

**As Introduced**

**135th General Assembly  
Regular Session  
2023-2024**

**S. B. No. 73**

**Senator Blessing**

---

**A BILL**

To enact sections 1350.01, 1350.011, 1350.02, 1  
1350.03, 1350.04, and 1350.05 of the Revised 2  
Code to enact the Digital Fair Repair Act. 3

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 1350.01, 1350.011, 1350.02, 4  
1350.03, 1350.04, and 1350.05 of the Revised Code be enacted to 5  
read as follows: 6

**Sec. 1350.01.** As used in this chapter: 7

(A) "Authorized repair provider" means a person that has 8  
an arrangement with the original equipment manufacturer under 9  
which the original equipment manufacturer grants to the person a 10  
license to use a trade name, service mark, or other proprietary 11  
identifier for the purposes of offering diagnosis, maintenance, 12  
or repair of digital electronic equipment under the name of the 13  
original equipment manufacturer, or other arrangement with the 14  
original equipment manufacturer to offer such services on behalf 15  
of the original equipment manufacturer. 16

"Authorized repair provider" includes an original 17  
equipment manufacturer that offers the services of diagnosis, 18  
maintenance, or repair of its own digital electronic equipment, 19

and that, with respect to such digital electronic equipment, 20  
does not have an arrangement described in the preceding 21  
paragraph. 22

(B) "Diagnosis" means the process of identifying any 23  
issues that cause digital electronic equipment or parts for such 24  
equipment to not be in fully working order. 25

(C) "Digital electronic equipment" means any product that 26  
has a value over ten dollars, adjusted annually in the manner 27  
described in section 1350.011 of the Revised Code, that depends 28  
for its functioning, in whole or in part, on digital electronics 29  
embedded in or attached to the product, and that is not a motor 30  
vehicle, as defined in section 4501.01 of the Revised Code. 31

(D) "Documentation" means any manual, diagram, reporting 32  
output, service code description, schematic, security code, 33  
password, or other guidance or information used in effecting the 34  
services of diagnosis, maintenance, or repair of digital 35  
electronic equipment or parts for such equipment. 36

(E) "Fair and reasonable terms" means making available 37  
parts, tools, or documentation that satisfy the conditions set 38  
forth in section 1350.03 of the Revised Code. 39

(F) "Independent repair provider" means a person in this 40  
state that does not have an authorized repair provider 41  
arrangement described in division (A) of this section and that 42  
is engaged in the services of diagnosis, maintenance, or repair 43  
of digital electronic equipment. 44

(G) "Maintenance" means any act necessary to keep 45  
currently working digital electronic equipment or parts for such 46  
equipment in fully working order. 47

(H) "Medical device" means an instrument, apparatus, 48

implement, machine, contrivance, implant, or other similar or 49  
related article, including any component, part, or accessory, 50  
that is intended for use in the diagnosis of disease or other 51  
conditions, or in the cure, mitigation, treatment, or prevention 52  
of disease, in humans or animals. "Medical device" does not 53  
include general wellness products intended to maintain or 54  
encourage a healthy lifestyle and that are unrelated to the 55  
diagnosis, cure, mitigation, prevention, or treatment of a 56  
disease or condition. 57

(I) "Modifications" or "modify" means any alteration to 58  
digital electronic equipment that is not maintenance and not a 59  
repair. 60

(J) "Original equipment manufacturer" means a person that, 61  
in the normal course of business, is engaged in the business of 62  
selling, leasing, or otherwise supplying digital electronic 63  
equipment manufactured by or on behalf of itself, to any person. 64

(K) "Owner" means a person that owns or leases digital 65  
electronic equipment purchased or used in this state. 66

(L) "Part" means any piece or component that is essential 67  
to the full functionality of digital electronic equipment, 68  
including any auxiliary attachments that improve the 69  
performance, safety, operation, or efficiency of such equipment. 70

(M) "Repair" means any act needed to restore digital 71  
electronic equipment or parts for such equipment to fully 72  
working order. 73

(N) "Tool" means any software program, hardware implement, 74  
or other apparatus used for diagnosis, maintenance, or repair of 75  
digital electronic equipment or parts for such equipment. 76

"Tool" includes software or other mechanisms that provide, 77

program, or pair a part; calibrate functionality; or perform any 78  
other function required to bring the equipment or part back to a 79  
fully functional condition, including any updates. 80

