

HB 162 -- Redline

CSHB 162(CRA) to HB 162 -- 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.

Deletions ~~struck~~ · Insertions underlined

~~34-LS0809\034-LS0809\A-CS FOR~~ HOUSE BILL NO.

~~162(CRA)162~~ IN THE LEGISLATURE OF THE STATE OF ALASKA THIRTY-FOURTH LEGISLATURE - ~~SECOND~~FIRST SESSION BY ~~THE REPRESENTATIVE HOUSE~~DIBERT COMMUNITY~~Introduced: AND REGIONAL AFFAIRS COMMITTEE Referred: Labor 3/28/25 and Referred: Commerce Sponsor(s):~~

~~REPRESENTATIVE~~Community DIBERT and Regional Affairs, Labor and Commerce A BILL FOR AN ACT ENTITLED "An Act relating to the diagnosis, maintenance, ~~modification,~~ and repair of products that use digital products;electronics to operate;

(a) A digital product manufacturer shall, as required under AS 45.45.800 - ~~45.45.899,45.45.890,~~ 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, ~~HB0162bHB0162a~~ -1- ~~CSHBHB 162(CRA)162~~ New Text Underlined [DELETED TEXT BRACKETED] ~~34-LS0809\034-LS0809\A~~ maintenance, or repair of the digital product.

A digital product manufacturer is not required to make a part available under AS 45.45.800 - ~~45.45.89945.45.890~~ if the part is no longer available to the manufacturer.

(a) Except as provided in ~~AS 45.45.840 and~~ (b) and (c) of this section, a digital product manufacturer shall make available to an independent service provider or owner of the product (1) documentation required under AS 45.45.800 - ~~45.45.89945.45.890~~ without charge, except that, if the provider or owner requests a physical copy of the documentation, the manufacturer may charge the provider or owner for the reasonable, actual cost of preparing and sending a copy of the documentation;

~~the(2) manufacturerparts mayrequired chargeunder theAS provider45.45.800 - 45.45.890, directly or ownerthrough foran authorized service provider, on terms that are the reasonable,same actualas costthe ofmost preparingfavorable andterms sendingthe amanufacturer copyprovides to an authorized service provider of the documentation;manufacturer;~~

~~(2)(3) parts the tools required under AS 45.45.800 - 45.45.899,45.45.890 directlywithout or(A) throughcharge, anexcept authorizedthat, serviceif provider,the onprovider termsor thatowner arerequests thea sametool asin physical form, the mostmanufacturer favorablemay termscharge the manufacturerprovider providesor toowner anfor authorizedthe servicereasonable, provideractual costs of preparing and sending the manufacturer;tool;~~

~~(3)(B) theimpeding toolsaccess requiredor underuse ASof 45.45.800 — 45.45.890 without (A) charge, except that, if the provider or owner requests a tool into physicaldiagnose, form,mainorin, therepair manufacturerand mayenable chargefull thefunctionality provider or owner for the reasonable, actual costs of producing, preparing, and sending the tool;digital product;~~

~~(B)and impedingHB access162 or-2- useHB0162a ofNew theText toolUnderlined to[DELETED diagnose,TEXT maintain,BRACKETED] or34-LS0809\A CSHB(C) 162(CRA)impeding -2-the HB0162befficient Newand Textcost-effective Underlineduse [DELETEDof TEXTthe BRACKETED]diagnostic, 34-LS0809\0maintenance, or repair andfunctions enable full functionality of the digitaltool.-product;~~

~~(C) impeding the efficient and cost-effective use of the diagnostic, maintenance, or repair functions of the tool;~~

~~and (4) upon request, product information and repair materials the manufacturer provides to an authorized service.~~

(c) Notwithstanding (a)(2) and (b) of this section, for a digital product that is farm equipment, a manufacturer shall, directly or through an authorized service provider, provide parts ~~to an owner or independent service provider~~ on terms and at costs that are reasonable considering the conditions agreed on, the quality of the parts, and the timeliness of the delivery,delivery. ~~for a digital product that is (1) power sports equipment;~~

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

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

~~Commercial and industrial equipment.~~

~~Notwithstanding AS 45.45.830, a manufacturer of a digital product that is commercial or industrial equipment may (1) notwithstanding AS 45.45.830, require reasonable training or certification of an independent service provider or owner of the product, or verification of the independent service provider's or owner's competency, before providing the independent service provider or owner with access~~

~~to specialized documentation, tools, or other information that allows a person to modify the product's safety or critical systems;~~

~~(2) provide an independent service provider or owner of the product with access to a product's secure systems, including by way of remote authorization or through a controlled software platform;~~

~~and HB0162b -3- CSHB 162(CRA) New Text Underlined [DELETED TEXT BRACKETED] 34-LS0809\0 (3) offer to an independent service provider or owner of the product parts for the product as an assembly, rather than individual components, if the manufacturer provides those parts as an assembly to an authorized service provider.~~

~~Sec.~~

~~45.45.850.~~

A person is considered to be an independent service provider under AS 45.45.800 - ~~45.45.800~~45.45.890 if the person (1) engages in the business of diagnosis, maintenance, or repair of digital products in the state;

and (2) is not a digital product manufacturer, does not have a license or contract with a digital product manufacturer under AS ~~45.45.860(a),~~45.45.850(a), and is not affiliated with a person that has a license or contract with a digital product manufacturer under AS ~~45.45.860(a),~~45.45.850(a).

