

Requested by Senator SOLLMAN

**PROPOSED AMENDMENTS TO
SENATE BILL 1596**

1 On page 1 of the printed bill, line 2, after “equipment;” delete the rest
2 of the line and insert “creating new provisions; and amending ORS
3 180.095.”.

4 Delete lines 9 through 21 and delete pages 2 through 7 and insert:

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

7 **“(a) ‘Authorized service provider’ means:**

8 **“(A) A person that has an arrangement with an original equipment
9 manufacturer under which:**

10 **“(i) The original equipment manufacturer grants a license to the
11 person for the use of, or otherwise permits the person to use, the ori-
12 ginal equipment manufacturer’s trade name, service mark or other
13 proprietary identification for the purpose of offering the services of
14 diagnosing, maintaining, repairing or updating consumer electronic
15 equipment; or**

16 **“(ii) The person offers the services of diagnosing, maintaining, re-
17 pairing or updating consumer electronic equipment on behalf of the
18 original equipment manufacturer or under the original equipment
19 manufacturer’s warranty; or**

20 **“(B) An original equipment manufacturer, but only in instances
21 where the original equipment manufacturer does not have an ar-**

1 rangement described in subparagraph (A) of this paragraph and offers
2 the services of diagnosing, maintaining, repairing or updating con-
3 sumer electronic equipment that the original equipment manufacturer
4 makes or sells.

5 “(b) ‘Consumer electronic equipment’ means a product that:

6 “(A) Functions, in whole or in part, on the basis of digital elec-
7 tronics that are embedded within or attached to the product;

8 “(B) Is tangible personal property;

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

10 “(D) Is sold, used or supplied in this state one year or more after
11 the product was first manufactured and one year or more after the
12 product was first sold or used in this state; and

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

15 “(c) ‘Documentation’ means any manual, diagram, reporting out-
16 put, service code description, schematic diagram, security code, pass-
17 word or other guidance or information that enables a person to
18 diagnose, maintain, repair or update consumer electronic equipment.

19 “(d) ‘Fair and reasonable terms’ means terms under which an ori-
20 ginal equipment manufacturer:

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

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

1 **“(C) Makes parts available directly or through an authorized service**
2 **provider to:**

3 **“(i) An independent repair provider or an owner at costs and on**
4 **terms that are equivalent to the most favorable costs and terms at**
5 **which the original equipment manufacturer offers the parts to an au-**
6 **thorized service provider and that:**

7 **“(I) Account for any discount, rebate, convenient means of delivery,**
8 **means of enabling fully restored and updated functionality, rights of**
9 **use or other incentive or preference the original equipment manufac-**
10 **turer offers to an authorized service provider, or that impose any ad-**
11 **ditional cost, burden or impediment on an independent repair provider**
12 **or an owner that the original equipment manufacturer also imposes**
13 **on an authorized service provider;**

14 **“(II) Do not impose a substantial condition, obligation or restriction**
15 **that is not reasonably necessary to enable an independent repair pro-**
16 **vider or an owner to diagnose, maintain, repair or update consumer**
17 **electronic equipment that the original equipment manufacturer makes**
18 **or sells; and**

19 **“(III) Do not require an independent repair provider or an owner**
20 **to enter into an arrangement described in paragraph (a)(A) of this**
21 **subsection; and**

22 **“(ii) All authorized service providers that the original equipment**
23 **manufacturer permits, by contract or otherwise, to sell parts to inde-**
24 **pendent repair providers and owners, without:**

25 **“(I) Imposing allocation limitations or advertising restrictions upon**
26 **the authorized service provider as a means of retaliation or as a means**
27 **of hindering the authorized service provider in selling parts by any**
28 **means; or**

29 **“(II) Imposing a substantial condition, obligation or restriction that**
30 **is not reasonably necessary to enable an independent repair provider**

1 or an owner to diagnose, maintain, repair or update consumer elec-
2 tronic equipment that the original equipment manufacturer makes or
3 sells.

