



Office of the Chair

UNITED STATES OF AMERICA
Federal Trade Commission
WASHINGTON, D.C. 20580

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In response to requests for guidance on legislation that would secure Americans' right to repair their products, I am making available the draft text below.

Right to Repair Act¹

Section 1. Title

This chapter shall be known, and may be cited, as the Right to Repair Act.

Section 2. Findings

- A. The Federal Trade Commission ("FTC") has extensively studied the ability of customers to easily and cost-effectively repair the products that they already own and found that products have become increasingly difficult to repair due to manufacturers' repair restrictions.
- B. These repair restrictions take a variety of forms, including:
 - 1. physical restrictions that limit the ability to open devices or physically remove and replace component parts;
 - 2. the unavailability of repair parts, manuals, and diagnostic software and tools;
 - 3. product designs that make independent repair less safe;
 - 4. steering consumers to manufacturers' repair networks through the use of telematics systems;
 - 5. unfairly asserting intellectual property rights;
 - 6. disparaging aftermarket parts and independent repair services;

¹ This draft legislation reflects the views of Chair Lina M. Khan and not those of the Commission, any other Commissioner, or FTC staff.

7. imposing software locks, requiring the pairing of parts, or using other technologies that impede independent repairs; and
 8. selling products with attendant end user license agreements that inhibit independent repairs.
- C. Manufacturers often prefer that customers replace rather than repair the products they own, because every product replacement presents an opportunity for the manufacturer to sell more products and earn more money. Moreover, manufacturers often prefer that customers have products repaired by manufacturers or their authorized repairers rather than by independent repairers or owners so that the manufacturers and authorized repairers can profit off the sale of repair parts and services. These economic incentives can be a driver of repair restrictions.
- D. Manufacturers have offered numerous reasons for restricting independent repairs, including arguing that restrictions are needed to protect their intellectual property, ensure that independent repairers and consumers do not get injured performing repairs, guard against cybersecurity risks, prevent manufacturer liability and reputational harm, provide consumers with the devices and features they desire, and provide quality repair services.
- E. However, in its 2021 “Nixing the Fix” Report to Congress, the FTC found scant evidence to support any of these professed justifications for repair restrictions.
- F. Expanded competition in repair and parts markets provides numerous benefits for customers and small businesses, including access to timely and less expensive repairs, extending the useable lifespan of products resulting in considerable cost savings to consumers, a significant reduction in electronic waste, and additional economic opportunities for independent repair businesses.
- G. The right to repair a product is a right embodied in the concepts of ownership and personal property. People should have the right to fix products they own using the parts and repair providers of their choosing, as well as the right to fix products themselves.
- H. Repair restrictions can provide manufacturers with an unfair advantage over independent repair and parts providers and shift repair dollars away from local businesses, many of which are located in rural communities.
- I. Restrictions on repair tend to fall disproportionately on small businesses and low-income households. Family farms have been particularly impacted by restrictions on the reparability of agricultural equipment.
- J. Connected “smart” products rely on software or an accompanying app, or both, to connect to the internet to operate. The software or app often needs to be updated to protect the device against security threats and to ensure continued connectivity. If the manufacturer stops providing these updates, the product may lose its “smart” functionality, become insecure, or completely cease to operate. Thus, the failure to provide software updates can lead to products becoming unrepairable and losing their

advertised functionality. When manufacturers fail to provide updates, customers can lack reassurance that that the product they buy today will work tomorrow.

- K. A November 2024 study conducted by FTC staff found that for 89 percent of “smart” products studied, manufacturers failed to disclose on the product webpages how long they would provide software or security updates. This lack of disclosure makes it difficult, if not impossible, for customers to meaningfully compare product longevity when shopping for “smart” products.
- L. It advances the public interest to ensure people have ready access to cost-effective repair and to products that do not lose functionality when a manufacturer unilaterally decides to cease providing software updates.

