

**As Introduced**

**136th General Assembly**

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**H. B. No. 301**

**Representative Mathews, A.**

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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  
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; 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; 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  
mining, or road-building equipment; 46

(g) A product purchased, installed, and maintained by a 47

public utility, as defined in section 4905.02 of the Revised 48  
Code; 49

(h) Safety communications equipment, for which the 50  
intended use is emergency response or prevention purposes by an 51  
emergency response organization, such as fire and rescue 52  
services, law enforcement, or emergency medical services; 53

(i) A device, such as a set-top box, modem, or all-in-one 54  
device, that is distributed by a cable service provider, as 55  
defined by section 1332.01 of the Revised Code, or a 56  
telecommunications carrier, as defined by the 57  
"Telecommunications Act of 1996," 47 U.S.C. 153, and delivers 58  
internet, video, or voice services to a customer, if the service 59  
provider offers equivalent or better, readily available 60  
replacement equipment at no charge to the customer; 61

(j) Fire alarm systems, intrusion detection equipment that 62  
is provided with a security monitoring service, life safety 63  
systems, and physical access control equipment, including 64  
electronic keypads and similar building access control 65  
electronics. 66

(E) "Documentation" means any manual, diagram, reporting 67  
output, service code description, schematic, security code, 68  
password, or other guidance or information used in effecting the 69  
services of diagnosis, maintenance, or repair of digital 70  
electronic equipment or parts for such equipment. 71

(F) "Fair and reasonable terms" means making available 72  
parts, tools, or documentation that satisfy the conditions set 73  
forth in section 1350.03 of the Revised Code. 74

(G) "Independent repair provider" means a person in this 75  
state that does not have an authorized repair provider 76

arrangement described in division (A) of this section and that 77  
is engaged in the services of diagnosis, maintenance, or repair 78  
of digital electronic equipment. 79

(H) "Maintenance" means any act necessary to keep 80  
currently working digital electronic equipment or parts for such 81  
equipment in fully working order. 82

(I) "Medical device" means an instrument, apparatus, 83  
implement, machine, contrivance, implant, or other similar or 84  
related article, including any component, part, or accessory, 85  
that is intended for use in the diagnosis of disease or other 86  
conditions, or in the cure, mitigation, treatment, or prevention 87  
of disease, in humans or animals. "Medical device" does not 88  
include general wellness products intended to maintain or 89  
encourage a healthy lifestyle and that are unrelated to the 90  
diagnosis, cure, mitigation, prevention, or treatment of a 91  
disease or condition. 92

(J) "Modifications" or "modify" means any alteration to 93  
digital electronic equipment that is not maintenance and not a 94  
repair. 95

(K) "Original equipment manufacturer" means a person that, 96  
in the normal course of business, is engaged in the business of 97  
selling, leasing, or otherwise supplying digital electronic 98  
equipment manufactured by or on behalf of itself, to any person. 99

(L) "Owner" means a person that owns or leases digital 100  
electronic equipment purchased or used in this state. 101

(M) "Part" means any piece or component, including board- 102  
level components, that is essential to the full functionality of 103  
digital electronic equipment, including any auxiliary 104  
attachments that improve the performance, safety, operation, or 105

efficiency of such equipment. 106

(N) "Parts pairing" means any practice by a product 107  
manufacturer of using software to identify component parts 108  
through a unique identifier. 109

(O) "Repair" means any act needed to restore digital 110  
electronic equipment or parts for such equipment to fully 111  
working order. 112

(P) "Tool" means any software program, hardware implement, 113  
or other apparatus used for diagnosis, maintenance, or repair of 114  
digital electronic equipment or parts for such equipment. 115

"Tool" includes software or other mechanisms that provide, 116  
program, or pair a part; calibrate functionality; or perform any 117  
other function required to bring the equipment or part back to a 118  
fully functional condition, including any updates. 119

**Sec. 1350.011.** In November, or as soon as practicable 120  
thereafter, each year that begins after the effective date of 121  
this section, the director of commerce shall increase or 122  
decrease the value threshold above which a product may qualify 123  
as digital electronic equipment by multiplying the value 124  
threshold that applies for that year by the cumulative 125  
percentage change in the consumer price index (all items, all 126  
urban consumers) prepared by the bureau of labor statistics of 127  
the United States department of labor for the twelve-month 128  
period ending on the immediately preceding thirtieth day of 129  
September. The amount resulting from the computation, rounded to 130  
the nearest one cent, applies to the following calendar year. 131

