

JAN 19 2024

A BILL FOR AN ACT

RELATING TO THE RIGHT TO REPAIR.

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

1 SECTION 1. The Hawaii Revised Statutes is amended by
2 adding a new chapter to be appropriately designated and to read
3 as follows:

4 **"CHAPTER**

5 **RIGHT TO REPAIR ACT**

6 **§ -1 Definitions.** As used in this chapter:

7 "Alarm system" means an assembly of equipment and devices
8 arranged to detect a hazard or signal the presence of an
9 off-normal situation. "Alarm system" does not include fire
10 protection systems.

11 "Antenna" means a resonant device designed to capture
12 electromagnetic energy transmitted by direct satellite or
13 commercial radio or television broadcasting facilities and that
14 is not a part of an electronic set and is to be located outside
15 or in the attic of a residence.

16 "Appliance" or "major home appliance" includes any
17 refrigerator, freezer, range, microwave oven, washer, dryer,



1 dishwasher, trash compactor, or air-conditioner unit normally
2 used or sold for personal, family, household, or home office
3 use, or use in private motor vehicles.

4 "Authorized repair provider" includes:

- 5 (1) An individual or business that is unaffiliated with a
6 manufacturer and that has an arrangement with the
7 manufacturer, for a definite or indefinite period,
8 under which the manufacturer grants to the individual
9 or business a license to use a trade name, service
10 mark, or other proprietary identifier to offer
11 diagnostic, maintenance, or repair services for
12 electronic or appliance products under the name of the
13 manufacturer or an arrangement with the manufacturer
14 to offer diagnostic, maintenance, or repair services
15 for electronic or appliance products on behalf of the
16 manufacturer; and
- 17 (2) A manufacturer that offers to provide diagnostic,
18 maintenance, or repair services for electronic or
19 appliance products manufactured by or on behalf of, or
20 sold or otherwise supplied by, an original equipment
21 manufacturer, and that does not have an intellectual



1 property arrangement with an unaffiliated individual
2 or business.

3 "Documentation" means any electronic or appliance product
4 manual, diagram, reporting output, service code description,
5 schematic, or similar information that is used by an authorized
6 repair provider in effecting the provision of diagnostic,
7 maintenance, or repair services for the electronic or appliance
8 product.

9 "Electronic or appliance product" or "product" means an
10 electronic set, an appliance, an antenna, or a rotator that is
11 used or sold in the State for which the manufacturer makes
12 available tools, parts, and documentation to authorized repair
13 providers. "Electronic or appliance product" or "product"
14 includes any electronic set, appliance, antenna, or rotator sold
15 to any school, business, local government, or in other methods
16 outside of direct retail sale. "Electronic or appliance
17 product" or "product" does not include:

- 18 (1) Equipment or repair parts;
- 19 (2) Alarm systems, including a fire protection system, or
20 any components thereof; or
- 21 (3) Video game consoles.



1 "Electronic set" includes any television, radio, audio or
2 video recorder or playback equipment, video camera, video game,
3 video monitor, computer system, photocopier, or facsimile
4 machine normally used or sold for personal, family, household,
5 or home office use.

6 "Equipment" means all-terrain vehicles and other machinery,
7 equipment, implements, or attachments used for, or in connection
8 with:

- 9 (1) Lawn, garden, golf course, landscaping, or grounds
10 maintenance;
- 11 (2) Planting, cultivating, irrigating, harvesting, and
12 producing agricultural or forestry products;
- 13 (3) Raising, feeding, or tending to, or harvesting
14 products from, livestock and any other activity in
15 connection with the activities described in this
16 paragraph; or
- 17 (4) Industrial, construction, maintenance, mining, or
18 utility activities or applications, including material
19 handling equipment.



1 "Equipment" does not include any self-propelled vehicle designed
2 primarily for the transportation of persons or property on a
3 street or highway.

