

CS FOR SENATE BILL NO. 111()

IN THE LEGISLATURE OF THE STATE OF ALASKA
THIRTY-FOURTH LEGISLATURE - SECOND SESSION

BY

**Offered:
Referred:**

Sponsor(s): SENATORS DUNBAR, Kawasaki, Giessel

A BILL

FOR AN ACT ENTITLED

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

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

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

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

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

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

Sec. 45.45.800. Digital product diagnosis, maintenance, and repair. (a) A digital product manufacturer shall, as required under AS 45.45.800 - 45.45.899, make available to an independent service provider or owner of a digital product manufactured, sold, or leased by or on behalf of the manufacturer any documentation, parts, and tools provided to an authorized service provider for the diagnosis,

1 maintenance, or repair of the digital 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, parts, and tools necessary to reset the security-related feature. The
11 manufacturer may use appropriate secure release systems to make the documentation,
12 parts, and tools available.

13 **Sec. 45.45.820. Parts pairing prohibited.** (a) A digital product manufacturer
14 may not use parts pairing software or another technology that

15 (1) prevents or inhibits an independent service provider or owner of a
16 digital product from installing and enabling a functional replacement part or
17 component that the digital product manufacturer has not approved; and

18 (2) if a functional replacement part or component for a digital product
19 that has not been approved by the digital product manufacturer is installed or
20 otherwise enabled,

21 (A) reduces the functionality or performance of the product; or

22 (B) causes the product to display misleading alerts or warnings

23 that the owner cannot immediately dismiss.

24 (b) Nothing in this section requires a digital product manufacturer to make
25 available to a person special documentation, tools, parts, electronic programs, or other
26 devices that disable or override anti-theft or privacy security measures that are
27 activated, installed, or otherwise enabled by an owner of a digital product.

28 (c) If a requirement under this section is preempted by federal law, this section
29 shall be construed to regulate all activity that is not preempted.

30 **Sec. 45.45.830. Unavailable parts.** A digital product manufacturer is not
31 required to make a part available under AS 45.45.800 - 45.45.899 if the part is no

1 longer available to the manufacturer.

2 **Sec. 45.45.840. Terms of providing documentation, parts, and tools.** (a)

3 Except as provided in (b) and (c) of this section, a digital product manufacturer shall
4 make available to an independent service provider or owner of the product

5 (1) documentation required under AS 45.45.800 - 45.45.899 without
6 charge, except that, if the provider or owner requests a physical copy of the
7 documentation, the manufacturer may charge the provider or owner for the reasonable,
8 actual cost of preparing and sending a copy of the documentation;

9 (2) parts required under AS 45.45.800 - 45.45.899, directly or through
10 an authorized service provider, on terms that are the same as the most favorable terms
11 the manufacturer provides to an authorized service provider of the manufacturer;

12 (3) the tools required under AS 45.45.800 - 45.45.899 without

13 (A) charge, except that, if the provider or owner requests a tool
14 in physical form, the manufacturer may charge the provider or owner for the
15 reasonable, actual costs of producing, preparing, and sending the tool;

16 (B) impeding access or use of the tool to diagnose, maintain, or
17 repair and enable full functionality of the digital product; and

18 (C) impeding the efficient and cost-effective use of the
19 diagnostic, maintenance, or repair functions of the tool.

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

24 (c) Notwithstanding (a)(2) and (b) of this section, a digital product
25 manufacturer shall, directly or through an authorized service provider, provide parts to
26 an independent service provider or owner on terms and at costs that are reasonable
27 considering the conditions agreed on, the quality of the parts, and the timeliness of the
28 delivery, for a digital product that is

29 (1) power-sports equipment;

30 (2) power-driven farm, forestry, construction, industrial, utility,
31 mining, road-building, material-handling, or similar equipment; or

1 (3) a stand-alone or mobile engine, generator, battery bank or other
2 power producing or storing device.

3 **Sec. 45.45.850. Independent service provider.** A person is considered to be
4 an independent service provider under AS 45.45.800 - 45.45.899 if the person

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

7 (2) is not a digital product manufacturer, does not have a license or
8 contract with a digital product manufacturer under AS 45.45.860(a), and is not
9 affiliated with a person that has a license or contract with a digital product
10 manufacturer under AS 45.45.860(a).

11 **Sec. 45.45.860. Authorized service provider.** (a) A person is an authorized
12 service provider under AS 45.45.800 - 45.45.899 if the person has a

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

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

19 (b) A digital product manufacturer that offers the services of diagnosis,
20 maintenance, or repair of its own digital products is considered an authorized service
21 provider for such products for the purposes of AS 45.45.800 - 45.45.899.

22 **Sec. 45.45.870. Trade secrets.** Nothing in AS 45.45.800 - 45.45.899 may be
23 construed to require a digital product manufacturer to disclose a trade secret to an
24 independent service provider or an owner except to the extent necessary to make
25 documentation, parts, and tools available under AS 45.45.800 - 45.45.899. In this
26 section, "trade secret" has the meaning given in AS 45.50.940.

27 **Sec. 45.45.880. Limitations on application and liability.** (a) An agreement
28 that waives, restricts, or otherwise limits the obligations of a digital product
29 manufacturer under AS 45.45.800 - 45.45.899 is void and unenforceable.

30 (b) A digital product manufacturer or authorized service provider may not be
31 held civilly liable for damages or injuries caused to a digital product by an

1 independent service provider or owner during the course of the independent service
2 provider's or owner's diagnosis, maintenance, or repair of the product.

3 **Sec. 45.45.890. Interpretation.** Nothing in AS 45.45.800 - 45.45.899 may be
4 construed to require a digital product manufacturer or an authorized service provider
5 to make available to an independent service provider or an owner the information,
6 other than documentation, that a digital product manufacturer makes available to an
7 authorized service provider under a license or other contract described in
8 AS 45.45.860(a).

9 **Sec. 45.45.895. Exemptions.** (a) The provisions of AS 45.45.800 - 45.45.899
10 do not apply to

11 (1) a digital product that is a medical device intended for use in the
12 diagnosis of disease or other conditions, or in the cure, mitigation, treatment, or
13 prevention of disease, in humans or animals;

14 (2) the diagnosis, maintenance, or repair of a digital product that is a
15 motor vehicle or a part for a motor vehicle.

16 (b) In this section, "medical device" has the meaning given to "device" in 21
17 U.S.C. 321(h)(1).

18 **Sec. 45.45.899. Definitions.** In AS 45.45.800 - 45.45.899,

19 (1) "authorized service provider" means a person that is an authorized
20 service provider under AS 45.45.860;

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

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

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

30 (5) "independent service provider" means a person that is an
31 independent service provider under AS 45.45.850;

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

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

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

8 (9) "powersports equipment"

9 (A) includes an all-terrain vehicle, a personal watercraft,
10 snowmobile, or similar vehicle or craft, and attachments and repair parts for
11 powersports equipment;

12 (B) does not include a motor vehicle required to be registered
13 under AS 28.10;

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

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

19 (58) violating AS 45.45.800 - 45.45.899 (digital product diagnosis,
20 maintenance, and repair).

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

23 APPLICABILITY. This Act applies to a digital product that is sold or leased in the
24 state on or after the effective date of this Act. In this section, "digital product" has the
25 meaning given in AS 45.45.899.

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

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

30 * **Sec. 6.** This Act takes effect January 1, 2027.