

House Bill 286

By: Representatives Turner of the 21st, Pirkle of the 155th, and Dickey of the 140th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to selling
2 and other trade practices, so as to require a manufacturer to provide certain items necessary
3 for diagnostic, maintenance, or repair services on digital products; to provide for a short title;
4 to provide for definitions; to provide for enforcement, limitations, exclusions, and
5 applicability; to provide for related matters; to repeal conflicting laws; and for other
6 purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 SECTION 1.

9 Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to selling and other
10 trade practices, is amended by adding a new article to read as follows:

11 ARTICLE 35

12 10-1-930.

13 This article shall be known and may be cited as the 'Right to Repair Act.'

14 10-1-931.

15 As used in this article, the term:

16 (1) 'Authorized repair provider' means any person that is unaffiliated with an original
17 equipment manufacturer and that, through an arrangement with such manufacturer
18 existing for a definite or indefinite period of time, offers diagnostic, maintenance, or
19 repair services for digital electronic equipment under the trade name, service mark, or
20 other proprietary identifier of the original equipment manufacturer. Such term shall
21 include any original equipment manufacturer that offers diagnostic, maintenance, or
22 repair services for the digital electronic equipment of another original equipment
23 manufacturer through an arrangement.

- 24 (2) 'Dealer' shall have the same meaning as set forth in Code Section 10-1-622.
- 25 (3) 'Digital electronic equipment' means any product that depends, in whole or in part,
26 on digital electronics embedded in or attached to the product for its functioning.
- 27 (4) 'Documentation' means any manual, diagram, reporting output, service code
28 description, schematic diagram, or similar kind of information provided to an authorized
29 repair provider in order to provide diagnostic, maintenance, repair, or other services for
30 digital electronic equipment.
- 31 (4) 'Embedded software' means any programmable instructions provided on firmware
32 delivered with digital electronic equipment, or with a part for such equipment, for
33 purposes of equipment operation, including all relevant patches and fixes made by the
34 manufacturer of such equipment or part for such purposes.
- 35 (5) 'Fair and reasonable terms' means at costs and under terms, including terms for
36 convenience of delivery, equivalent to what is offered by the original equipment
37 manufacturer to an authorized repair provider, using the net costs that would be incurred
38 by an authorized repair provider in obtaining an equivalent part or tool or documentation
39 from the original equipment manufacturer and accounting for any discounts, rebates, or
40 other incentive programs in arriving at the actual net costs; provided, however, that when
41 such term is used in relation to documentation and relevant updates, such term means at
42 no charge, except that when the documentation is requested in physical printed form, a
43 charge may be included for the reasonable actual costs of preparing and sending the copy.
- 44 (6) 'Firmware' means a software program or set of instructions programmed on digital
45 electronic equipment, or on a part for such equipment, to allow the equipment or part to
46 communicate with other computer hardware.
- 47 (7) 'Independent service provider' means any person engaged in diagnostic, maintenance,
48 repair, or other services for digital electronic equipment that does not have an
49 arrangement to provide such services as or on behalf of an authorized repair provider.
- 50 (8) 'Locked' means secured by an electronic security lock or other security related
51 function.
- 52 (9) 'Motor vehicle' means a vehicle that is designed for transporting persons or property
53 on a highway and is certified by the manufacturer under all applicable federal safety and
54 emissions standards and requirements for distribution and sale in the United States. Such
55 term shall not include motorcycles, as defined in Code Section 40-1-1, and recreational
56 vehicles, as defined in Code Section 10-1-679.
- 57 (10) 'Motor vehicle manufacturer' means any person engaged in the business of making
58 or assembling new motor vehicles.

59 (11) 'Necessary service materials' means the documentation, parts, and tools, including
60 any updates to information or embedded software, required to provide diagnostic,
61 maintenance, repair, or other services.

62 (12) 'Original equipment manufacturer' means a person engaged in the business of selling
63 new digital electronic equipment manufactured by or on behalf of such person. Such
64 term shall include a person engaged in the business of selling new digital electronic
65 equipment which is sold under a financing or periodic payment plan.

66 (13) 'Owner' means any person that owns digital electronic equipment purchased or used
67 in this state. Such term shall include ownership of digital electronic equipment purchased
68 under a financing or periodic payment plan.

69 (14) 'Part' means any replacement part, either new or used, made available by an original
70 equipment manufacturer in order to provide maintenance or repair of digital electronic
71 equipment manufactured or sold by the original equipment manufacturer.

72 (15) 'Person' means an individual, partnership, corporation, company, or association.

73 (16) 'Trade secret' shall have the same meaning as provided for in Code
74 Section 10-1-761.

75 (17) 'Unlocking materials' means any special documentation, tools, and parts needed to
76 reset a lock or function in digital electronic equipment that becomes locked or disabled
77 during diagnosis, maintenance, or repair.

78 10-1-932.

79 (a) An original equipment manufacturer shall make available to any independent service
80 provider or owner of digital electronic equipment any necessary service materials on fair
81 and reasonable terms. Such documentation, tools, and parts may be made available
82 through systems designed for secured release.

83 (b) An original equipment manufacturer shall make available any unlocking materials to
84 any independent service provider or owner of digital electronic equipment that is locked
85 on fair and reasonable terms.

86 (c) Nothing in this Code section shall require an original equipment manufacturer to make
87 available any part that is no longer available to the original equipment manufacturer.

88 10-1-933.

89 A violation of this article constitutes an unfair or deceptive practice in consumer
90 transactions within the meaning of Part 2 of Article 15 of Chapter 1 of Title 10, the 'Fair
91 Business Practices Act of 1975.' All remedies, penalties, and authority granted to the
92 Attorney General by that Act shall be available for the enforcement of this article.

93 10-1-934.

94 (a) Nothing in this article shall be construed to require an original equipment manufacturer
95 to divulge a trade secret to an owner or independent service provider except to provide
96 necessary service materials or unlocking materials.

97 (b) No provision of this article shall be construed to alter the terms of any arrangement in
98 force between an authorized repair provider and an original equipment manufacturer,
99 including, but not limited to, the performance or provision of warranty or recall repair work
100 by an authorized repair provider on behalf of an original equipment manufacturer pursuant
101 to such arrangement, except that any provision in such terms that purports to waive, avoid,
102 restrict, or limit the original equipment manufacturer's obligations to comply with this
103 article shall be void and unenforceable.

104 (c) Nothing in this article shall require an original equipment manufacturer or an
105 authorized repair provider to provide to an owner or independent service provider access
106 to information, other than documentation, that is not otherwise provided by the original
107 equipment manufacturer to an authorized repair provider necessary in order to provide
108 diagnostic, maintenance, or repair services.

109 10-1-935.

110 Nothing in this article shall apply to a motor vehicle manufacturer, manufacturer of motor
111 vehicle equipment, or dealer acting in such capacities or to any product or service of a
112 motor vehicle manufacturer, manufacturer of motor vehicle equipment, or dealer acting in
113 such capacities.

114 10-1-936.

115 This article shall apply to equipment sold or in use on or after July 1, 2019."

116 **SECTION 2.**

117 All laws and parts of laws in conflict with this Act are repealed.