

Second Regular Session  
Seventy-second General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 20-0143.01 Jennifer Berman x3286

HOUSE BILL 20-1195

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HOUSE SPONSORSHIP

Titone and Singer,

SENATE SPONSORSHIP

Bridges and Cooke,

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House Committees  
Business Affairs & Labor

Senate Committees

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A BILL FOR AN ACT

101 CONCERNING A REQUIREMENT THAT A MANUFACTURER OF DIGITAL  
102 ELECTRONIC EQUIPMENT FACILITATE THE REPAIR OF THE  
103 EQUIPMENT BY PROVIDING PERSONS OTHER THAN AUTHORIZED  
104 REPAIR PROVIDERS AFFILIATED WITH THE MANUFACTURER  
105 WITH THE RESOURCES NEEDED TO REPAIR THE EQUIPMENT.

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Bill Summary

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)*

Usually, an owner of digital electronic equipment (equipment), such as cell phones and tablets, must seek diagnostic, maintenance, or

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
Capital letters or bold & italic numbers indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.

repair services of the equipment from the original equipment manufacturer (manufacturer) or an authorized repair provider affiliated with the manufacturer.

The bill requires a manufacturer to provide parts, embedded software, tools, or documentation, such as diagnostic, maintenance, or repair manuals, diagrams, or similar information, to independent repair providers and owners of the manufacturer's equipment to allow an independent repair provider or owner to conduct diagnostic, maintenance, or repair services. A manufacturer's failure to comply with the requirement is an unfair or deceptive trade practice. Manufacturers need not divulge any trade secrets to independent repair providers and owners.

Any contractual provision or other arrangement that a manufacturer enters into that would remove or limit the manufacturer's obligation to provide these resources to independent repair providers and owners is void and unenforceable.

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 6-1-105, **add**  
3 (1)(nnn) as follows:

4 **6-1-105. Unfair or deceptive trade practices.** (1) A person  
5 engages in a deceptive trade practice when, in the course of the person's  
6 business, vocation, or occupation, the person:

7 (nnn) VIOLATES PART 13 OF THIS ARTICLE 1.

8 **SECTION 2.** In Colorado Revised Statutes, **add** part 13 to article  
9 1 of title 6 as follows:

10 **PART 13**  
11 **CONSUMER RIGHT TO REPAIR**  
12 **DIGITAL EQUIPMENT**

13 **6-1-1301. Short title.** THE SHORT TITLE OF THIS PART 13 IS THE  
14 "CONSUMER DIGITAL REPAIR BILL OF RIGHTS ACT".

15 **6-1-1302. Definitions.** AS USED IN THIS PART 13, UNLESS THE  
16 CONTEXT OTHERWISE REQUIRES:

17 (1) (a) "AUTHORIZED REPAIR PROVIDER" MEANS A PERSON THAT

1 IS UNAFFILIATED WITH AN ORIGINAL EQUIPMENT MANUFACTURER AND  
2 THAT HAS AN ARRANGEMENT WITH THE MANUFACTURER, WHETHER FOR  
3 A DEFINITE OR AN INDEFINITE PERIOD, IN WHICH THE MANUFACTURER, FOR  
4 THE PURPOSE OF OFFERING TO PROVIDE SERVICES FOR DIGITAL ELECTRONIC  
5 EQUIPMENT TO AN OWNER OF THE EQUIPMENT, GRANTS THE PERSON:

6 (I) A LICENSE TO USE A TRADE NAME, SERVICE MARK, OR OTHER  
7 PROPRIETARY IDENTIFIER; OR

8 (II) AUTHORIZATION UNDER ANY OTHER ARRANGEMENT TO ACT  
9 ON BEHALF OF THE MANUFACTURER.

10 (b) "AUTHORIZED REPAIR PROVIDER" INCLUDES AN ORIGINAL  
11 EQUIPMENT MANUFACTURER THAT OFFERS TO PROVIDE SERVICES TO AN  
12 OWNER FOR THE MANUFACTURER'S DIGITAL ELECTRONIC EQUIPMENT IF  
13 THE MANUFACTURER DOES NOT HAVE, WITH RESPECT TO THE EQUIPMENT,  
14 AN ARRANGEMENT WITH AN UNAFFILIATED PERSON, AS DESCRIBED IN  
15 SUBSECTION (1)(a) OF THIS SECTION.

