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136th General Assembly
Regular Session
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Sub. H. B. No. 301

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

(2) "Authorized repair provider" includes an original 17
equipment manufacturer that offers the services of diagnosis, 18



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maintenance, or repair of its own digital electronic equipment. 19

(B) "Board-level component" means any electrical part 20
attached to a circuit board, such as microchips, sensors, 21
transistors, and capacitors. 22

(C) "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

(D) (1) "Digital electronic equipment" means any product 26
that has a value over ten dollars, adjusted annually in the 27
manner described in section 1350.011 of the Revised Code, that 28
depends for its functioning, in whole or in part, on digital 29
electronics embedded in or attached to the product. 30

(2) "Digital electronic equipment" does not include any of 31
the following: 32

(a) A motor vehicle, utility vehicle, low-speed vehicle, 33
or under-speed vehicle, as defined in section 4501.01 of the 34
Revised Code, and including a racing vehicle; 35

(b) An all-purpose vehicle, as defined in section 4519.01 36
of the Revised Code; 37

(c) A watercraft, as defined by section 1546.01 of the 38
Revised Code, or any other marine vessel; 39

(d) An aircraft, as defined in section 4561.01 of the 40
Revised Code, an unmanned aerial vehicle system, as defined in 41
section 4561.50 of the Revised Code, or a satellite; 42

(e) A medical device; 43

(f) Construction equipment, as defined in section 1353.01 44
of the Revised Code, including industrial, compact construction, 45

<u>mining, off-road, or road-building equipment;</u>	46
<u>(g) Utility equipment or any product purchased, installed,</u>	47
<u>and maintained by a public utility, as defined in section</u>	48
<u>4905.02 of the Revised Code;</u>	49
<u>(h) Safety communications equipment, for which the</u>	50
<u>intended use is emergency response or prevention purposes by an</u>	51
<u>emergency response organization, such as fire and rescue</u>	52
<u>services, law enforcement, or emergency medical services;</u>	53
<u>(i) A device, such as a set-top box, modem, or all-in-one</u>	54
<u>device, that is distributed by a cable service provider, as</u>	55
<u>defined by section 1332.01 of the Revised Code, or a</u>	56
<u>telecommunications carrier, as defined by the</u>	57
<u>"Telecommunications Act of 1996," 47 U.S.C. 153, and delivers</u>	58
<u>internet, video, or voice services to a customer, if the service</u>	59
<u>provider offers equivalent or better, readily available</u>	60
<u>replacement equipment at no charge to the customer;</u>	61
<u>(j) Fire alarm systems, intrusion detection equipment that</u>	62
<u>is provided with a security monitoring service, life safety</u>	63
<u>systems, and physical access control equipment, including</u>	64
<u>electronic keypads and similar building access control</u>	65
<u>electronics;</u>	66
<u>(k) Business-to-business or business-to-government digital</u>	67
<u>equipment, which is not typically offered for sale directly to</u>	68
<u>consumers by retail sellers;</u>	69
<u>(l) Information technology equipment that is used in</u>	70
<u>critical infrastructure, as defined by the "Critical</u>	71
<u>Infrastructures Protection Act of 2001," 42 U.S.C. 5195c;</u>	72
<u>(m) Turf, yard, and garden equipment;</u>	73

<u>(n) Outdoor power equipment;</u>	74
<u>(o) A portable, integrated stationary, or mobile internal combustion engine, or other alternative power source including a generator set, battery or electric power, storage battery, or fuel cell;</u>	75 76 77 78
<u>(p) A power tool;</u>	79
<u>(q) Farm machinery, as defined in section 1353.01 of the Revised Code, including farm implements, harvesters, farm tractors, and utility tractors;</u>	80 81 82
<u>(r) Industrial material handling or lifting assistance equipment, including powered industrial trucks, as defined by 29 C.F.R. 1910.178, work assist vehicles, scissor lifts and other operator-up work platforms, turret trucks, walking or rider low-level tuggers and pallets, and related fleet-management systems and devices;</u>	83 84 85 86 87 88
<u>(s) A tool, technology, attachment, accessory, component, or repair part for any device or vehicle described by division (D) (2) of this section.</u>	89 90 91
<u>(E) "Documentation" means any manual, diagram, reporting output, service code description, schematic, security code, password, or other guidance or information used in effecting the services of diagnosis, maintenance, or repair of digital electronic equipment or parts for such equipment.</u>	92 93 94 95 96
<u>(F) "Fair and reasonable terms" means making available parts, tools, or documentation that satisfy the conditions set forth in section 1350.03 of the Revised Code.</u>	97 98 99
<u>(G) "Independent repair provider" means a person in this state that does not have an authorized repair provider</u>	100 101

arrangement described in division (A) of this section and that 102
is engaged in the services of diagnosis, maintenance, or repair 103
of digital electronic equipment. 104

