

Republic of the Philippines  
**HOUSE OF REPRESENTATIVES**  
Quezon City

**EIGHTEENTH CONGRESS**  
***Third Regular Session***

House Bill No. 9973



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**Introduced by Representative PABLO JOHN F. GARCIA**

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### **EXPLANATORY NOTE**

The Philippine Constitution guarantees consumers the State's protection from trade malpractices.<sup>1</sup> Republic Act No. 7394, also known as the "Consumer Act of the Philippines," in implementation of this guarantee, likewise provides that the State shall promote the general welfare of the consumers.

Digital electronic products such as smartphones and laptops have technical features that are not normally accessible to the consumers. However, manufacturers of electronic products have a limited obligation to release the information and tools needed to repair devices, with some even reportedly banning third parties from doing so.<sup>2</sup> Thus, when repairs on these devices are needed, consumers are always at a disadvantage as the manufacturers leave them no choice but to agree to their high repair costs or to bring them to unscrupulous independent repair providers.

The current inaccessibility of repair also forces many consumers to discontinue use of the products, or totally dispose of them, contributing to the production of electronic waste in the Philippines. In 2019 alone, the country has produced 3.9 kilograms of electronic waste per capita or a total of 32,664.41 metric tons.<sup>3</sup> This figure is projected to

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<sup>1</sup> 1987 Constitution, Article XVI, Section 9.

<sup>2</sup> Paul, K. (2011, August 2). The Guardian. Retrieved from The Guardian: <https://www.theguardian.com/technology/2021/aug/02/why-right-to-repair-matters-according-to-a-farmer-a-medical-worker-a-computer-store-owner>.

<sup>3</sup> EMB: NATIONAL POLICY, REGULATORY FRAMEWORK ALREADY IN PLACE FOR E-WASTE MNGT. (2020, October 29). Department of Environment and Natural Resources. <https://www.denr.gov.ph/index.php/news-events/press-releases/1918-emb-national-policy-regulatory-framework-already-in-place-for-e-waste-mngt>. This is a consequence of the substantial increase in the number of electronic and electronic equipment (EEE) of Filipinos, estimated to have produced a total of 39.3 million electronic products going obsolete and 20 million stored in houses from 1995 to 2010. See

further increase with more people working from home and using electronic products due to the COVID-19 pandemic.

Giving consumers the right to repair their digital electronic products is necessary to protecting the welfare of consumers. This bill will empower consumers by allowing them to have the right set of tools and information to either repair their digital electronic products by themselves or by bringing them to capable independent repair providers. The bill will also ensure compliance by manufacturers through administrative and judicial remedies while also contributing in lessening electronic waste in the country.

In view of the foregoing, the immediate passage of this bill is sought.

A handwritten signature in black ink, appearing to read 'Pablo John F. Garcia', positioned above the printed name.

**Rep. PABLO JOHN F. GARCIA**  
3rd District, Province of Cebu

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**AN ACT PROMOTING THE RIGHT TO REPAIR DIGITAL ELECTRONIC PRODUCTS  
IN THE PHILIPPINES**

*Be it enacted by the Senate and the House of Representatives of the Philippines in Congress assembled:*

**SECTION 1. Short Title** – This Act shall be known as the "Right to Repair Act."

**SECTION 2. Declaration of Policies** – The State shall adhere to the policy of protecting the interests of consumers, promoting their general welfare, and establishing standards of conduct for businesses and industries. Thus, the State shall expand consumer choice by allowing them to have the right set of information and tools to either repair their own products or provide the option for local repair businesses to do so. The State shall also protect the consumers from possible trade and sales malpractices from manufacturers.

**SECTION 3. Definition of Terms** – For the purposes of this Act, the following terms shall mean:

- a. "Authorized repair provider" -
  - i. A person licensed by an original equipment manufacturer to use a trade name, service mark, or related characteristic to offer repair services under the name of the original equipment manufacturer; or
  - ii. A person contracted by an original equipment manufacturer to provide refurbishing services for products manufactured by the manufacturer.
- b. "Embedded software" - also known as basic internal operating system, internal operating system, machine code, assembly code, root code, or microcode, means any programmable instructions provided on firmware delivered with equipment for

equipment operation, including all relevant software updates made by the original equipment manufacturer.

