

# MAINE STATE LEGISLATURE

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MINORITY

INNOVATION, DEVELOPMENT, ECONOMIC ADVANCEMENT AND BUSINESS

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STATE OF MAINE

SENATE

131ST LEGISLATURE

SECOND REGULAR SESSION

COMMITTEE AMENDMENT "B" to S.P. 608, L.D. 1487, "An Act to Ensure That Residents of the State Have the Right to Repair Their Own Electronic Devices"

Amend the bill by striking out the title and substituting the following:

'An Act to Ensure That Residents of the State Have the Right to Repair Their Own Personal Electronic Devices'

Amend the bill by striking out everything after the enacting clause and inserting the following:

'Sec. 1. 10 MRSA c. 234 is enacted to read:

CHAPTER 234

RIGHT TO REPAIR ELECTRONIC EQUIPMENT

§1500-O. Right to repair

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Authorized repair provider" means:

(1) An original equipment manufacturer that offers the services of diagnosis, maintenance or repair of its own personal digital electronic equipment and that does not have an arrangement described in subparagraph (2) with an unaffiliated person; or

(2) A person that is unaffiliated with an original equipment manufacturer and that has an arrangement with the original equipment manufacturer under which the original equipment manufacturer grants to the person a license to use a trade name, service mark or related characteristics for the purposes of offering the services of

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diagnosis, maintenance or repair of personal digital electronic equipment under the name of or on behalf of the original equipment manufacturer.

B. "Diagnosis" means the process of identifying the issue or issues causing personal digital electronic equipment to not be in full working order.

C. "Documentation" means, with respect to personal digital electronic equipment, a manual, diagram, reporting output, service code description or similar kind of information required for effecting the services of diagnosis, maintenance or repair of equipment manufactured or sold by an original equipment manufacturer to facilitate the diagnosis, maintenance or repair of the equipment.

D. "Fair and reasonable terms" means, with respect to documentation, parts and tools required for the diagnosis, maintenance and repair of personal digital electronic equipment, that such documentation, parts and tools are made available by the original equipment manufacturer at commercially reasonable costs and on commercially reasonable terms that are at least as favorable as the most favorable costs and terms under which the manufacturer offers the documentation, parts and tools to an authorized repair provider, accounting for any discount, rebate or financial incentive offered to the authorized repair provider by the manufacturer, and that:

(1) With respect to documentation required for repair, such documentation is made available by the original equipment manufacturer:

(a) On terms that do not require the recipient of the documentation to be or to become an authorized repair provider; and

(b) At no charge, except that, when the documentation is requested in physical printed form, the manufacturer may require payment for the reasonable actual costs of preparing and sending the printed documentation;

(2) With respect to tools required for repair, such tools are made available by the original equipment manufacturer:

(a) On terms that do not require the recipient of the tool to be or to become an authorized repair provider;

(b) Without any impediments to use; and

(c) At no charge for use or operation of the tool, except that when the tool is requested in physical form, the manufacturer may require payment for the reasonable, actual costs of procuring, preparing and sending the tool; and

(3) With respect to parts required for repair, such parts are made available by the original equipment manufacturer either directly or through an authorized distributor or authorized repair provider on terms that do not require the recipient of the part to be or to become an authorized repair provider.

E. "Independent repair provider" means an individual or business operating in the State that is not an authorized repair provider and that is not affiliated with an authorized repair provider and that is engaged in diagnosing, maintaining and repairing personal digital electronic equipment.

