

## Enrolled Senate Bill 959

Sponsored by COMMITTEE ON JUDICIARY

CHAPTER .....

### AN ACT

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

#### Be It Enacted by the People of the State of Oregon:

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

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

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

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

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

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

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

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

(a) “Authorized service provider” means:

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

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

(ii) The person offers the services of diagnosing, maintaining, repairing or updating consumer electronic equipment on behalf of the original equipment manufacturer or under the original equipment manufacturer’s warranty; or

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

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

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

(B) Is tangible personal property;

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

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

(E) Might be, but is not necessarily, capable of attachment to or installation in real property.

(c) "Documentation" means any manual, diagram, reporting output, service code description, schematic diagram, security code, password or other guidance or information that enables a person to diagnose, maintain, repair or update consumer electronic equipment.

(d) "Fair and reasonable terms" means terms under which an original equipment manufacturer:

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

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

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

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

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

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

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

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

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

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

(e) "Independent repair provider" means a person that:

(A) Engages in the business of diagnosing, maintaining, repairing or updating consumer electronic equipment in this state but is not an authorized service provider; and

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

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

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

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

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

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

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

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

(B) “Video game console” does not include a general purpose personal computer that has the capability to run video games alongside other computing functions.

(2)(a) An original equipment manufacturer shall make available to an owner or an independent repair provider on fair and reasonable terms any documentation, 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 that the original equipment manufacturer makes or sells and that is sold or used in this state.

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

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

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

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

(3) This section does not:

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

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

(c) Impose liability upon an original equipment manufacturer for any bodily injury or damage to consumer electronic equipment that an independent repair provider or an owner causes while diagnosing, maintaining, repairing or updating the consumer electronic equipment using documentation, tools, parts or other devices or implements that the original equipment manufacturer made available on fair and reasonable terms to an authorized service provider, an independent repair provider or an owner before the date of the diagnosis, maintenance, repair or update, except that

an original equipment manufacturer remains liable to the extent that the laws of this state provide for strict liability for defects in the design or manufacture of the consumer electronic equipment.

(d) Require an original equipment manufacturer to make available special documentation, tools, parts or other devices or implements that would disable or override, without an owner's authorization, anti-theft or privacy security measures that the owner sets for consumer electronic equipment.

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

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

(g) Apply to:

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

(B) A product or service or equipment that:

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

(ii) Is a medical device, as 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 a related product manufactured for or service provided for use in diagnosis or monitoring in an acute care hospital, a long term care facility such as a nursing home or skilled nursing facility, a physician's office, an urgent care center, an outpatient clinic, a home setting where health care is provided by or at the direction of a licensed health care provider or an emergency medical service facility or for use in diagnosis or monitoring at a site where health care is routinely delivered on premises that are not otherwise a health care facility, such as a medical clinic within a school;

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

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

(v) Is a video game console; or

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

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

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

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

(iii) An internal combustion engine or another power source, including an electric battery or a fuel cell, that is not used in a motor vehicle, in a vehicle used solely for competition or in a vehicle or equipment described in sub-subparagraph (ii) of this subparagraph, or equipment that is powered by the internal combustion engine or other power source, together with tools, technology, attach-

ments, accessories, components or repair parts for the internal combustion engine, the other power source or the equipment; or

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

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

(E) Electric toothbrushes~~[,]~~; **or**

**(F) An alarm system that consists of an assembly of software, equipment, wiring or devices that is installed and arranged for the purpose of detecting and signaling a physical hazard or a condition or situation that differs substantially from a specified norm.**

**Passed by Senate March 18, 2025**

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Obadiah Rutledge, Secretary of Senate

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Rob Wagner, President of Senate

**Passed by House May 14, 2025**

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Julie Fahey, Speaker of House

**Received by Governor:**

.....M.,....., 2025

**Approved:**

.....M.,....., 2025

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Tina Kotek, Governor

**Filed in Office of Secretary of State:**

.....M.,....., 2025

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Tobias Read, Secretary of State