The director shall publish on a web site maintained by the 132  
department of commerce the adjusted amount and the dates to 133  
which that amount applies. 134

Sec. 1350.02. (A) (1) For digital electronic equipment and 135  
parts sold or used in this state, an original equipment 136  
manufacturer shall make available for purposes of diagnosis, 137  
maintenance, or repair any documentation, parts, and tools, 138  
including any updates to information or embedded software, to 139  
both of the following on fair and reasonable terms: 140

(a) Any independent repair provider; 141

(b) The owner of digital electronic equipment manufactured 142  
by or on behalf of, or sold or otherwise supplied by, the 143  
original equipment manufacturer. 144

(2) Nothing in division (A) (1) of this section requires an 145  
original equipment manufacturer to make available a part that is 146  
no longer available to the original equipment manufacturer. 147

(3) The documentation, parts, and tools described in 148  
division (A) (1) of this section shall be made available either 149  
directly by the original equipment manufacturer or by an 150  
authorized repair provider. 151

(B) For digital electronic equipment that contains an 152  
electronic security lock or other security-related function, the 153  
original equipment manufacturer shall make available to the 154  
owner and to independent repair providers, on fair and 155  
reasonable terms, any special documentation, tools, and parts 156  
needed to disable the lock or function, and to reset it when 157  
disabled in the course of diagnosis, maintenance, or repair of 158  
the digital electronic equipment. Such documentation, tools, and 159  
parts may be made available by means of an appropriate secure 160  
system. 161

(C) An original equipment manufacturer shall not use parts 162  
pairing or any other mechanism to do either of the following: 163

(1) Prevent the installation or functioning of any 164  
otherwise-functional part, including a non-manufacturer approved 165  
replacement part or component; 166

(2) Inhibit or reduce the functioning of any part or 167  
board-level component, such that replacement by an independent 168  
repair provider or the device owner would cause the device to 169  
operate with reduced functionality or performance. 170

**Sec. 1350.03.** (A) With respect to documentation required 171  
to be made available under section 1350.02 of the Revised Code, 172  
the original equipment manufacturer shall make such 173  
documentation available at no charge, except that, when the 174  
documentation is requested in physical printed form, the 175  
original equipment manufacturer may charge for the reasonable, 176  
actual costs of preparing and sending the documentation. 177

(B) With respect to tools required to be made available 178  
under section 1350.02 of the Revised Code, the original 179  
equipment manufacturer shall make such tools available, as 180  
follows: 181

(1) At no charge, except that, when the tool is requested 182  
in physical form, the original equipment manufacturer may charge 183  
for the reasonable, actual costs of preparing and sending the 184  
tool; 185

(2) Without requiring authorization or internet access for 186  
use or operation of the tool; 187

(3) Without imposing impediments to the access or use of 188  
the tool to diagnose, maintain, or repair and enable full 189  
functionality of digital electronic equipment or parts for such 190  
equipment; 191

(4) Without impairing the efficient and cost-effective 192

performance of any such diagnosis, maintenance, or repair. 193

(C) With respect to parts required to be made available 194  
under section 1350.02 of the Revised Code, the original 195  
equipment manufacturer shall make such parts available, either 196  
directly or through an authorized repair provider, to 197  
independent repair providers and owners at costs and terms that 198  
are equivalent to the most favorable costs and terms under which 199  
an original equipment manufacturer offers the part to an 200  
authorized repair provider, provided such costs and terms: 201

(1) Account for any discount, rebate, convenient and 202  
timely means of delivery, means of enabling fully restored and 203  
updated functionality, right of use, or other incentive or 204  
preference the original equipment manufacturer offers to an 205  
authorized repair provider; 206

(2) Account for any reasonable, actual costs, burdens, or 207  
impediments the original equipment manufacturer incurs to 208  
provide the part to the owner or to an independent repair 209  
provider; 210

(3) Exclude any condition or substantial obligation or 211  
restriction that is not reasonably necessary for enabling the 212  
owner or independent repair provider to engage in the diagnosis, 213  
maintenance, or repair of the digital electronic equipment made 214  
by or on behalf of the original equipment manufacturer; 215

(4) Not be conditioned on an arrangement described in 216  
division (A) of section 1350.01 of the Revised Code. 217