Section 3. Definitions

- B. “Aftermarket part” means a part that is made by anyone other than the manufacturer of a covered product and which is not identified by such manufacturer’s brand, trade, or corporate name.
- C. “All-terrain vehicle” means any motorized, off-highway vehicle designed to travel on 3 or 4 wheels, having a seat designed to be straddled by the operator and handlebars for steering control; but does not include a prototype of a motorized, off-highway, all-terrain vehicle or other motorized, off-highway, all-terrain vehicle that is intended exclusively for research and development purposes unless the vehicle is offered for sale.
- D. “Authorized Repair Provider” means: (1) any person that has an arrangement with the manufacturer under which the manufacturer grants it a license to offer diagnostic, maintenance, or repair services for a covered product; and (2) a manufacturer of a covered product where the manufacturer itself or through its agents diagnoses, maintains, or repairs the covered product.
- E. “Commission” means the Federal Trade Commission.
- F. “Covered product” means digital electronics equipment, digital electronics-enabled implement of agriculture, all-terrain vehicle, motor vehicle, and heavy-duty vehicle, but does not include industrial safety equipment.
- G. “Digital electronics equipment” means any product that depends for its functioning, in whole or in part, on digital electronics embedded in or attached to the product but does not include an all-terrain vehicle, motor vehicle, heavy-duty vehicle, or digital electronics-enabled implement of agriculture.
- H. “Digital electronics-enabled implement of agriculture” means equipment that: (1) is designed for agricultural purposes; (2) is exclusively used by the owner of the equipment in the conduct of agricultural operations; and (3) depends for its functioning, in whole or in part, on digital electronics embedded in or attached to the product.

- I. “Documentation” means any manual, diagram, reporting output, service code description, schematic, security code or password or similar information, and mechanical data, whether in electronic or tangible format, including any updates, that is provided by a manufacturer to an authorized repair provider for purposes of effecting the services of diagnosis, maintenance, or repair of a covered product.
- J. “Fair and reasonable” and “fair and reasonable terms” both mean:
 - 1. for parts, that replacement parts are made available at costs and terms that are equal to the most favorable costs and terms under which the manufacturer has offered the part to an authorized repair provider, accounting for any discount, rebate, convenient and timely means of delivery, means of enabling fully restored and updated functionality, rights of use, or other incentive or preference the manufacturer offers to an authorized repair provider. Where the authorized repair provider is the manufacturer, the parts shall be made available at a price that reflects the actual cost to the manufacturer to manufacture or procure, prepare, and deliver the part, exclusive of any research and development costs incurred;
 - 2. for documentation, 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 copying and sending the documentation;
 - 3. for tools and data, that proximity access and remote access are made available by the manufacturer at no charge and without impediments to their efficient and timely access or use to diagnose, maintain, or repair and enable full functionality of the covered product, except that, when a tool is requested in physical form, a charge may be included for the reasonable, actual costs of manufacturing or procuring, preparing, and sending a tool.
- K. “Heavy duty vehicle” means any vehicle having a gross vehicle weight rating of more than 14,000 pounds.
- L. “Independent repair provider” means any person that diagnoses, maintains, or repairs a covered product and is not an authorized repair provider.
- M. “Industrial safety equipment” means digital electronics equipment which: (1) will be used solely in a workplace setting, such as oil refineries and chemical plants, or by firefighters, to prevent serious injury or death; and (2) is regulated by a federal safety regulation that requires that the equipment continue to deliver its intended health and safety functions after being repaired.
- N. “Maintenance” means those operations which are necessary to keep a covered product performing its intended function and operating in fully working order.
- O. “Manufacturer” means a person engaged in the business of selling, leasing, or otherwise supplying a covered product manufactured by or on behalf of itself, to any other person.