**Sec. 1350.011.** In November, or as soon as practicable 81  
thereafter, each year that begins after the effective date of 82  
this section, the director of commerce shall increase or 83  
decrease the value threshold above which a product may qualify 84  
as digital electronic equipment by multiplying the value 85  
threshold that applies for that year by the cumulative 86  
percentage change in the consumer price index (all items, all 87  
urban consumers) prepared by the bureau of labor statistics of 88  
the United States department of labor for the twelve-month 89  
period ending on the immediately preceding thirtieth day of 90  
September. The amount resulting from the computation, rounded to 91  
the nearest one cent, applies to the following calendar year. 92

The director shall publish on a web site maintained by the 93  
department of commerce the adjusted amount and the dates to 94  
which that amount applies. 95

**Sec. 1350.02.** (A) (1) For digital electronic equipment and 96  
parts sold or used in this state, an original equipment 97  
manufacturer shall make available for purposes of diagnosis, 98  
maintenance, or repair any documentation, parts, and tools, 99  
including any updates to information or embedded software, to 100  
both of the following on fair and reasonable terms: 101

(a) Any independent repair provider; 102

(b) The owner of digital electronic equipment manufactured 103  
by or on behalf of, or sold or otherwise supplied by, the 104  
original equipment manufacturer. 105

(2) Nothing in division (A) (1) of this section requires an 106

original equipment manufacturer to make available a part that is 107  
no longer available to the original equipment manufacturer. 108

(3) The documentation, parts, and tools described in 109  
division (A)(1) of this section shall be made available either 110  
directly by the original equipment manufacturer or by an 111  
authorized repair provider. 112

(B) For digital electronic equipment that contains an 113  
electronic security lock or other security-related function, the 114  
original equipment manufacturer shall make available to the 115  
owner and to independent repair providers, on fair and 116  
reasonable terms, any special documentation, tools, and parts 117  
needed to disable the lock or function, and to reset it when 118  
disabled in the course of diagnosis, maintenance, or repair of 119  
the digital electronic equipment. Such documentation, tools, and 120  
parts may be made available by means of an appropriate secure 121  
system. 122

**Sec. 1350.03.** (A) With respect to documentation required 123  
to be made available under section 1350.02 of the Revised Code, 124  
the original equipment manufacturer shall make such 125  
documentation available at no charge, except that, when the 126  
documentation is requested in physical printed form, the 127  
original equipment manufacturer may charge for the reasonable, 128  
actual costs of preparing and sending the documentation. 129

(B) With respect to tools required to be made available 130  
under section 1350.02 of the Revised Code, the original 131  
equipment manufacturer shall make such tools available, as 132  
follows: 133

(1) At no charge, except that, when the tool is requested 134  
in physical form, the original equipment manufacturer may charge 135

<u>for the reasonable, actual costs of preparing and sending the</u>	136
<u>tool;</u>	137
<u>(2) Without requiring authorization or internet access for</u>	138
<u>use or operation of the tool;</u>	139
<u>(3) Without imposing impediments to the access or use of</u>	140
<u>the tool to diagnose, maintain, or repair and enable full</u>	141
<u>functionality of digital electronic equipment or parts for such</u>	142
<u>equipment;</u>	143
<u>(4) Without impairing the efficient and cost-effective</u>	144
<u>performance of any such diagnosis, maintenance, or repair.</u>	145
<u>(C) With respect to parts required to be made available</u>	146
<u>under section 1350.02 of the Revised Code, the original</u>	147
<u>equipment manufacturer shall make such parts available, either</u>	148
<u>directly or through an authorized repair provider, to</u>	149
<u>independent repair providers and owners at costs and terms that</u>	150
<u>are equivalent to the most favorable costs and terms under which</u>	151
<u>an original equipment manufacturer offers the part to an</u>	152
<u>authorized repair provider, provided such costs and terms:</u>	153
<u>(1) Account for any discount, rebate, convenient and</u>	154
<u>timely means of delivery, means of enabling fully restored and</u>	155
<u>updated functionality, right of use, or other incentive or</u>	156
<u>preference the original equipment manufacturer offers to an</u>	157
<u>authorized repair provider;</u>	158
<u>(2) Account for any reasonable, actual costs, burdens, or</u>	159
<u>impediments the original equipment manufacturer incurs to</u>	160
<u>provide the part to the owner or to an independent repair</u>	161
<u>provider;</u>	162
<u>(3) Exclude any condition or substantial obligation or</u>	163
<u>restriction that is not reasonably necessary for enabling the</u>	164

owner or independent repair provider to engage in the diagnosis, 165  
maintenance, or repair of the digital electronic equipment made 166  
by or on behalf of the original equipment manufacturer; 167