~~45.45.860.~~45.45.850.

(a) A person is an authorized service provider under AS 45.45.800 - ~~45.45.800~~45.45.890 if the person has a (1) license to use a trade name, service mark, or other proprietary identification of the digital product manufacturer to offer diagnosis, maintenance, or repair of digital products under the name of the digital product manufacturer;

(b) A digital product manufacturer that offers the services of diagnosis, maintenance, or repair of its own digital products is considered an authorized service provider for ~~those~~such products for the purposes of AS 45.45.800 - ~~45.45.800.~~45.45.890.

~~45.45.870.~~45.45.860.

Nothing in AS 45.45.800 - ~~45.45.800~~45.45.890 may be construed to require a digital product manufacturer to disclose a trade secret to an HB0162a -3- HB 162 New Text Underlined [DELETED TEXT BRACKETED] 34-LS0809\A independent service provider or an owner-owner except to the extent necessary to make documentation, parts, and tools available under AS 45.45.800 - 45.45.890.

~~45.45.880.~~45.45.870.

Limitations on application and ~~liability.~~liability:

~~(a) exemption. An agreement or provision that waives, restricts, or otherwise limits the obligations of a digital product manufacturer under AS 45.45.800 - 45.45.800 is void and unenforceable.~~

~~(b)(a) AAn digital agreement product that manufacturer waives, or restricts, authorized service provider may not be held civilly liable for damages or injuries otherwise caused limits by an independent service provider CSHB 162(CRA) -4- HB0162b New Text Underlined [DELETED TEXT BRACKETED] 34-LS0809\0 or owner during the course obligations of thea independent digital service product provider's manufacturer or under owner's AS diagnosis, 45.45.800 maintenance, - or 45.45.890 repair is of void the and product. unenforceable.~~

(b) A digital product manufacturer or authorized service provider may not be held civilly liable for damages or injuries caused to a digital product by an independent service provider or owner during the course of the independent service provider's or owner's diagnosis, maintenance, or repair of the product.

(c) The provisions of AS 45.45.800 - 45.45.890 do not apply to the diagnosis, maintenance, or repair of a digital product that is a motor vehicle or a part for a motor vehicle.

~~45.45.890.~~45.45.880.

Nothing in AS 45.45.800 - ~~45.45.800~~45.45.890 may be construed to ~~(1)~~ require a digital product manufacturer or an authorized service provider to make available to an independent service provider or an owner the information, other than documentation, that a digital product manufacturer makes available to an authorized service provider under a license or other contract described in AS

~~45.45.860(a);~~45.45.850(a).

~~or (2) alter, impair, or supersede the terms of a lease or commercial contract.~~

~~45.45.895.~~45.45.890.

~~Exemptions.~~

~~(a) The provisions of AS 45.45.800 - 45.45.800 do not apply to (1) a digital product that is a medical device intended for use in the diagnosis of disease or other conditions, or in the cure, mitigation, treatment, or prevention of disease, in humans or animals;~~

~~(2) the diagnosis, maintenance, or repair of a digital product that is (A) a motor vehicle or a part for a motor vehicle;~~

~~or (B) critical infrastructure, a part for critical infrastructure, or related equipment;~~

~~or (3) a digital product that is (A) a fire alarm or other life safety system;~~

~~(B) a physical intrusion detection system monitored by a person providing a security service; or (C) physical access control equipment, including electronic keypads and building access systems.~~
~~(b) In this section, (1) "critical infrastructure" has the meaning given in AS 26.23.000; (2) "medical device" has the meaning given to "device" in 21 U.S.C. 321(h)(1).~~

~~Sec.~~

~~45.45.800.~~

In AS 45.45.800 - ~~45.45.800, 45.45.890, HB0162b -5- CSHB 162(CRA) New Text Underlined [DELETED TEXT BRACKETED] 34-LS0809\0~~ (1) "authorized service provider" means a person that is an authorized service provider under AS ~~45.45.860, 45.45.850;~~

HB 162 -4- HB0162a New Text Underlined [DELETED TEXT BRACKETED] 34-LS0809\A (5) "independent" farm service equipment" provider"(A) means includes a person combine, that farm tractor, an trailer, independent sprayer, service tillage provider implement, under baler, A engine, 45.45.850; motor, or other equipment used or intended for use on a farm or ranch operation to plant, cultivate, irrigate, or harvest agricultural products or to ranch, and attachments and repair parts for farm equipment;

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

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

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

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

(6) "independent service provider" means a person that is an independent service provider under AS 45.45.840;

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

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

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

~~CSHB 162(CRA) -6- HB0162b New Text Underlined [DELETED TEXT BRACKETED] 34-LS0809\0~~ (58) violating AS 45.45.800 - ~~45.45.800, 45.45.890~~ (digital product diagnosis, maintenance, and repair).

In this section, "digital product" has the meaning given in AS ~~45.45.800, 45.45.890.~~

This Act may not be construed to change the terms of a license or HB0162a -5- HB 162 New Text Underlined [DELETED TEXT BRACKETED] 34-LS0809\A contract that is in effect immediately before the effective date of this Act.

This Act takes effect January 1, ~~2020, 2026.~~

~~HB0162b HB -7- 162 CSHB -6- 162(CRA) HB0162a~~ New Text Underlined [DELETED TEXT BRACKETED]