4 "Fair and reasonable terms" with respect to:

- 5 (1) Obtaining a part, tool, or documentation, means at
6 costs and upon terms that are equivalent to the most
7 favorable costs and terms under which the manufacturer
8 offers the part, tool, or documentation to an
9 authorized repair provider, accounting for any
10 discount, rebate, convenient and timely means of
11 delivery, means of enabling fully restored and updated
12 functionality, rights of use, or other incentive or
13 preference the manufacturer offers to an authorized
14 repair provider;
- 15 (2) Documentation requested in physical printed form,
16 including any relevant documentation updates, means
17 only the reasonable actual costs of preparing and
18 sending the physical documentation;
- 19 (3) Documentation not requested in physical printed form,
20 including any relevant documentation updates, means at
21 no charge;



- 1 (4) Tool requested in physical form, means only the
2 reasonable actual costs of preparing and sending the
3 tool;
- 4 (5) Tool not requested in physical form, including any
5 relevant documentation updates, means at no charge and
6 without imposing impediments to access or use of the
7 tools to diagnose, maintain, or repair and enable full
8 functionality of the product, or in a manner that
9 impairs the efficient and cost-effective performance
10 of the diagnosis, maintenance, or repair; and
- 11 (6) A manufacturer that does not use an authorized repair
12 provider, means at a price that reflects the actual
13 cost to the manufacturer to prepare and deliver the
14 part, tool, or documentation, exclusive of any
15 research and development costs incurred.

16 "Manufacturer" means a business engaged in the business of
17 selling or leasing to any individual or business new electronic
18 or appliance products.

19 "Part" means any new or used replacement part or assembly
20 of parts made available by a manufacturer to an authorized



1 repair provider to facilitate the maintenance or repair of a
2 product sold by the manufacturer.

3 "Repair parts" means all parts and products related to the
4 service or repair of equipment. "Repair parts" includes
5 superseded parts.

6 "Rotator" with respect to an antenna installation or
7 repair, means an electromechanical device operated from a remote
8 location to rotate an antenna on a horizontal plane that is not
9 a part of an electronic set and is to be located outside or in
10 the attic of a residence.

11 "Service dealer" means a person who, for compensation,
12 engages in, or holds itself out to the public as offering
13 services in the business of:

14 (1) Repairing, servicing, or maintaining an electronic set
15 normally used or sold for personal, family, household,
16 or home office use;

17 (2) Installing, repairing, servicing, or maintaining
18 equipment or a burglar alarm system for use in private
19 motor vehicles;

20 (3) Installing, repairing, servicing, or maintaining
21 television or radio receiver antennas, rotators, and



1 accessories or direct satellite signal receiving
2 equipment located on or adjacent to a residence and
3 not involving a function that is subject to and
4 regulated under chapter 444; or

5 (4) Repairing, servicing, or maintaining major appliances.

6 "Tool" means any software program, hardware, or other
7 apparatus made available by a manufacturer of an electronic or
8 appliance product to an authorized repair provider for the
9 diagnosis, maintenance, or repair of the product. "Tool"
10 includes software or other mechanisms that provision, program,
11 pair a part, provide or calibrate functionality, or perform any
12 other function required to repair a product or part thereof back
13 to fully functional condition, including any updates.

14 "Trade secret" shall have the same meaning as in
15 section 482B-2.

16 "Video game console" means a computing device, including
17 any components and peripherals thereof, that is primarily used
18 by consumers for playing video games. "Video game console"
19 includes a console machine, a handheld console device, or
20 another device or system. "Video game console" does not include



1 a general or an all-purpose computer, including a desktop
2 computer, laptop, tablet, or cell phone.

3 **§ -2 Requirements.** (a) Notwithstanding any other law
4 to the contrary, each manufacturer of an electronic or appliance
5 product that is sold to the retailer or any other person or
6 business outside of direct retail sale at a wholesale price of:

7 (1) Not less than \$50 and not more than \$99.99 shall make
8 available to each applicable owner of the product,
9 service and repair facility, and service dealer,
10 sufficient documentation and functional parts and
11 tools, including any updates thereof, on fair and
12 reasonable terms, to effect the diagnosis,
13 maintenance, or repair of a product for at least three
14 years after the last date that a product model or type
15 was manufactured, regardless of whether the three-year
16 period exceeds the warranty period for the product;
17 and

18 (2) More than \$99.99 shall make available to each
19 applicable owner of the product, service and repair
20 facility, and service dealer, sufficient documentation
21 and functional parts and tools, including any updates



1 thereof, on fair and reasonable terms, to effect the
2 diagnosis, maintenance, or repair of a product for at
3 least seven years after the last date that a product
4 model or type was manufactured, regardless of whether
5 the seven-year period exceeds the warranty period for
6 the product.