- P. “Motor vehicle” means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public streets, roads, and highways, but does not include a vehicle that may be operated only on a rail line or a heavy-duty vehicle.
- Q. “OEM part” means a part that is made or sold by the manufacturer of a covered product or which is otherwise identified by the manufacturer’s brand, trade, or corporate name.
- R. “Owner” means a person who owns or leases a covered product.
- S. “Part” means any replacement part or assembly of parts, including an original equipment manufacturer (OEM) part and an aftermarket part, whether new or used, that is used or could be used to replace an original part that is not functioning properly.
- T. “Proximity access” means access to a digital electronics-enabled implement of agriculture, all-terrain vehicle, heavy-duty vehicle or motor vehicle’s on-board computer systems and any electronic systems that may be required to enable the diagnosis, maintenance, or repair of such vehicle or implement, with such access provided either via a physical connection to the vehicle (such as through an onboard diagnostics (OBDII) port, a universal serial bus (USB) port, or other physical connection), short-range wireless protocols such as Bluetooth or similar proximity-limited wireless protocols, or any combination of such access methods.
- U. “Remote Access” means access, with the owner’s authorization, to a digital electronics-enabled implement of agriculture, all-terrain vehicle, heavy-duty vehicle or motor vehicle’s on-board computer systems and any electronic systems that may be required to enable the diagnosis, maintenance, or repair of such vehicle or implement via a long-range wireless system (such as a cellular telephone system, wireless internet provider, or satellite data provider).
- V. “Repair” means any act needed to restore a covered product to fully-working order.
- W. “Tool” means any software program, hardware implement, or other apparatus, including any updates thereto, made available by a manufacturer to an authorized repair provider for purposes of effecting the diagnosis, maintenance, or repair of a covered product, including software or other mechanisms that provision, program, pair a part, provide or calibrate functionality, or perform any other function required for a covered product to operate in a fully functional condition.
- X. “Software updates” means the provision of any necessary software patches, upgrades, or other modifications needed to remedy identified cybersecurity and/or functionality problems in the software code that enable a covered product to continue to function in fully-working order.

Section 4. General Requirements

- A. A manufacturer must make available to owners of a covered product and independent repair providers on fair and reasonable terms sufficient documentation, parts, and tools to enable the diagnosis, maintenance, and repair of the product: (1) for at least five (5) years after the last date the product model or type was manufactured if the covered product has a wholesale price to the retailer or to others outside of direct retail sale of not less than fifty dollars (\$50) and not more than two-hundred-fifty dollars (\$250); (2) for at least ten (10) years after the last date the product model or type was manufactured if the covered product has a wholesale price to the retailer or to others outside of direct retail sale of more than two-hundred-fifty dollars (\$250); and (3) in addition to the requirements of (1) and (2), for so long as the manufacturer makes such documentation, parts, and tools available to an authorized repair provider.
- B. A manufacturer of a covered product must provide software updates for such product, at no cost to the owner: (1) for at least five (5) years after the last date the product model or type was manufactured if the covered product has a wholesale price to the retailer or to others outside of direct retail sale of not less than fifty dollars (\$50) and not more than two-hundred-fifty dollars (\$250); (2) for at least ten (10) years after the last date the product model or type was manufactured if the covered product has a wholesale price to the retailer or to others outside of direct retail sale of more than two-hundred-fifty dollars (\$250); and (3) in addition to the requirements of (1) and (2), for so long as the manufacturer makes such software updates available to an authorized repair provider.
- C. A manufacturer of a covered product must clearly and conspicuously disclose to potential purchasers at the point of sale and in any advertising materials, the time periods during which it provides documentation, parts, tools, and software updates, which must not be less than the time periods prescribed in Paragraphs A and B of this Section 4.
- D. Notwithstanding Paragraph A of this Section 4, a manufacturer of a digital electronics-enabled implement of agriculture, an all-terrain vehicle, heavy-duty vehicle, or motor vehicle must make available to owners and independent repair providers on fair and reasonable terms sufficient documentation, parts, and tools to enable the diagnosis, maintenance, and repair of the product for a term of 30 years from the date the last model of the digital electronics-enabled implement of agriculture, all-terrain vehicle, heavy-duty vehicle, or motor vehicle is sold. This obligation applies to model year [passage year -10] to the present.
- E. Notwithstanding Paragraph B of this Section 4, a manufacturer of a digital electronics-enabled implement of agriculture, an all-terrain vehicle, heavy-duty vehicle, or motor vehicle that is designed to regularly transmit or receive information over the Internet or any other communications protocol must provide software updates for such product, at no cost to the owner, for a term of 30 years from the date the last model of the digital electronics-enabled implement of agriculture, all-terrain vehicle, heavy-duty vehicle, or motor vehicle is sold. This obligation applies to model year [passage year -10] to the present.

