

Senate Bill 959

Sponsored by COMMITTEE ON JUDICIARY

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: 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, Oregon Laws 2024.

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

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

5 164.235. (1) A person commits the crime of possession of a burglary tool or theft device if the
6 person possesses a burglary tool or theft device and the person:

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

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

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

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

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

19 **Sec. 1.** (1) As used in this section and section 2 [*of this 2024 Act*], **chapter 69, Oregon Laws**
20 **2024:**

21 (a) "Authorized service provider" means:

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

23 (i) The original equipment manufacturer grants a license to the person for the use of, or other-
24 wise permits the person to use, the original equipment manufacturer's trade name, service mark or

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 other proprietary identification for the purpose of offering the services of diagnosing, maintaining,
2 repairing or updating consumer electronic equipment; or

3 (ii) The person offers the services of diagnosing, maintaining, repairing or updating consumer
4 electronic equipment on behalf of the original equipment manufacturer or under the original equip-
5 ment manufacturer's warranty; or

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

10 (b) "Consumer electronic equipment" means a product that:

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

13 (B) Is tangible personal property;

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

15 (D) Is sold, used or supplied in this state one year or more after the product was first manu-
16 factured and one year or more after the product was first sold or used in this state; and

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

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

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

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

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

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

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

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

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

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

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

45 (I) [*Imposing*] Allocation limitations or advertising restrictions upon the authorized service pro-

1 vider as a means of retaliation or as a means of hindering the authorized service provider in selling
2 parts by any means; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

44 (A) Prevent or inhibit an independent repair provider or an owner from installing or enabling
45 the function of an otherwise functional replacement part or a component of consumer electronic

1 equipment, including a replacement part or a component that the original equipment manufacturer
2 has not approved;

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

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

6 (3) This section does not:

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

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

17 (c) Impose liability upon an original equipment manufacturer for any bodily injury or damage
18 to consumer electronic equipment that an independent repair provider or an owner causes while
19 diagnosing, maintaining, repairing or updating the consumer electronic equipment using documen-
20 tation, tools, parts or other devices or implements that the original equipment manufacturer made
21 available on fair and reasonable terms to an authorized service provider, an independent repair
22 provider or an owner before the date of the diagnosis, maintenance, repair or update, except that
23 an original equipment manufacturer remains liable to the extent that the laws of this state provide
24 for strict liability for defects in the design or manufacture of the consumer electronic equipment.

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

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

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

34 (g) Apply to:

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

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

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

41 (ii) Is a medical device, as defined in the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 301
42 et seq., or a digital electronic product, software, control equipment or a related product manufac-
43 tured for or service provided for use in diagnosis or monitoring in an acute care hospital, a long
44 term care facility such as a nursing home or skilled nursing facility, a physician's office, an urgent
45 care center, an outpatient clinic, a home setting where health care is provided by or at the direction

1 of a licensed health care provider or an emergency medical service facility or for use in diagnosis
2 or monitoring at a site where health care is routinely delivered on premises that are not otherwise
3 a health care facility, such as a medical clinic within a school;

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

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

7 (v) Is a video game console; or

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

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

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

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

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

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

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

42 (E) Electric toothbrushes[.]; or

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

