

SENATE BILL NO. 112

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-THIRD LEGISLATURE - FIRST SESSION

BY SENATOR DUNBAR

Introduced: 3/22/23

Referred: Labor and Commerce, Judiciary

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the diagnosis, maintenance, and repair of products that use digital**
2 **electronics to operate; adding an unlawful act to the Alaska Unfair Trade Practices and**
3 **Consumer Protection Act; and providing for an effective date."**

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
6 to read:

7 SHORT TITLE. This Act may be known as the Digital Right to Repair Act.

8 * **Sec. 2.** AS 45.45 is amended by adding new sections to read:

9 **Article 12A. Digital Product Diagnosis, Maintenance, and Repair.**

10 **Sec. 45.45.800. Digital product diagnosis, maintenance, and repair.** (a) A
11 digital product manufacturer shall, as required under AS 45.45.800 - 45.45.890, make
12 available to an independent service provider or owner of a digital product
13 manufactured, sold, or leased by or on behalf of the manufacturer any documentation,
14 parts, and tools necessary for the diagnosis, maintenance, or repair of the digital

1 product.

2 (b) The documentation, parts, and tools made available under (a) of this
3 section must include any changes made by the digital product manufacturer to update,
4 fix, or improve a computer program, including the program's data, or firmware used in
5 the product or part.

6 **Sec. 45.45.810. Security features.** If a digital product contains an electronic
7 security lock or other security-related feature that is disabled during the diagnosis,
8 maintenance, or repair of the product, the digital product manufacturer shall make
9 available to the independent service provider or owner of the product the
10 documentation, tools, and parts necessary to reset the security-related feature. The
11 manufacturer may use appropriate secure release systems to make the documentation,
12 tools, and parts available.

13 **Sec. 45.45.820. Unavailable parts.** A digital product manufacturer is not
14 required to make a part available under AS 45.45.800 - 45.45.890 if the part is no
15 longer available to the manufacturer.

16 **Sec. 45.45.830. Terms of providing documentation, parts, and tools.** (a)
17 Except as provided in (b) of this section, a digital product manufacturer shall make
18 available to an independent service provider or owner of the product

19 (1) documentation required under AS 45.45.800 - 45.45.890 without
20 charge, except that, if the provider or owner requests a physical copy of the
21 documentation, the manufacturer may charge to the provider or owner the reasonable,
22 actual cost of preparing and sending a copy of the documentation;

23 (2) parts required under AS 45.45.800 - 45.45.890, directly or through
24 an authorized service provider, on terms that are the same as the most favorable terms
25 the manufacturer provides to an authorized service provider of the manufacturer;

26 (3) the tools required under AS 45.45.800 - 45.45.890 without
27 (A) charge, except that, if the provider or owner requests a tool
28 in physical form, the manufacturer may include a charge for the reasonable,
29 actual costs of preparing and sending the tool;

30 (B) requiring further authorization or Internet access for
31 authorization for full use of the tool;

1 (C) impeding access or use of the tool to diagnose, maintain, or
2 repair and enable full functionality of the digital product; and

3 (D) impeding the efficient and cost-effective use of the
4 diagnostic, maintenance, or repair functions of the tool.

5 (b) A digital product manufacturer may not charge an independent service
6 provider or an owner a price that is greater than the price the manufacturer charges its
7 authorized service provider, after discounts, rebates, and other incentive programs, to
8 make the same documentation, part, or tool available.

9 **Sec. 45.45.840. Independent service provider.** A person is considered to be
10 an independent service provider under AS 45.45.800 - 45.45.890 if the person

11 (1) engages in the business of diagnosis, maintenance, or repair of
12 digital products in the state; and

13 (2) is not a digital product manufacturer, does not have a license or
14 contract with a digital product manufacturer under AS 45.45.850(a), and is not
15 affiliated with a person that has a license or contract with a digital product
16 manufacturer under AS 45.45.850(a).

17 **Sec. 45.45.850. Authorized service provider.** (a) A person is considered to be
18 an authorized service provider under AS 45.45.800 - 45.45.890 if the person is not
19 affiliated with a digital product manufacturer but has a

20 (1) license to use a trade name, service mark, or other proprietary
21 identification of the digital product manufacturer to offer diagnosis, maintenance, or
22 repair of digital products under the name of the digital product manufacturer; or

23 (2) contract that is not described in (1) of this subsection with the
24 digital product manufacturer to provide diagnosis, maintenance, or repair of digital
25 products that are manufactured by the digital product manufacturer.