**Sec. 1350.04.** (A) Subject to division (B) of this section, 218  
a violation of section 1350.02 of the Revised Code is an unfair 219  
or deceptive act or practice in violation of section 1345.02 of 220  
the Revised Code. A person injured by a violation of section 221

1350.02 of the Revised Code has a cause of action and is 222  
entitled to the same relief available to a consumer under 223  
section 1345.09 of the Revised Code. All powers and remedies 224  
available to the attorney general to enforce sections 1345.01 to 225  
1345.13 of the Revised Code are available to the attorney 226  
general to enforce section 1350.02 of the Revised Code. 227

(B) No original equipment manufacturer or authorized 228  
repair provider shall be liable for any damage or injury caused 229  
to any digital electronic equipment by an independent repair 230  
provider or owner that occurs during the course of repair, 231  
diagnosis, maintenance, or modification of the digital 232  
electronic equipment, including: 233

(1) Indirect, incidental, special, or consequential 234  
damages; 235

(2) Loss of data, privacy, or profits; 236

(3) Inability to use, or reduced functionality of, the 237  
digital electronic equipment. 238

**Sec. 1350.05.** (A) Nothing in this chapter shall be 239  
construed to require an original equipment manufacturer to 240  
divulge a trade secret to any owner or independent service 241  
provider except as necessary to provide documentation, parts, 242  
and tools on fair and reasonable terms. 243

(B) (1) Except as provided in division (B) (2) of this 244  
section, nothing in this chapter shall be construed to alter the 245  
terms of any authorized repair provider arrangement described in 246  
division (A) of section 1350.01 of the Revised Code in force 247  
between an authorized repair provider and an original equipment 248  
manufacturer, including the performance or provision of warranty 249  
or recall repair work by an authorized repair provider on behalf 250

of an original equipment manufacturer pursuant to such 251  
arrangement. 252

(2) Any provision in the terms of an authorized repair 253  
provider arrangement described in division (A) of section 254  
1350.01 of the Revised Code that waives, avoids, restricts, or 255  
limits the original equipment manufacturer's obligations to 256  
comply with this chapter is void and unenforceable. 257

(C) Nothing in this chapter shall be construed to require 258  
an original equipment manufacturer or an authorized repair 259  
provider to provide to any owner or independent repair provider 260  
access to information, other than documentation, that is 261  
provided by the original equipment manufacturer to an authorized 262  
repair provider pursuant to the terms of an arrangement 263  
described in division (A) of section 1350.01 of the Revised 264  
Code. 265

(D) Nothing in this chapter shall be construed to require 266  
an original equipment manufacturer or authorized repair provider 267  
to make available any parts, tools, or documentation for the 268  
purposes of modifying or making modifications to any digital 269  
electronic equipment. 270

(E) Nothing in this chapter shall be construed to require 271  
an original manufacturer to make available special 272  
documentation, tools, parts, or other devices or implements that 273  
would disable or override, without an owner's authorization, 274  
anti-theft, privacy, or security measures that the owner 275  
activates for digital electronic equipment. 276

(F) Nothing in this chapter shall be construed to require 277  
an original equipment manufacturer or authorized repair provider 278  
to make available any parts, tools, or documentation required 279

for the diagnosis, maintenance, or repair of digital electronic 280  
equipment in a manner that is inconsistent with or in violation 281  
of any federal law. 282

(G) Nothing in this chapter applies to a motor vehicle 283  
manufacturer, manufacturer of motor vehicle equipment, or motor 284  
vehicle dealer acting in that capacity, or to any product or 285  
service of a motor vehicle manufacturer, manufacturer of motor 286  
vehicle equipment, or motor vehicle dealer acting in that 287  
capacity. 288

(H) Nothing in this chapter applies to a medical device or 289  
other digital electronic products found in a medical setting 290  
that are primarily and customarily used in the cure, mitigation, 291  
treatment, or prevention of disease in humans or animals and 292  
that are generally not useful for other purposes. 293

(I) Nothing in this chapter applies to a manufacturer or 294  
dealer of farming or forestry equipment acting in that capacity, 295  
or to any product or service of a manufacturer or dealer of 296  
farming or forestry equipment acting in that capacity. 297

(J) This chapter applies after the one hundred twentieth 298  
day following the effective date of this section. 299

**Section 2.** Chapter 1350. of the Revised Code may be cited 300  
as the "Digital Fair Repair Act." 301