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- 1 F. "Maintenance" means, with respect to personal digital electronic equipment, any
- 2 action necessary to keep currently working personal digital electronic equipment in full
- 3 working order.
- 4 G. "Modification" or "modify" means, with respect to personal digital electronic
- 5 equipment, any alteration to the equipment that is not maintenance and not repair.
- 6 H. "Original equipment manufacturer" or "manufacturer" means a business engaged in
- 7 the selling or leasing of or in otherwise supplying new personal digital electronic
- 8 equipment manufactured by or on behalf of the business.
- 9 I. "Owner" means an individual or business that owns or leases personal digital
- 10 electronic equipment purchased or used in the State.
- 11 J. "Part" means, with respect to personal digital electronic equipment, any replacement
- 12 part or assembly of parts, either new or used, or their equivalents, for maintaining or
- 13 repairing personal digital electronic equipment manufactured or sold by the
- 14 manufacturer. "Part" does not include printed circuit board assemblies that may allow
- 15 device cloning in violation of 18 United States Code, Section 1029 or other applicable
- 16 law.
- 17 K. "Personal digital electronic equipment" or "equipment" means a hardware product
- 18 that:
  - 19 (1) Is a computer, cellular telephone or tablet;
  - 20 (2) Is sold at retail for personal, household, family or home office use;
  - 21 (3) Has a wholesale price to a retailer, or to others outside of direct retail sale, of
  - 22 not less than \$50; and
  - 23 (4) Depends in whole or in part on digital electronics embedded in or attached to
  - 24 the product for the product to function.
- 25 L. "Repair" means, with respect to personal digital electronic equipment, any action
- 26 necessary to restore the equipment to full working order. "Repair" does not include
- 27 post-sale modifications that alter the originally intended functioning of the personal
- 28 digital electronic equipment.
- 29 M. "Tool" means, with respect to personal digital electronic equipment, a software
- 30 program, hardware implement or other apparatus, or its equivalent, used for
- 31 diagnosing, maintaining or repairing personal digital electronic equipment
- 32 manufactured or sold by the manufacturer, including software or other mechanisms
- 33 that provide, program or pair a new part, calibrate functionality or perform any other
- 34 function required to repair the original part.
- 35 N. "Trade secret" means anything tangible or intangible or electronically stored or kept
- 36 that constitutes, represents, evidences or records intellectual property, including secret
- 37 or confidentially held designs, processes, procedures, formulas, inventions or
- 38 improvements or secret or confidentially held scientific, technical, merchandising,
- 39 production, financial, business or management information, or other intellectual
- 40 property that falls within the meaning of a trade secret under 18 United States Code,
- 41 Section 1839.

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1 2. Original equipment manufacturers; requirement. Beginning August 1, 2025  
2 and except as otherwise provided in this section, an original equipment manufacturer of  
3 personal digital electronic equipment sold or in use in the State on or after August 1, 2025  
4 shall make available on fair and reasonable terms to any independent repair provider or  
5 owner of the equipment any documentation, parts or tools, or their equivalents, required  
6 for the diagnosis, maintenance or repair of the equipment.

7 An original equipment manufacturer may elect to alternatively comply with the  
8 requirements of this section by providing to the original purchaser of personal digital  
9 electronic equipment subject to the requirements of this section a reimbursement or the  
10 equivalent or better and readily available replacement personal digital electronic equipment  
11 at a price that is no more than the total cost of the sum of the parts of the equipment.

12 3. Additional limitations and exclusions. Notwithstanding any provision of this  
13 section to the contrary:

14 A. An original equipment manufacturer is not required by this section to:

15 (1) Provide or make available documentation, parts or tools to an independent  
16 repair provider or owner if:

17 (a) The part or tool is no longer available to the original equipment  
18 manufacturer; or

19 (b) The documentation or tool is used by the original equipment manufacturer  
20 only to perform no-cost diagnostic services virtually through telephone,  
21 Internet, chat function, e-mail or similar means that do not involve the  
22 manufacturer's physically handling the owner's equipment, unless the  
23 manufacturer also makes that documentation or tool available to persons  
24 unaffiliated with the manufacturer;

25 (2) Divulge any trade secret;

26 (3) License any intellectual property, including copyrights or patents, to any  
27 independent repair provider or owner;

28 (4) Make available to an independent repair provider or owner documentation,  
29 parts or tools that would disable, reset or override electronic security locks or other  
30 security-related measures or functions or disable or override antitheft security  
31 measures set by the owner of the equipment without the owner's authorization.  
32 Nothing in this subparagraph may be construed to relieve the original equipment  
33 manufacturer's obligation to make available to an independent repair provider or  
34 owner such documentation, parts or tools if the owner provides authorization;

35 (5) Provide documentation, parts or tools for any personal digital electronic  
36 equipment where reconditioning or repair of the equipment is prohibited by law,  
37 regulation or building or electrical code;

38 (6) Provide documentation or tools used exclusively by the original equipment  
39 manufacturer for diagnosis, maintenance or repairs completed by machines that  
40 operate on several personal digital electronic equipment products simultaneously  
41 or otherwise for purposes of large-scale efficiency as long as the manufacturer  
42 makes available to independent repair providers and owners sufficient alternative  
43 documentation and tools to diagnose, maintain or repair the equipment; or

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(7) Warrant any repairs provided by independent repair providers or owners;

B. An original equipment manufacturer and an authorized repair provider are not required by this section to:

(1) Provide an independent repair provider or owner any information, other than documentation, that is provided by the original equipment manufacturer to an authorized repair provider;

(2) Make available any documentation, parts or tools for the purposes of modifying or making modifications to any personal digital electronic equipment; or

(3) Make available any documentation, parts or tools in a manner that is inconsistent with or in violation of applicable federal or state law;

C. In complying with the requirements of this section, an original equipment manufacturer may:

(1) Make available documentation, parts or tools to an independent repair provider or owner directly or through an authorized repair provider or an authorized 3rd-party provider.