26 (b) Notwithstanding (a) of this section, a digital product manufacturer that
27 offers the services of diagnosis, maintenance, or repair of its own digital products, and
28 that does not have a license or contract under (a) of this section with an unaffiliated
29 person, is an authorized service provider for the manufacturer's own digital products.

30 **Sec. 45.45.860. Trade secrets.** Nothing in AS 45.45.800 - 45.45.890 may be
31 construed to require a digital product manufacturer to disclose a trade secret to an

1 independent service provider or an owner except to the extent necessary to make
2 documentation, parts, and tools available under AS 45.45.800 - 45.45.890. In this
3 section, "trade secret" has the meaning given in AS 45.50.940.

4 **Sec. 45.45.870. Limitations on application and liability; exemption.** (a) An
5 agreement that waives, restricts, or otherwise limits the obligations of a digital product
6 manufacturer under AS 45.45.800 - 45.45.890 is void and unenforceable.

7 (b) A digital product manufacturer or authorized service provider may not be
8 held civilly liable for damages or injuries caused to a digital product by an
9 independent service provider or owner during the course of the independent service
10 provider's or owner's diagnosis, maintenance, or repair of the product.

11 (c) The provisions of AS 45.45.800 - 45.45.890 do not apply to the diagnosis,
12 maintenance, or repair of a digital product that is a motor vehicle or a part for a motor
13 vehicle.

14 **Sec. 45.45.880. Interpretation.** Nothing in AS 45.45.800 - 45.45.890 may be
15 construed to require a digital product manufacturer or an authorized service provider
16 to make available to an independent service provider or an owner the information,
17 other than documentation, that a digital product manufacturer makes available to an
18 authorized service provider under a license or other contract described in
19 AS 45.45.850(a).

20 **Sec. 45.45.890. Definitions.** In AS 45.45.800 - 45.45.890,

21 (1) "authorized service provider" means a person that is an authorized
22 service provider under AS 45.45.850;

23 (2) "digital product" means a product that depends for its functioning,
24 in whole or in part, on digital electronics embedded in or attached to the product;

25 (3) "digital product manufacturer" means a person engaged in the
26 business of selling, leasing, or otherwise supplying new digital products manufactured
27 by or on behalf of the person to another person;

28 (4) "documentation" means a manual, diagram, reporting output,
29 service code description, schematic diagram, security code, password, or other
30 guidance or information used in effecting the services of diagnosis, maintenance, or
31 repair of a digital product;

1 (5) "independent service provider" means a person that is an
2 independent service provider under AS 45.45.840;

3 (6) "motor vehicle" means a vehicle designed for transporting persons
4 or property on a street or highway and certified by the manufacturer under all
5 applicable federal emissions standards and requirements for distribution and sale in the
6 United States;

7 (7) "owner" means a person who owns or leases a digital product;

8 (8) "part" means a new or used replacement part that a digital product
9 manufacturer makes available for the maintenance or repair of the product;

10 (9) "tool" includes a software program, hardware implement, or other
11 apparatus used for diagnosis, maintenance, or repair of a digital product, including
12 software or other mechanisms that calibrate, update, program, pair new parts, or
13 otherwise perform a purpose that ensures the product's functionality.

14 * **Sec. 3.** AS 45.50.471(b) is amended by adding a new paragraph to read:

15 (58) violating AS 45.45.800 - 45.45.890 (digital product diagnosis,
16 maintenance, and repair).

17 * **Sec. 4.** The uncodified law of the State of Alaska is amended by adding a new section to
18 read:

19 APPLICABILITY. This Act applies to a digital product that is sold or leased in the
20 state on or after the effective date of this Act. In this section, "digital product" has the
21 meaning given in AS 45.45.890.

22 * **Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section to
23 read:

24 SAVING CLAUSE. This Act may not be construed to change the terms of a license or
25 contract that is in effect immediately before the effective date of this Act.

26 * **Sec. 6.** This Act takes effect January 1, 2024.