

1 SENATE BILL 69

2 57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

3 INTRODUCED BY

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10 AN ACT

11 RELATING TO UNFAIR TRADE PRACTICES; ENACTING THE RIGHT TO
12 REPAIR CONSUMER ELECTRONICS ACT; PROVIDING POWERS AND DUTIES;
13 SPECIFYING ORIGINAL EQUIPMENT MANUFACTURER OBLIGATIONS;
14 SPECIFYING REPAIR PROVIDER DUTIES; ESTABLISHING PROCEDURES FOR
15 DETERMINING VIOLATIONS OF THE RIGHT TO REPAIR CONSUMER
16 ELECTRONICS ACT; PRESCRIBING PENALTIES.

17
18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

19 SECTION 1. [NEW MATERIAL] SHORT TITLE.--This act may be
20 cited as the "Right to Repair Consumer Electronics Act".

21 SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the
22 Right to Repair Consumer Electronics Act:

23 A. "authorized service provider" means a person
24 that has an arrangement with an original equipment manufacturer
25 pursuant to which the original equipment manufacturer grants to

1 the person a license to use a trade name, service mark or other
2 proprietary identifier when offering to diagnose, maintain or
3 repair equipment in the name of or on behalf of the original
4 equipment manufacturer. "Authorized service provider" includes
5 an original equipment manufacturer that offers the services of
6 diagnosis, maintenance or repair of its own equipment;

7 B. "certifying entity" means a person that engages
8 in evaluating and certifying the technical capabilities and
9 competence of independent repair providers in accordance with
10 standards that the certifying entity or an original equipment
11 manufacturer specifies;

12 C. "consumer electronic equipment" means a product
13 that:

14 (1) is tangible personal property;

15 (2) functions, in whole or in part, on the
16 basis of digital electronics that are embedded within or
17 attached to the product;

18 (3) is generally used for personal, family or
19 household purposes;

20 (4) is sold, used or supplied in New Mexico;

21 and

22 (5) might be, but is not necessarily, capable
23 of attachment to or installation in real property;

24 D. "documentation" means a manual, diagram,
25 reporting output, service code description, schematic diagram,

1 security code, password or other guidance or information that
2 enables a person to diagnose, maintain or repair consumer
3 electronic equipment;

4 E. "independent repair provider" means a person
5 that engages in the business of diagnosing, maintaining or
6 repairing consumer electronic equipment in New Mexico but is
7 not an authorized service provider and that possesses a valid
8 and unexpired certification from a certifying entity;

9 F. "medical device" means an instrument, apparatus,
10 implement, machine, contrivance, implant, in vitro reagent or
11 other similar or related article, including a component, part
12 or accessory, that is:

13 (1) recognized in an official compendium;

14 (2) intended for use in the diagnosis of
15 disease or other conditions or in the cure, mitigation,
16 treatment or prevention of disease in humans or other animals;
17 or

18 (3) intended to affect the structure or a
19 function of the human body or the bodies of other animals and
20 that does not achieve its principal intended purposes through
21 chemical action within or on the human body or the bodies of
22 other animals and that is not dependent on being metabolized
23 for achievement of its principal intended purposes;

24 G. "original equipment manufacturer" means a person
25 engaged in the business of selling, leasing or otherwise

1 supplying new consumer electronic equipment manufactured by or
2 on behalf of itself;

3 H. "owner" means a person that owns or leases
4 consumer electronic equipment purchased or used in New Mexico;

5 I. "part" means a new or used replacement component
6 for consumer electronic equipment made available for the
7 purpose of maintaining or repairing consumer electronic
8 equipment;

9 J. "parts pairing" means an original equipment
10 manufacturer's practice of using software to identify component
11 parts through a unique identifier;

12 K. "repair certification" means evidence that an
13 independent repair provider has the technical and financial
14 capability and competence necessary to repair consumer
15 electronic equipment;

16 L. "tool" means software, a hardware implement or
17 an apparatus by means of which a person can diagnose, maintain
18 or repair consumer electronic equipment, including software, or
19 a mechanism that provisions, programs or pairs a new part;

20 M. "trade secret" means all forms and types of
21 financial, business, scientific, technical, economic or
22 engineering information, including patterns, plans,
23 compilations, program devices, formulas, designs, prototypes,
24 methods, techniques, processes, procedures, programs or codes,
25 whether tangible or intangible, and whether or how stored,

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1 compiled or memorialized physically, electronically,
2 graphically, photographically or in writing if:

3 (1) the owner of the information has taken
4 reasonable measures to keep the information secret; and

5 (2) the information derives independent
6 economic value, actual or potential, from not being generally
7 known to, and not being readily ascertainable through proper
8 means by, another person who can obtain economic value from the
9 disclosure or use of the information; and

10 N. "video game console" means a computing device
11 and its components and peripherals that is intended primarily
12 for interactive video games. "Video game console" does not
13 include a general purpose personal computer that has the
14 capability to run video games alongside other computing
15 functions.

