

February 26, 2024

Rep. Paul Holvey, Chair
House Committee on Business and Labor
Oregon State Legislature
900 Court St. NE
Salem, OR 97301

Re: Oppose SB 1596 Unless Amended

Dear Chair Holvey:

On behalf of the Consumer Technology Association (CTA), thank you for opportunity to provide comments on SB 1596. CTA is the trade association representing the U.S. consumer technology industry – including manufacturers of devices subject to the provisions of this legislation. We also represent retailers of these and other consumer technology products.

CTA values working constructively to align legislation for consistency as well to avoid unintended consequences. We are not opposed to a Right to Repair program, and we have offered amendments previously and described below that address these concerns and keep the original intent of the bill intact.

Given the enactment of repair laws in New York, Minnesota, and California, CTA is concerned about a patchwork of varying requirements emerging across the United States. This bill does not just go farther than California's and the other states' repair laws in terms of protections and rights for independent repair, it also ignores important consumer safety considerations that were addressed in the other laws. To avoid the unintended side effects described below these amendments are critical. We ask that the bill be amended before it is passed this session, as manufacturers are already designing models for after the bill goes into effect, and they will need to account for Oregon's new restrictions.

Late in 2023 CTA worked with members and drafted model legislation for states like Oregon that seek to expand repair options and level the playing field between authorized service providers, independent repair providers, and device owners. That model legislation is provided as an attachment to this testimony.

The following items in SB 1596 remain of major concern:

- **Parts pairing prohibitions.** State law should respect the legitimate use of parts pairing, and for those uses that are beneficial to consumers and their safety, parts pairing should be encouraged. Parts pairing is a technology innovation used to

validate and confirm the proper functioning of a spare part regardless of who produces the part, and a similar type of parts pairing is widely used already in the auto industry. Why would the state not want proper calibration of a new battery to avoid a thermal event? What is the state's interest in creating barriers to ensure proper functioning of a replacement screen so when a consumer touches the screen it actually activates the hyperlink being touched and not an adjacent hyperlink? And why should state law disallow authentication techniques that could be valuable in screening out threats to user privacy posed by unscrupulous commercial interests? Or by unfriendly foreign governments?

CTA is not advocating a full removal of the parts pairing section, even though California's law does not address parts pairing. We do recommend parts pairing language in the bill to avoid unnecessarily restricting these and other beneficial actions by manufacturers whose brand is, and remains, on the product. Please avoid closing off a best-in-class practice that supports device functionality and authentication as these devices provide core and critical personal services. CTA has proposed appropriate sideboards for parts pairing that will allow parts pairing for authorized third-party parts but prohibits practices that are not pro-consumer.

- **Retroactivity.** We suggest aligning with California's July 1, 2021 date for repair requirements. Making the repair requirements applicable to devices introduced as early as 2015 would disincentivize manufacturers from supporting repair for these older products, especially if repairs are only conducted by the manufacturer internally using parts not distributed outside the OEM. It will be difficult for those OEMs to expand their repair services to meet the law without significant investment in distribution and supply chains – which may be too cost prohibitive to do. The bill would retroactively penalize manufacturers for having set up certain common repair arrangements for their older products, especially for those manufacturers offering in-house repairs for older products, by forcing manufacturers to incur substantial and entirely unexpected new costs in order to continue offering repair.
- **Internally-Performed Repairs and Replacements.** Across the consumer technology industry, except for higher value products like smart phones, many, and probably most, manufacturers do not have an authorized repair provider network for post-warranty repairs. Although CTA has not done any formal study on why this is the case, it is likely due to the lack of market demand or economic value in post-warranty repairs for most consumer electronics.

Many of these manufacturers, however, do provide some in-house post-warranty repairs when parts and repair capabilities are readily available. Other companies avoid the hassle of creating a managing an authorized repair network by providing consumers with a replacement product when certain conditions are met. The current bill does not account for this very common approach in our industry. CTA proposes amendments to remove the current incentive in the bill to stop doing any post-warranty internal repairs and to affirm the consumer-friendly practice of replacing a product when appropriate.

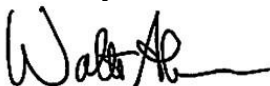
- **Most favorable terms for parts.** Please replace “most favorable” with a requirement that parts be available on “reasonable costs and terms.” A “reasonable costs and terms” provision as suggested by CTA would prevent doomsday scenarios without using the term “most favorable,” which is undefined in the bill and carries other issues detailed in the attached exchange.
- **Allocation limitations.** Please remove the allocation references. The language in the bill is broader than concerns raised about “malicious activities” and would prevent the OEM from managing supply chains by placing upper limits on individual parts orders in order to make parts available to all repair service providers as needed. We suggest deleting “allocation limitations” and “as a means of hindering the authorized service provider in selling parts by any means.” At the very least, add “unreasonable” before “allocation limitations” and remove “by any means.”
- **Safety Risk Exemption.** Finally, similar to our battery concerns, there should also be a generic exemption to avoid compelling manufacturers to enable repair in the presence of a heightened safety risk. Forcing manufacturers to actively enable repairs that may pose significant safety risks – whether via tools that are inherently dangerous to operate, or for high voltage components – goes completely against the notion of manufacturer extended producer responsibility (EPR). In multiple areas Oregon and other levels of government have made electronics manufacturers responsible for safety and environmental impacts at all phases of a product’s lifecycle but this legislation would create a gaping hole in producer responsibility. At a minimum the bill should be amended to relieve OEMs from providing parts, tools, or documentation for repair of digital electronic equipment critical to the safety of life or health of individuals, or for repairs that could threaten the safety of life or health of individuals, including repairs to digital electronic equipment with internal switch-mode power supplies.

Conclusion

Thank you again for the opportunity to testify and provide our comments and suggestions. CTA remains hopeful that with these items addressed this bill will level the playing field as demanded by repair advocates while avoiding deleterious unintended consequences. CTA opposes unless amended as recommended above.

If you have any questions, please do not hesitate to contact me at walcorn@cta.tech.

Sincerely,



Walter Alcorn
Vice President, Environmental Affairs and Industry Sustainability
Consumer Technology Association