
A BILL FOR AN ACT

RELATING TO 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 **SMARTPHONE RIGHT-TO-REPAIR ACT**

6 **§ -1 Definitions.** As used in this chapter:
7 "Authorized repair provider" means an individual or
8 business who is unaffiliated with an original smartphone
9 manufacturer and who has an arrangement with the original
10 smartphone manufacturer, for a definite or indefinite period,
11 under which the original smartphone manufacturer grants to the
12 individual or business a license to use a trade name, service
13 mark, or other proprietary identifier for the purposes of
14 offering the services of diagnosis, maintenance, or repair of a
15 smartphone under the name of the original smartphone
16 manufacturer, or other arrangement with the original smartphone
17 manufacturer to offer the services on behalf of the original



1 smartphone manufacturer. "Authorized repair provider" includes
2 an original smartphone manufacturer who offers the services of
3 diagnosis, maintenance, or repair of its own smartphone, and who
4 does not have an arrangement described in this definition with
5 an unaffiliated individual or business.

6 "Documentation" means any manual, diagram, reporting
7 output, service code description, schematic diagram, or similar
8 kinds of information provided to an authorized repair provider
9 for purposes of its effecting the services of diagnosis,
10 maintenance, or repair of a smartphone.

11 "Embedded software" means any programmable instructions
12 provided on firmware delivered with a smartphone, or with a part
13 for the smartphone, for purposes of smartphone operation,
14 including all relevant patches and fixes made by the
15 manufacturer of the smartphone or part for these purposes.

16 "Fair and reasonable terms" for obtaining a part, tool, or
17 documentation means at costs and terms, including convenience of
18 delivery and rights of use, equivalent to what is offered by the
19 original smartphone manufacturer to an authorized repair
20 provider, using the net costs that would be incurred by an
21 authorized repair provider in obtaining an equivalent part,



1 tool, or documentation from the original smartphone
2 manufacturer, accounting for any discounts, rebates, or other
3 incentive programs in arriving at the actual net costs. For
4 documentation, including any relevant updates, "fair and
5 reasonable terms" includes a charge included for the reasonable
6 actual costs of preparing and sending the copy when the
7 documentation is requested in physical printed form.

8 "Firmware" means a software program or set of instructions
9 programmed on a smartphone, or on a part for the smartphone, to
10 allow the smartphone or part to communicate with other computer
11 hardware.

12 "Independent repair provider" means an individual or
13 business operating in the State, who:

14 (1) Does not have an arrangement with an original
15 smartphone manufacturer;
16 (2) Is not affiliated with any individual or business who
17 has an arrangement; and
18 (3) Is engaged in the services of diagnosis, maintenance,
19 or repair of a smartphone;
20 provided that an original smartphone manufacturer or, with
21 respect to that original smartphone manufacturer, an individual



1 or business who has an arrangement with that original smartphone
2 manufacturer, or who is affiliated with an individual or
3 business who has an arrangement with that original smartphone
4 manufacturer, shall be considered an independent repair provider
5 for purposes of those instances in which it engages in the
6 services of diagnosis, maintenance, or repair of a smartphone
7 that is not manufactured by or sold under the name of that
8 original smartphone manufacturer.

9 "Original smartphone manufacturer" means a business engaged
10 in the business of selling or leasing new smartphones
11 manufactured by or on behalf of itself, to any individual or
12 business.

13 "Owner" means an individual or business who owns or leases
14 a smartphone purchased or used in the State.

15 "Part" means any replacement part, either new or used, made
16 available by an original smartphone manufacturer for purposes of
17 effecting the services of maintenance or repair of a smartphone
18 manufactured or sold by the original smartphone manufacturer.

19 "Smartphone" means a cellular radio telephone or other
20 mobile voice communications handset device that includes all of
21 the following features:



1 (1) Utilizes a mobile operating system;

2 (2) Possesses the capability to utilize mobile software

3 application, access and browse the Internet, utilize

4 text messaging, and digital voice service, and send

5 and receive email;

6 (3) Has wireless network connectivity; and

7 (4) Is capable of operating on a long-term evolution

8 network or successor wireless data network

9 communication standards.

10 A smartphone does not include a radio cellular telephone

11 commonly referred to as a "feature" or "messaging" telephone, a

12 laptop, tablet device, or a device that only has electronic

13 reading capabilities.

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

16 **S -2 Requirements.** (a) For any smartphone, and parts
17 for the smartphone, sold or used in the State, an original
18 smartphone manufacturer shall make available; for purposes of
19 diagnosis, maintenance, or repair; to any independent repair
20 provider or owner of a smartphone manufactured by or on behalf
21 of; or sold by; the original smartphone manufacturer; on fair



1 and reasonable terms; documentation, parts, and tools, inclusive
2 of any updates to information or embedded software. Nothing in
3 this section requires an original smartphone manufacturer to
4 make available a part if the part is no longer available to the
5 original smartphone manufacturer.

6 (b) For a smartphone that contains an electronic security
7 lock or other security-related function, the original smartphone
8 manufacturer shall make available to the owner and independent
9 repair providers, on fair and reasonable terms, any special
10 documentation, tools, and parts needed to reset the lock or
11 function when disabled in the course of diagnosis, maintenance,
12 or repair of the smartphone. The documentation, tools, and
13 parts may be made available through appropriate secure release
14 systems.

15 **§ -3 Enforcement by attorney general.** Violation of any
16 of the provisions of this chapter shall be deemed an unfair
17 practice under section 480-2. All remedies, penalties, and
18 authority granted to the attorney general by chapter 480 shall
19 be available to the attorney general in the enforcement of this
20 chapter.



1 **S -4 Limitations.** (a) Nothing in this chapter shall be
2 construed to require an original smartphone manufacturer to
3 divulge a trade secret or license any intellectual property to
4 an owner or an independent service provider except as necessary
5 to provide documentation, parts, and tools on fair and
6 reasonable terms.

7 (b) No provision in this chapter shall be construed to
8 alter the terms of any arrangement in force between an
9 authorized repair provider and an original smartphone
10 manufacturer, including the performance or provision of warranty
11 or recall repair work by an authorized repair provider on behalf
12 of an original smartphone manufacturer pursuant to the
13 arrangement, except that any provision in terms that purports to
14 waive, avoid, restrict, or limit the original smartphone
15 manufacturer's obligations to comply with this chapter shall be
16 void and unenforceable.

17 (c) Nothing in this chapter shall be construed to require
18 an original smartphone manufacturer or an authorized repair
19 provider to provide to an owner or independent repair provider
20 access to information, other than documentation, that is
21 provided by the original smartphone manufacturer to an



1 authorized repair provider pursuant to the terms of the
2 arrangement between the authorized repair provider and the
3 original smartphone manufacturer.

4 (d) Nothing in this chapter shall be construed to prevent
5 an original smartphone manufacturer to offer parts, such as
6 integrated batteries, to independent repair providers or owners
7 pre-assembled with other parts rather than as individual
8 components, where the individual components may pose a
9 heightened safety risk if installed improperly.

10 § -5 **Applicability.** This chapter shall apply with
11 respect to any smartphone sold or in use on or after the
12 effective date of this chapter."

13 SECTION 2. This Act shall take effect upon its approval.

14

INTRODUCED BY: 



S.B. NO. 2052

Report Title:

Smartphones; Right-to-Repair; Exclusions

Description:

Requires original smartphone manufacturers to make documentation, parts, and tools available to independent repair providers and owners for the purposes of diagnosis, maintenance, and repair on fair and reasonable terms.

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

