

SB 542 -2, -4 STAFF MEASURE SUMMARY

Senate Committee On Energy and Environment

Prepared By: Beth Reiley, LPRO Analyst

Meeting Dates: 2/9, 2/14, 3/28, 3/30

WHAT THE MEASURE DOES:

Requires original equipment manufacturer (Manufacturer) to make available to an owner or independent repair provider at fair and reasonable terms any of the following that Manufacturer makes available to authorized repair provider:

- any necessary documentation, tool, part, or other device or implement for purpose of diagnosing, maintaining, repairing, or updating consumer electronic equipment sold in Oregon; or
- any documentation, tool, or part necessary to disable and reset electronic security lock or function that is or must be disabled or reset while diagnosing, maintaining, or repairing the consumer electronic equipment.

Provides that person who suffers ascertainable loss of money or property has right to bring action to recover damages for violation of provisions of Act. Allows person to recover actual damages or statutory damages of \$1,000, whichever is greater, along with attorney fees and court costs. Allows court to punitive damages or may provide appropriate equitable relief. Allows class action. Stipulates requirement does not require a Manufacturer to disclose a trade secret; alter the terms of any agreement or arrangement between Manufacturer and an authorized repair provider; or impose liability upon Manufacturer. Stipulates provisions do not apply to person engaged in manufacturing new motor vehicles, or to certain other products. Applies to originated equipment sold or in use on or after the effective date. Takes effect 91st day following adjournment sine die.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

-2 Replaces measure. Defines key terms. Requires “original equipment manufacturer” (Manufacturer) to make any documentation, tool, part or other device or implement that is made available to “authorized service provider” (Authorized Provider) for purpose of **diagnosing, maintaining, repairing or updating** consumer electronic equipment (Equipment) available to an owner or an independent repair provider (Independent Provider) on fair and reasonable terms. Requires Manufacturer to make any documentation, tool, or part necessary to **disable and reset** any electronic security lock or other security function in Equipment that is, or must be, disabled or reset while diagnosing, maintaining, or repairing the Equipment available to an owner or Independent Provider on fair and reasonable terms. Stipulates that requirements apply to Equipment sold or in use on or after effective date of Act. Authorizes person that suffers ascertainable loss of money or property, real, or personal, as result of Manufacturer’s failure to comply bring **action in court** within one year after discovering violation. Stipulates requirements of Act do not require Manufacturer to disclose **trade secret** except as to provide necessary documentation, tool, part, or other implement necessary to diagnose, maintain or repair Equipment. Maintains existing terms of agreement or arrangement between Manufacturer and Authorized Provider, with exception of any provision that purports to waive, restrict, or limit Manufactures compliance. Stipulates requirements do not impose liability on Manufacturer for any bodily injury or damage to Equipment the independent provider or owner cause while servicing equipment using resources provided by manufacturer, with certain exception. **Exempts** certain products. Requires Authorizes Provider and Independent Provider to post **notice** with certain information on at place of business, on website or directly to customers and to display all repair certifications. Authorizes Department of Consumer and Business Services to prescribe, by rule, the form, format, and contents of notice. Takes effect on 91st day following adjournment sine die

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-4 The -4 includes the language from the -2 amendment with the following changes: Clarifies that "consumer electronic equipment is a product that is sold, used or supplied in the state one year or more after the product was first manufactured and sold or used. Authorizes the cost of preparing and sending documentation that a person requests to be included in "fair and reasonable terms." Corrects reference to medical device by clarifying that it is defined in the federal Food , Drug, and Cosmetic Act, 21 U.S.C 301 et seq., or a digital electronic product, software, control equipment or related products. Removes direction to Department of Consumer and Business Services to prescribe firm, format and contents of required notices.

BACKGROUND:

When certain home electronics are not functioning properly, the consumer may face the choice of replacing the product or paying for repair services of a business authorized by the original manufacturer to make the repair. Attempting to repair the product at home or through a service not authorized by the original manufacturer may void the warranty, and the tools and instructions necessary to make the repair may not be available.

Senate Bill 542 would require that original equipment manufacturer makes any documentation, tool, part or other device or implement that original equipment manufacturer makes available to authorized repair provider for purpose of diagnosing, maintaining or repairing consumer electronic equipment available to owner of consumer electronic equipment or independent repair provider on fair and reasonable terms.