

Senate Bill 550

Sponsored by Senator SOLLMAN, Representative MARSH; Senators CAMPOS, MEEK, REYNOLDS, Representatives FRAGALA, GAMBA, GOMBERG, GRAYBER, LIVELY, MCLAIN, NELSON, NOSSE, SOSA (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: Amends the state's new right to repair law. Adds more items to the list of consumer equipment for which an owner or repair provider can get from the item's maker a tool or part needed to fix the item. (Flesch Readability Score: 67.7).

Adds electric wheelchairs and complex rehabilitation technology to the type of consumer equipment for which an original equipment manufacturer must 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 equipment.

A BILL FOR AN ACT

1
2 Relating to a right to repair consumer equipment; amending sections 1, 2, 4 and 6, chapter 69,
3 Oregon Laws 2024.

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

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

6 **Sec. 1.** (1) As used in this section and section 2 [of this 2024 Act], **chapter 69, Oregon Laws**
7 **2024:**

8 (a) "Authorized service provider" means:

9 (A) A person that has an arrangement with an original equipment manufacturer under which:

10 (i) The original equipment manufacturer grants a license to the person for the use of, or other-
11 wise permits the person to use, the original equipment manufacturer's trade name, service mark or
12 other proprietary identification for the purpose of offering the services of diagnosing, maintaining,
13 repairing or updating consumer [electronic] equipment; or

14 (ii) The person offers the services of diagnosing, maintaining, repairing or updating consumer
15 [electronic] equipment on behalf of the original equipment manufacturer or under the original
16 equipment manufacturer's warranty; or

17 (B) An original equipment manufacturer, but only in instances where the original equipment
18 manufacturer does not have an arrangement described in subparagraph (A) of this paragraph and
19 offers the services of diagnosing, maintaining, repairing or updating consumer [electronic] equipment
20 that the original equipment manufacturer makes or sells.

21 (b) "**Complex rehabilitation technology**" means an individually configured manual wheel-
22 chair system, power wheelchair system, adaptive seating system, alternative positioning
23 system, adaptive stroller, standing frame or gait trainer or a specifically designed option or
24 accessory for a manual wheelchair system, power wheelchair system, adaptive seating sys-
25 tem, alternative positioning system, adaptive stroller, standing frame or gait trainer that:

26 (A) **Is durable medical equipment;**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in **boldfaced** type.

1 **(B) Is specifically configured for an individual to meet the individual's unique medical,**
 2 **physical and functional needs for basic and instrumental activities of daily living, including**
 3 **employment;**

4 **(C) Is medically necessary to promote an individual's mobility in the home or community**
 5 **or to avoid the individual's hospitalization or institutionalization;**

6 **(D) Serves a medical purpose and is generally not useful to an individual in the absence**
 7 **of disability, illness or injury; and**

8 **(E) Requires services that a qualified complex rehabilitation technology technician or a**
 9 **health care professional provides, such as a medical evaluation or assessment of the indi-**
 10 **vidual, to ensure that the complex rehabilitation technology is:**

11 **(i) Appropriately designed, configured and used; and**

12 **(ii) Consistent with the individual's medical condition, physical and functional needs and**
 13 **capacities, body size, period of need and intended use.**

14 **[(b)] (c) "Consumer [electronic] equipment" means a product that is:**

15 **(A) Electronic equipment that:**

16 **[(A)] (i) Functions, in whole or in part, on the basis of digital electronics that are embedded**
 17 **within or attached to the product;**

18 **[(B)] (ii) Is tangible personal property;**

19 **[(C)] (iii) Is generally used for personal, family or household purposes;**

20 **[(D)] (iv) Is sold, used or supplied in this state one year or more after the product was first**
 21 **manufactured and one year or more after the product was first sold or used in this state; and**

22 **[(E)] (v) Might be, but is not necessarily, capable of attachment to or installation in real**
 23 **property[.];**

24 **(B) An electric wheelchair; or**

25 **(C) Complex rehabilitation technology.**

26 **[(c)] (d) "Documentation" means any manual, diagram, reporting output, service code de-**
 27 **scription, schematic diagram, security code, password or other guidance or information that enables**
 28 **a person to diagnose, maintain, repair or update consumer [electronic] equipment.**

29 **[(d)] (e) "Fair and reasonable terms" means terms under which an original equipment manufac-**
 30 **turer:**

31 **(A) Makes documentation available at no charge, except that the original equipment manufac-**
 32 **turer may charge for the reasonable and actual costs of printing, preparing and sending or preparing**
 33 **and sending documentation that a person requests in print;**

