

SENATE BILL 723

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CF 0lr2460

By: **Senators Hester and Jennings**

Introduced and read first time: February 3, 2020

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Consumer Protection – Right to Repair**

3 FOR the purpose of requiring an original equipment manufacturer to make available, on
4 certain terms, certain materials or updates to an independent repair provider or
5 owner of digital electronic equipment; providing that a violation of certain provisions
6 of this Act is an unfair, abusive, or deceptive trade practice and subject to certain
7 enforcement and penalty provisions; defining certain terms; making stylistic
8 changes; providing for the application of this Act; and generally relating to digital
9 electronic equipment.

10 BY adding to

11 Article – Commercial Law
12 Section 13–301(14)(xxxii); and 14–4201 through 14–4204 to be under the new
13 subtitle “Subtitle 42. Digital Electronic Equipment Repair”
14 Annotated Code of Maryland
15 (2013 Replacement Volume and 2019 Supplement)

16 BY repealing and reenacting, with amendments,

17 Article – Commercial Law
18 Section 13–301(14)(xxxii) and (xxxiii)
19 Annotated Code of Maryland
20 (2013 Replacement Volume and 2019 Supplement)

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
22 That the Laws of Maryland read as follows:

23 **Article – Commercial Law**

24 13–301.

25 Unfair, abusive, or deceptive trade practices include any:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(14) Violation of a provision of:

(XXXII) TITLE 14, SUBTITLE 42 OF THIS ARTICLE;

[(xxxii)] (XXXIII) [the] THE federal Military Lending Act; or

[(xxxiii)] (XXXIV) [the] THE federal Servicemembers Civil Relief Act;

or

SUBTITLE 42. DIGITAL ELECTRONIC EQUIPMENT REPAIR.

14-4201.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) (1) “AUTHORIZED REPAIR PROVIDER” MEANS A PERSON WHO HAS AN ARRANGEMENT WITH THE ORIGINAL EQUIPMENT MANUFACTURER UNDER WHICH THE ORIGINAL EQUIPMENT MANUFACTURER AUTHORIZES THE PERSON TO:

(I) USE A TRADE NAME, SERVICE MARK, OR OTHER PROPRIETARY IDENTIFIER FOR THE PURPOSE OF OFFERING THE SERVICES OF DIAGNOSIS, MAINTENANCE, OR REPAIR OF DIGITAL ELECTRONIC EQUIPMENT UNDER THE NAME OF THE ORIGINAL EQUIPMENT MANUFACTURER; OR

(II) OFFER DIAGNOSIS, MAINTENANCE, OR REPAIR SERVICES ON BEHALF OF THE ORIGINAL EQUIPMENT MANUFACTURER.

(2) “AUTHORIZED REPAIR PROVIDER” INCLUDES AN ORIGINAL EQUIPMENT MANUFACTURER WHO OFFERS DIAGNOSIS, MAINTENANCE, OR REPAIR SERVICES FOR ITS OWN DIGITAL ELECTRONIC EQUIPMENT.

(C) “DIGITAL ELECTRONIC EQUIPMENT” MEANS A PRODUCT THAT DEPENDS FOR ITS FUNCTIONING, WHOLLY OR PARTLY, ON DIGITAL ELECTRONICS EMBEDDED IN OR ATTACHED TO THE PRODUCT.

(D) “DOCUMENTATION” MEANS A MANUAL, DIAGRAM, REPORTING OUTPUT, SERVICE CODE DESCRIPTION, SCHEMATIC DIAGRAM, OR OTHER INFORMATION PROVIDED TO AN AUTHORIZED REPAIR PROVIDER FOR THE DIAGNOSIS, MAINTENANCE, OR REPAIR OF DIGITAL ELECTRONIC EQUIPMENT.

