Proposed Substitute House Bill 1483 (H-1002.1)

House Technology, Economic Development, and Veterans Committee

By Representative Ryu

Original Bill:

- Establishes the Right to Repair Act, which requires original manufacturers of digital electronic products to make available to independent repair providers on fair and reasonable terms certain parts, tools, and documentation for the diagnosis, maintenance, or repair of digital electronic products.
- Contains certain exceptions for when parts, tools, and documentation do not have to be made available to independent repair providers.
- Provides for enforcement by the Attorney General pursuant to the Consumer Protection Act.

Proposed Substitute House Bill (H-1002.1) compared to the Original Bill:

- Specifies that an original manufacturer who offers repair services of its own digital electronic products is considered an authorized repair provider with respect to such products only in instances where the original manufacturer does not have an arrangement with an authorized repair provider covering such products.
- Modifies the definition of "fair and reasonable terms" as it relates to parts by specifying that costs must be fair to both parties and removing the requirement that discounts, rebates, or other incentives must be accounted for in the consideration of fair and reasonable terms.
- Modifies the definition of "part" to include replacement parts that are generally available or made available by an original manufacturer to an authorized provider, instead of parts that are generally available or used by an original manufacturer or an authorized provider.
- Clarifies that exemptions identified in the bill are exemptions from requirements throughout the bill, not just from the section containing the exemptions.
- Establishes a new exemption for a "life safety system, fire alarm system, or intrusion detection device, including its components, that is provided or configured to be provided with a security monitoring service; and physical access control equipment, including electronic keypads and similar building access control electronics."

Staff: Emily Poole
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BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: H-1002.1/25

ATTY/TYPIST: AF:ajr

BRIEF DESCRIPTION: Supporting the servicing and right to repair of certain products with digital electronics in a secure and reliable manner to increase access and affordability for Washingtonians.

AN ACT Relating to supporting the servicing and right to repair of certain products with digital electronics in a secure and reliable manner to increase access and affordability for Washingtonians; and adding a new chapter to Title 19 RCW.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec. 1.** (1) The legislature finds that:

(a) Consumer access to affordable and reliable products that contain digital electronics, including computers, cell phones, appliances, and other nonexempted consumer products, is essential to overcome digital inequities in Washington state and that broader distribution of the information, parts, and tools necessary to repair digital electronic products will shorten repair times, lengthen the useful lives of digital electronic products, and lower costs for consumers;

(b) Consumers increasingly rely on these products to conduct personal and professional business daily. Many modern consumer products contain digital components, such as microprocessors and microchips, which can create barriers to repairs. In some United States' households, everything from the coffee maker, to the washing machine, vacuum, thermostat, or doorbell may have a digital component

as technology has evolved and smart products have increased in popularity;

(c) The need for more accessible and affordable repair options is felt more acutely among specific sectors of the population, notably Washington residents in rural areas and people who earn low incomes. Original manufacturer shops or authorized repair providers are often located in urban areas requiring consumers to travel long distances for repair or be without products for periods of time;

(d) Small, independent businesses play a vital role in Washington's economy. Providing access to information, parts, and tools is essential in contributing to a competitive repair market, allowing small repair shop employees to repair products more safely;

(e) Certain electronic products are comprised of precious metals that are finite, and unnecessary early disposal can be avoided with greater accessibility to proper and affordable repair; and

(f) Other states such as Minnesota, New York, California, and Colorado have enacted right to repair legislation, recognizing the need to increase access to the documentation, tools, and parts necessary to facilitate multiple repair options for all kinds of consumer products with digital electronics.

(2) Therefore, the legislature intends to broaden access to the information and tools necessary to repair digital electronic products, including computers, cell phones, appliances, and other nonexempted products in a safe, secure, reliable, and sustainable manner, thereby increasing access to appropriate and affordable digital electronic products, supporting small businesses and jobs, and making it easier for all residents of Washington state to connect digitally.

NEW SECTION. **Sec. 2.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Authorized repair provider" means an individual or business that is unaffiliated with an original manufacturer and that has an arrangement with the original manufacturer to use the original manufacturer's trade name, service mark, or other proprietary identifier for the purpose of offering the services of diagnosis, maintenance, or repair of digital electronic products under the name of the original manufacturer, or that has an arrangement with the original manufacturer under which the individual or business offers

the services of diagnosis, maintenance, or repair of digital electronic products on behalf of the original manufacturer. An original manufacturer who offers the services of diagnosis, maintenance, or repair of its own digital electronic products shall be considered an authorized repair provider with respect to such products, but only in instances where the original manufacturer does not have an arrangement with an authorized repair provider covering such products.