16 (2) "DIGITAL ELECTRONIC EQUIPMENT" MEANS A PRODUCT SOLD  
17 IN THIS STATE THAT, FOR ITS FUNCTIONALITY, DEPENDS IN WHOLE OR IN  
18 PART ON DIGITAL ELECTRONICS EMBEDDED IN, OR ATTACHED TO, THE  
19 PRODUCT.

20 (3) "DOCUMENTATION" MEANS A MANUAL; DIAGRAM, INCLUDING  
21 A SCHEMATIC DIAGRAM; REPORTING OUTPUT; SERVICE CODE DESCRIPTION;  
22 OR SIMILAR TYPE OF INFORMATION THAT AN ORIGINAL EQUIPMENT  
23 MANUFACTURER PROVIDES TO AN AUTHORIZED REPAIR PROVIDER FOR  
24 PURPOSES OF ASSISTING THE AUTHORIZED REPAIR PROVIDER WITH  
25 SERVICES PERFORMED ON DIGITAL ELECTRONIC EQUIPMENT.

26 (4) "EMBEDDED SOFTWARE" MEANS PROGRAMMABLE  
27 INSTRUCTIONS THAT ASSIST WITH DIGITAL ELECTRONIC EQUIPMENT

1 OPERATION, INCLUDING PROGRAMMABLE INSTRUCTIONS THAT AN OWNER  
2 RECEIVES:

3 (a) IN CONNECTION WITH THE EQUIPMENT OR A PART FOR THE  
4 EQUIPMENT; OR

5 (b) AS A PATCH OR FIX FOR THE EQUIPMENT.

6 (5) (a) (I) "FAIR AND REASONABLE TERMS AND COSTS", WITH  
7 RESPECT TO OBTAINING DOCUMENTATION, PARTS, EMBEDDED SOFTWARE,  
8 OR TOOLS FROM AN ORIGINAL EQUIPMENT MANUFACTURER TO PROVIDE  
9 SERVICES, MEANS TERMS AND COSTS, INCLUDING CONVENIENCE OF  
10 DELIVERY AND OF ENABLING FUNCTIONALITY AND INCLUDING RIGHTS OF  
11 USE, THAT ARE EQUIVALENT TO THE MOST FAVORABLE TERMS AND COSTS  
12 THAT THE MANUFACTURER OFFERS TO AN AUTHORIZED REPAIR PROVIDER.

13 (II) ANY COSTS CONSIDERED UNDER SUBSECTION (5)(a)(I) OF THIS  
14 SECTION MUST BE CALCULATED USING NET COSTS INCURRED, ACCOUNTING  
15 FOR ANY DISCOUNTS, REBATES, OR INCENTIVES OFFERED.

16 (b) WITH RESPECT TO DOCUMENTATION, "FAIR AND REASONABLE  
17 TERMS AND COSTS" MEANS THAT THE ORIGINAL EQUIPMENT  
18 MANUFACTURER PROVIDES THE DOCUMENTATION, INCLUDING ANY  
19 RELEVANT UPDATES TO THE DOCUMENTATION, AT NO CHARGE; EXCEPT  
20 THAT THE MANUFACTURER MAY CHARGE A FEE FOR A PRINTED COPY OF  
21 THE DOCUMENTATION IF THE AMOUNT OF THE FEE COVERS ONLY THE  
22 MANUFACTURER'S ACTUAL COST TO PREPARE AND SEND THE PRINTED COPY  
23 OF THE DOCUMENTATION.

24 (6) (a) "INDEPENDENT REPAIR PROVIDER", EXCEPT AS OTHERWISE  
25 PROVIDED IN SUBSECTION (6)(b) OF THIS SECTION, MEANS A PERSON IN  
26 THIS STATE THAT IS:

27 (I) NOT AN ORIGINAL EQUIPMENT MANUFACTURER'S AUTHORIZED

1 REPAIR PROVIDER NOR AFFILIATED WITH AN ORIGINAL EQUIPMENT  
2 MANUFACTURER'S AUTHORIZED REPAIR PROVIDER; AND

3 (II) ENGAGED IN OFFERING OR PROVIDING SERVICES.