4 “(e) ‘Independent repair provider’ means a person that:

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

8 “(B) Possesses a valid and unexpired certification that demonstrates
9 that the person has the technical capabilities and competence neces-
10 sary to safely, securely and reliably repair consumer electronic equip-
11 ment in accordance with widely accepted standards, such as a Wireless
12 Industry Service Excellence Certification, an A+ certification from
13 the Computing Technology Industry Association, a National Appliance
14 Service Technician Certification or another certification that an ori-
15 ginal equipment manufacturer accepts as evidence that the person can
16 perform safe, secure and reliable repairs to consumer electronic
17 equipment that the original equipment manufacturer makes or sells.

18 “(f) ‘Original equipment manufacturer’ means a person that en-
19 gages in the business of selling, leasing or otherwise supplying to an-
20 other person new consumer electronic equipment that the person
21 makes or has made on the person’s behalf.

22 “(g) ‘Owner’ means a person that owns or leases from a lessor
23 consumer electronic equipment that the person or the lessor pur-
24 chased or used in this state.

25 “(h) ‘Part’ means a new or used replacement component for con-
26 sumer electronic equipment that an original equipment manufacturer
27 makes available for the purpose of maintaining, repairing or updating
28 consumer electronic equipment that the original equipment manufac-
29 turer makes or sells.

30 “(i) ‘Parts pairing’ means a manufacturer’s practice of using soft-

1 ware to identify component parts through a unique identifier.

2 “(j) ‘Tool’ means software, a hardware implement or an apparatus
3 by means of which a person can diagnose, maintain, repair or update
4 consumer electronic equipment including any software, or a mech-
5 anism that provisions, programs or pairs, a new part, calibrates
6 functionality or performs another function that is necessary to update
7 or restore a product to a fully functional condition.

8 “(k) ‘Trade secret’ has the meaning given that term in ORS 646.461.

9 “(L)(A) ‘Video game console’ means a computing device, and com-
10 ponents and peripherals for the computing device, that is intended
11 primarily for playing interactive video games.

12 “(B) ‘Video game console’ does not include a general purpose per-
13 sonal computer that has the capability to run video games alongside
14 other computing functions.

15 “(2)(a) An original equipment manufacturer shall make available
16 to an owner or an independent repair provider on fair and reasonable
17 terms any documentation, tool, part or other device or implement that
18 the original equipment manufacturer makes available to an authorized
19 service provider for the purpose of diagnosing, maintaining, repairing
20 or updating consumer electronic equipment that the original equip-
21 ment manufacturer makes or sells and that is sold or used in this
22 state.

23 “(b) An original equipment manufacturer may not use parts pairing
24 to:

25 “(A) Prevent or inhibit an independent repair provider or an owner
26 from installing or enabling the function of a replacement part or a
27 component of consumer electronic equipment, including a replacement
28 part or a component that the original equipment manufacturer has
29 not approved;

30 “(B) Reduce the functionality or performance of consumer elec-

1 **tronic equipment; or**

2 **“(C) Cause consumer electronic equipment to display unnecessary**
3 **or misleading alerts or warnings about unidentified parts, particularly**
4 **if the alerts or warnings cannot be dismissed.**

5 **“(3) This section does not:**

6 **“(a) Require an original equipment manufacturer to disclose a trade**
7 **secret or license intellectual property, including copyrights or patents,**
8 **to an independent repair provider or an owner except as necessary to**
9 **provide, on fair and reasonable terms, any documentation, tool, part**
10 **or other device or implement used to diagnose, maintain, repair or**
11 **update consumer electronic equipment.**

12 **“(b) Alter the terms of any agreement or arrangement between an**
13 **original equipment manufacturer and an authorized service provider**
14 **including, but not limited to, the authorized service provider’s per-**
15 **formance or provision of warranty service or recall repair work on the**
16 **original equipment manufacturer’s behalf under the agreement or ar-**
17 **rangement, except that any provision in the agreement or arrange-**
18 **ment that purports to waive, restrict or limit the original equipment**
19 **manufacturer’s compliance with this section is void and**
20 **unenforceable.**

