
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. **998** Session of
2022

INTRODUCED BY VOGEL, SCHWANK, FONTANA, COLLETT, KEARNEY,
MASTRIANO, BARLOTTA, ARGALL, KANE, TARTAGLIONE AND J. WARD,
JANUARY 4, 2022

REFERRED TO CONSUMER PROTECTION AND PROFESSIONAL LICENSURE,
JANUARY 4, 2022

AN ACT

1 Requiring manufacturers of digital electronic equipment to make
2 available to owners and independent repair providers, on fair
3 and reasonable terms, documentation, parts and tools used to
4 diagnose, maintain and repair digital electronic equipment.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Short title.

8 This act shall be known and may be cited as the Digital Right
9 to Repair Act.

10 Section 2. Definitions.

11 The following words and phrases when used in this act shall
12 have the meanings given to them in this section unless the
13 context clearly indicates otherwise:

14 "Agreement." An agreement between an authorized repair
15 provider and an OEM under which the OEM grants to the authorized
16 repair provider a license to use a trade name, service mark or
17 other proprietary identifier for the purposes of offering the
18 services of diagnosis, maintenance or repair of equipment under

1 the name of the OEM or other arrangement with the OEM to offer
2 such services on behalf of the OEM.

3 "Authorized repair provider." With respect to an OEM, as
4 follows:

5 (1) A person who has an agreement with the OEM.

6 (2) The OEM when offering the services of diagnosis,
7 maintenance or repair of its own equipment.

8 "Business entity." A corporation, limited liability company,
9 partnership, limited liability partnership, sole proprietorship
10 or Subchapter S corporation formed or organized under the laws
11 of this Commonwealth or another jurisdiction.

12 "Digital electronic equipment" or "equipment." A product
13 that depends for its functioning, in whole or in part, on
14 digital electronics embedded in or attached to the product. The
15 term includes a part.

16 "Documentation." A manual, diagram, reporting output,
17 service code description, schematic diagram or other guidance or
18 information used in effecting the services of diagnosis,
19 maintenance or repair of equipment.

20 "Embedded software." A programmable instruction provided on
21 firmware delivered with equipment, including patches and fixes
22 from the OEM for the purposes of operation.

23 "Fair and reasonable terms." As follows:

24 (1) In regard to obtaining documentation, parts or
25 tools, the term means at costs and terms, including
26 convenience of delivery, enabling functionality and rights of
27 use, equivalent to the most favorable costs and terms offered
28 by the OEM to an authorized repair provider as determined by
29 using net costs, including discounts and incentives, that
30 would be incurred by the authorized repair provider in

1 obtaining an equivalent part or tool from the OEM.

2 (2) In regard to obtaining documentation, including
3 relevant updates, the term shall, in addition to the meaning
4 under paragraph (1), mean at no charge, except that if the
5 documentation is requested in physical printed form a charge
6 may be included for the reasonable costs of preparing and
7 sending the copy.

8 "Firmware." A software program or set of instructions
9 programmed on equipment to allow the equipment to operate as
10 intended by the OEM.

11 "Independent repair provider." With respect to an OEM, as
12 follows:

13 (1) A person operating in this Commonwealth who does not
14 have an agreement with the OEM and who is not affiliated with
15 a person who has an agreement with the OEM, when engaging in
16 the diagnosis, maintenance or repair of equipment
17 manufactured by or sold under the name of the OEM.

18 (2) The term includes an OEM, a person who has an
19 agreement with an OEM or a person who has an agreement with
20 or is affiliated with a person who has an agreement with the
21 OEM, when engaging in the diagnosis, maintenance or repair of
22 equipment that is not manufactured by or sold under the name
23 of the OEM.

24 "Manufacturer of motor vehicle equipment." A business entity
25 engaged in the business of manufacturing or supplying components
26 that are used in the manufacture, maintenance or repair of a
27 motor vehicle.

28 "Motor vehicle." A vehicle that is designed for transporting
29 individuals or property on a street or highway and is certified
30 by the motor vehicle manufacturer under Federal safety and

1 emissions standards and requirements for distribution and sale
2 in the United States. The term does not include:

3 (1) A motorcycle.

4 (2) A recreational vehicle or an auto home equipped for
5 habitation.