(2) "Authorized third-party provider" means an individual or business that is unaffiliated with an original manufacturer and that has an arrangement with the original manufacturer to use the original manufacturer's trade name, service mark, or other proprietary identifier for the purpose of distributing parts, tools, or documentation.

(3) "Diagnosis" means the process of identifying the issue or issues that cause digital electronic products to not be in fully working order.

(4) "Digital electronic product" or "products" means any product or electronic that:

(a) Depends, in whole or in part, on digital electronics, such as a microprocessor or microcontroller, embedded in or attached to the product in order to function;

(b) Is tangible personal property;

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

(d) Is sold, used, or supplied in Washington 180 days or more after the product was first manufactured and 180 days or more after the product was first sold or used in Washington; and

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

(5) "Documentation" means any manual, maintenance procedures, functional and wiring diagrams, reporting output, service code description, circuit board schematics, security code, password, training material, troubleshooting information, list of required tools, parts list, or other guidance or information that enables a person to diagnose, maintain, repair, or update a digital electronic product.

(6) "Fair and reasonable terms" means each of the following, as applicable:

(a)(i) For parts, at costs that are fair to both parties and at terms that are equivalent to the most fair and reasonable terms under which the manufacturer offers the part, tool, or documentation to an authorized repair provider, accounting for any convenient and timely means of delivery, means of enabling fully restored and updated functionality, rights of use, or other preference the manufacturer offers to an authorized repair provider, and is not conditioned on or imposing a substantial obligation to use or restrict the use of the part to diagnose, maintain, or repair digital electronic products sold, leased, or otherwise supplied by the original manufacturer;

(ii) For documentation, including any relevant updates, that the documentation is made available at no charge, except that, when the documentation is requested in physical printed form, a charge may be included for the reasonable actual costs of preparing and sending the copy;

(iii) For tools, that the tools are made available by the manufacturer at no charge and without imposing impediments to access or use of the tools to diagnose, maintain, or repair and enable full functionality of the product, or in a manner that impairs the efficient and cost-effective performance of any such diagnosis, maintenance, or repair, except that, when a tool is requested in physical form, a charge may be included for the reasonable, actual costs of preparing and sending the tool;

(b) If a manufacturer does not use an authorized repair provider, "fair and reasonable terms" means at a price that reflects the actual cost to the manufacturer to prepare and deliver the part, tool, or documentation, exclusive of any research and development costs incurred.

(7) "Independent repair provider" means an individual or business that engages in the services of diagnosis, maintenance, or repair of digital electronic products in this state without an arrangement with the original manufacturer of such products as described in subsection (1) of this section or an affiliation with an authorized repair provider for such products. "Independent repair provider" also means an original manufacturer or an original manufacturer's authorized repair provider that engages in the services of diagnosis, maintenance, or repair of a digital electronic product that is not manufactured by or on behalf of, sold by, or supplied by such original manufacturer.

(8) "Maintenance" means any act necessary to keep currently working digital electronic products in fully working order.

(9) "Modifications" or "modifying" means any alteration to digital electronic products that is not maintenance or repair.

(10) "Original manufacturer" means an individual or business that, in the normal course of business, is engaged in the business of selling, leasing, or otherwise supplying new digital electronic products manufactured by or on behalf of itself, to any individual or business.

(11) "Owner" means an individual or business that owns or leases digital electronic products purchased or used in this state.

(12) "Part" means any replacement part, either new or used, or its equivalent, which is generally available or made available by an original manufacturer to an authorized repair provider for purposes of effecting the services of maintenance or repair of digital electronic products manufactured or sold by the original manufacturer.

(13) "Parts pairing" means an original manufacturer's practice of using software to identify component parts through a unique identifier.

(14) "Repair" means any act needed to restore digital electronic products to fully working order.

(15) "Tool" means any software program, hardware implement, or other apparatus, used for diagnosis, maintenance, or repair of digital electronic products, including software or other mechanisms that provide, program, or pair a part, calibrate functionality, or perform any other function required to bring the product or part back to fully functional condition, including any updates.