34 **(B) Makes tools for diagnosing, maintaining, repairing or updating consumer [electronic] equip-**
 35 **ment available at no charge and without impeding access to the tools or the efficient and cost-**
 36 **effective use of the tools, except that the original equipment manufacturer may charge for the**
 37 **reasonable and actual costs of preparing and shipping a physical tool that a person requests; and**

38 **(C) Makes parts available directly or through an authorized service provider to:**

39 **(i) An independent repair provider or an owner at costs and on terms that are equivalent to the**
 40 **most favorable costs and terms at which the original equipment manufacturer offers the parts to an**
 41 **authorized service provider and that:**

42 **(I) Account for any discount, rebate, convenient means of delivery, means of enabling fully re-**
 43 **stored and updated functionality, rights of use or other incentive or preference the original equip-**
 44 **ment manufacturer offers to an authorized service provider, or that impose any additional cost,**
 45 **burden or impediment on an independent repair provider or an owner that the original equipment**

1 manufacturer also imposes on an authorized service provider;

2 (II) Do not impose a substantial condition, obligation or restriction that is not reasonably nec-
3 essary to enable an independent repair provider or an owner to diagnose, maintain, repair or update
4 consumer [*electronic*] equipment that the original equipment manufacturer makes or sells; and

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

7 (ii) All authorized service providers that the original equipment manufacturer permits, by con-
8 tract or otherwise, to sell parts to independent repair providers and owners, without **imposing**:

9 (I) [*Imposing*] Allocation limitations or advertising restrictions upon the authorized service pro-
10 vider as a means of retaliation or as a means of hindering the authorized service provider in selling
11 parts by any means; or

12 (II) [*Imposing*] A substantial condition, obligation or restriction that is not reasonably necessary
13 to enable an independent repair provider or an owner to diagnose, maintain, repair or update con-
14 sumer [*electronic*] equipment that the original equipment manufacturer makes or sells.

15 [(e)] (f) “Independent repair provider” means a person that:

16 (A) Engages in the business of diagnosing, maintaining, repairing or updating consumer [*elec-*
17 *tronic*] equipment in this state but is not an authorized service provider; and

18 (B) Possesses a valid and unexpired certification that demonstrates that the person has the
19 technical capabilities and competence necessary to safely, securely and reliably repair consumer
20 [*electronic*] equipment in accordance with widely accepted standards, such as a Wireless Industry
21 Service Excellence Certification, an A+ certification from the Computing Technology Industry As-
22 sociation, a National Appliance Service Technician Certification or another certification that an
23 original equipment manufacturer accepts as evidence that the person can perform safe, secure and
24 reliable repairs to consumer [*electronic*] equipment that the original equipment manufacturer makes
25 or sells.

26 [(f)] (g) “Original equipment manufacturer” means a person that engages in the business of
27 selling, leasing or otherwise supplying to another person new consumer [*electronic*] equipment that
28 the person makes or has made on the person’s behalf.

29 [(g)] (h) “Owner” means a person that owns or leases from a lessor consumer [*electronic*]
30 equipment that the person or the lessor purchased or used in this state.

31 [(h)] (i) “Part” means a new or used replacement component for consumer [*electronic*] equipment
32 that an original equipment manufacturer makes available for the purpose of maintaining, repairing
33 or updating consumer [*electronic*] equipment that the original equipment manufacturer makes or
34 sells.

35 [(i)] (j) “Parts pairing” means a manufacturer’s practice of using software to identify component
36 parts through a unique identifier.

37 [(j)] (k) “Tool” means software, a hardware implement or an apparatus by means of which a
38 person can diagnose, maintain, repair or update consumer [*electronic*] equipment, including any
39 software, or a mechanism that provisions, programs or pairs[,] a new part, calibrates functionality
40 or performs another function that is necessary to update or restore a product to a fully functional
41 condition.

42 [(k)] (L) “Trade secret” has the meaning given that term in ORS 646.461.

43 [(L)(A)] (m)(A) “Video game console” means a computing device, and components and periph-
44 erals for the computing device, that is intended primarily for playing interactive video games.

45 (B) “Video game console” does not include a general purpose personal computer that has the

1 capability to run video games alongside other computing functions.

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

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

10 (A) Prevent or inhibit an independent repair provider or an owner from installing or enabling
11 the function of an otherwise functional replacement part or a component of consumer [*electronic*]
12 equipment, including a replacement part or a component that the original equipment manufacturer
13 has not approved;

14 (B) Reduce the functionality or performance of consumer [*electronic*] equipment; or

15 (C) Cause consumer [*electronic*] equipment to display misleading alerts or warnings, which the
16 owner cannot immediately dismiss, about unidentified parts.