(H) "Maintenance" means any act necessary to keep 105
currently working digital electronic equipment or parts for such 106
equipment in fully working order. 107

(I) "Medical device" means an instrument, apparatus, 108
implement, machine, contrivance, implant, or other similar or 109
related article, including any component, part, or accessory, 110
that is intended for use in the diagnosis of disease or other 111
conditions, or in the cure, mitigation, treatment, or prevention 112
of disease, in humans or animals. "Medical device" does not 113
include general wellness products intended to maintain or 114
encourage a healthy lifestyle and that are unrelated to the 115
diagnosis, cure, mitigation, prevention, or treatment of a 116
disease or condition. 117

(J) "Modifications" or "modify" means any alteration to 118
digital electronic equipment that is not maintenance and not a 119
repair. 120

(K) "Original equipment manufacturer" means a person that, 121
in the normal course of business, is engaged in the business of 122
selling, leasing, or otherwise supplying digital electronic 123
equipment manufactured by or on behalf of itself, to any person. 124

(L) "Owner" means a person that owns or leases digital 125
electronic equipment purchased or used in this state. 126

(M) "Part" means any piece or component, including board- 127
level components, that is essential to the full functionality of 128
digital electronic equipment, including any auxiliary 129
attachments that improve the performance, safety, operation, or 130

efficiency of such equipment. 131

(N) "Parts pairing" means any practice by a product 132
manufacturer of using software to identify component parts 133
through a unique identifier. 134

(O) "Print imaging device" means a component, device, or 135
system for transferring an image to a printable medium, 136
including printers, copiers, multifunction devices, digital 137
duplicators, mailing machines, and professional imaging 138
products. 139

(P) "Repair" means any act needed to restore digital 140
electronic equipment or parts for such equipment to fully 141
working order. 142

(Q) "Tool" means any software program, hardware implement, 143
or other apparatus used for diagnosis, maintenance, or repair of 144
digital electronic equipment or parts for such equipment. 145

"Tool" includes software or other mechanisms that provide, 146
program, or pair a part; calibrate functionality; or perform any 147
other function required to bring the equipment or part back to a 148
fully functional condition, including any updates. 149

Sec. 1350.011. In November, or as soon as practicable 150
thereafter, each year that begins after the effective date of 151
this section, the director of commerce shall increase or 152
decrease the value threshold above which a product may qualify 153
as digital electronic equipment by multiplying the value 154
threshold that applies for that year by the cumulative 155
percentage change in the consumer price index (all items, all 156
urban consumers) prepared by the bureau of labor statistics of 157
the United States department of labor for the twelve-month 158
period ending on the immediately preceding thirtieth day of 159

September. The amount resulting from the computation, rounded to 160
the nearest one cent, applies to the following calendar year. 161

The director shall publish on a web site maintained by the 162
department of commerce the adjusted amount and the dates to 163
which that amount applies. 164

Sec. 1350.02. (A) (1) For digital electronic equipment and 165
parts sold or used in this state, an original equipment 166
manufacturer shall make available for purposes of diagnosis, 167
maintenance, or repair any documentation, parts, and tools, 168
including any updates to information or embedded software, to 169
both of the following on fair and reasonable terms: 170

(a) Any independent repair provider; 171

(b) The owner of digital electronic equipment manufactured 172
by or on behalf of, or sold or otherwise supplied by, the 173
original equipment manufacturer. 174

(2) Nothing in division (A) (1) of this section requires an 175
original equipment manufacturer to make available a part that is 176
no longer available to the original equipment manufacturer. 177

(3) The documentation, parts, and tools described in 178
division (A) (1) of this section shall be made available either 179
directly by the original equipment manufacturer or by an 180
authorized repair provider. 181

(B) For digital electronic equipment that contains an 182
electronic security lock or other security-related function, the 183
original equipment manufacturer shall make available to the 184
owner and to independent repair providers, on fair and 185
reasonable terms, any special documentation, tools, and parts 186
needed to disable the lock or function, and to reset it when 187
disabled in the course of diagnosis, maintenance, or repair of 188

the digital electronic equipment. Such documentation, tools, and 189
parts may be made available by means of an appropriate secure 190
system. 191

(C) (1) An original equipment manufacturer shall not use 192
parts pairing or any other mechanism to do either of the 193
following: 194