16 SECTION 3. [NEW MATERIAL] ORIGINAL EQUIPMENT
17 MANUFACTURER'S OBLIGATIONS REGARDING REPAIR SERVICES.--

18 A. An original equipment manufacturer shall make
19 available to an owner or an independent repair provider on fair
20 and reasonable terms all documentation, tools or parts that the
21 original equipment manufacturer makes available to an
22 authorized service provider to diagnose, maintain or repair
23 consumer electronic equipment that the original equipment
24 manufacturer makes or sells and that is sold or used in this
25 state.

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1 B. For consumer electronic equipment that is
2 manufactured, sold or used in New Mexico after January 1, 2026,
3 an original equipment manufacturer shall not use parts pairing
4 to:

5 (1) prevent or inhibit an owner or independent
6 repair provider from installing or enabling the function of an
7 otherwise functional part or a component of consumer electronic
8 equipment;

9 (2) reduce the functionality or performance of
10 consumer electronic equipment; or

11 (3) cause consumer electronic equipment to
12 display misleading alerts or warnings about unidentified parts
13 that the owner or independent repair provider cannot
14 immediately dismiss.

15 SECTION 4. [NEW MATERIAL] FAIR AND REASONABLE TERMS AND
16 COSTS REQUIRED FOR DOCUMENTATION, TOOLS AND PARTS.--

17 Documentation, tools and parts provided by an original
18 equipment manufacturer shall be offered at fair and reasonable
19 terms and costs. The original equipment manufacturer shall:

20 A. make documentation available at no charge,
21 except that the original equipment manufacturer may charge for
22 the reasonable and actual costs of preparing, printing and
23 sending all documentation that is requested;

24 B. make tools used to diagnose, maintain or repair
25 consumer electronic equipment available at no charge and

1 without impeding access to the tools or the efficient and
2 cost-effective use of the tools, except that the original
3 equipment manufacturer may charge for the reasonable and actual
4 costs of preparing and shipping physical tools;

5 C. make parts available directly or through an
6 authorized service provider to an owner or independent repair
7 provider at costs and on terms that are equivalent to the most
8 favorable costs and terms at which the original equipment
9 manufacturer offers the parts to an authorized service provider
10 and that:

11 (1) accounts for a discount, rebate,
12 convenient means of delivery, means of enabling fully restored
13 and updated functionality, rights of use or other incentive or
14 preference the original equipment manufacturer offers to an
15 authorized service provider or that imposes an additional cost,
16 burden or impediment on an owner or independent repair provider
17 that the original equipment manufacturer also imposes on an
18 authorized service provider;

19 (2) does not impose a substantial condition,
20 obligation or restriction that is not reasonably necessary to
21 enable an owner or independent repair provider to diagnose,
22 maintain and repair consumer electronic equipment that the
23 original equipment manufacturer makes or sells; and

24 (3) does not require an owner or independent
25 repair provider to become an authorized service provider; and

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1 D. make parts available directly or through
2 authorized service providers for sale to owners and independent
3 repair providers without:

4 (1) imposing allocation limitations or
5 advertising restrictions on the authorized service provider as
6 retaliation or as a means of hindering the sale of parts; or

7 (2) imposing a substantial condition,
8 obligation or restriction not reasonably necessary to enable an
9 owner or independent repair provider to diagnose, maintain or
10 repair consumer electronic equipment that the original
11 equipment manufacturer makes or sells.

12 SECTION 5. [NEW MATERIAL] LIMITATIONS OF ACT.--The Right
13 to Repair Consumer Electronics Act does not:

14 A. require an original equipment manufacturer to
15 disclose a trade secret or license intellectual property,
16 including copyrights or patents, to an independent repair
17 provider or an owner except as necessary to provide on fair and
18 reasonable terms all documentation, tools or parts used to
19 diagnose, maintain or repair consumer electronic equipment;

20 B. alter the terms of the agreement between an
21 original equipment manufacturer and an authorized service
22 provider, including the authorized service provider's
23 performance or provision of warranty service or recall repair
24 work on the original equipment manufacturer's behalf pursuant
25 to the agreement; provided, however, that any provision in the