(4) Not be conditioned on an arrangement described in 168  
division (A) of section 1350.01 of the Revised Code. 169

**Sec. 1350.04.** (A) Subject to division (B) of this section, 170  
a violation of section 1350.02 of the Revised Code is an unfair 171  
or deceptive act or practice in violation of section 1345.02 of 172  
the Revised Code. A person injured by a violation of section 173  
1350.02 of the Revised Code has a cause of action and is 174  
entitled to the same relief available to a consumer under 175  
section 1345.09 of the Revised Code. All powers and remedies 176  
available to the attorney general to enforce sections 1345.01 to 177  
1345.13 of the Revised Code are available to the attorney 178  
general to enforce section 1350.02 of the Revised Code. 179

(B) No original equipment manufacturer or authorized 180  
repair provider shall be liable for any damage or injury caused 181  
to any digital electronic equipment by an independent repair 182  
provider or owner that occurs during the course of repair, 183  
diagnosis, maintenance, or modification of the digital 184  
electronic equipment, including: 185

(1) Indirect, incidental, special, or consequential 186  
damages; 187

(2) Loss of data, privacy, or profits; 188

(3) Inability to use, or reduced functionality of, the 189  
digital electronic equipment. 190

**Sec. 1350.05.** (A) Nothing in this chapter shall be 191  
construed to require an original equipment manufacturer to 192  
divulge a trade secret to any owner or independent service 193

provider except as necessary to provide documentation, parts, 194  
and tools on fair and reasonable terms. 195

(B)(1) Except as provided in division (B)(2) of this 196  
section, nothing in this chapter shall be construed to alter the 197  
terms of any authorized repair provider arrangement described in 198  
division (A) of section 1350.01 of the Revised Code in force 199  
between an authorized repair provider and an original equipment 200  
manufacturer, including the performance or provision of warranty 201  
or recall repair work by an authorized repair provider on behalf 202  
of an original equipment manufacturer pursuant to such 203  
arrangement. 204

(2) Any provision in the terms of an authorized repair 205  
provider arrangement described in division (A) of section 206  
1350.01 of the Revised Code that waives, avoids, restricts, or 207  
limits the original equipment manufacturer's obligations to 208  
comply with this chapter is void and unenforceable. 209

(C) Nothing in this chapter shall be construed to require 210  
an original equipment manufacturer or an authorized repair 211  
provider to provide to any owner or independent repair provider 212  
access to information, other than documentation, that is 213  
provided by the original equipment manufacturer to an authorized 214  
repair provider pursuant to the terms of an arrangement 215  
described in division (A) of section 1350.01 of the Revised 216  
Code. 217

(D) Nothing in this chapter shall be construed to require 218  
an original equipment manufacturer or authorized repair provider 219  
to make available any parts, tools, or documentation for the 220  
purposes of modifying or making modifications to any digital 221  
electronic equipment. 222

(E) Nothing in this chapter shall be construed to require 223  
an original equipment manufacturer or authorized repair provider 224  
to make available any parts, tools, or documentation required 225  
for the diagnosis, maintenance, or repair of digital electronic 226  
equipment in a manner that is inconsistent with or in violation 227  
of any federal law. 228

(F) Nothing in this chapter applies to a motor vehicle 229  
manufacturer, manufacturer of motor vehicle equipment, or motor 230  
vehicle dealer acting in that capacity, or to any product or 231  
service of a motor vehicle manufacturer, manufacturer of motor 232  
vehicle equipment, or motor vehicle dealer acting in that 233  
capacity. 234

(G) Nothing in this chapter applies to a medical device or 235  
other digital electronic products found in a medical setting 236  
that are primarily and customarily used in the cure, mitigation, 237  
treatment, or prevention of disease in humans or animals and 238  
that are generally not useful for other purposes. 239

(H) Nothing in this chapter applies to a manufacturer or 240  
dealer of farming or forestry equipment acting in that capacity, 241  
or to any product or service of a manufacturer or dealer of 242  
farming or forestry equipment acting in that capacity. 243

(I) This chapter applies after the one hundred twentieth 244  
day following the effective date of this section. 245

**Section 2.** Chapter 1350. of the Revised Code may be cited 246  
as the "Digital Fair Repair Act." 247