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# A BILL FOR AN ACT

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RELATING TO RIGHT TO REPAIR.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1       SECTION 1. The purpose of this Act to promote consumer  
2 choice and competition by requiring manufacturers of digital  
3 electronic equipment to make available to owners and independent  
4 repair providers, on fair and reasonable terms, the  
5 documentation, parts, and tools used to diagnose, maintain, and  
6 repair the equipment.

7       SECTION 2. The Hawaii Revised Statutes is amended by  
8 adding a new chapter to title 26 to be appropriately designated  
9 and to read as follows:

10                               **"CHAPTER**

11                                       **DIGITAL FAIR REPAIR**

12       **§ -1 Definitions.** As used in this chapter:

13       "Authorized repair provider" means, with respect to an  
14 original equipment manufacturer, an individual or business who  
15 is unaffiliated with the original equipment manufacturer and who  
16 has an arrangement with the original equipment manufacturer  
17 under which the original equipment manufacturer grants to the



1 individual or business a license to use a trade name, service  
2 mark, or other proprietary identifier for the purposes of  
3 offering the services of diagnosis, maintenance, or repair of  
4 digital electronic equipment under the name of the original  
5 equipment manufacturer, or other arrangement with the original  
6 equipment manufacturer to offer services on behalf of the  
7 original equipment manufacturer. An original equipment  
8 manufacturer who offers the services of diagnosis, maintenance,  
9 or repair of digital electronic equipment manufactured by it or  
10 on its behalf, or sold or otherwise supplied by it, and who does  
11 not have an arrangement described in this subsection with an  
12 unaffiliated individual or business, shall be considered an  
13 authorized repair provider with respect to the equipment.

14 "Digital electronic equipment" means any product that  
15 depends for its functioning, in whole or in part, on digital  
16 electronics embedded in or attached to the product.

17 "Documentation" means any manual, diagram, reporting  
18 output, service code description, schematic, security codes or  
19 passwords, or other information used in effecting the services  
20 of diagnosis, maintenance, or repair of digital electronic  
21 equipment.



1 "Fair and reasonable terms" for obtaining a part or tool or  
2 documentation means at costs and terms that are equivalent to  
3 the most favorable costs and terms under which the original  
4 equipment manufacturer offers the part, tool, or documentation  
5 to an authorized repair provider:

6 (1) Accounting for any discount, rebate, convenient and  
7 timely means of delivery, means of enabling fully  
8 restored and updated functionality, rights of use, or  
9 other incentive or preference the original equipment  
10 manufacturer offers to an authorized repair provider,  
11 or any additional cost, burden, or impediment the  
12 original equipment manufacturer imposes on an owner or  
13 independent repair provider; and

14 (2) Not conditioned on having an arrangement as described  
15 in the definition of "authorized repair provider".

16 For documentation, including any relevant updates, "fair and  
17 reasonable terms" also means at no charge; provided that when  
18 the documentation is requested in physical printed form, a  
19 charge may be included for the reasonable actual costs of  
20 preparing and sending the copy.



1 "Independent repair provider" means, with respect to an  
2 original equipment manufacturer, an individual or business  
3 operating in this State, who does not have an arrangement  
4 described in the definition of "authorized repair provider" with  
5 the original equipment manufacturer, and who is not affiliated  
6 with any individual or business who has an arrangement with the  
7 original equipment manufacturer, when that individual or  
8 business is engaged in the services of diagnosis, maintenance,  
9 or repair of digital electronic equipment. An original  
10 equipment manufacturer or, with respect to that original  
11 equipment manufacturer, an individual or business who has an  
12 arrangement with that original equipment manufacturer, or who is  
13 affiliated with an individual or business who has an arrangement  
14 with that original equipment manufacturer, shall be considered  
15 an independent repair provider when engaging in the services of  
16 diagnosis, maintenance, or repair of digital electronic  
17 equipment that is not manufactured by or on behalf of, or sold  
18 or otherwise supplied by, that original equipment manufacturer.

19 "Manufacturer of motor vehicle equipment" means a business  
20 engaged in the business of manufacturing or supplying components



1 that are used in the manufacture, maintenance, or repair of a  
2 motor vehicle.

3 "Motor vehicle" means a vehicle that is designed for  
4 transporting persons or property on a street or highway and is  
5 certified by the manufacturer under all applicable federal  
6 safety and emissions standards and requirements for distribution  
7 and sale in the United States. Motor vehicle shall not include:

8 (1) A motorcycle; or

9 (2) A recreational vehicle or an auto home equipped for  
10 habitation.