4 (b) "INDEPENDENT REPAIR PROVIDER" INCLUDES:

5 (I) AN AUTHORIZED REPAIR PROVIDER IF THE AUTHORIZED REPAIR  
6 PROVIDER IS OFFERING OR PROVIDING SERVICES FOR AN ORIGINAL  
7 EQUIPMENT MANUFACTURER OTHER THAN A MANUFACTURER WITH WHICH  
8 THE AUTHORIZED REPAIR PROVIDER HAS AN ARRANGEMENT DESCRIBED IN  
9 SUBSECTION (1) OF THIS SECTION; AND

10 (II) AN ORIGINAL EQUIPMENT MANUFACTURER WITH RESPECT TO  
11 OFFERING OR PROVIDING SERVICES FOR ANOTHER ORIGINAL EQUIPMENT  
12 MANUFACTURER'S DIGITAL ELECTRONIC EQUIPMENT.

13 (7) "ORIGINAL EQUIPMENT MANUFACTURER" MEANS A BUSINESS  
14 ENGAGED IN SELLING OR LEASING NEW DIGITAL ELECTRONIC EQUIPMENT  
15 MANUFACTURED BY OR ON BEHALF OF THE MANUFACTURER.

16 (8) "OWNER" MEANS A PERSON THAT OWNS OR LEASES DIGITAL  
17 ELECTRONIC EQUIPMENT PURCHASED OR USED IN THIS STATE OR AN AGENT  
18 OF THE OWNER.

19 (9) "PART" MEANS A NEW OR USED REPLACEMENT PART THAT AN  
20 ORIGINAL EQUIPMENT MANUFACTURER OFFERS FOR SALE OR OTHERWISE  
21 MAKES AVAILABLE FOR THE PURPOSE OF PROVIDING SERVICES.

22 (10) "SERVICES" MEANS DIAGNOSTIC, MAINTENANCE, OR REPAIR  
23 SERVICES PERFORMED ON DIGITAL ELECTRONIC EQUIPMENT.

24 (11) "TRADE SECRET" HAS THE MEANING SET FORTH IN SECTION  
25 7-74-102 (4).

26 **6-1-1303. Original equipment manufacturer obligations**  
27 **regarding services - unfair or deceptive trade practice - exemptions.**

1 (1) EXCEPT AS PROVIDED IN SUBSECTION (3) OF THIS SECTION:

2 (a) FOR THE PURPOSE OF PROVIDING SERVICES FOR DIGITAL  
3 ELECTRONIC EQUIPMENT SOLD OR USED IN THIS STATE, AN ORIGINAL  
4 EQUIPMENT MANUFACTURER SHALL, ON FAIR AND REASONABLE TERMS  
5 AND COSTS, MAKE AVAILABLE TO ANY INDEPENDENT REPAIR PROVIDER OR  
6 OWNER OF THE MANUFACTURER'S EQUIPMENT ANY DOCUMENTATION,  
7 PARTS, EMBEDDED SOFTWARE, OR TOOLS, INCLUDING UPDATES TO  
8 INFORMATION OR EMBEDDED SOFTWARE.

9 (b) WITH RESPECT TO EQUIPMENT THAT CONTAINS AN ELECTRONIC  
10 SECURITY LOCK OR OTHER SECURITY-RELATED FUNCTION, AN ORIGINAL  
11 EQUIPMENT MANUFACTURER SHALL, ON FAIR AND REASONABLE TERMS  
12 AND COSTS, MAKE AVAILABLE TO INDEPENDENT REPAIR PROVIDERS AND  
13 OWNERS OF THE MANUFACTURER'S EQUIPMENT ANY DOCUMENTATION,  
14 PARTS, EMBEDDED SOFTWARE, OR TOOLS NEEDED TO RESET THE LOCK OR  
15 FUNCTION WHEN DISABLED IN THE COURSE OF PROVIDING SERVICES. THE  
16 MANUFACTURER MAY MAKE THE DOCUMENTATION, PARTS, EMBEDDED  
17 SOFTWARE, OR TOOLS AVAILABLE TO INDEPENDENT REPAIR PROVIDERS  
18 AND OWNERS OF THE MANUFACTURER'S EQUIPMENT THROUGH  
19 APPROPRIATE SECURE RELEASE SYSTEMS, APPROPRIATE AGREEMENTS, OR  
20 BOTH.

21 (2) A VIOLATION OF SUBSECTION (1) OF THIS SECTION IS AN UNFAIR  
22 OR DECEPTIVE TRADE PRACTICE IN ACCORDANCE WITH SECTION 6-1-105  
23 (1)(nnn).