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1 agreement that purports to waive, restrict or limit the
2 original equipment manufacturer's compliance with the Right to
3 Repair Consumer Electronics Act is void and unenforceable;

4 C. impose liability on an original equipment
5 manufacturer for bodily injury or damage to consumer electronic
6 equipment that an independent repair provider or an owner
7 causes while diagnosing, maintaining or repairing the consumer
8 electronic equipment using documentation, tools or parts that
9 the original equipment manufacturer made available before the
10 date of the diagnosis, maintenance or repair; provided,
11 however, that an original equipment manufacturer remains
12 strictly liable for defects in the design or manufacture of the
13 consumer electronic equipment;

14 D. require an original equipment manufacturer to
15 make available special documentation, tools or parts that would
16 disable or override, without an owner's authorization, anti-
17 theft or privacy security measures that the owner sets for
18 consumer electronic equipment;

19 E. require an original equipment manufacturer to
20 provide to an independent repair provider or an owner a part
21 that the equipment manufacturer no longer makes or no longer
22 provides to authorized service providers;

23 F. prohibit parts pairing that reduces the
24 functionality of a battery if a thermal event occurs; or

25 G. apply to:

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1 (1) a person that is engaged in the business
2 of manufacturing or assembling new motor vehicles or is in the
3 business of selling or leasing new motor vehicles and offering
4 the service of diagnosis, maintenance or repair of motor
5 vehicles or motor vehicle engines pursuant to the terms of a
6 franchise agreement or to the person's products or services;

7 (2) a product, service or equipment that:

8 (a) has never been available for retail
9 sale to a consumer;

10 (b) is a medical device or a digital
11 electronic product, software or control equipment or a related
12 product manufactured for or service provided for use in
13 diagnosis or monitoring in an acute care hospital, a long-term
14 care facility such as a nursing home or skilled nursing
15 facility, a physician's office, an urgent care center, an
16 outpatient clinic, a home setting where health care is provided
17 by or at the direction of a licensed health care provider or an
18 emergency medical services facility or for use in diagnosis or
19 monitoring at a site where health care is routinely delivered
20 on premises that are not otherwise a health care facility, such
21 as a medical clinic within a school;

22 (c) provides heat, ventilation or air
23 conditioning or recharges refrigerant gases;

24 (d) is a system, mechanism or series of
25 mechanisms that generates, stores or combines generation and

1 storage of electrical energy from solar radiation;

2 (e) is a video game console; or

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

10 (3) a vehicle, an engine, equipment or a power
11 source or a person that engages directly in, or acts for or is
12 subject to the control of another person that engages directly
13 in, manufacturing, assembling, distributing, selling, importing
14 for resale, maintaining, servicing or repairing a vehicle, an
15 engine, equipment or a power source with the characteristics
16 of:

17 (a) an internal combustion engine,
18 including the engine's fuel system or other power sources such
19 as an electric battery or a fuel cell, that is not used in a
20 motor vehicle or in a vehicle used solely for competition or
21 that is not subject to standards of performance for stationary
22 sources or emission standards for new motor vehicles or new
23 motor vehicle engines pursuant to the federal Clean Air Act;

24 (b) a vehicle or equipment that is not a
25 motor vehicle or a vehicle used solely for competition and is

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1 powered by an engine described in Subparagraph (a) of this
2 paragraph, together with all tools, technology, attachments,
3 accessories, components or repair parts for the vehicle,
4 equipment or engine;

5 (c) an internal combustion engine or
6 another power source, including an electric battery or a fuel
7 cell, that is not used in a motor vehicle, in a vehicle used
8 solely for competition or in a vehicle or equipment described
9 in Subparagraph (b) of this paragraph or equipment that is
10 powered by the internal combustion engine or other power
11 source, together with tools, technology, attachments,
12 accessories, components or repair parts for the internal
13 combustion engine, the other power source or the equipment; or

14 (d) an engine or other power source,
15 including an electric battery or a fuel cell, that is used for
16 propulsion or power generation in a maritime environment or a
17 waterway, together with all tools, technology, attachments,
18 accessories, components or repair parts for the engine or the
19 other power source;

20 (4) a manufacturer, distributor or dealer of
21 off-road equipment or of tools, technology, attachments,
22 accessories, components or repair parts for off-road equipment,
23 including farm and utility tractors; farm implements and
24 machinery; equipment for forestry, industry, utilities,
25 construction, mining or maintaining a yard, garden or turf;

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1 outdoor power equipment and portable generators; vehicles used
2 in marine environments, for sports, recreation and racing;
3 all-terrain vehicles; power tools; and stand-alone or
4 integrated mobile or stationary internal combustion engines or
5 power sources such as generator sets and battery or fuel cell
6 power; or

7 (5) electric toothbrushes.

