

DRAFT

SUMMARY

Digest: Makes having a signal jammer that can jam alarm systems a crime if the person that has the signal jammer intends to use it to break into or steal from a house or building. Says that the maker of an alarm system does not need to give an owner or repair provider a tool or part needed to fix the alarm system. (Flesch Readability Score: 62.1).

Adds signal jammers that interfere with alarm system signals and communication to the definition of “burglary tool or theft device,” possession of which with intent to commit or facilitate a forcible entry into premises or a physical taking constitutes the crime of possession of a burglary tool or theft device. Punishes by a maximum of 365 days’ imprisonment, a fine of up to \$6,250, or both.

Exempts alarm systems from the requirement for an original equipment manufacturer to make available to an owner or independent repair provider a tool, part or other device or implement that the original equipment manufacturer makes available to an authorized service provider for the purpose of diagnosing, maintaining, repairing or updating consumer electronic equipment.

A BILL FOR AN ACT

1
2 Relating to alarm systems; amending ORS 164.235 and section 1, chapter 69,
3 Oregon Laws 2024.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 164.235 is amended to read:

6 164.235. (1) A person commits the crime of possession of a burglary tool
7 or theft device if the person possesses a burglary tool or theft device and the
8 person:

9 (a) Intends to use the tool or device to commit or facilitate a forcible
10 entry into premises or a theft by a physical taking; or

1 (b) Knows that another person intends to use the tool or device to commit
2 or facilitate a forcible entry into premises or a theft by a physical taking.

3 (2) For purposes of this section, “burglary tool or theft device” means an
4 acetylene torch, electric arc, burning bar, thermal lance, oxygen lance or
5 other similar device capable of burning through steel, concrete or other solid
6 material, **a signal jammer that can interfere with the function of an**
7 **alarm system or signals or communications to and from an alarm**
8 **system** or nitroglycerine, dynamite, gunpowder or any other explosive, tool,
9 instrument or other article adapted or designed for committing or facilitating
10 a forcible entry into premises or theft by a physical taking.

11 (3) Possession of a burglary tool or theft device is a Class A misdemeanor.

12 **SECTION 2.** Section 1, chapter 69, Oregon Laws 2024, is amended to read:

13 **Sec. 1.** (1) As used in this section and section 2 [*of this 2024 Act*],
14 **chapter 69, Oregon Laws 2024:**

15 (a) “Authorized service provider” means:

16 (A) A person that has an arrangement with an original equipment man-
17 ufacturer under which:

18 (i) The original equipment manufacturer grants a license to the person for
19 the use of, or otherwise permits the person to use, the original equipment
20 manufacturer’s trade name, service mark or other proprietary identification
21 for the purpose of offering the services of diagnosing, maintaining, repairing
22 or updating consumer electronic equipment; or

23 (ii) The person offers the services of diagnosing, maintaining, repairing
24 or updating consumer electronic equipment on behalf of the original equip-
25 ment manufacturer or under the original equipment manufacturer’s war-
26 ranty; or

27 (B) An original equipment manufacturer, but only in instances where the
28 original equipment manufacturer does not have an arrangement described in
29 subparagraph (A) of this paragraph and offers the services of diagnosing,
30 maintaining, repairing or updating consumer electronic equipment that the
31 original equipment manufacturer makes or sells.

1 (b) “Consumer electronic equipment” means a product that:

2 (A) Functions, in whole or in part, on the basis of digital electronics that
3 are embedded within or attached to the product;

4 (B) Is tangible personal property;

5 (C) Is generally used for personal, family or household purposes;

6 (D) Is sold, used or supplied in this state one year or more after the
7 product was first manufactured and one year or more after the product was
8 first sold or used in this state; and

9 (E) Might be, but is not necessarily, capable of attachment to or instal-
10 lation in real property.

11 (c) “Documentation” means any manual, diagram, reporting output, ser-
12 vice code description, schematic diagram, security code, password or other
13 guidance or information that enables a person to diagnose, maintain, repair
14 or update consumer electronic equipment.