(16) "Trade secret" has the same meaning as defined in 18 U.S.C. Sec. 1839, as that section existed on January 1, 2017.

(17) "Video game console" means a computing device, such as a console machine, a handheld console device, or another device or system, and its components and peripherals, that is primarily used by consumers for playing video games, but which is neither a general nor an all-purpose computer, such as a desktop computer, laptop, tablet, or cell phone.

NEW SECTION. **Sec. 3.** (1) Effective January 1, 2026:

(a) An original manufacturer shall make available to any independent repair provider or owner on fair and reasonable terms any

parts, tools, and documentation intended for the diagnosis, maintenance, or repair of digital electronic products and parts that are first manufactured, and first sold or used in Washington, on or after July 1, 2021. Such parts, tools, and documentation shall be made available either directly by the original manufacturer or via an authorized repair provider or authorized third-party provider.

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

(i) 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 a digital electronic product, including a replacement part or a component that the original manufacturer has not approved;

(ii) Reduce the functionality or performance of a digital electronic product; or

(iii) Cause a digital electronic product to display misleading alerts or warnings about unidentified parts, which the owner cannot immediately dismiss.

(2) Nothing in this chapter requires the original manufacturer to sell parts if the parts are no longer made available to authorized repair providers by the original manufacturer.

NEW SECTION. **Sec. 4.** Before accepting digital electronic products for repair, authorized repair providers and independent repair providers shall provide to customers a written or electronic notice that contains the following information:

(1) The steps taken by the authorized repair provider or the independent repair provider to ensure the privacy and security of products entrusted for repair or a statement that no such steps have been taken;

(2) Recommended steps for the customer to take to safeguard product data, including:

(a) If appropriate, backing up data prior to repair and either:

(i) Factory resetting the product; or

(ii) Wiping backed-up data from the product;

(b) Sharing only the passwords or access to functions necessary for the relevant repairs and changing those passwords to a temporary password prior to sharing; and

(c) Logging out of applications or websites that contain sensitive data or that otherwise pose a security risk, such as electronic mail, banking, and social media accounts;

(3)(a) A statement about the customer's legal right to privacy, which is protected under Article I, section 7 of the state Constitution and under Washington law, which protects against:

(i) Washington cybercrimes under chapter 9A.90 RCW, including electronic data theft, electronic data tampering, spoofing, and computer trespass;

(ii) The disclosing of intimate images under RCW 9A.86.010;

(iii) The criminal impersonation of another under RCW 9A.60.040; and

(iv) Identity crimes under chapter 9.35 RCW.

(b) Violations of privacy may be referred to law enforcement for criminal prosecution, and violators may be liable for damages, including mental pain and suffering, that a violation of privacy may have caused to a customer's business, person, or reputation; and

(4) For independent repair providers, whether the repair provider uses any replacement parts that are used or provided by a supplier other than the original manufacturer of the digital electronic product.

NEW SECTION. **Sec. 5.** (1) Nothing in this chapter shall be construed to require an original manufacturer to divulge a trade secret to an independent repair provider, except as necessary to provide parts, tools, and documentation on fair and reasonable terms.

(2) Nothing in this chapter shall be construed to alter the terms of any arrangement described in section 2(1) of this act in force between an authorized repair provider and an original manufacturer including, but not limited to, the performance or provision of warranty or recall repair work by an authorized repair provider on behalf of an original manufacturer pursuant to such arrangement, except that any provision in such terms that purports to waive, avoid, restrict, or limit the original manufacturer's obligations to comply with this chapter shall be void and unenforceable.

(3) Nothing in this chapter shall be construed to require an original manufacturer or an authorized repair provider to provide to an owner or independent repair provider access to information, other than documentation, that is provided by the original manufacturer to

an authorized repair provider pursuant to the terms of an arrangement described in section 2(1) of this act.

(4) Nothing in this chapter shall be construed to require an original manufacturer or authorized repair provider to make available any parts, tools, or documentation for the purposes of modifying or making modifications to any digital electronic products.

(5) Nothing in this chapter shall be construed to require an original manufacturer or authorized repair provider to make available any parts, tools, or documentation required for the diagnosis, maintenance, or repair of public safety communications equipment, the intended use of which is for emergency response or prevention purposes by an emergency service organization such as a police, fire, or emergency medical services agency.

