

March 30, 2023

Senator Matt Klein
Minnesota Senate
95 University Avenue W.
Minnesota Senate Bldg., Room 2105
St. Paul, MN 55155

Re: CTA Opposition to SF 1598

Dear Senator Klein:

On behalf of Consumer Technology Association (CTA), we are writing in opposition to the current repair provisions in SF 1598.

CTA is the trade association representing the U.S. consumer technology industry. Our members are the world's leading innovators – from startups to global brands – helping to support more than 18 million American jobs. Our broad membership of more than 1,500 is mostly small businesses and startups, but also includes some of the world's best-known manufacturer and retail brands.

CTA supports a national repair approach that will ensure that consumers and independent repair providers receive the same or equivalent treatment as manufacturer-authorized repair providers for purposes of repairing consumer technology devices. CTA also stands ready to work with repair advocates to establish a national Memorandum of Understanding to facilitate repair nationally consistent with the recently enacted New York repair law. Enactment of varying state repair laws with different requirements and definitions subject to differing interpretations by state courts and regulators is a major concern for our industry.

First, CTA supports the priority amendments proposed by TechNet, including:

- Exclusion of manufacturers who operate as their own Authorized Service/Repair Provider (ASP). Note that opening up factory repair to parity with independents/end users was not advocated by repair advocates in the FTC “Nixing the Fix” report and is a significant escalation. Such a mandate would result in many manufacturers shutting down all post-warranty repair support to avoid government regulation of an internal activity often integrated with new product development, R&D, and manufacturer/supply chain relations – thus decreasing repair options and increasing the generation of e-waste.
- Language concerning fair and reasonable costs is needed
- The bill should apply only to the consumer electronics market
- Apply a broad exemption for printed board assemblies (equivalent to what is provided to ASPs)

- Allow manufacturers to require internet access when enabling independent repair services
- Make the applicability to products first put onto the market at some point in the future, not retroactively.

Also, although there seems to be general agreement with repair advocates on this point, for consumer-maintained security locks and similar features employed to protect data anyone doing repair for a consumer should get the security info from the consumer before doing repairs to that device. This avoids a statutory mandate for creation of jail-breaking software.

CTA's membership includes companies not participating in TechNet's internal deliberations, and CTA's members have identified the following additional items to align with the New York law and avoid government overreach into manufacturing business processes while protecting consumer rights:

- **Limitation to the U.S. market.** Any state repair bill should limit its applicability to digital electronic equipment produced for the U.S. market and for ASPs in the U.S.
- **This mandate should be limited to repair-related activities only.** Language should be added that parts should be used only for the purpose to diagnose, maintain, or repair.
- **Pricing should be reasonable.** Language like "at no charge" or "lowest actual costs" or "most favorable terms" should be replaced with "reasonable."
- **Fair and reasonable terms.** For consistency across states CTA suggests using language and definitions of "fair and reasonable terms" from the New York law.
- **Deletion of "Firmware" definition.** A technical change if firmware references are removed elsewhere in the bill.
- **Parity with ASPs on training.** Manufacturers should be able to require reasonable training or certification before enabling independent repair providers and consumers to conduct repairs, particularly where there is a safety issue involved.
- **Definition of OEM.** Should remove the term "new" from the definition so that all companies producing digital electronic equipment are subject to these requirements, whether the product is new or remanufactured.
- **Definitions of Documentation, Parts and Tools** needs "or their equivalents" to provide producers with flexibility consistent with normal supply chain variations and practices. This was agreed to by repair advocates in Washington state repair discussions.
- **Allow adequate time for new product rollout.** The time for parts, tools, and documentation to be made available after the first sale of digital electronic equipment in Minnesota should be 90 days to allow for the warranty-based repair processes to roll out and mature.
- **Only parts that are available should be required to be available.** Manufacturers should not have to make third party parts available if manufacturers cannot get them by adding "made available to the original equipment manufacturer" in 5.13(c).
- **Clarification needed on responsibility for recalled products.**
- **Liability protections.** Manufacturers should be shielded from liability for claims associated with manufacturer-enabled repairs done only to comply with this law, even though such mandated actions increase the risk of violations of user privacy, security, and user safety.
- **Consumer rights.** As in the auto industry, consumers should be provided basic information

about the repair provider and parts provided by the independent repair provider, and such independent repair provider should be required to protect consumer data and recycle responsibly.

Thank you again for the opportunity for us to provide our thoughts on this legislation. We remain hopeful that with your support and direction to all sides there can be a nationwide, market-focused solution via an MOU or federal legislation that would avoid unnecessary litigation and that facilitates more convenient and equitably-distributed repair options for consumers in Minnesota and beyond.

Sincerely,

A handwritten signature in black ink, appearing to read "Walter Alcorn". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Walter Alcorn
Consumer Technology Association
VP, Environmental Affairs