6 "Motor vehicle dealer." An individual who meets all of the
7 following:

8 (1) Is engaged in the selling or leasing of a new motor
9 vehicle.

10 (2) Holds a license under section 303 of the act of
11 December 22, 1983 (P.L.306, No.84), known as the Board of
12 Vehicles Act.

13 (3) Is engaged in the diagnosis, maintenance or repair
14 of a motor vehicle or motor vehicle engine.

15 "Motor vehicle manufacturer." A business entity engaged in
16 the manufacturing or assembling of a new motor vehicle.

17 "Original equipment manufacturer" or "OEM." A business
18 entity engaged in the selling, leasing or supplying of new
19 equipment manufactured by or on behalf of itself to a person.

20 "Owner." A person who owns or leases equipment purchased or
21 used in this Commonwealth.

22 "Part." A new or used replacement part made available by or
23 to an OEM for the purpose of effecting the maintenance or repair
24 of equipment manufactured by or on behalf of, sold or supplied
25 by the OEM.

26 "Person." An individual or a business entity.

27 "Tool." A software program, hardware implement or other
28 apparatus used for diagnosis, maintenance or repair of
29 equipment, including software or other mechanisms that
30 provision, program or pair a new part, calibrate functionality

1 or perform any other function required to bring the product back
2 to a fully functional condition as intended by the OEM.

3 "Trade secret." The whole or a portion or phase of
4 scientific or technical information, design, process, procedure,
5 formula or improvement which is of value and has been
6 specifically identified by the OEM as of a confidential
7 character, and which has not been published or otherwise become
8 a matter of general public knowledge. There shall be a
9 rebuttable presumption that scientific or technical information
10 has not been published or otherwise become a matter of general
11 public knowledge when the OEM thereof takes measures to prevent
12 the information from becoming available to persons other than
13 those selected by the OEM to have access for limited purposes.
14 Section 3. Provision.

15 (a) Availability.--

16 (1) An OEM shall provide, on fair and reasonable terms,
17 documentation, parts and tools, including updates to
18 information or embedded software, to an independent repair
19 provider or to the owner of the equipment manufactured by or
20 on behalf of or sold or supplied by the OEM for the purpose
21 of diagnosis, maintenance or repair.

22 (2) Nothing under this subsection shall require an OEM
23 to make available parts or tools if the parts or tools are no
24 longer available to the OEM.

25 (b) Electronic security lock.--If equipment contains an
26 electronic security lock or other security-related function, an
27 OEM shall make available to the owner and to independent repair
28 providers, on fair and reasonable terms, any special
29 documentation, tools and parts needed to disable the lock or
30 function and to reset the lock or function when disabled in the

1 course of diagnosis, maintenance or repair of the equipment.

2 Section 4. Civil penalty.

3 (a) Violation.--A person that violates a provision of this
4 act shall be subject to a civil penalty of not more than \$10,000
5 for each violation. A penalty imposed under this section shall
6 be paid to the Commonwealth.

7 (b) Enforcement.--The Attorney General shall institute a
8 proceeding to recover the civil penalty provided under
9 subsection (a) against any person liable to the Commonwealth for
10 the penalty.

11 Section 5. Limitations and exclusions.

12 (a) Limitations.--Nothing under this act shall:

13 (1) Require an OEM to provide access to source code of
14 proprietary embedded software or to divulge a trade secret,
15 except as necessary to provide any documentation, part or
16 tool on fair and reasonable terms.

17 (2) Grant to the lessee of leased equipment a right that
18 is restricted under the terms of the lease agreement.

19 (3) Alter the terms of an agreement between an OEM and
20 an authorized repair provider, except that a provision in the
21 terms of an agreement that purports to waive, avoid, restrict
22 or limit the OEM's obligations under this act shall be void
23 and unenforceable.

24 (4) Authorize a person to alter digital electronic
25 equipment in a manner that the equipment operates in
26 violation of an environmental, safety or other law.

27 (b) Exclusions.--Nothing under this act shall apply to a
28 motor vehicle manufacturer or a manufacturer of motor vehicle
29 equipment, acting in their capacity as a motor vehicle
30 manufacturer or a manufacturer of motor vehicle equipment.

1 Section 6. Effective date.

2 This act shall take effect in 60 days.