21 **“(c) Impose liability upon an original equipment manufacturer for**
22 **any bodily injury or damage to consumer electronic equipment that**
23 **an independent repair provider or an owner causes while diagnosing,**
24 **maintaining, repairing or updating the consumer electronic equipment**
25 **using documentation, tools, parts or other devices or implements that**
26 **the original equipment manufacturer made available on fair and rea-**
27 **sonable terms to an authorized service provider, an independent repair**
28 **provider or an owner before the date of the diagnosis, maintenance,**
29 **repair or update, except that an original equipment manufacturer re-**
30 **mains liable to the extent that the laws of this state provide for strict**

1 liability for defects in the design or manufacture of the consumer
2 electronic equipment.

3 “(d) Require an original equipment manufacturer to make available
4 special documentation, tools, parts or other devices or implements
5 that would disable or override, without an owner’s authorization,
6 anti-theft or privacy security measures that the owner sets for con-
7 sumer electronic equipment.

8 “(e) Require an original equipment manufacturer to provide to an
9 independent repair provider or an owner any part that the equipment
10 manufacturer no longer makes or no longer provides to authorized
11 service providers.

12 “(f) Apply to:

13 “(A) A person that is engaged in the business of manufacturing or
14 assembling new motor vehicles or in the business of selling or leasing
15 new motor vehicles and offering the service of diagnosing, maintaining
16 or repairing motor vehicles or motor vehicle engines under the terms
17 of a franchise agreement, or to the person’s products or services;

18 “(B) A product or service or equipment that:

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

20 “(ii) Is a medical device, as defined in the Federal Food, Drug, and
21 Cosmetic Act, 21 U.S.C. 301 et seq., or a digital electronic product,
22 software, control equipment or a related product manufactured for or
23 service provided for use in diagnosis or monitoring in an acute care
24 hospital, a long term care facility such as a nursing home or skilled
25 nursing facility, a physician’s office, an urgent care center, an outpa-
26 tient clinic, a home setting where health care is provided by or at the
27 direction of a licensed health care provider or an emergency medical
28 service facility or for use in diagnosis or monitoring at a site where
29 health care is routinely delivered on premises that are not otherwise
30 a health care facility, such as a medical clinic within a school;

1 “(iii) Provides heat, ventilation or air conditioning or recharges
2 refrigerant gases;

3 “(iv) Is a system, mechanism or series of mechanisms that gener-
4 ates, stores or combines generation and storage of electrical energy
5 from solar radiation;

6 “(v) Is a video game console; or

7 “(vi) Is a system that stores electrical energy for a period of time
8 and transmits the energy after storage, that is interconnected with a
9 transmission or distribution system and that is approved by an electric
10 utility or located on a customer’s side of an electric utility meter in
11 accordance with an applicable utility tariff or interconnection agree-
12 ment;

13 “(C) A vehicle, an engine, equipment or a power source, or a person
14 that engages directly in, or acts for or is subject to the control of an-
15 other person that engages directly in, manufacturing, assembling,
16 distributing, selling, importing for resale, maintaining, servicing or
17 repairing a vehicle, an engine, equipment or a power source with any
18 of the following characteristics:

19 “(i) An internal combustion engine, including the engine’s fuel
20 system or other power sources such as an electric battery or a fuel
21 cell, that is not used in a motor vehicle or in a vehicle used solely for
22 competition or that is not subject to standards of performance for
23 stationary sources or emission standards for new motor vehicles or
24 new motor vehicle engines under the federal Clean Air Act, 42 U.S.C.
25 7411 and 7521 et seq.;

26 “(ii) A vehicle or equipment that is not a motor vehicle or a vehicle
27 used solely for competition and is powered by an engine described in
28 sub-subparagraph (i) of this subparagraph, together with any tools,
29 technology, attachments, accessories, components or repair parts for
30 the vehicle, equipment or engine;