17 (3) This section does not:

18 (a) Require an original equipment manufacturer to disclose a trade secret or license intellectual
19 property, including copyrights or patents, to an independent repair provider or an owner except as
20 necessary to provide, on fair and reasonable terms, any documentation, tool, part or other device
21 or implement used to diagnose, maintain, repair or update consumer [*electronic*] equipment.

22 (b) Alter the terms of any agreement or arrangement between an original equipment manufac-
23 turer and an authorized service provider including, but not limited to, the authorized service
24 provider's performance or provision of warranty service or recall repair work on the original
25 equipment manufacturer's behalf under the agreement or arrangement, except that any provision in
26 the agreement or arrangement that purports to waive, restrict or limit the original equipment
27 manufacturer's compliance with this section is void and unenforceable.

28 (c) Impose liability upon an original equipment manufacturer for any bodily injury or damage
29 to consumer [*electronic*] equipment that an independent repair provider or an owner causes while
30 diagnosing, maintaining, repairing or updating the consumer [*electronic*] equipment using documen-
31 tation, tools, parts or other devices or implements that the original equipment manufacturer made
32 available on fair and reasonable terms to an authorized service provider, an independent repair
33 provider or an owner before the date of the diagnosis, maintenance, repair or update, except that
34 an original equipment manufacturer remains liable to the extent that the laws of this state provide
35 for strict liability for defects in the design or manufacture of the consumer [*electronic*] equipment.

36 (d) Require an original equipment manufacturer to make available special documentation, tools,
37 parts or other devices or implements that would disable or override, without an owner's authori-
38 zation, anti-theft or privacy security measures that the owner sets for consumer [*electronic*] equip-
39 ment.

40 (e) Require an original equipment manufacturer to provide to an independent repair provider
41 or an owner any part that the equipment manufacturer no longer makes or no longer provides to
42 authorized service providers.

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

45 (g) Apply to:

1 (A) A person that is engaged in the business of manufacturing or assembling new motor vehicles
2 or in the business of selling or leasing new motor vehicles and offering the service of diagnosing,
3 maintaining or repairing motor vehicles or motor vehicle engines under the terms of a franchise
4 agreement, or to the person's products or services;

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

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

7 (ii) Is a medical device, as defined in the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 301
8 et seq., **other than an electric wheelchair or complex rehabilitation technology**; [or]

9 **(iii) Is** a digital electronic product, software, control equipment or a related product, **other**
10 **than an electric wheelchair or complex rehabilitation technology, that is** manufactured for, or
11 **is a** service provided for, use in diagnosis or monitoring in an acute care hospital, a long term care
12 facility such as a nursing home or skilled nursing facility, a physician's office, an urgent care center,
13 an outpatient clinic, a home setting where health care is provided by or at the direction of a li-
14 censed health care provider or an emergency medical service facility or for use in diagnosis or
15 monitoring at a site where health care is routinely delivered on premises that are not otherwise a
16 health care facility, such as a medical clinic within a school;

17 [(iii)] (iv) Provides heat, ventilation or air conditioning or recharges refrigerant gases;

18 [(iv)] (v) Is a system, mechanism or series of mechanisms that generates, stores or combines
19 generation and storage of electrical energy from solar radiation;

20 [(v)] (vi) Is a video game console; or

21 [(vi)] (vii) Is a system that stores electrical energy for a period of time and transmits the energy
22 after storage, that is interconnected with a transmission or distribution system and that is approved
23 by an electric utility or located on a customer's side of an electric utility meter in accordance with
24 an applicable utility tariff or interconnection agreement;

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

29 (i) An internal combustion engine, including the engine's fuel system or other power sources
30 such as an electric battery or a fuel cell, that is not used in a motor vehicle or in a vehicle used
31 solely for competition or that is not subject to standards of performance for stationary sources or
32 emission standards for new motor vehicles or new motor vehicle engines under the federal Clean
33 Air Act, 42 U.S.C. 7411 and 7521 et seq.;

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

38 (iii) An internal combustion engine or another power source, including an electric battery or a
39 fuel cell, that is not used in a motor vehicle, in a vehicle used solely for competition or in a vehicle
40 or equipment described in sub-subparagraph (ii) of this subparagraph, or equipment that is powered
41 by the internal combustion engine or other power source, together with tools, technology, attach-
42 ments, accessories, components or repair parts for the internal combustion engine, the other power
43 source or the equipment; or

44 (iv) An engine or other power source, including an electric battery or a fuel cell, that is used
45 for propulsion or power generation in a maritime environment or a waterway, together with any