8 SECTION 6. [NEW MATERIAL] REPAIR PROVIDER DUTIES.--

9 A. Before repairing consumer electronic equipment,
10 an authorized service provider or independent repair provider
11 shall:

12 (1) post a notice that:

13 (a) specifies the steps the provider
14 takes to ensure the privacy and the security of the customer's
15 consumer electronic equipment;

16 (b) informs the customer about the
17 customer's rights to privacy pursuant to the laws of this
18 state; and

19 (c) informs the customer about all
20 potential safety concerns about the parts being installed; and

21 (2) display all of the provider's repair
22 certifications.

23 B. Before repairing consumer electronic equipment,
24 an independent repair provider shall disclose to each customer:

25 (1) that the independent repair provider is

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1 not an authorized service provider; and

2 (2) whether replacement parts the independent
3 repair provider incorporates into repairs are used replacement
4 parts or are replacement parts provided by suppliers other than
5 the original equipment manufacturer.

6 SECTION 7. [NEW MATERIAL] DETERMINING VIOLATIONS OF THE
7 RIGHT TO REPAIR CONSUMER ELECTRONICS ACT--PRESCRIBING
8 PENALTIES.--

9 A. If the attorney general determines in response
10 to a complaint from a consumer that a person has or controls
11 information, documents, physical evidence or other material
12 that is relevant to an investigation of a violation of the
13 Right to Repair Consumer Electronics Act, or that could lead to
14 a discovery of relevant information in an investigation of a
15 violation of that act, the attorney general may execute and
16 cause an investigative demand to be served on the person. The
17 investigative demand may require that the person:

18 (1) appear and testify under oath at the time
19 and place stated in the investigative demand;

20 (2) answer written interrogatories; and

21 (3) produce relevant information, documents,
22 physical evidence or other material for examination at the time
23 and place stated in the investigative demand.

24 B. An investigative demand pursuant to this section
25 shall be served and enforced as provided in Section 57-12-12

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1 NMSA 1978. Within the earlier of the return date specified in
2 the investigative demand or twenty days after the date on which
3 the investigative demand was served, a person may petition a
4 district court of this state to extend the return date or
5 modify or set aside the investigative demand. The petition
6 shall state good cause, including all privileged material.

7 C. Information the attorney general obtains
8 pursuant to this section that is a trade secret is confidential
9 and is not subject to public disclosure.

10 D. If the attorney general finds in response to a
11 complaint that a person has violated the Right to Repair
12 Consumer Electronics Act, the attorney general may bring a
13 civil action in the first judicial district court to:

14 (1) obtain an injunction to restrain the
15 violation; or

16 (2) impose a civil penalty of not more than
17 one thousand dollars (\$1,000) for each day on which the
18 violation continues.

19 E. Civil penalties shall be deposited to the credit
20 of the current school fund as provided in Article 12, Section 4
21 of the constitution of New Mexico.

22 SECTION 8. [NEW MATERIAL] ATTORNEY GENERAL REPORT
23 REQUIRED.--The attorney general shall submit not later than
24 December 31, 2028 a report to the governor and legislature that
25 specifies the number and nature of consumer complaints from

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1 owners and independent repair providers within the previous two
2 years pertaining to original equipment manufacturers that did
3 not provide upon request documentation, tools, parts or other
4 devices or implements necessary to diagnose, maintain or repair
5 consumer electronic equipment that the original equipment
6 manufacturer makes or sells.

7 SECTION 9. APPLICABILITY.--

8 A. Except as provided in Subsection B of this
9 section, the provisions of Section 3 of the Right to Repair
10 Consumer Electronics Act apply to consumer electronic equipment
11 sold in this state or in use in this state on or after the
12 effective date of that act.

13 B. The provisions of Section 3 of the Right to
14 Repair Consumer Electronics Act do not apply to:

15 (1) a cell phone that was manufactured for the
16 first time and first sold or used in this state before July 1,
17 2021; or

18 (2) consumer electronic equipment other than a
19 cell phone that was manufactured for the first time and first
20 sold or used in this state before July 1, 2015.

21 SECTION 10. EFFECTIVE DATE FOR ENFORCEMENT ACTIONS BY THE
22 ATTORNEY GENERAL.--Section 7 of the Right to Repair Consumer
23 Electronics Act applies to violations of Section 3 of that act
24 that occur on or after July 1, 2027.

25 SECTION 11. EFFECTIVE DATE.--The effective date of the

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1 provisions of this act is July 1, 2025.

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