1 “(iii) An internal combustion engine or another power source, in-
2 cluding an electric battery or a fuel cell, that is not used in a motor
3 vehicle, in a vehicle used solely for competition or in a vehicle or
4 equipment described in sub-subparagraph (ii) of this subparagraph, or
5 equipment that is powered by the internal combustion engine or other
6 power source, together with tools, technology, attachments, accesso-
7 ries, components or repair parts for the internal combustion engine,
8 the other power source or the equipment; or

9 “(iv) An engine or other power source, including an electric battery
10 or a fuel cell, that is used for propulsion or power generation in a
11 maritime environment or a waterway, together with any tools, tech-
12 nology, attachments, accessories, components or repair parts for the
13 engine or the other power source; or

14 “(D) A manufacturer, distributor or dealer of any off-road equip-
15 ment or of tools, technology, attachments, accessories, components
16 or repair parts for off-road equipment including, but not limited to,
17 farm and utility tractors, farm implements and machinery, equipment
18 for forestry, industry, utilities, construction, mining or maintaining
19 a yard, garden or turf, outdoor power equipment and portable gener-
20 ators, vehicles used in marine environments, for sports, recreation and
21 racing, all-terrain vehicles, power tools and stand-alone or integrated
22 mobile or stationary internal combustion engines or power sources
23 such as generator sets and battery or fuel cell power.

24 “SECTION 2. (1) As used in this section:

25 “(a) ‘Certification entity’ means a person that engages in evaluating
26 and certifying the technical capabilities and competence of independ-
27 ent repair providers in accordance with standards that the person
28 adopts or that an original equipment manufacturer specifies.

29 “(b) ‘Repair certification’ means evidence that an independent re-
30 pair provider has the technical and financial capability and compe-

1 **tence necessary to safely, securely and reliably repair digital electronic**
2 **equipment in accordance with standards that a certification entity**
3 **specifies.**

4 **“(2) Before repairing consumer electronic equipment, an authorized**
5 **service provider and an independent repair provider shall:**

6 **“(a) Post at the authorized service provider’s or independent repair**
7 **provider’s place of business or on the authorized service provider’s or**
8 **independent repair provider’s website, or provide directly to custom-**
9 **ers, a notice that:**

10 **“(A) Specifies the steps the authorized service provider or inde-**
11 **pendent repair provider takes to ensure the customer’s privacy and the**
12 **security of consumer electronic equipment the customer entrusts to**
13 **the authorized service provider or independent repair provider;**

14 **“(B) Recommends steps the consumer should take to ensure privacy**
15 **and security, including but not limited to:**

16 **“(i) Backing up data from the consumer electronic equipment onto**
17 **another device and permanently erasing the data from the consumer**
18 **electronic equipment the customer will bring in for repair;**

19 **“(ii) Sharing only those passwords or access to functions that are**
20 **necessary to effect the repair; and**

21 **“(iii) Logging out of applications, closing websites and deleting**
22 **cached or records of application or website use that have sensitive in-**
23 **formation or that otherwise pose a security risk, such as financial**
24 **applications or websites, electronic mail or messaging or social media**
25 **accounts; and**

26 **“(C) Informs the customer about the customer’s rights to privacy**
27 **under the laws of this state.**

28 **“(b) Display all of the authorized service provider’s or independent**
29 **repair provider’s repair certifications.**

30 **“(3) Before repairing consumer electronic equipment, an independ-**

1 ent repair provider shall disclose to each customer:

2 “(a) That the independent repair provider is not an authorized ser-
3 vice provider; and

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

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

16 “(a) Appear and testify under oath at the time and place stated in
17 the investigative demand;

18 “(b) Answer written interrogatories; and

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

22 “(2) An investigative demand under this section must be served as
23 provided in ORS 646.622 and may be enforced as provided in ORS
24 646.626. Within the earlier of the return date specified in the investi-
25 gative demand or 20 days after the date on which the investigative
26 demand was served, a person may petition a circuit court of this state
27 to extend the return date or modify or set aside the investigative de-
28 mand. The petition must state good cause, including any privileged
29 material.