- F. A manufacturer of a digital electronics-enabled implement of agriculture, an all-terrain vehicle, heavy-duty vehicle, or motor vehicle must provide to owners and independent repair providers on fair and reasonable terms:
1. Proximity access to read data, write data, and execute commands related to diagnosis, maintenance, or repair, and tools for such purposes;
 2. Remote access to read data related to diagnosis, maintenance, or repair to the same extent it provides such access to authorized repair providers.
- G. A manufacturer of a covered product is prohibited from including in any contract language that attempts or purports to modify the manufacturer's obligations as set forth in this Section 4 or language that otherwise restricts an owner's or independent repair provider's ability to diagnose, maintain or repair a covered product. And any such contract provision shall be null and void.
- H. Notwithstanding any other law, a manufacturer of a covered product may not: (1) require that an owner or independent repair provider use parts made or approved by the manufacturer; (2) degrade, reduce, or end the functionality of a covered product following diagnosis, maintenance or repair performed by an owner or independent repair provider; (3) impose any impediment to the replacement of a part, or otherwise impede the diagnosis, maintenance or repair of a covered product by an owner or independent repair provider, including through the use of a pairing code or other mechanism or process for the part to be fully integrated into the covered product, or by failing to promptly take all steps necessary to unlock and reset a security lock or security-related feature for purposes of effectuating diagnosis, maintenance, or repair authorized by the owner; (4) make claims that disparage the quality, safety, or security of aftermarket parts, or repairs by independent repair providers, unless the manufacturer making the claims possesses adequate substantiation for the claims at the time it makes such claims; or (5) require a subscription or other form of post-sale payment or other consideration as a condition of using a covered product or all of its features unless such post-sale payment or consideration is clearly and conspicuously disclosed to potential purchasers at the point of sale and in any advertising materials. Nothing in this section may be construed to require a manufacturer to disable or override owner-set antitheft security measures without the owner's authorization.
- I. Except as necessary to comply with this Section, this Section does not require a manufacturer to divulge a trade secret or license any intellectual property, including copyrights or patents.
- J. This Section does not require a manufacturer to disclose or make available a covered product's source code, unless the source code is needed by owners or independent repair providers to perform diagnosis, maintenance, or repair of the covered product.
- K. No manufacturer that is in compliance with this Section will be liable for any damage or injury to any covered product, person, or property that results from the conduct of an owner or independent repair provider in the course of performing repair, diagnosis, maintenance

or modification unless such manufacturer has violated a duty of care prescribed by state law or breached a contractual provision related to repair with an owner or independent repair provider or a written warranty term.

- L. The dollar amounts in Paragraphs A and B of this Section 4 shall be inflation adjusted annually, with such change benchmarked to changes in the Consumer Price Index. [Name of agency] shall make public such revised amounts.

[NOTE: The following additional provisions concern enforcement, preemption, and severability. A federal bill could also include provisions providing for civil penalties for a violation of the anti-tying provision of the Magnuson-Moss Warranty Act (15 U.S.C. 2302(c)) and modifications to copyright law (e.g., make permanent the repair exemptions issued under the Digital Millennium Copyright Act) and patent law (e.g., prevent the abuse of design patents).]

Section 5. Enforcement by the Commission

- A. Unfair or Deceptive Acts or Practices. A violation of this Act shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).
- B. Powers of the Commission.
 - 1. In General. The Commission shall enforce this Act in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this Act.
 - 2. Privileges and Immunities. Any person that violates this Act shall be subject to the penalties, and entitled to the privileges and immunities, provided in the Federal Trade Commission Act (15 U.S.C. 41 et seq.).
- C. Authority Preserved. Nothing in this Act shall be construed to limit the authority of the Commission under any other provision of law.
- D. Independent Litigating Authority.

Except as otherwise provided in section 16(a)(3) of the Federal Trade Commission Act (15 U.S.C. 56(a)(3)), the Commission shall have exclusive authority to commence or defend, and supervise the litigation of, any civil action under this Act and any appeal of such action in its own name by any of its attorneys designated by it for such purpose, unless the Commission authorizes the Attorney General to do so. The Commission shall inform the Attorney General of the exercise of such authority and such exercise shall not preclude the Attorney General from intervening on behalf of the United States in such action and any appeal of such action as may be otherwise provided by law.

Section 6. Enforcement by States

A. In general

Whenever an attorney general of any State has reason to believe that the interests of the residents of that State have been or are being threatened or adversely affected because any person has engaged or is engaging in a pattern or practice which violates any provision of this Act, the State, as *parens patriae*, may bring a civil action on behalf of its residents in an appropriate district court of the United States to enjoin such conduct, to enforce compliance with this Act, to obtain damages, restitution, or other compensation on behalf of residents of such State, or to obtain such further and other relief as the court may deem appropriate.