(a) Prevent the installation or functioning of any 195
otherwise-functional part, including a non-manufacturer approved 196
replacement part or component; 197

(b) Inhibit or reduce the functioning of any part or 198
board-level component, such that replacement by an independent 199
repair provider or the device owner would cause the device to 200
operate with reduced functionality or performance. 201

(2) Nothing in division (C) (1) of this section applies to 202
an original equipment manufacturer of a print imaging device. 203

(3) Division (C) (1) of this section does not apply to an 204
original equipment manufacturer that provides equivalent or 205
better readily available replacement equipment at no charge to 206
the owner of the digital electronic equipment. 207

Sec. 1350.03. (A) With respect to documentation required 208
to be made available under section 1350.02 of the Revised Code, 209
the original equipment manufacturer shall make such 210
documentation available at no charge, except that, when the 211
documentation is requested in physical printed form, the 212
original equipment manufacturer may charge for the reasonable, 213
actual costs of preparing and sending the documentation. 214

(B) With respect to tools required to be made available 215
under section 1350.02 of the Revised Code, the original 216
equipment manufacturer shall make such tools available, as 217

<u>follows:</u>	218
<u>(1) At no charge, except that, when the tool is requested</u>	219
<u>in physical form, the original equipment manufacturer may charge</u>	220
<u>for the reasonable, actual costs of preparing and sending the</u>	221
<u>tool;</u>	222
<u>(2) Without requiring authorization or internet access for</u>	223
<u>use or operation of the tool;</u>	224
<u>(3) Without imposing impediments to the access or use of</u>	225
<u>the tool to diagnose, maintain, or repair and enable full</u>	226
<u>functionality of digital electronic equipment or parts for such</u>	227
<u>equipment;</u>	228
<u>(4) Without impairing the efficient and cost-effective</u>	229
<u>performance of any such diagnosis, maintenance, or repair.</u>	230
<u>(C) With respect to parts required to be made available</u>	231
<u>under section 1350.02 of the Revised Code, the original</u>	232
<u>equipment manufacturer shall make such parts available, either</u>	233
<u>directly or through an authorized repair provider, to</u>	234
<u>independent repair providers and owners at costs and terms that</u>	235
<u>are equivalent to the most favorable costs and terms under which</u>	236
<u>an original equipment manufacturer offers the part to an</u>	237
<u>authorized repair provider, provided such costs and terms:</u>	238
<u>(1) Account for any discount, rebate, convenient and</u>	239
<u>timely means of delivery, means of enabling fully restored and</u>	240
<u>updated functionality, right of use, or other incentive or</u>	241
<u>preference the original equipment manufacturer offers to an</u>	242
<u>authorized repair provider;</u>	243
<u>(2) Account for any reasonable, actual costs, burdens, or</u>	244
<u>impediments the original equipment manufacturer incurs to</u>	245
<u>provide the part to the owner or to an independent repair</u>	246

<u>provider;</u>	247
<u>(3) Exclude any condition or substantial obligation or</u>	248
<u>restriction that is not reasonably necessary for enabling the</u>	249
<u>owner or independent repair provider to engage in the diagnosis,</u>	250
<u>maintenance, or repair of the digital electronic equipment made</u>	251
<u>by or on behalf of the original equipment manufacturer;</u>	252
<u>(4) Not be conditioned on an arrangement described in</u>	253
<u>division (A) of section 1350.01 of the Revised Code.</u>	254
<u>(D) Division (C) of this section does not apply to an</u>	255
<u>original equipment manufacturer that provides equivalent or</u>	256
<u>better readily available replacement equipment at no charge to</u>	257
<u>the owner of the digital electronic equipment.</u>	258
Sec. 1350.04. <u>(A) Subject to division (B) of this section,</u>	259
<u>a violation of section 1350.02 of the Revised Code is an unfair</u>	260
<u>or deceptive act or practice in violation of section 1345.02 of</u>	261
<u>the Revised Code. A person injured by a violation of section</u>	262
<u>1350.02 of the Revised Code has a cause of action and is</u>	263
<u>entitled to the same relief available to a consumer under</u>	264
<u>section 1345.09 of the Revised Code. All powers and remedies</u>	265
<u>available to the attorney general to enforce sections 1345.01 to</u>	266
<u>1345.13 of the Revised Code are available to the attorney</u>	267
<u>general to enforce section 1350.02 of the Revised Code.</u>	268
<u>(B) No original equipment manufacturer or authorized</u>	269
<u>repair provider shall be liable for any damage or injury caused</u>	270
<u>to any digital electronic equipment by an independent repair</u>	271
<u>provider or owner that occurs during the course of repair,</u>	272
<u>diagnosis, maintenance, or modification of the digital</u>	273
<u>electronic equipment, including:</u>	274
<u>(1) Indirect, incidental, special, or consequential</u>	275