15 (d) “Fair and reasonable terms” means terms under which an original
16 equipment manufacturer:

17 (A) Makes documentation available at no charge, except that the original
18 equipment manufacturer may charge for the reasonable and actual costs of
19 printing, preparing and sending or preparing and sending documentation that
20 a person requests in print;

21 (B) Makes tools for diagnosing, maintaining, repairing or updating con-
22 sumer electronic equipment available at no charge and without impeding
23 access to the tools or the efficient and cost-effective use of the tools, except
24 that the original equipment manufacturer may charge for the reasonable and
25 actual costs of preparing and shipping a physical tool that a person requests;
26 and

27 (C) Makes parts available directly or through an authorized service pro-
28 vider to:

29 (i) An independent repair provider or an owner at costs and on terms that
30 are equivalent to the most favorable costs and terms at which the original
31 equipment manufacturer offers the parts to an authorized service provider

1 and that:

2 (I) Account for any discount, rebate, convenient means of delivery, means
3 of enabling fully restored and updated functionality, rights of use or other
4 incentive or preference the original equipment manufacturer offers to an
5 authorized service provider, or that impose any additional cost, burden or
6 impediment on an independent repair provider or an owner that the original
7 equipment manufacturer also imposes on an authorized service provider;

8 (II) Do not impose a substantial condition, obligation or restriction that
9 is not reasonably necessary to enable an independent repair provider or an
10 owner to diagnose, maintain, repair or update consumer electronic equipment
11 that the original equipment manufacturer makes or sells; and

12 (III) Do not require an independent repair provider or an owner to enter
13 into an arrangement described in paragraph (a)(A) of this subsection; and

14 (ii) All authorized service providers that the original equipment man-
15 ufacturer permits, by contract or otherwise, to sell parts to independent re-
16 pair providers and owners, without **imposing**:

17 (I) [*Imposing*] Allocation limitations or advertising restrictions upon the
18 authorized service provider as a means of retaliation or as a means of
19 hindering the authorized service provider in selling parts by any means; or

20 (II) [*Imposing*] A substantial condition, obligation or restriction that is
21 not reasonably necessary to enable an independent repair provider or an
22 owner to diagnose, maintain, repair or update consumer electronic equipment
23 that the original equipment manufacturer makes or sells.

24 (e) “Independent repair provider” means a person that:

25 (A) Engages in the business of diagnosing, maintaining, repairing or up-
26 dating consumer electronic equipment in this state but is not an authorized
27 service provider; and

28 (B) Possesses a valid and unexpired certification that demonstrates that
29 the person has the technical capabilities and competence necessary to safely,
30 securely and reliably repair consumer electronic equipment in accordance
31 with widely accepted standards, such as a Wireless Industry Service Excel-

1 lence Certification, an A+ certification from the Computing Technology In-
2 dustry Association, a National Appliance Service Technician Certification
3 or another certification that an original equipment manufacturer accepts as
4 evidence that the person can perform safe, secure and reliable repairs to
5 consumer electronic equipment that the original equipment manufacturer
6 makes or sells.

7 (f) “Original equipment manufacturer” means a person that engages in the
8 business of selling, leasing or otherwise supplying to another person new
9 consumer electronic equipment that the person makes or has made on the
10 person’s behalf.

11 (g) “Owner” means a person that owns or leases from a lessor consumer
12 electronic equipment that the person or the lessor purchased or used in this
13 state.

14 (h) “Part” means a new or used replacement component for consumer
15 electronic equipment that an original equipment manufacturer makes avail-
16 able for the purpose of maintaining, repairing or updating consumer elec-
17 tronic equipment that the original equipment manufacturer makes or sells.

18 (i) “Parts pairing” means a manufacturer’s practice of using software to
19 identify component parts through a unique identifier.

