cannot immediately dismiss, about unidentified parts.

15 (3) This section does not:

16 (a) Require an original equipment manufacturer to disclose a trade secret or license in-
17 tellectual property, including copyrights or patents, to an independent repair provider or an
18 owner except as necessary to provide, on fair and reasonable terms, any documentation, tool,
19 part or other device or implement used to diagnose, maintain, repair or update consumer
20 electronic equipment.

21 (b) Alter the terms of any agreement or arrangement between an original equipment
22 manufacturer and an authorized service provider including, but not limited to, the authorized
23 service provider's performance or provision of warranty service or recall repair work on the
24 original equipment manufacturer's behalf under the agreement or arrangement, except that
25 any provision in the agreement or arrangement that purports to waive, restrict or limit the
26 original equipment manufacturer's compliance with this section is void and unenforceable.

27 (c) Impose liability upon an original equipment manufacturer for any bodily injury or
28 damage to consumer electronic equipment that an independent repair provider or an owner
29 causes while diagnosing, maintaining, repairing or updating the consumer electronic equip-
30 ment using documentation, tools, parts or other devices or implements that the original
31 equipment manufacturer made available on fair and reasonable terms to an authorized ser-
32 vice provider, an independent repair provider or an owner before the date of the diagnosis,
33 maintenance, repair or update, except that an original equipment manufacturer remains li-
34 able to the extent that the laws of this state provide for strict liability for defects in the
35 design or manufacture of the consumer electronic equipment.

36 (d) Require an original equipment manufacturer to make available special documentation,
37 tools, parts or other devices or implements that would disable or override, without an
38 owner's authorization, anti-theft or privacy security measures that the owner sets for con-
39 sumer electronic equipment.

40 (e) Require an original equipment manufacturer to provide to an independent repair
41 provider or an owner any part that the equipment manufacturer no longer makes or no
42 longer provides to authorized service providers.

43 (f) Prohibit parts pairing for the purpose of reducing the functionality of a battery if a
44 thermal event occurs.

45 (g) Apply to:

1 (A) A person that is engaged in the business of manufacturing or assembling new motor
2 vehicles or in the business of selling or leasing new motor vehicles and offering the service
3 of diagnosing, maintaining or repairing motor vehicles or motor vehicle engines under the
4 terms of a franchise agreement, or to the person's products or services;

5 (B) A product or service or equipment that:

6 (i) Has never been available for retail sale to a consumer;

7 (ii) Is a medical device, as defined in the Federal Food, Drug, and Cosmetic Act, 21 U.S.C.
8 301 et seq., or a digital electronic product, software, control equipment or a related product
9 manufactured for or service provided for use in diagnosis or monitoring in an acute care
10 hospital, a long term care facility such as a nursing home or skilled nursing facility, a
11 physician's office, an urgent care center, an outpatient clinic, a home setting where health
12 care is provided by or at the direction of a licensed health care provider or an emergency
13 medical service facility or for use in diagnosis or monitoring at a site where health care is
14 routinely delivered on premises that are not otherwise a health care facility, such as a
15 medical clinic within a school;

16 (iii) Provides heat, ventilation or air conditioning or recharges refrigerant gases;

17 (iv) Is a system, mechanism or series of mechanisms that generates, stores or combines
18 generation and storage of electrical energy from solar radiation;

19 (v) Is a video game console; or

20 (vi) Is a system that stores electrical energy for a period of time and transmits the en-
21 ergy after storage, that is interconnected with a transmission or distribution system and
22 that is approved by an electric utility or located on a customer's side of an electric utility
23 meter in accordance with an applicable utility tariff or interconnection agreement;

24 (C) A vehicle, an engine, equipment or a power source, or a person that engages directly
25 in, or acts for or is subject to the control of another person that engages directly in, man-
26 ufacturing, assembling, distributing, selling, importing for resale, maintaining, servicing or
27 repairing a vehicle, an engine, equipment or a power source with any of the following char-
28 acteristics:

29 (i) An internal combustion engine, including the engine's fuel system or other power
30 sources such as an electric battery or a fuel cell, that is not used in a motor vehicle or in
31 a vehicle used solely for competition or that is not subject to standards of performance for
32 stationary sources or emission standards for new motor vehicles or new motor vehicle en-
33 gines under the federal Clean Air Act, 42 U.S.C. 7411 and 7521 et seq.;

34 (ii) A vehicle or equipment that is not a motor vehicle or a vehicle used solely for com-
35 petition and is powered by an engine described in sub-subparagraph (i) of this subparagraph,
36 together with any tools, technology, attachments, accessories, components or repair parts
37 for the vehicle, equipment or engine;

38 (iii) An internal combustion engine or another power source, including an electric battery
39 or a fuel cell, that is not used in a motor vehicle, in a vehicle used solely for competition or
40 in a vehicle or equipment described in sub-subparagraph (ii) of this subparagraph, or equip-
41 ment that is powered by the internal combustion engine or other power source, together
42 with tools, technology, attachments, accessories, components or repair parts for the internal
43 combustion engine, the other power source or the equipment; or