(a) Nothing in this section may be construed to require an authorized repair provider or authorized 3rd-party provider to provide such documentation, parts or tools to an independent repair provider or owner or to relieve an original equipment manufacturer of its obligations to make available documentation, parts or tools to an independent repair provider or owner.

(b) An authorized repair provider may make documentation, parts or tools available to an independent repair provider or owner as long as the authorized repair provider is contractually permitted by the original equipment manufacturer to provide and is not otherwise prohibited from providing the documentation, parts or tools; and

(2) Restrict access to certain secure parts of a device by an independent repair provider or owner as long as the access restriction does not prevent the independent repair provider or owner from completing repairs that can otherwise be completed by an authorized repair provider; and

D. An original equipment manufacturer is not liable under this section for improper use of personal data or any data privacy or security breach in connection with repair, diagnosis, maintenance or modification of personal digital electronic equipment by an independent repair provider or owner.

Nothing in this section may be construed to abrogate, interfere with, contradict or alter the terms of any agreement between an original equipment manufacturer and an authorized repair provider, including, but not limited to, the performance or provision of warranty or recall repair work by an authorized repair provider on behalf of an original equipment manufacturer pursuant to such an authorized repair agreement, except that any provision in such an authorized repair agreement that purports to waive, avoid, restrict or limit an original equipment manufacturer's compliance with this section is void and unenforceable.

4. Written notice required. Before repairing personal digital electronic equipment subject to the requirements of this section, an independent repair provider shall provide to a customer a written notice that contains the following information:

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1 A. That the independent repair provider is not an authorized repair provider for the  
2 personal digital electronic equipment;

3 B. That the consumer should review the terms and conditions of any warranty for the  
4 personal digital electronic equipment as repairs not performed by an authorized repair  
5 provider may affect the warranty;

6 C. That warranties for consumer products are governed by the federal Magnuson-Moss  
7 Warranty - Federal Trade Commission Improvement Act, 15 United States Code,  
8 Chapter 50, which:

9 (1) Gives consumers rights and protections that supersede conflicting provisions  
10 in the warranty for the consumer product;

11 (2) Provides that a warranty for the consumer product may not require  
12 maintenance and repairs to be performed only by an authorized repair provider;  
13 and

14 (3) Provides that, if damage to the consumer product is shown to be caused by  
15 equipment not offered or sold by the original equipment manufacturer or by faulty  
16 repair performed by a repair provider that is not an authorized repair provider, that  
17 damage may not be covered by the warranty but the warranty may otherwise  
18 remain in effect; and

19 D. Whether the independent repair provider, in repairing personal digital electronic  
20 equipment, uses any used replacement parts or replacement parts provided by a  
21 supplier other than the original equipment manufacturer of the personal digital  
22 electronic equipment.

23 **5. Violations.** A violation of this section is a violation of the Maine Unfair Trade  
24 Practices Act.'

25 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section  
26 number to read consecutively.

27 **SUMMARY**

28 This amendment, which is a minority report of the committee, replaces the bill and  
29 changes the title. The amendment establishes a requirement that, beginning August 1, 2025,  
30 an original equipment manufacturer of personal digital electronic equipment, which  
31 includes, but is not limited to, laptops, computers, cellular telephones and tablets, sold or  
32 in use in the State on or after August 1, 2025 must make available on fair and reasonable  
33 terms to any independent repair provider or owner of the equipment documentation, parts  
34 or tools required for the diagnosis, maintenance or repair of the equipment.

35 **FISCAL NOTE REQUIRED**

36 (See attached)



Approved: 03/13/24 *MAC*

# 131st MAINE LEGISLATURE

LD 1487

LR 2305(03)

**An Act to Ensure That Residents of the State Have the Right to Repair Their Own Electronic Devices**

**Fiscal Note for Bill as Amended by Committee Amendment 'B'(S-Lelle)**  
**Committee: Innovation, Development, Economic Advancement and Business**  
**Fiscal Note Required: Yes**

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## Fiscal Note

Minor cost increase - General Fund  
Minor revenue increase - General Fund

### Correctional and Judicial Impact Statements

This bill may increase the number of civil suits filed in the court system. The additional workload associated with the minimal number of new cases filed in the court system does not require additional funding at this time. The collection of additional filing fees will increase General Fund revenue by minor amounts.