



ALASKA STATE LEGISLATURE

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Response to House Community and Regional Affairs Committee Hearing on HB 162: DIGITAL PRODUCT REPAIR

During the March 19th bill hearing on HB 162, there were several points brought up that our team did not have the opportunity to address. We would like to do so here in order to clarify some key points pertaining to the bill and its functions.

On the state of product repairs:

Recent years have seen a marked increase in the practice of planned obsolescence, which refers to manufacturers intentionally creating products that are only designed to last a certain period of time in order to encourage consumers to continue buying new products. The practice has been around for a century but has become more widespread and pervasive over time to the point that it has been the subject of several lawsuits, such as those against Apple over their software updates that intentionally slowed down older phone models.

Several industries have memorandums of understanding (MOUs) on how to approach and make available to consumers and independent repair providers the resources necessary for repairs, but according to the 2021 Federal Trade Commission's (FTC) report to Congress, the auto industry is the only one that has successfully created and implemented a self-regulatory scheme. This creates significant gaps in access to repair and shows that industry self-regulation is not currently sufficient in creating an environment conducive to repair.

Twelve other states have passed right to repair laws, and right to repair legislation has been introduced in all 50 states and at the federal level. This has created something of a regulatory patchwork, but manufacturers are navigating this by either confirming state residency before providing repairs, or by adopting a standardized model of repairs rather than tailoring their approach by state.

You can read the full report by the FTC here: [Nixing the Fix: An FTC Report to Congress on Repair Restrictions](#).

On the breadth of the bill:

There were concerns brought up with the breadth of the bill's application and the vagueness of the language. However, these choices were intentional. The bill has a purposely wide scope in order to capture as many repairable products as possible. The right to repair is of general benefit to all consumers, as well as many small or local businesses. We want to make exemptions or carveouts only where they benefit Alaskans: to not interfere with the automotive self-regulatory system, to avoid medical devices, and to accommodate the dealership model for specialty vehicles.

On the safety of consumer and independent repairs:

In the FTC's report to Congress, they found that "manufacturers provided no data to support their argument that injuries are tied to repairs performed by consumers or independent repair shops... Nor have manufacturers provided factual support for their statements that authorized repair persons are more careful or that individuals or independent repair shops fail to take appropriate safety precautions, or that independent repair workers who enter homes pose more of a safety risk to consumers than authorized repair workers" despite being requested to do so.

The report also pointed out that when consumers and independent repair providers cannot find authentic parts, they are often forced to turn to substitutes that can pose greater risks from device malfunctions and incompatibility. By making authentic parts available, right to repair strengthens safety. Additionally, the FTC noted that industry concerns over safety in difficult repairs could be addressed by manufacturers ceasing practices that actively make repairs more difficult and dangerous, such as gluing in lithium-ion batteries in ways that risk puncture during removal.

On data privacy and cybersecurity:

Cybersecurity experts have concluded that right to repair does not pose any significant risk to cybersecurity or data privacy. From the FTC: "the record supports arguments that consumers and independent repair shops would be equally capable of minimizing cybersecurity risks, as are authorized repairers."

In fact, in a collaboration between experts at Secure Repairs, QED Secure Solutions, Elect More Hackers, and the Colorado Public Interest Research Group, the panelists outlined that right to repair actually strengthens security by "Reducing downtime and exposure from unpatched systems; Enabling faster incident response and recovery; Encouraging independent security research and oversight; [and] Increasing competition and accountability among vendors."

The objections raised by manufacturers are hyperbolic. As the founder of QED Secure Solutions highlighted, locking down repair access does not stop hackers; rather, it tends to block defenders, making it so that repairs that are solely done by the manufacturer are more vulnerable to overlooked security failures and unpatched issues. Security alarm systems additionally should not be made more unsafe, as the repair manuals and tools are already available in some capacity.

Read the full article here: [A Right to Repair Isn't a Cyber Risk. It's a Cyber Imperative!](#)

On product tampering:

We had heard some concerns that HB 162 would enable a greater range of product tampering to take place, including tampering with the emissions control systems on certain equipment. However, the Environmental Protection Agency (EPA), which is charged with enforcing the Clean Air Act (CAA) that these systems seek to comply with, recently issued a statement clarifying that the anti-tampering provisions within the CAA do not apply to the temporary disabling of the emission control system in order to perform repairs. Read the full statement from the EPA here: [ICYMI: EPA Sets Record Straight — Americans Have the Right to Repair Their Farm or Other Nonroad Diesel Equipment](#).

HB 162 does not require manufacturers to provide tools or information necessary to modify equipment; only to repair it. However, the U.S. Copyright Office found that consumers were not in violation of copyright law when performing their own repairs, and that most products are legally open to tweaking, customization, and modification under the current law, from [Repair.org](#)

On concerns from industry:

HB 162 received written and public testimony from several industries and individuals both during and leading up to the bill hearing. We welcome feedback, but there were several points in testimony that we would like to address in order to make pertinent clarifications on the bill.

The smart lightbulb industry was concerned that the bill would mandate that they make replaceable products repairable. However, this is not the case under the bill; products not already repairable through the manufacturer or authorized repair providers are not covered by HB 162.

The offroad vehicle industry brought up safety and tampering concerns, which have been addressed in previous sections, as well as concern over potential harm to their dealership model. This issue was brought up in a bill hearing on SB 111, the Senate companion bill, which Senator Dunbar's team chose to address by adding an amendment allowing the powersports industry to charge reasonable prices for the provision of parts, which we followed with the adoption of the CS. They are planning to add heavy equipment to this clause, which we intend to follow.

Several other industries, including national organizations, submitted testimony as well. We are happy to take their concerns into account, but we are most concerned with maximizing the benefit to Alaskan citizens and businesses, and many of their points have been addressed above.

Authorized service providers will likely still be preferred for their reputation and expertise where they are available; this bill expands options for consumer and independent repair (providing many residents and devices with a viable repair option for the first time) but this is not a zero-sum game. The total amount of maintenance, repair, and refurbishment done in Alaska will increase, shared among authorized service providers, independent repair providers, and owners. At the same time, wasteful premature disposal of digital products in Alaska and expensive importation of replacements from out of state will be reduced.