44 (iv) An engine or other power source, including an electric battery or a fuel cell, that is
45 used for propulsion or power generation in a maritime environment or a waterway, together

1 with any tools, technology, attachments, accessories, components or repair parts for the
2 engine or the other power source;

3 (D) A manufacturer, distributor or dealer of any off-road equipment or of tools, tech-
4 nology, attachments, accessories, components or repair parts for off-road equipment includ-
5 ing, but not limited to, farm and utility tractors, farm implements and machinery, equipment
6 for forestry, industry, utilities, construction, mining or maintaining a yard, garden or turf,
7 outdoor power equipment and portable generators, vehicles used in marine environments, for
8 sports, recreation and racing, all-terrain vehicles, power tools and stand-alone or integrated
9 mobile or stationary internal combustion engines or power sources such as generator sets
10 and battery or fuel cell power; or

11 (E) Electric toothbrushes.

12 **SECTION 2. (1) As used in this section:**

13 (a) "Certification entity" means a person that engages in evaluating and certifying the
14 technical capabilities and competence of independent repair providers in accordance with
15 standards that the person adopts or that an original equipment manufacturer specifies.

16 (b) "Repair certification" means evidence that an independent repair provider has the
17 technical and financial capability and competence necessary to safely, securely and reliably
18 repair digital electronic equipment in accordance with standards that a certification entity
19 specifies.

20 (2) Before repairing consumer electronic equipment, an authorized service provider and
21 an independent repair provider shall:

22 (a) Post at the authorized service provider's or independent repair provider's place of
23 business or on the authorized service provider's or independent repair provider's website, or
24 provide directly to customers, a notice that:

25 (A) Specifies the steps the authorized service provider or independent repair provider
26 takes to ensure the customer's privacy and the security of consumer electronic equipment
27 the customer entrusts to the authorized service provider or independent repair provider;

28 (B) Recommends steps the consumer should take to ensure privacy and security, in-
29 cluding but not limited to:

30 (i) Backing up data from the consumer electronic equipment onto another device and
31 permanently erasing the data from the consumer electronic equipment the customer will
32 bring in for repair;

33 (ii) Sharing only those passwords or access to functions that are necessary to effect the
34 repair; and

35 (iii) Logging out of applications, closing websites and deleting caches or records of ap-
36 plication or website use that have sensitive information or that otherwise pose a security
37 risk, such as financial applications or websites, electronic mail or messaging or social media
38 accounts;

39 (C) Informs the customer about the customer's rights to privacy under the laws of this
40 state; and

41 (D) Informs the customer about any potential safety concerns about the parts being in-
42 stalled.

43 (b) Display all of the authorized service provider's or independent repair provider's repair
44 certifications.

45 (3) Before repairing consumer electronic equipment, an independent repair provider shall

1 disclose to each customer:

2 (a) That the independent repair provider is not an authorized service provider; and

3 (b) Whether replacement parts the independent repair provider incorporates into repairs
4 are used replacement parts or are replacement parts provided by suppliers other than the
5 original equipment manufacturer of the consumer electronic equipment.

6 **SECTION 3.** (1) If the Attorney General determines in response to a complaint from a
7 consumer that a person has or controls any information, documents, physical evidence or
8 other material that is relevant to an investigation of a violation of section 1 of this 2024 Act,
9 or that could lead to a discovery of relevant information in an investigation of a violation
10 of section 1 of this 2024 Act, the Attorney General may execute and cause an investigative
11 demand to be served upon the person. The investigative demand may require that the person:

12 (a) Appear and testify under oath at the time and place stated in the investigative de-
13 mand;

14 (b) Answer written interrogatories; and

15 (c) Produce relevant information, documents, physical evidence or other material for
16 examination at the time and place stated in the investigative demand.

17 (2) An investigative demand under this section must be served as provided in ORS 646.622
18 and may be enforced as provided in ORS 646.626. Within the earlier of the return date spec-
19 ified in the investigative demand or 20 days after the date on which the investigative demand
20 was served, a person may petition a circuit court of this state to extend the return date or
21 modify or set aside the investigative demand. The petition must state good cause, including
22 any privileged material.

23 (3) Information the Attorney General obtains under this section that is a trade secret,
24 as defined in ORS 192.345, is confidential and is not subject to public disclosure under ORS
25 192.311 to 192.478.

26 (4) If the Attorney General finds in response to a complaint from a consumer that a
27 person has violated section 1 of this 2024 Act, the Attorney General may bring a civil action
28 in a circuit court of this state to:

29 (a) Impose a civil penalty of not more than \$1,000 for each day in which the violation
30 continues; or

31 (b) Obtain an injunction to restrain the violation.

32 (5) The Attorney General shall deposit the proceeds of any civil penalties the Attorney
33 General recovers under this section into the Department of Justice Protection and Education
34 Revolving Account created under ORS 180.095.