1 tools, technology, attachments, accessories, components or repair parts for the engine or the other
2 power source;

3 (D) A manufacturer, distributor or dealer of any off-road equipment or of tools, technology, at-
4 tachments, accessories, components or repair parts for off-road equipment including, but not limited
5 to, farm and utility tractors, farm implements and machinery, equipment for forestry, industry, util-
6 ities, construction, mining or maintaining a yard, garden or turf, outdoor power equipment and
7 portable generators, vehicles used in marine environments, for sports, recreation and racing, all-
8 terrain vehicles, power tools and stand-alone or integrated mobile or stationary internal combustion
9 engines or power sources such as generator sets and battery or fuel cell power; or

10 (E) Electric toothbrushes.

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

12 **Sec. 2.** (1) As used in this section:

13 (a) “Certification entity” means a person that engages in evaluating and certifying the technical
14 capabilities and competence of independent repair providers in accordance with standards that the
15 person adopts or that an original equipment manufacturer specifies.

16 (b) “Repair certification” means evidence that an independent repair provider has the technical
17 and financial capability and competence necessary to safely, securely and reliably repair digital
18 electronic equipment in accordance with standards that a certification entity specifies.

19 (2) Before repairing consumer [*electronic*] equipment, an authorized service provider and an in-
20 dependent repair provider shall:

21 (a) Post at the authorized service provider’s or independent repair provider’s place of business
22 or on the authorized service provider’s or independent repair provider’s website, or provide directly
23 to customers, a notice that:

24 (A) Specifies the steps the authorized service provider or independent repair provider takes to
25 ensure the customer’s privacy and the security of consumer [*electronic*] equipment the customer en-
26 trusts to the authorized service provider or independent repair provider;

27 (B) Recommends steps the consumer should take to ensure privacy and security, including but
28 not limited to:

29 (i) Backing up data from the consumer [*electronic*] equipment onto another device and perma-
30 nently erasing the data from the consumer [*electronic*] equipment the customer will bring in for re-
31 pair;

32 (ii) Sharing only those passwords or access to functions that are necessary to effect the repair;
33 and

34 (iii) Logging out of applications, closing websites and deleting caches or records of application
35 or website use that have sensitive information or that otherwise pose a security risk, such as fi-
36 nancial applications or websites, electronic mail or messaging or social media accounts;

37 (C) Informs the customer about the customer’s rights to privacy under the laws of this state; and

38 (D) Informs the customer about any potential safety concerns about the parts being installed.

39 (b) Display all of the authorized service provider’s or independent repair provider’s repair cer-
40 tifications.

41 (3) Before repairing consumer [*electronic*] equipment, an independent repair provider shall dis-
42 close to each customer:

43 (a) That the independent repair provider is not an authorized service provider; and

44 (b) Whether replacement parts the independent repair provider incorporates into repairs are
45 used replacement parts or are replacement parts provided by suppliers other than the original

1 equipment manufacturer of the consumer [*electronic*] equipment.

2 **SECTION 3.** Section 4, chapter 69, Oregon Laws 2024, is amended to read:

3 **Sec. 4.** The Attorney General shall submit not later than December 31, 2025, a report to an in-
 4 terim committee of the Legislative Assembly concerned with consumer protection in which the At-
 5 torney General specifies the number and nature of complaints from owners and independent repair
 6 providers the Attorney General received within the previous two years concerning original equip-
 7 ment manufacturers that did not provide upon request documentation, tools, parts or other devices
 8 or implements necessary to diagnose, maintain, repair or update consumer [*electronic*] equipment
 9 that the original equipment manufacturer makes or sells.

10 **SECTION 4.** Section 6, chapter 69, Oregon Laws 2024, is amended to read:

11 **Sec. 6.** (1) As used in this section, “cell phone” means a handheld product that includes a bat-
 12 tery, microphone, speaker and display and that is designed to send and receive transmissions
 13 through a cellular radiotelephone service.

14 (2) Except as provided in subsection (3) of this section, section 1 [*of this 2024 Act*], **chapter 69,**
 15 **Oregon Laws 2024,** applies to consumer [*electronic*] equipment that is sold in this state or is in use
 16 in this state on or after [*the effective date of this 2024 Act*] **January 1, 2025.**

17 (3) Section 1 [*of this 2024 Act*], **chapter 69, Oregon Laws 2024,** does not apply to:

18 (a) A cell phone that was manufactured for the first time, and first sold or used in this state,
 19 before July 1, 2021; or

20 (b) Consumer [*electronic*] equipment other than a cell phone that was manufactured for the first
 21 time, and first sold or used in this state, before July 1, 2015.

22