

## S.F. No. 1598 – Digital Fair Repair Act (1<sup>st</sup> engrossment)

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### Overview

**S.F. 1598** requires an original equipment manufacturer to generally make available, to the digital electronic equipment’s owner or an independent repair provider, documentation, parts, and tools for diagnostic, maintenance, or repair purposes. The bill further requires an original equipment manufacturer to similarly make available any special documentation, tools, and parts needed to reset an electronic security lock or other security-related function when the lock or function is disabled in the course of performing diagnostic, maintenance, or repair services on the equipment. Limitations on the extent of these requirements, as well as enumerated exclusions from these requirements, are also established. **S.F. 1598** expressly states that a violation of the bill’s requirements is an unlawful practice under 325D.44 (Minnesota’s Deceptive Trade Practices statute), and that the attorney general may utilize the rights and authorities granted under chapter 8 in the enforcement of such violations.

### Summary

#### Section 1. [Minn. Stat. § 325E.72] Digital Fair Repair.

**Subdivision 1. Short Title.** Provides that the act may be cited as the “Digital Fair Repair Act.”

**Subd. 2. Definitions.** Defines key terms for purposes of sections 325E.72, including “authorized repair provider,” “digital electronic equipment” or “equipment,” “documentation,” “embedded software,” “fair and reasonable terms,” “firmware,” “independent repair provider,” “manufacturer of motor vehicle equipment,” “motor vehicle,” “motor vehicle dealer,” “motor vehicle manufacturer,” “original equipment manufacturer,” “owner,” “part,” and “trade secret.”

**Subd. 3. Requirements.** Requires an original equipment manufacturer to generally make available, to the digital electronic equipment’s owner or an independent repair provider, documentation, parts, and tools for diagnostic, maintenance, or repair purposes. This subdivision further requires an original equipment manufacturer to similarly make available any special documentation, tools, and parts needed to reset an electronic security lock or other security-related

function when the lock or function is disabled in the course of performing diagnostic, maintenance, or repair services on the equipment.

**Subd. 4. Enforcement by attorney general.** Provides that a violation of this new section of law is an unlawful practice under 325D.44 (Minnesota’s Deceptive Trade Practices statute), and that the attorney general may utilize the rights and authorities granted under chapter 8 in the enforcement of such violations.

**Subd. 5. Limitations.** Limits the application of the act’s requirements in certain situations. Specifically, this subdivision provides that nothing in the new section of law: (1) requires an original equipment manufacturer to divulge a trade secret, except as necessary to provide documentation, parts, and tools on fair and reasonable terms; (2) alters the terms of any arrangement described in the definition of “authorized repair provider” between an authorized repair provider and an original equipment manufacturer (however, a provision in such an arrangement purporting to waive, avoid, restrict, or limit the original equipment manufacturer’s obligations to comply with this section is void and unenforceable); (3) requires an original equipment manufacturer or an authorized repair provider to provide access to information, other than documentation, provided by the original equipment manufacturer to an authorized repair provider pursuant to the terms of an arrangement described in the definition of “authorized repair provider”; and (4) requires an original equipment manufacturer or authorized repair provider to make available any parts, tools, or documentation for the purpose of making modifications to any digital electronic equipment.

**Subd. 6. Exclusions.** Excludes the following from the provisions of the section: (1) a motor vehicle manufacturer, manufacturer of motor vehicle equipment, or motor vehicle dealer acting in that capacity; (2) any product or service of a motor vehicle manufacturer, manufacturer of motor vehicle equipment, or motor vehicle dealer acting in that capacity; (3) manufacturers or distributors of a medical device as defined in the Federal Food, Drug, and Cosmetic Act, or a digital electronic product or software manufactured for use in a medical setting; and (4) manufacturers, distributors, importers, and dealers of any off-road or nonroad equipment.

**Subd. 7. Applicability.** Provides that the section applies to equipment sold or in use on or after January 1, 2024.

**Effective Date.** The effective date of the section is January 1, 2024.