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May 6, 2026

Testimony of Mark Ourada
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Before Senate Labor and Commerce Committee

In Opposition to SB111:
Right to Repair Legislation

Chair Bjorkman and Committee members —

I am Mark Ourada, Director of Government Affairs for the National Electrical Manufacturers Association (NEMA).

NEMA represents the interests of over 300 leading manufacturers in the *Electroindustry* supporting more than 2.2 million American workers, generating more than \$197.39 billion in labor income annually! In Alaska, the electroindustry supports 228 jobs with labor income exceeding \$20 million.

A major part of NEMA's work is to provide policy leadership and market intelligence—along with setting standards for the safe, efficient, and innovative electrical products and systems our member companies create that are making the future electric for our homes, workplaces, schools, and healthcare facilities. NEMA does not manufacture products or advocate specific chemical uses but rather works to ensure policy is grounded in fact-based risk, actual exposure, and sound science.

With over 50 product lines—including batteries, lighting, the electric grid, EV products, cybersecurity, and more—NEMA member products are essential to daily life and public safety.

On behalf of the hundreds of manufacturers and businesses our association represents, we respectfully oppose SB111 in its current form. I echo the concerns of other organizations that are testifying on this legislation and will focus on five specific issues.

SCOPE OF LEGISLATION:

Almost all Right-to-Repair bills across the country are aimed at what we would term 'consumer electronic products, ensuring that individuals are able to repair phones, computers, and other personal electronic devices. These bills recognize that the primary concern of consumers is this family of products.

In the House, the authors stated goal, according to testimony of her intern, of making this legislation 'the broadest in the country' causes great concern for NEMA members. The proposed definition of "digital product" will extend well beyond individual consumer products, and if enacted wider in scope than other states that have undertaken efforts to address the primary concern of the forementioned individual consumer. For NEMA lighting members in particular, this language is of particular concern.

As a former legislator I would hope the goal is not simply to make this the broadest legislation in the country but to identify the issue, craft language to address the problem, and create a solution that does not open Alaskans to those unintended consequences we, as legislators, are always concerned with.

If that is the author's intention for this bill, it would be extremely helpful, and appropriate, to be clear that this legislation is *not* intended to affect business-to-business or business-to-government transactions.

Those transactions are significantly different, and the people/companies involved have greater experience and knowledge in safely and appropriately dealing with repair issues.

LIGHTING ISSUES:

NEMA has multiple companies that manufacture lighting components. SB111 does not specifically address this area, but we believe *all* lighting products should be exempt from R2R laws because it is unsafe for any untrained person to repair *any* electrical equipment, especially products the manufacturer has intended not to be repairable.

By using the overly broad definition “digital product” this legislation *unintentionally* puts consumer products, like smart light bulbs and lighting equipment, within its scope.

There is a strong precedent set by the National Electrical Code (NEC) against repairability of lighting products, stating that “Reconditioned luminaires, lamp holders, ballasts, LED drivers, lamps, and retrofit kits *shall not be permitted.*”

This issue can be easily remedied by inserting on page 5 after line eight insert (3): **light bulbs, lighting equipment, and systems not including component parts that are not meant to be repairable but just replaceable.**

SAFETY:

NEMA members put a premium on producing products with a major concern on safety. We have concerns when R2R language does not appropriately address safety issues during repair. This applies to all products but is certainly appropriate when it comes to lighting as these products are ubiquitous in the home.

This can easily be addressed by including the following language amended into section **Sec. 45.45.800** after line 5, page 2, insert (c). It will also avoid any confusion when this legislation goes into effect:

“Nothing in this bill shall be construed to require an original equipment manufacturer to provide parts, tools or documentation for any product where reconditioning or repair of the product is prohibited by law, regulation, code, or where doing so will create an unsafe operating condition.”

INTELLECTUAL PROPERTY ISSUES:

Today, with software (i.e., firmware) imbedded in so many products, this legislation puts at risk the intellectual property that NEMA member companies develop at substantial cost.

Protecting proprietary intellectual property is a priority for OEMs. Companies spend multiple years and significant amounts of money and labor to innovate, develop and manufacture products.

NEMA is suggesting language that would prevent *indirect* disclosure of trade secrets through access to firmware, encryption keys, diagnostic tools, or similar mechanisms by inserting on page 4 **Sec.45.45.870: or provide any means by which a trade secret could be ascertained or indirectly disclosed.**

INDEPENDENT PROVIDER ISSUES:

SB111 would require original equipment manufacturers (OEMs) to provide independent repair-providers with diagnostic and repair information, software, tools, and parts—but without requiring any of the critical consumer protections (such as training and competency certification) that authorized repair networks provide.

Additionally, SB 111 does not incorporate the “fair and reasonable terms” framework typically found in other states. Many states require manufacturers to provide documentation, tools, and parts to the same extent those materials are made available to authorized repair providers and under fair and reasonable terms. Those provisions help balance consumer repair access with important intellectual property, cybersecurity, and safety protections.

Manufacturers offer authorized repair networks to provide consumers with the assurance that their products are serviced by trained and vetted repair professionals who have the necessary skills to repair electronic products safely, reliably, and accurately.

Without proper vetting of repair providers and of the repair process, the potential for consumer harm is significant. It also undermines the innovations manufacturers have developed to protect customers, as well as the protection of their repair-related intellectual property.

When an electronic product breaks, consumers have a variety of professional repair options, including using an OEM’s authorized repair network, which often includes local repair service providers as well as mail-in, and even in-house, repair options for some categories of products. Consumers may also choose to use one of the many independent repair providers, although they do so without the quality assurance provided by using a manufacturer’s authorized network repair provider. The free-market economy provides a wide range of consumer choices for repair with varying levels of quality, price, and convenience without the mandates imposed by the legislation.

CONCLUSION:

As a former legislator, I understand the challenges you face in balancing various interests and avoiding unintended consequences, so I thank you for your time and attention. Our members take these issues very seriously. Thus, as a regular course of business they have taken, and continue to take, measures to ensure consumers have both options *and* qualified individuals to repair their products.

NEMA is committed to working with you to ensure consumers have access to repairs and ensure that their privacy, safety, and security are protected. For the reasons outlined in this testimony, NEMA is in opposition to SB111 in its current form and encourages the committee to take a careful look at the suggestions we have made to amend the current language.

Thank you for your time and attention.

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The National Electrical Manufacturers Association