<u>damages;</u>	276
<u>(2) Loss of data, privacy, or profits;</u>	277
<u>(3) Inability to use, or reduced functionality of, the</u> <u>digital electronic equipment.</u>	278 279
<u>Sec. 1350.05. (A) Nothing in this chapter shall be</u>	280
<u>construed to require an original equipment manufacturer to</u>	281
<u>divulge a trade secret to any owner or independent service</u>	282
<u>provider except as necessary to provide documentation, parts,</u>	283
<u>and tools on fair and reasonable terms.</u>	284
<u>(B) (1) Except as provided in division (B) (2) of this</u>	285
<u>section, nothing in this chapter shall be construed to alter the</u>	286
<u>terms of any authorized repair provider arrangement described in</u>	287
<u>division (A) of section 1350.01 of the Revised Code in force</u>	288
<u>between an authorized repair provider and an original equipment</u>	289
<u>manufacturer, including the performance or provision of warranty</u>	290
<u>or recall repair work by an authorized repair provider on behalf</u>	291
<u>of an original equipment manufacturer pursuant to such</u>	292
<u>arrangement.</u>	293
<u>(2) Any provision in the terms of an authorized repair</u>	294
<u>provider arrangement described in division (A) of section</u>	295
<u>1350.01 of the Revised Code that waives, avoids, restricts, or</u>	296
<u>limits the original equipment manufacturer's obligations to</u>	297
<u>comply with this chapter is void and unenforceable.</u>	298
<u>(C) Nothing in this chapter shall be construed to require</u>	299
<u>an original equipment manufacturer or an authorized repair</u>	300
<u>provider to provide to any owner or independent repair provider</u>	301
<u>access to information, other than documentation, that is</u>	302
<u>provided by the original equipment manufacturer to an authorized</u>	303
<u>repair provider pursuant to the terms of an arrangement</u>	304

described in division (A) of section 1350.01 of the Revised 305
Code. 306

(D) Nothing in this chapter shall be construed to require 307
an original equipment manufacturer or authorized repair provider 308
to make available any parts, tools, or documentation for the 309
purposes of modifying or making modifications to any digital 310
electronic equipment. 311

(E) Nothing in this chapter shall be construed to require 312
an original manufacturer to make available special 313
documentation, tools, parts, or other devices or implements that 314
would disable or override, without an owner's authorization, 315
anti-theft, privacy, or security measures that the owner 316
activates for digital electronic equipment. 317

(F) Nothing in this chapter shall be construed to require 318
an original equipment manufacturer or authorized repair provider 319
to make available any parts, tools, or documentation required 320
for the diagnosis, maintenance, or repair of digital electronic 321
equipment in a manner that is inconsistent with or in violation 322
of any federal law. 323

(G) Nothing in this chapter applies to a motor vehicle or 324
material handling equipment manufacturer, manufacturer of motor 325
vehicle equipment or material handling equipment, or motor 326
vehicle or material handling equipment dealer acting in that 327
capacity, or to any product or service of a motor vehicle or 328
material handling equipment manufacturer, manufacturer of motor 329
vehicle equipment or material handling equipment, or motor 330
vehicle or material handling equipment dealer acting in that 331
capacity. 332

(H) Nothing in this chapter applies to a medical device or 333

other digital electronic products found in a medical setting 334
that are primarily and customarily used in the cure, mitigation, 335
treatment, or prevention of disease in humans or animals and 336
that are generally not useful for other purposes. 337

(I) Nothing in this chapter applies to a manufacturer or 338
dealer of farm machinery, as defined in section 1353.01 of the 339
Revised Code, or farming or forestry equipment, including farm 340
implements, farm and utility tractors, and harvesters, acting in 341
that capacity, or to any product or service of a manufacturer or 342
dealer of farm machinery or farming or forestry equipment acting 343
in that capacity. 344

(J) Nothing in this chapter applies to a manufacturer, 345
dealer, distributor, or importer of any device, product, 346
equipment, or vehicle described by divisions (G) to (I) of this 347
section or division (D) (2) of section 1350.01 of the Revised 348
Code. 349

(K) This chapter applies after the one hundred twentieth 350
day following the effective date of this section. 351

Section 2. Chapter 1350. of the Revised Code may be cited 352
as the "Digital Fair Repair Act." 353