(E) (1) “EMBEDDED SOFTWARE” MEANS PROGRAMMABLE INSTRUCTIONS PROVIDED ON THE FIRMWARE DELIVERED WITH DIGITAL

1 ELECTRONIC EQUIPMENT, OR WITH A PART FOR DIGITAL ELECTRONIC EQUIPMENT,
2 FOR PURPOSES OF EQUIPMENT OPERATION.

3 (2) "EMBEDDED SOFTWARE" INCLUDES ALL RELEVANT PATCHES
4 AND FIXES MADE BY THE MANUFACTURER OF THE DIGITAL ELECTRONIC
5 EQUIPMENT OR PART OF THAT EQUIPMENT.

6 (F) "FIRMWARE" MEANS A SOFTWARE PROGRAM OR SET OF INSTRUCTIONS
7 PROGRAMMED ON DIGITAL ELECTRONIC EQUIPMENT, OR ON A PART OF THAT
8 EQUIPMENT, TO ALLOW THE EQUIPMENT OR PART TO COMMUNICATE WITH OTHER
9 COMPUTER HARDWARE.

10 (G) "INDEPENDENT REPAIR PROVIDER" MEANS A PERSON THAT:

11 (1) OFFERS THE SERVICES OF DIAGNOSIS, MAINTENANCE, OR REPAIR
12 OF DIGITAL ELECTRONIC EQUIPMENT; AND

13 (2) IS NOT AN AUTHORIZED REPAIR PROVIDER.

14 14-4202.

15 (A) THIS SUBTITLE APPLIES ONLY TO DOCUMENTATION, PARTS, TOOLS, OR
16 UPDATES REQUIRED FOR THE DIAGNOSIS, MANUFACTURE, OR REPAIR OF DIGITAL
17 ELECTRONIC EQUIPMENT.

18 (B) THIS SUBTITLE DOES NOT APPLY TO:

19 (1) A MOTOR VEHICLE MANUFACTURER;

20 (2) A MANUFACTURER OF MOTOR VEHICLE EQUIPMENT;

21 (3) A MOTOR VEHICLE DEALER ACTING AS A MANUFACTURER OF
22 MOTOR VEHICLE EQUIPMENT;

23 (4) A PRODUCT OR SERVICE OF A MOTOR VEHICLE MANUFACTURER;

24 (5) A PRODUCT OR SERVICE OF A MANUFACTURER OF MOTOR
25 VEHICLE EQUIPMENT; OR

26 (6) A PRODUCT OR SERVICE OF A MOTOR VEHICLE DEALER ACTING
27 AS A MANUFACTURER OF MOTOR VEHICLE EQUIPMENT.

28 (C) THIS SUBTITLE MAY NOT BE CONSTRUED TO:

(1) EXCEPT AS NECESSARY TO COMPLY WITH THE TERMS OF THIS SUBTITLE, REQUIRE AN ORIGINAL EQUIPMENT MANUFACTURER TO DIVULGE A TRADE SECRET; OR

(2) INTERFERE WITH OR ALTER AN ARRANGEMENT BETWEEN AN AUTHORIZED REPAIR PROVIDER AND AN ORIGINAL EQUIPMENT MANUFACTURER.

14-4203.

AN ORIGINAL EQUIPMENT MANUFACTURER SHALL, ON FAIR AND REASONABLE TERMS, MAKE AVAILABLE TO AN INDEPENDENT REPAIR PROVIDER OR OWNER OF DIGITAL ELECTRONIC EQUIPMENT:

(1) ANY DOCUMENTATION, PARTS, TOOLS, OR UPDATES TO INFORMATION OR EMBEDDED SOFTWARE; OR

(2) AS IT APPLIES TO EQUIPMENT THAT CONTAINS A SECURITY-RELATED FUNCTION, ANY DOCUMENTATION, TOOLS, PARTS, OR UPDATES NEEDED TO RESET THE LOCK OR FUNCTION WHEN DISABLED.

14-4204.

A VIOLATION OF THIS SUBTITLE IS:

(1) AN UNFAIR, ABUSIVE, OR DECEPTIVE TRADE PRACTICE WITHIN THE MEANING OF TITLE 13 OF THIS ARTICLE; AND

(2) SUBJECT TO THE ENFORCEMENT AND PENALTY PROVISIONS CONTAINED IN TITLE 13 OF THIS ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any equipment sold or in use before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2020.