20 (j) “Tool” means software, a hardware implement or an apparatus by
21 means of which a person can diagnose, maintain, repair or update consumer
22 electronic equipment, including any software, or a mechanism that pro-
23 visions, programs or pairs[,] a new part, calibrates functionality or performs
24 another function that is necessary to update or restore a product to a fully
25 functional condition.

26 (k) “Trade secret” has the meaning given that term in ORS 646.461.

27 (L)(A) “Video game console” means a computing device, and components
28 and peripherals for the computing device, that is intended primarily for
29 playing interactive video games.

30 (B) “Video game console” does not include a general purpose personal
31 computer that has the capability to run video games alongside other com-

1 putting functions.

2 (2)(a) An original equipment manufacturer shall make available to an
3 owner or an independent repair provider on fair and reasonable terms any
4 documentation, tool, part or other device or implement that the original
5 equipment manufacturer makes available to an authorized service provider
6 for the purpose of diagnosing, maintaining, repairing or updating consumer
7 electronic equipment that the original equipment manufacturer makes or
8 sells and that is sold or used in this state.

9 (b) For consumer electronic equipment that is manufactured for the first
10 time, and first sold or used in this state, after January 1, 2025, an original
11 equipment manufacturer may not use parts pairing to:

12 (A) Prevent or inhibit an independent repair provider or an owner from
13 installing or enabling the function of an otherwise functional replacement
14 part or a component of consumer electronic equipment, including a replace-
15 ment part or a component that the original equipment manufacturer has not
16 approved;

17 (B) Reduce the functionality or performance of consumer electronic
18 equipment; or

19 (C) Cause consumer electronic equipment to display misleading alerts or
20 warnings, which the owner cannot immediately dismiss, about unidentified
21 parts.

22 (3) This section does not:

23 (a) Require an original equipment manufacturer to disclose a trade secret
24 or license intellectual property, including copyrights or patents, to an inde-
25 pendent repair provider or an owner except as necessary to provide, on fair
26 and reasonable terms, any documentation, tool, part or other device or im-
27 plement used to diagnose, maintain, repair or update consumer electronic
28 equipment.

29 (b) Alter the terms of any agreement or arrangement between an original
30 equipment manufacturer and an authorized service provider including, but
31 not limited to, the authorized service provider's performance or provision of

1 warranty service or recall repair work on the original equipment
2 manufacturer's behalf under the agreement or arrangement, except that any
3 provision in the agreement or arrangement that purports to waive, restrict
4 or limit the original equipment manufacturer's compliance with this section
5 is void and unenforceable.

6 (c) Impose liability upon an original equipment manufacturer for any
7 bodily injury or damage to consumer electronic equipment that an inde-
8 pendent repair provider or an owner causes while diagnosing, maintaining,
9 repairing or updating the consumer electronic equipment using documenta-
10 tion, tools, parts or other devices or implements that the original equipment
11 manufacturer made available on fair and reasonable terms to an authorized
12 service provider, an independent repair provider or an owner before the date
13 of the diagnosis, maintenance, repair or update, except that an original
14 equipment manufacturer remains liable to the extent that the laws of this
15 state provide for strict liability for defects in the design or manufacture of
16 the consumer electronic equipment.

17 (d) Require an original equipment manufacturer to make available special
18 documentation, tools, parts or other devices or implements that would disa-
19 ble or override, without an owner's authorization, anti-theft or privacy se-
20 curity measures that the owner sets for consumer electronic equipment.

21 (e) Require an original equipment manufacturer to provide to an inde-
22 pendent repair provider or an owner any part that the equipment manufac-
23 turer no longer makes or no longer provides to authorized service providers.

24 (f) Prohibit parts pairing for the purpose of reducing the functionality of
25 a battery if a thermal event occurs.