- c. "Digital electronic product" - a part or machine containing a microprocessor originally manufactured for distribution and sale in the country.
- d. "Documentation" - manuals, schematic diagrams, reporting output, or service code descriptions provided to the authorized repair provider for the purposes of effecting repair.
- e. "Fair and reasonable terms" - in determining whether a price is on fair and reasonable terms consideration may be given to relevant factors, including, but not limited to:
  - (1) the net cost to the authorized repair provider for similar parts obtained from original equipment manufacturers, less any discounts, rebates, or other incentive programs;
  - (2) the cost to the original equipment manufacturer for preparing and distributing the parts or product excluding any research and development costs incurred in designing and implementing, upgrading or altering the product, but including amortized capital costs for the preparation and distribution of the parts; and
  - (3) the price charged by other original equipment manufacturers for similar parts or products.
- f. "Independent repair provider" - a person operating who is:
  - i. Not affiliated with an original equipment manufacturer or an original equipment manufacturer's authorized repair provider; and
  - ii. Engaged in the diagnosis, service, maintenance, or repair of equipment; Provided that an original equipment manufacturer shall be considered an independent repair provider if the original equipment manufacturer diagnoses, services, maintains, or repairs equipment that is not manufactured by the original equipment manufacturer.
- g. "Medical device" - equipment that is intended for use in the diagnosis, treatment, or prevention of disease in humans or animals.
- h. "Original equipment manufacturer" - a person who in the ordinary course of business sells or leases new equipment to any person and diagnoses, services, maintains, or repairs that equipment.
- i. "Owner" - a person who owns or leases equipment that is purchased or used in the country.
- j. "Part" or "service part" - any new or used component made available by an original equipment manufacturer to an authorized repair provider to repair equipment.
- k. "Remote diagnosis" - any transfer of data relating to settings, controls, or location identification between equipment and a provider of repair services.
- l. "Service parts" - replacement parts, either new or used, made available by the manufacturer to the authorized repair provider for the purposes of effecting repair.

- m. "Trade secret" - anything tangible or intangible or electronically stored or kept which constitutes, represents, evidences, or records intellectual property including secret or confidentially held designs, processes, procedures, formulas, inventions or improvements, or secrets of confidentially held scientific, technical, merchandising, production, financial, business or management information, among others.

**SECTION 4. Coverage** – Owners and independent repair providers shall be given the right to repair their own digital electronic products, including medical devices, by giving them proper information and tools from the original equipment manufacturers.

**SECTION 5. Availability of Diagnostic and Repair Information** – Original equipment manufacturers shall make available all diagnostic and repair information, including repair technical updates, schematic diagrams, updates, corrections to embedded software, and safety and security patches to owners and independent repair providers of equipment manufactured, provided that they shall be offered:

- a. Free of charge or for no more than what the original equipment manufacturer would charge to make the same information available to an authorized repair provider; and
- b. In the same format that the original equipment manufacturer would use to make the same information available to an authorized repair provider.

**SECTION 6. Availability of Diagnostic and Repair Tools** – Original equipment manufacturers shall make available for sale to owners and independent repair providers all diagnostic repair tools, incorporating the same diagnostic, repair, and remote diagnosis capabilities that the original equipment manufacturer makes available to its own repair or engineering staff or an authorized repair provider, upon fair and reasonable terms.

**SECTION 7. Documentation Format** – Original equipment manufacturers shall provide diagnostic, service, or repair documentation in the standardized format only, unless the proprietary format includes diagnostic, service, or repair documentation or functionality that is not available in the standardized format.

**SECTION 8. Third-Party Providers** – An original equipment manufacturer that provides diagnostic repair documentation to third party diagnostic tool manufacturers, diagnostics manufacturers, or service information publications shall be deemed to have fully satisfied its obligations under Sections 5 and 6, and shall not be responsible for the content and functionality of the diagnostic tools, diagnostics, or service information publications offered or sold by the third-party manufacturers.