35 **SECTION 4.** The Attorney General shall submit not later than December 31, 2025, a re-
36 port to an interim committee of the Legislative Assembly concerned with consumer pro-
37 tection in which the Attorney General specifies the number and nature of complaints from
38 owners and independent repair providers the Attorney General received within the previous
39 two years concerning original equipment manufacturers that did not provide upon request
40 documentation, tools, parts or other devices or implements necessary to diagnose, maintain,
41 repair or update consumer electronic equipment that the original equipment manufacturer
42 makes or sells.

43 **SECTION 5.** ORS 180.095 is amended to read:

44 180.095. (1) The Department of Justice Protection and Education Revolving Account is created
45 in the General Fund. All moneys in the account are continuously appropriated to the Department

1 of Justice and may be used to pay for only the following activities:

2 (a) Restitution and refunds in proceedings described in paragraph (c) of this subsection;

3 (b) Consumer and business education relating to the laws governing antitrust and unlawful trade
4 practices; and

5 (c) Personal services, travel, meals, lodging and all other costs and expenses incurred by the
6 department in investigating, preparing, commencing and prosecuting the following actions and suits,
7 and enforcing judgments, settlements, compromises and assurances of voluntary compliance arising
8 out of the following actions and suits:

9 (A) Actions and suits under the state and federal antitrust laws;

10 (B) Actions and suits under ORS 336.184 and 646.605 to 646.656;

11 (C) Actions commenced under ORS 59.331;

12 (D) Actions and suits under ORS 180.750 to 180.785;

13 (E) Actions and suits under ORS 646A.025; [and]

14 (F) Actions commenced under ORS 646A.589[.]; and

15 **(G) Actions and suits under section 3 of this 2024 Act.**

16 (2) Moneys in the Department of Justice Protection and Education Revolving Account are not
17 subject to allotment. Upon request of the Attorney General, the State Treasurer shall create sub-
18 accounts within the account for the purposes of managing moneys in the account and allocating
19 those moneys to the activities described in subsection (1) of this section.

20 (3) Except as otherwise provided by law, all sums of money received by the Department of Jus-
21 tice under a judgment, settlement, compromise or assurance of voluntary compliance, including
22 damages, restitution, refunds, attorney fees, costs, disbursements and other recoveries, but excluding
23 civil penalties under ORS 646.642, in proceedings described in subsection (1)(c) of this section shall,
24 upon receipt, be deposited with the State Treasurer to the credit of the Department of Justice Pro-
25 tection and Education Revolving Account. However, if the action or suit was based on an expendi-
26 ture or loss from a public body or a dedicated fund, the amount of such expenditure or loss, after
27 deduction of attorney fees and expenses awarded to the department by the court or agreed to by the
28 parties, if any, shall be credited to the public body or dedicated fund and the remainder thereof
29 credited to the Department of Justice Protection and Education Revolving Account.

30 (4) If the Department of Justice recovers restitution or refunds in a proceeding described in
31 subsection (1)(c) of this section, and the department cannot determine the persons to whom the
32 restitution or refunds should be paid or the amount of the restitution or refund payable to individual
33 claimants is de minimis, the restitution or refunds may not be deposited in the Department of Justice
34 Protection and Education Revolving Account and shall be deposited in the General Fund.

35 (5) Before April 1 of each odd-numbered year, the Department of Justice shall report to the Joint
36 Committee on Ways and Means:

37 (a) The department's projection of the balance in the Department of Justice Protection and Ed-
38 ucation Revolving Account at the end of the biennium in which the report is made and at the end
39 of the following biennium;

40 (b) The amount of the balance held for restitution and refunds;

41 (c) An estimate of the department's anticipated costs and expenses under subsection (1)(b) and
42 (c) of this section for the biennium in which the report is made and for the following biennium; and

43 (d) Any judgment, settlement, compromise or other recovery, the proceeds of which are used for
44 purposes other than:

45 (A) For deposit into the Department of Justice Protection and Education Revolving Account; or

1 (B) For payment of legal costs related to the judgment, settlement, compromise or other recov-
2 ery.

3 (6) The Joint Committee on Ways and Means, after consideration of recommendations made by
4 the Department of Justice, shall use the information reported under subsection (5) of this section to
5 determine an appropriate balance for the revolving account.

6 **SECTION 6. (1) As used in this section, “cell phone” means a handheld product that in-**
7 **cludes a battery, microphone, speaker and display and that is designed to send and receive**
8 **transmissions through a cellular radiotelephone service.**

9 (2) Except as provided in subsection (3) of this section, section 1 of this 2024 Act applies
10 to consumer electronic equipment that is sold in this state or is in use in this state on or
11 after the effective date of this 2024 Act.

12 (3) Section 1 of this 2024 Act does not apply to:

13 (a) A cell phone that was manufactured for the first time, and first sold or used in this
14 state, before July 1, 2021; or

15 (b) Consumer electronic equipment other than a cell phone that was manufactured for
16 the first time, and first sold or used in this state, before July 1, 2015.

17 **SECTION 7. Section 3 of this 2024 Act applies to violations of section 1 of this 2024 Act**
18 **that occur on or after July 1, 2027.**

19