STATE OF NEW YORK

8492

IN SENATE

February 6, 2024

Introduced by Sen. BRESLIN -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection

AN ACT to amend the general business law, in relation to the sale of digital electronic equipment and providing diagnostic and repair information; and to amend chapter 810 of the laws of 2022 amending the general business law relating to the sale of digital electronic equipment and providing diagnostic and repair information, in relation to the effectiveness thereof

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Paragraphs (a), (b), and (m) of subdivision 1, paragraphs (a), (g), (h), (i) and (j) of subdivision 3, paragraphs (d) and (e) of subdivision 4, and the opening paragraph of subdivision 6 of section 399-nn of the general business law, paragraphs (a), (b) and (m) of subdivision 1, paragraphs (a) and (g) of subdivision 3, and the opening paragraph of subdivision 6, as amended and paragraphs (h), (i) and (j) of subdivision 3, and paragraphs (d) and (e) of subdivision 4, as added by chapter 48 of the laws of 2023, are amended to read as follows:

(a) "Authorized repair provider" means an individual or business who has an arrangement with the original equipment manufacturer under which the original equipment manufacturer grants to the individual or business a license to use a trade name, service mark, or other proprietary identifier for the purposes of offering the services of diagnosis, maintenance, or repair of digital electronic equipment under the name of the original equipment manufacturer, or other arrangement with the original equipment manufacturer to offer such services on behalf of the original equipment manufacturer. **An original equipment manufacturer who offers the services of diagnosis, maintenance, or repair of its own digital electronic equipment shall be considered an authorized repair provider with respect to such equipment.**

(b) "Digital electronic equipment" or "equipment" means any hardware product manufactured for the first time, and first sold or used in New York on or after July first, two thousand [~~twenty-three, that depends for its functioning, in whole or in part, on digital electronics embed-~~

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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~~ded in or attached to the product~~] twenty-one, for which the original equipment manufacturer makes available tools, parts, and documentation either through authorized repair providers, its own employees, or any authorized third-party providers [~~"Digital electronic equipment" or "equipment" does not include any product sold under a specific business-to-government or business-to-business contract, which is not otherwise offered for sale directly by a retail seller~~].

(m) "Part" or "parts" means any replacement part or assembly of parts, either new or used, made available by an original equipment manufacturer for purposes of effecting the services of maintenance or repair of digital electronic equipment manufactured or sold by the original equipment manufacturer. [~~Part does not include printed board assemblies that may allow device cloning in violation of 18 U.S.C. Section 1029 or other applicable law.~~]

(a) [~~Nothing~~] Except as necessary to comply with this section, nothing in this section shall be construed to require an original equipment manufacturer to divulge [~~any~~] a trade secret or license any intellectual property, including copyrights or patents, to any owner or independent service provider.

(g) Nothing in this section shall be construed to require any original equipment manufacturer or authorized repair provider to make available any parts, tools, or documentation required for the diagnosis, maintenance, or repair of any [~~home appliance that has a digital electronic product embedded within it, including, but not limited to, refrigerators, ovens, microwaves, air conditioning, heating units, and~~] security devices or alarm systems including any related software and components.

(h) Nothing in this section shall prevent an original equipment manufacturer from establishing reasonable training and certification programs for independent repair providers, however, no independent repair provider shall be required to complete any such training or certification program as a condition to be covered by the rights granted under this chapter.

(i) [~~Nothing in this section shall prevent an original equipment manufacturer from offering parts, such as integrated batteries, to independent repair providers or owners pre-assembled with other parts rather than as individual components, where the individual components may pose a heightened safety risk if installed improperly.~~

~~(j)~~] Nothing in this section shall require an original equipment manufacturer to make available special documentation, tools, and parts that would disable or override anti-theft security measures set by the owner of the equipment without the owner's authorization.

(d) outside the meter commercial and industrial electrical equipment [~~(~~]including power distribution equipment, [~~such as medium/low voltage switchgear and transformers, power control equipment, such as medium/low voltage motor control and drives, power quality equipment, such as uninterruptable power supplies, remote power panels, power distribution units and static/transfer switches)~~] and any tools, technology, attachments, accessories, components and repair parts for any of the foregoing.

(e) an electronic bicycle manufacturer, distributor, importer, retailer or dealer.

Before repairing digital electronic equipment, independent repair providers shall provide to any customer, [~~and~~] or publish on their website and the place of business, a written notice that contains the following information:

§ 2. Section 3 of chapter 810 of the laws of 2022 amending the general business law relating to the sale of digital electronic equipment and providing diagnostic and repair information, as amended by chapter 48 of the laws of 2023, is amended to read as follows:

§ 3. This act shall take effect one year after it shall have become a law and shall apply to digital electronic equipment, manufactured for the first time, and first sold or used in New York on or after July 1, [~~2023~~] **2021**.

§ 3. This act shall take effect immediately.