**SECTION 9. Security Functions** – An original equipment manufacturer of equipment or parts sold or used in the country for security-related functions shall make

diagnostic, service, and repair information necessary to reset a security-related electronic function from the information provided to owners and independent repair providers. An original equipment manufacturer may provide the information necessary to reset an immobilizer system or a security-related electronic module to owners and independent repair providers through an appropriate secure data release system.

**SECTION 10. Limitations** – Nothing in this Act shall be construed to:

- a. Require an original equipment manufacturer to divulge a trade secret;
- b. Abrogate, interfere with, contradict, or alter the terms of any agreement between an authorized repair provider and an original equipment manufacturer, including the performance or provision of warranty or recall repair work by an authorized repair provider on behalf of an original equipment manufacturer; *Provided that*, any provision of an agreement that waives, avoids, restricts, or limits an original equipment manufacturer's compliance with this Section shall be void;
- c. Require an original equipment manufacturer or authorized repair provider to provide an owner or independent repair provider access to non-diagnostic and repair information provided by an original equipment manufacturer to an authorized repair provider pursuant to the terms of an authorizing agreement; or
- d. Require a manufacturer of a medical device to comply with any provision in this Act that conflicts with Republic Act No. 3720, otherwise known as the "Food, Drug, and Cosmetic Act," as amended.
- e. Avoid any warranty due to the consumer's exercise of the right to repair, including but not limited to resorting to independent repair providers.

**SECTION 11. Failure of Original Equipment Manufacturer to Provide Diagnostic and Repair Information and Tools** – An owner or an independent repair provider who believes that a manufacturer has failed to provide information, including documentation, updates to firmware, safety and security corrections, diagnostics, documentation, or a tool required by this Act shall notify the manufacturer in writing and give the manufacturer 30 days from receipt of the complaint to cure the failure. If the manufacturer cures such a complaint within the cure period, damages shall be limited to actual damages in any subsequent litigation.

If the manufacturer fails to respond to the notice provided, or if an owner or an independent repair provider is not satisfied with the manufacturer's cure, the owner or independent repair provider may file a complaint before the proper court. The complaint shall include the following:

- (1) written information confirming that the complainant has attempted to acquire and use, through the then available standard support function provided by the manufacturer all relevant diagnostics, tools, service parts, documentation, and

updates to embedded software, including communication with customer assistance via the manufacturer's then standard process, if made available by the manufacturer; and

(2) evidence of manufacturer notification in this Section.

It shall be penalized by imprisonment shall ranging from six (6) months to six (6) years and a fine of shall not less than PhP 100,000.00 but not more than PhP 1,000,000.00 or both at the discretion of the court.

If the offender is a corporation, the penalty may, at the discretion of the court, be imposed upon such corporation and/or upon its directors, trustees, members, officers, or employees responsible for the violation or indispensable to its commission.

The owner or independent repair provider may, however, elect to file a complaint with the Department of Trade and Industry in accordance with the provisions of Title III, Chapter III or Title V, Chapter III of Republic Act No. 7394 or the "Consumer Act of the Philippines", or such other proceeding as may be specified in the implementing rules and regulations provided under Section 13 hereof; *Provided, that*, fines shall not be less than PhP 100,000.00 but not more than PhP 1,000,000.00.

**SECTION 12. Appropriations** – The funding requirements for the initial implementation of this Act shall be charged against the current year's budget of the Department of Trade and Industry. Thereafter, it shall be included in the annual General Appropriations Act.

**SECTION 13. Implementing Rules and Regulations** – Within ninety (90) days from the approval of this Act, the Department of Trade and Industry, in consultation with other concerned government agencies and stakeholders, shall formulate the rules and regulations implementing the provisions of this Act.

**SECTION 14. Separability Clause** – If any provision of this Act is held unconstitutional or invalid, the remaining provisions thereof not affected thereby shall remain in full force and effect

**SECTION 15. Repealing Clause** – All other laws, presidential decrees, executive orders and issuances, and rules and regulations which are inconsistent with this Act are hereby repealed or modified accordingly.

**SECTION 16. Effectivity** – This Act shall take effect after fifteen (15) days following its publication in the Official Gazette or in any newspaper of general circulation.

***Approved,***