7 (b) Before repairing an electronic or appliance product,
8 any service and repair facility or service dealer that is not an
9 authorized repair provider of a manufacturer shall:

10 (1) Provide to the customer seeking the repair a written
11 notice that informs the customer that the service and
12 repair facility is not an authorized repair provider
13 for the product; and

14 (2) Disclose to the customer seeking the repair whether
15 the service and repair facility uses any used
16 replacement parts or replacement parts provided by a
17 supplier other than the manufacturer of the product.

18 **§ -3 Limitations and exclusions.** (a) This chapter
19 shall not apply if the manufacturer provides an equivalent or
20 better, readily available replacement electronic or appliance
21 product at no charge to the customer.



1 (b) Nothing in this chapter shall be construed as
2 requiring:

3 (1) A manufacturer to divulge a trade secret or license
4 any intellectual property, including copyrights or
5 patents, except to the extent necessary for the
6 manufacturer to comply with the requirements of this
7 chapter;

8 (2) The distribution of a product's source code;

9 (3) A manufacturer to make available special
10 documentation, tools, and parts that would disable or
11 override any antitheft security measures set by the
12 owner of the product without the owner's
13 authorization;

14 (4) A manufacturer to sell service parts if the service
15 parts are no longer provided by the manufacturer or
16 made available to an authorized repair provider; or

17 (5) A manufacturer that is considered an authorized repair
18 provider to make available any documentation or tools:

19 (A) That the manufacturer uses only to perform, at no
20 cost, virtual diagnostic services through
21 telephone, internet, chat, email, or other



1 similar means that do not involve the
2 manufacturer physically handling the customer's
3 electronic or appliance product, unless the
4 manufacturer makes the documentation or tools
5 available to an individual or business that is
6 unaffiliated with the manufacturer; or
7 (B) Used exclusively for repairs completed by
8 machines that operate on several electronic or
9 appliance products simultaneously, if the
10 manufacturer makes available to any owner of the
11 product, service and repair facility, or service
12 dealer sufficient alternative documentation and
13 tools to effect the diagnosis, maintenance, or
14 repair of the electronic or appliance product.

15 **§ -4 Limitation on liability.** No manufacturer or
16 authorized repair provider shall be liable for any damage or
17 injury caused to any electronic or appliance product, person, or
18 property that occurs as a result of diagnosis, maintenance,
19 repair, or modification performed by a service dealer or owner,
20 including:



1 (1) Any indirect, incidental, special, or consequential
2 damages except to the extent that the damages are due
3 to a design defect or manufacturing flaw that existed
4 before, or independent of, the repair, diagnosis,
5 maintenance, or modification performed pursuant to
6 this chapter;

7 (2) Any loss of data, privacy, or profit; or

8 (3) Any inability to use, or reduced functionality of, the
9 electronic or appliance product.

10 **§ -5 Remedies.** (a) Any person or entity that knows or
11 reasonably should know that the person or entity is violating
12 this chapter shall be fined:

13 (1) \$1,000 per day for the first violation of this
14 chapter;

15 (2) \$2,000 per day for the second violation; and

16 (3) \$5,000 per day for any subsequent violations;

17 provided that the fines shall be imposed within three years from
18 the date of the alleged violation.

19 (b) Any fines collected pursuant to subsection (a) shall
20 be collected in a civil action brought by the attorney general



S.B. NO. 2700

1 the director of the office of consumer protection on behalf of
2 the State."

3 SECTION 2. This Act does not affect rights and duties that
4 matured, penalties that were incurred, and proceedings that were
5 begun before its effective date.

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

7

INTRODUCED BY: 



S.B. NO. 2700

Report Title:

Right to Repair; Products; Appliances; Repairs; Manufacturers;
Authorized Repair Providers

Description:

Requires manufacturers of certain products and appliances to make available to any applicable product or appliance owners, service and repair facilities, and service dealers, on fair and reasonable terms, the documentation, parts, and tools used to diagnose, maintain, and repair the product or appliance.

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