24 (3) (a) SUBSECTION (1) OF THIS SECTION DOES NOT APPLY TO:

25 (I) ANY PART THAT IS NO LONGER AVAILABLE TO THE ORIGINAL  
26 EQUIPMENT MANUFACTURER; AND

27 (II) ANY CONDUCT THAT WOULD REQUIRE THE ORIGINAL

1 EQUIPMENT MANUFACTURER TO DIVULGE A TRADE SECRET; EXCEPT THAT  
2 A MANUFACTURER SHALL NOT REFUSE TO MAKE AVAILABLE TO  
3 INDEPENDENT REPAIR PROVIDERS AND OWNERS ANY DOCUMENTATION,  
4 PART, EMBEDDED SOFTWARE, OR TOOL NECESSARY TO PROVIDE SERVICES  
5 ON GROUNDS THAT THE DOCUMENTATION, PART, EMBEDDED SOFTWARE,  
6 OR TOOL IS ITSELF A TRADE SECRET.

7 (b) (I) WITH RESPECT TO ANY DOCUMENTATION, AN ORIGINAL  
8 EQUIPMENT MANUFACTURER MAY REDACT THE DOCUMENTATION TO  
9 REMOVE TRADE SECRETS FROM THE DOCUMENTATION BEFORE PROVIDING  
10 ACCESS TO THE DOCUMENTATION IF THE USABILITY OF THE REDACTED  
11 DOCUMENTATION FOR THE PURPOSE OF PROVIDING SERVICES IS NOT  
12 DIMINISHED.

13 (II) WITH RESPECT TO ANY PART, EMBEDDED SOFTWARE, OR TOOL,  
14 AN ORIGINAL EQUIPMENT MANUFACTURER MAY WITHHOLD INFORMATION  
15 REGARDING A COMPONENT, DESIGN, OR FUNCTIONALITY OF, OR PROCESS  
16 OF DEVELOPING, THE PART, EMBEDDED SOFTWARE, OR TOOL IF THE  
17 INFORMATION IS A TRADE SECRET AND THE USABILITY OF THE REDACTED  
18 DOCUMENTATION FOR THE PURPOSE OF PROVIDING SERVICES IS NOT  
19 DIMINISHED.

20 **6-1-1304. Limitations.** (1) SUBJECT TO SUBSECTION (2) OF THIS  
21 SECTION, NOTHING IN THIS PART 13:

22 (a) ALTERS THE TERMS OF ANY CONTRACT OR OTHER  
23 ARRANGEMENT IN FORCE BETWEEN AN ORIGINAL EQUIPMENT  
24 MANUFACTURER AND AN AUTHORIZED REPAIR PROVIDER, INCLUDING THE  
25 PERFORMANCE OR PROVISION OF WARRANTY OR RECALL REPAIR WORK  
26 AND ANY EXCLUSIVITY OR NONCOMPETE CLAUSE IN A CONTRACT; OR

27 (b) REQUIRES AN ORIGINAL EQUIPMENT MANUFACTURER TO

1 PROVIDE AN INDEPENDENT REPAIR PROVIDER OR OWNER ACCESS TO  
2 INFORMATION, OTHER THAN DOCUMENTATION, THAT THE MANUFACTURER  
3 PROVIDES TO AN AUTHORIZED REPAIR PROVIDER PURSUANT TO A  
4 CONTRACT OR OTHER ARRANGEMENT WITH THE INDEPENDENT REPAIR  
5 PROVIDER EXCEPT AS NECESSARY TO COMPLY WITH SECTION 6-1-1303 (1).

6 (2) WITH RESPECT TO ANY CONTRACT OR OTHER ARRANGEMENT  
7 BETWEEN AN ORIGINAL EQUIPMENT MANUFACTURER AND AN  
8 INDEPENDENT REPAIR PROVIDER, ANY PROVISION, AGREEMENT, OR  
9 LANGUAGE IN THE CONTRACT OR ARRANGEMENT THAT WAIVES, AVOIDS,  
10 RESTRICTS, OR LIMITS THE MANUFACTURER'S OBLIGATIONS UNDER THIS  
11 PART 13 IS VOID AND UNENFORCEABLE.

12 **SECTION 3. Act subject to petition - effective date.** This act  
13 takes effect January 1, 2021; except that, if a referendum petition is filed  
14 pursuant to section 1 (3) of article V of the state constitution against this  
15 act or an item, section, or part of this act within the ninety-day period  
16 after final adjournment of the general assembly, then the act, item,  
17 section, or part will not take effect unless approved by the people at the  
18 general election to be held in November 2020 and, in such case, will take  
19 effect January 1, 2021, or on the date of the official declaration of the  
20 vote thereon by the governor, whichever is later.