26 (g) Apply to:

27 (A) A person that is engaged in the business of manufacturing or assem-
28 bling new motor vehicles or in the business of selling or leasing new motor
29 vehicles and offering the service of diagnosing, maintaining or repairing
30 motor vehicles or motor vehicle engines under the terms of a franchise
31 agreement, or to the person's products or services;

1 (B) A product or service or equipment that:

2 (i) Has never been available for retail sale to a consumer;

3 (ii) Is a medical device, as defined in the Federal Food, Drug, and Cos-
4 metic Act, 21 U.S.C. 301 et seq., or a digital electronic product, software,
5 control equipment or a related product manufactured for or service provided
6 for use in diagnosis or monitoring in an acute care hospital, a long term care
7 facility such as a nursing home or skilled nursing facility, a physician's of-
8 fice, an urgent care center, an outpatient clinic, a home setting where health
9 care is provided by or at the direction of a licensed health care provider or
10 an emergency medical service facility or for use in diagnosis or monitoring
11 at a site where health care is routinely delivered on premises that are not
12 otherwise a health care facility, such as a medical clinic within a school;

13 (iii) Provides heat, ventilation or air conditioning or recharges refrigerant
14 gases;

15 (iv) Is a system, mechanism or series of mechanisms that generates, stores
16 or combines generation and storage of electrical energy from solar radiation;

17 (v) Is a video game console; or

18 (vi) Is a system that stores electrical energy for a period of time and
19 transmits the energy after storage, that is interconnected with a trans-
20 mission or distribution system and that is approved by an electric utility or
21 located on a customer's side of an electric utility meter in accordance with
22 an applicable utility tariff or interconnection agreement;

23 (C) A vehicle, an engine, equipment or a power source, or a person that
24 engages directly in, or acts for or is subject to the control of another person
25 that engages directly in, manufacturing, assembling, distributing, selling,
26 importing for resale, maintaining, servicing or repairing a vehicle, an engine,
27 equipment or a power source with any of the following characteristics:

28 (i) An internal combustion engine, including the engine's fuel system or
29 other power sources such as an electric battery or a fuel cell, that is not
30 used in a motor vehicle or in a vehicle used solely for competition or that
31 is not subject to standards of performance for stationary sources or emission

1 standards for new motor vehicles or new motor vehicle engines under the
2 federal Clean Air Act, 42 U.S.C. 7411 and 7521 et seq.;

3 (ii) A vehicle or equipment that is not a motor vehicle or a vehicle used
4 solely for competition and is powered by an engine described in sub-
5 subparagraph (i) of this subparagraph, together with any tools, technology,
6 attachments, accessories, components or repair parts for the vehicle, equip-
7 ment or engine;

8 (iii) An internal combustion engine or another power source, including
9 an electric battery or a fuel cell, that is not used in a motor vehicle, in a
10 vehicle used solely for competition or in a vehicle or equipment described in
11 sub-subparagraph (ii) of this subparagraph, or equipment that is powered by
12 the internal combustion engine or other power source, together with tools,
13 technology, attachments, accessories, components or repair parts for the
14 internal combustion engine, the other power source or the equipment; or

15 (iv) An engine or other power source, including an electric battery or a
16 fuel cell, that is used for propulsion or power generation in a maritime en-
17 vironment or a waterway, together with any tools, technology, attachments,
18 accessories, components or repair parts for the engine or the other power
19 source;

20 (D) A manufacturer, distributor or dealer of any off-road equipment or of
21 tools, technology, attachments, accessories, components or repair parts for
22 off-road equipment including, but not limited to, farm and utility tractors,
23 farm implements and machinery, equipment for forestry, industry, utilities,
24 construction, mining or maintaining a yard, garden or turf, outdoor power
25 equipment and portable generators, vehicles used in marine environments,
26 for sports, recreation and racing, all-terrain vehicles, power tools and
27 stand-alone or integrated mobile or stationary internal combustion engines
28 or power sources such as generator sets and battery or fuel cell power; *[or]*

29 (E) Electric toothbrushes[.]; **or**

30 **(F) An alarm system that consists of an assembly of software,**
31 **equipment, wiring or devices that is installed and arranged for the**

- 1 **purpose of detecting and signaling a physical hazard or a condition or**
- 2 **situation that differs substantially from a specified norm.**

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