(6) Nothing in this chapter shall apply to manufacturers or distributors of a medical device as defined in the federal food, drug, and cosmetic act, Title 21 U.S.C. Sec. 301 et seq., a digital electronic product, or embedded software manufactured primarily for use in a medical setting, including diagnostic, monitoring, or control equipment.

(7) Nothing in this chapter shall apply to a:

(a) Motor vehicle manufacturer, manufacturer of motor vehicle equipment, or motor vehicle dealer acting in that capacity or to any product or service of a motor vehicle manufacturer, manufacturer of motor vehicle equipment, or motor vehicle dealer acting in that capacity;

(b) Manufacturer, distributor, importer, or dealer of any power generation or storage equipment, or equipment for fueling or charging motor vehicles;

(c) Product that has never been available for retail sale to a consumer;

(d) Product which is a system, mechanism, or series of mechanisms that generates, stores, or combines generation and storage of electrical energy from solar radiation;

(e) Product which 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; or

(f) Life safety system, fire alarm system, or intrusion detection device, including its components, that is provided or configured to be provided with a security monitoring service; and physical access control equipment, including electronic keypads and similar building access control electronics.

(8) Nothing in this chapter applies to utility equipment; farm or agricultural equipment; construction equipment; compact construction equipment; road building equipment; electronic vehicle charging infrastructure equipment; mining equipment; low earth orbit broadband equipment manufactured before 2044; and any tools, technology, attachments, accessories, components, and repair parts for any of the foregoing.

(9) Nothing in this chapter shall be construed to require any original manufacturer or authorized repair provider to make available any parts, tools, or documentation required for the diagnosis, maintenance, or repair of a video game console and its components and peripherals.

(10) Nothing in this chapter shall be construed to require any original manufacturer or authorized repair provider to make available documentation or tools used exclusively for repairs completed by machines that operate on several digital electronic products simultaneously, if the original manufacturer makes available to owners of the product and independent repair providers sufficient, alternative documentation and tools to effect the diagnosis, maintenance, or repair of the digital electronic product.

(11) Nothing in this chapter shall be construed to require an original manufacturer to make available special documentation, tools, parts, or other devices or implements that would disable or override, without an owner's authorization, antitheft or privacy security measures that the owner sets for digital electronic products.

(12) Nothing in this chapter shall apply to set-top boxes, modems, routers, or all-in-one devices delivering internet, video, and voice systems that are distributed by a video, internet, or voice service provider if the service provider offers equivalent or better, readily available replacement equipment at no charge to the customer.

(13) Nothing in this chapter shall apply to off-road equipment including, but not limited to: Farm and utility tractors, farm implements, farm machinery, forestry equipment, industrial equipment, utility equipment, construction equipment, compact construction equipment, road building equipment, mining equipment, turf, yard, and

garden equipment, outdoor power equipment, portable generators, marine, all-terrain sports, racing, and recreational vehicles, stand-alone or integrated stationary or mobile internal combustion engines, power sources, such as generator sets, electric batteries, and fuel cell power, power tools, and any tools, technology, attachments, accessories, components, and repair parts for any of the foregoing.

NEW SECTION. **Sec. 6.** (1) No original manufacturer or authorized repair provider shall be liable for any damage or injury to any digital electronic product caused by an independent repair provider or owner which occurs during the course of repair, diagnosis, or maintenance and is not attributable to the original manufacturer or authorized repair provider other than if the failure is attributable to design or manufacturing defects.

(2) The original manufacturer does not warrant any services provided by independent repair providers.

NEW SECTION. **Sec. 7.** (1) The legislature finds that the practices covered by this chapter are matters vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW. A violation of this chapter is not reasonable in relation to the development and preservation of business and is an unfair or deceptive act in trade or commerce and an unfair method of competition for the purpose of applying the consumer protection act, chapter 19.86 RCW.

(2) This chapter may be enforced solely by the attorney general under the consumer protection act, chapter 19.86 RCW.

NEW SECTION. **Sec. 8.** Sections 1 through 7 and 9 of this act constitute a new chapter in Title 19 RCW.

NEW SECTION. **Sec. 9.** This chapter may be known and cited as the right to repair act.

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