B. Notice

The State must serve prior written notice of any civil action under this Section 6 upon the Commission and provide the Commission with a copy of its complaint, except that if it is not feasible for the State to provide such prior notice, the State must serve such notice immediately upon instituting such action. Upon receiving a notice respecting a civil action, the Commission has the right (1) to intervene in such action, (2) upon so intervening, to be heard on all matters arising therein, and (3) to file petitions for appeal.

C. Construction

For purposes of bringing any civil action under this Section 6, nothing in this Act shall prevent an attorney general from exercising the powers conferred on the attorney general by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

D. Actions by Commission

Whenever a civil action has been instituted by or on behalf of the Commission for violation of this Act, no State may, during the pendency of such action instituted by or on behalf of the Commission, institute a civil action under this Section 6 against any defendant named in the complaint in such action for violation of this Act as alleged in such complaint.

E. Venue; service of process

Any civil action brought under this Section 6 in a district court of the United States may be brought in the district in which the defendant is found, is an inhabitant, or transacts business or wherever venue is proper under section 1391 of Title 28. Process in such an action may be served in any district in which the defendant is an inhabitant or in which the defendant may be found.

F. Actions by other State officials

1. nothing contained in this section prohibits an authorized State official from proceeding in State court on the basis of an alleged violation of any civil or criminal statute of such State.
2. in addition to actions brought by an attorney general of a State under this Section 6, such an action may be brought by officers of such State who are authorized by the State to bring actions in such State on behalf of its residents.

Section 7. Enforcement by Persons and Entities

A. A person or entity may bring

1. An action based on a violation of Section 4 to enjoin such violation;
2. An action to recover for actual monetary loss from such a violation, or to receive two (2) times the purchase price of the covered product paid by the person or entity, whichever is greater; or
3. Both such actions.

B. If the court finds that the defendant willfully or knowingly violated Section 4, the court may, in its discretion, increase the amount of the award to an amount equal to not more than three (3) times the actual monetary loss from such a violation or three (3) times the purchase price of the covered product paid by the person or entity, whichever is greater.

C. An action for civil liability under this paragraph may be brought in any appropriate United States district court, without regard to the amount in controversy not later than the earlier of—

1. two years after the date of discovery by the plaintiff of the violation that is the basis for such liability; or
2. five years after the date on which the violation that is the basis for such liability occurs.

D. Plaintiff shall serve prior written notice of the action upon the Commission and provide the Commission with a copy of its complaint, except in any case where such prior notice is not feasible, in which case the person shall serve such notice immediately upon instituting such action. The Commission shall have the right (A) to intervene in the action, (B) upon so intervening, to be heard on all matters arising therein, and (C) to file petitions for appeal.

E. Whenever a civil action has been instituted by or on behalf of the Commission for violation of Section 4, no person may, during the pendency of such action instituted by or on behalf of the Commission, institute a civil action against any defendant named in the complaint in such action for violation of Section 4.

- F. In any successful action to enforce the civil liability described in this Section 7, the person who violated Section 4 is also liable for the costs of the action, together with reasonable attorney fees as determined by the court.
- G. Nothing in this section shall restrict any right which any person may have under any statute or common law.
- H. Any contractual provision which attempts to require the waiving of a right to bring an action in court, attempts to compel arbitration or any other form of alternative dispute resolution, or which in any other manner attempts to modify the right to bring a private right of action under this paragraph, shall be null and void.

Section 8. Relation to State Laws

This bill does not annul, alter, affect, or exempt any person subject to the provisions of this Act from complying with the laws of any State with respect to diagnosis, maintenance, or repair by manufacturers, owners, or independent repair providers, except to the extent that those laws are inconsistent with any provision of this Act, and then only to the extent of the inconsistency. For purposes of this section, a State law is not inconsistent with this Act if the protection such law affords any consumer or independent repair provider is greater than the protection provided by this Act.

Section 9. Severability

The provisions of this Act are separate and severable from one another. If any provision is stayed or determined to be invalid, the remaining provisions shall continue in effect.

Section 10. Effective Date

This Act takes effect on the date that is 180 days after the date of enactment of this Act.