

MAINE STATE LEGISLATURE

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131st MAINE LEGISLATURE

FIRST SPECIAL SESSION-2023

Legislative Document

No. 1487

S.P. 608

In Senate, April 5, 2023

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

Reference to the Committee on Innovation, Development, Economic Advancement and Business suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator TIPPING of Penobscot.
Cosponsored by Representative MATHIESON of Kittery and
Senator: BRAKEY of Androscoggin, Representatives: BOYER of Poland, CLUCHEY of
Bowdoinham, JAUCH of Topsham, LOOKNER of Portland, ROEDER of Bangor.

1 **Be it enacted by the People of the State of Maine as follows:**

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

3 **CHAPTER 234**

4 **RIGHT TO REPAIR ELECTRONIC EQUIPMENT**

5 **§1500-O. Right to repair**

6 **1. Definitions.** For the purposes of this chapter, unless the context otherwise indicates,
7 the following terms have the following meanings.

8 **A. "Authorized repair provider" means:**

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

12 (2) A person that is unaffiliated with an original equipment manufacturer and that
13 has an arrangement with the original equipment manufacturer under which the
14 original equipment manufacturer grants to the person a license to use a trade name,
15 service mark or related characteristics for the purposes of offering the services of
16 diagnosis, maintenance or repair of digital electronic equipment under the name of
17 or on behalf of the original equipment manufacturer.

18 **B. "Digital electronic equipment" or "equipment" means a product that depends for its**
19 **functioning, in whole or in part, on digital electronics embedded in or attached to the**
20 **product, but does not include a motor vehicle.**

21 **C. "Documentation" means any manual, diagram, report, service code description,**
22 **schematic diagram or similar information provided to an authorized repair provider for**
23 **purposes of offering the services of diagnosis, maintenance or repair of digital**
24 **electronic equipment.**

25 **D. "Embedded software" means any programmable instructions provided on firmware**
26 **delivered with digital electronic equipment, or with a part for such equipment, for**
27 **purposes of equipment operation, including all relevant patches and fixes made by the**
28 **manufacturer of such equipment or part for these purposes.**

29 **E. "Fair and reasonable terms" means the following terms for obtaining documentation**
30 **or a tool or part:**

31 (1) With respect to documentation, including any relevant updates, that there is no
32 charge, except when the documentation is requested in physical printed form, in
33 which case it means the reasonable actual costs of preparing and sending the copy;

34 (2) With respect to a tool, that there is no charge, no required authorization or
35 Internet access for the use or operation of the tool and no other impediment to
36 access or use of the tool for its full functionality, except when the tool is requested
37 in physical form, in which case it means the reasonable actual costs of preparing
38 and sending the tool; and

1 (3) With respect to a part, that the cost and terms are equivalent to the most
2 favorable costs, conditions, obligations and other terms offered by the original
3 equipment manufacturer to an authorized repair provider, accounting for all
4 discounts, rebates or costs.

5 F. "Firmware" means a software program or set of instructions programmed on digital
6 electronic equipment, or on a part for such equipment, to allow the equipment or part
7 to communicate with other computer hardware.

8 G. "Independent repair provider" means a person in this State:

9 (1) That is not an authorized repair provider or affiliated with an authorized repair
10 provider and is engaged in the services of diagnosis, maintenance or repair of
11 digital electronic equipment; or

12 (2) That is an authorized repair provider or affiliated with an authorized repair
13 provider with respect to any services of diagnosis, maintenance or repair of digital
14 electronic equipment that is not manufactured by or sold under the name of the
15 original equipment manufacturer for which the person, or the person's affiliate, is
16 an authorized repair provider.

17 H. "Motor vehicle" has the same meaning as in section 1171, subsection 11 and
18 includes any component part of the motor vehicle.

19 I. "Original equipment manufacturer" means a business engaged in the business of
20 selling or leasing to any person new digital electronic equipment manufactured by or
21 on behalf of itself.

22 J. "Owner" means a person that owns or leases digital electronic equipment purchased
23 or used in this State.

24 K. "Part" means any replacement part, either new or used, made available by an original
25 equipment manufacturer for purposes of maintenance or repair of digital electronic
26 equipment manufactured or sold by the original equipment manufacturer.

27 L. "Tool" means any software program, hardware or other mechanism or apparatus
28 necessary to repair digital electronic equipment and restore it to fully functional
29 condition.

30 M. "Trade secret" means anything tangible or intangible or electronically stored or kept
31 that constitutes, represents, evidences or records intellectual property, including secret
32 or confidentially held designs, processes, procedures, formulas, inventions or
33 improvements or secret or confidentially held scientific, technical, merchandising,
34 production, financial, business or management information, or anything within the
35 definition of "trade secret" under 18 United States Code, Section 1839(3), as in effect
36 on January 1, 2019.

37 **2. Requirements.** An original equipment manufacturer shall, with respect to any
38 digital electronic equipment sold or used in this State, make available on fair and reasonable
39 terms to the owner of the equipment or to any independent repair provider:

40 A. Parts, tools and documentation necessary to repair the digital electronic equipment,
41 including any updates to information or embedded software; and