11 "Motor vehicle dealer" means an individual or business that  
12 is engaged in the business of selling or leasing new motor  
13 vehicles to an individual or business pursuant to a franchise  
14 agreement, has obtained a license under chapter 437, and is  
15 engaged in the services of diagnosis, maintenance, or repair of  
16 motor vehicles or motor vehicle engines pursuant to that  
17 franchise agreement.

18 "Motor vehicle manufacturer" means a business engaged in  
19 the business of manufacturing or assembling new motor vehicles.

20 "Original equipment manufacturer" means a business engaged  
21 in the business of selling, leasing, or otherwise supplying new



1 digital electronic equipment, or parts of equipment,  
2 manufactured by or on behalf of itself, to any individual or  
3 business.

4 "Owner" means an individual or business who owns or leases  
5 digital electronic equipment purchased or used in this State.

6 "Part" means any replacement part, either new or used, made  
7 available by or to an original equipment manufacturer for  
8 purposes of effecting the services of maintenance or repair of  
9 digital electronic equipment manufactured by or on behalf of,  
10 sold or otherwise supplied by the original equipment  
11 manufacturer.

12 "Tool" means any software program, hardware implement, or  
13 other apparatus used for diagnosis, maintenance, or repair of  
14 digital electronic equipment, including software or other  
15 mechanisms that provision, program, or pair a part, calibrate  
16 functionality, or perform any other function required to bring  
17 the product back to fully functional condition.

18 "Trade secret" shall have same meaning as in section  
19 482B-2.

20 **§ -2 Requirements.** (a) An original equipment  
21 manufacturer shall, for digital electronic equipment, or parts



1 for the equipment, manufactured by it or on its behalf, or sold  
2 or otherwise supplied by it, and sold or used in this State,  
3 make available to owners of the equipment and to independent  
4 repair providers, on fair and reasonable terms, documentation,  
5 parts, and tools, inclusive of any updates, for purposes of  
6 diagnosis, maintenance, or repair of the equipment. Nothing in  
7 this subsection shall require an original equipment manufacturer  
8 to make available a part that is no longer available to the  
9 original equipment manufacturer.

10 (b) For digital electronic equipment that contains an  
11 electronic security lock or other security-related function, the  
12 original equipment manufacturer shall make available to the  
13 owner and to independent repair providers, on fair and  
14 reasonable terms, any special documentation, tools, and parts  
15 needed to disable the lock or function, and to reset it when  
16 disabled.

17 **§ -3 Remedies.** Any person who violates this chapter  
18 shall be deemed to have engaged in an unfair method of  
19 competition and unfair or deceptive act or practice in the  
20 conduct of any trade or commerce within the meaning of section  
21 480-2.



1           **§ -4 Limitations.** (a) Nothing in this chapter shall be

2 construed to require an original equipment manufacturer to

3 divulge a trade secret to an owner or to an independent repair

4 provider, except as necessary to provide documentation, parts,

5 and tools on fair and reasonable terms.

6           (b) Nothing in this chapter shall be construed to alter

7 the terms of any arrangement as described in the definition of

8 "authorized repair provider" in force between an authorized

9 repair provider and an original equipment manufacturer,

10 including the performance or provision of warranty or recall

11 repair work by an authorized repair provider on behalf of an

12 original equipment manufacturer pursuant to the arrangement;

13 provided that any provision in the terms that purports to waive,

14 avoid, restrict, or limit the original equipment manufacturer's

15 obligations to comply with this chapter shall be void and

16 unenforceable.

17           **§ -5 Exclusions.** Nothing in this chapter shall apply to

18 a motor vehicle manufacturer, manufacturer of motor vehicle

19 equipment, or motor vehicle dealer, acting in that capacity.

20           **§ -6 Applicability.** This chapter shall apply to

21 equipment sold or in use on or after January 1, 2023."



H.B. NO. 1405

1 SECTION 3. This Act shall take effect upon its approval.

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INTRODUCED BY:

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JAN 13 2022



# H.B. NO. 1405

**Report Title:**

Right-to-Repair; Digital Electronic Equipment; Repairs; Original Equipment Manufacturers; Independent Repair Providers

**Description:**

Requires manufacturers of digital electronic equipment to make available to owners and independent repair providers, on fair and reasonable terms, the documentation, parts, and tools used to diagnose, maintain, and repair the equipment.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