30 “(3) Information the Attorney General obtains under this section

1 that is a trade secret, as defined in ORS 192.345, is confidential and is
2 not subject to public disclosure under ORS 192.311 to 192.478.

3 “(4) If the Attorney General finds that a person has violated section
4 1 of this 2024 Act, the Attorney General may bring a civil action in a
5 circuit court of this state to:

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

8 “(b) Obtain an injunction to restrain the violation.

9 “(5) The Attorney General shall deposit the proceeds of any civil
10 penalties the Attorney General recovers under this section into the
11 Department of Justice Protection and Education Revolving Account
12 created under ORS 180.095.

13 **“SECTION 4. The Attorney General shall submit not later than**
14 **December 31, 2025, a report to an interim committee of the Legislative**
15 **Assembly concerned with consumer protection in which the Attorney**
16 **General specifies the number and nature of complaints from owners**
17 **and independent repair providers the Attorney General received within**
18 **the previous two years concerning original equipment manufacturers**
19 **that did not provide upon request documentation, tools, parts or other**
20 **devices or implements necessary to diagnose, maintain, repair or up-**
21 **date consumer electronic equipment that the original equipment**
22 **manufacturer makes or sells.**

23 **“SECTION 5. ORS 180.095 is amended to read:**

24 “180.095. (1) The Department of Justice Protection and Education Re-
25 volving Account is created in the General Fund. All moneys in the account
26 are continuously appropriated to the Department of Justice and may be used
27 to pay for only the following activities:

28 “(a) Restitution and refunds in proceedings described in paragraph (c) of
29 this subsection;

30 “(b) Consumer and business education relating to the laws governing

1 antitrust and unlawful trade practices; and

2 “(c) Personal services, travel, meals, lodging and all other costs and ex-
3 penses incurred by the department in investigating, preparing, commencing
4 and prosecuting the following actions and suits, and enforcing judgments,
5 settlements, compromises and assurances of voluntary compliance arising out
6 of the following actions and suits:

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

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

9 “(C) Actions commenced under ORS 59.331;

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

11 “(E) Actions and suits under ORS 646A.025; [*and*]

12 “(F) Actions commenced under ORS 646A.589[.]; **and**

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

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

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

1 department of Justice Protection and Education Revolving Account.

2 “(4) If the Department of Justice recovers restitution or refunds in a
3 proceeding described in subsection (1)(c) of this section, and the department
4 cannot determine the persons to whom the restitution or refunds should be
5 paid or the amount of the restitution or refund payable to individual claim-
6 ants is de minimis, the restitution or refunds may not be deposited in the
7 Department of Justice Protection and Education Revolving Account and
8 shall be deposited in the General Fund.

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

11 “(a) The department’s projection of the balance in the Department of
12 Justice Protection and Education Revolving Account at the end of the
13 biennium in which the report is made and at the end of the following
14 biennium;

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

16 “(c) An estimate of the department’s anticipated costs and expenses under
17 subsection (1)(b) and (c) of this section for the biennium in which the report
18 is made and for the following biennium; and

19 “(d) Any judgment, settlement, compromise or other recovery, the pro-
20 ceeds of which are used for purposes other than:

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

23 “(B) For payment of legal costs related to the judgment, settlement,
24 compromise or other recovery.

25 “(6) The Joint Committee on Ways and Means, after consideration of
26 recommendations made by the Department of Justice, shall use the informa-
27 tion reported under subsection (5) of this section to determine an appropriate
28 balance for the revolving account.

29 **“SECTION 6. (1) As used in this section, ‘cell phone’ means a**
30 **handheld product that includes a battery, microphone, speaker and**

1 display and that is designed to send and receive transmissions through
2 a cellular radiotelephone service.

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

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

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

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

13 “SECTION 7. Section 3 of this 2024 Act applies to violations of sec-
14 tion 1 of this 2024 Act that occur on or after July 1, 2027.”.

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