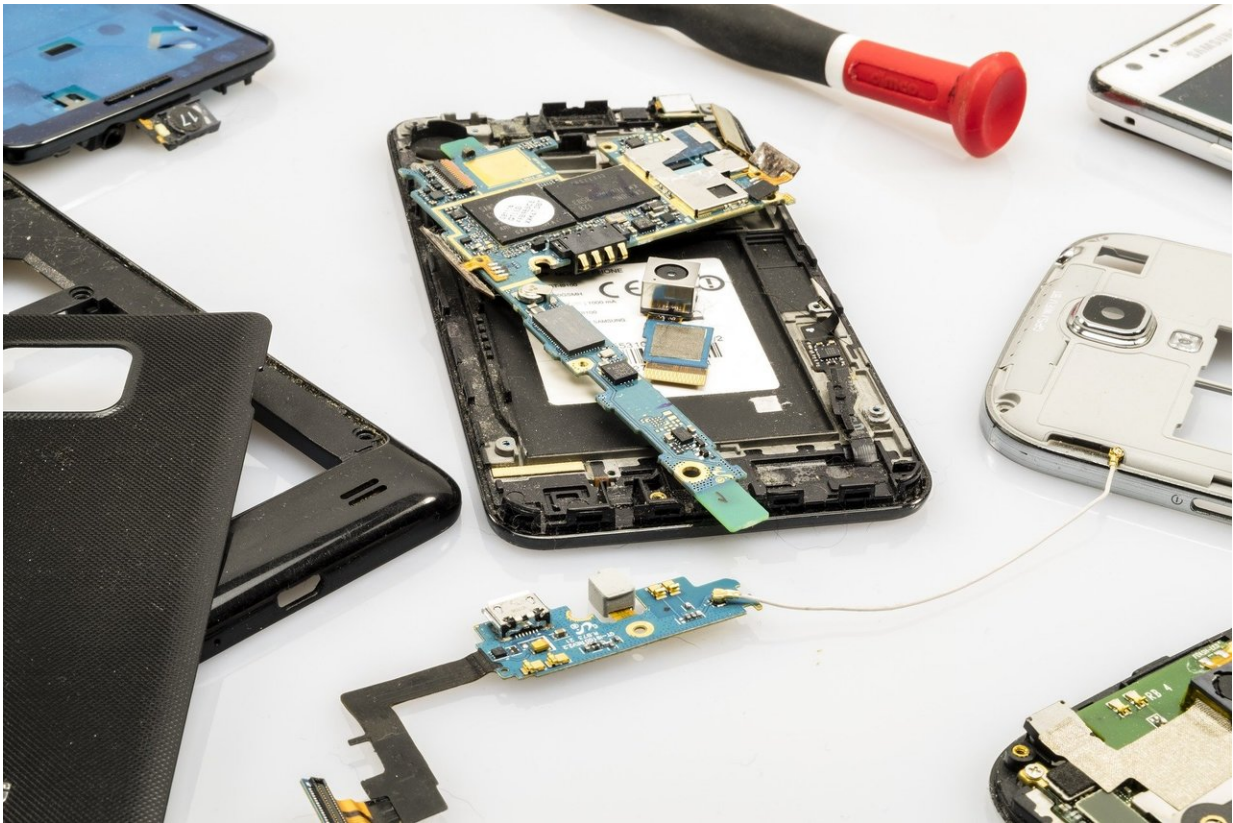


Bills target corporate practices thwarting product repairs

November 2 2022, by Benjamin J. Hulac



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After Dyani Chapman's refrigerator broke, her landlord replaced it with a new one, a cheaper route than fixing the original. When her phone's screen cracked, Chapman faced a similar dilemma.

"When I went in and asked to get it fixed," repairing the screen would have cost close to the bill for a new phone, said Chapman, state director for Alaska Environment, an advocacy group. "It's not even worth it."

In an era of nearly ubiquitous electronics, Chapman's experience is common.

You buy a gadget. You use it until it breaks. You go to the company that makes it. The company offers to repair it or sell you a new gadget at a similar price. New gadget in hand, you use that one until it breaks, and the cycle repeats.

While this loop helped catapult disposed electronics into the fastest-growing source of waste in the country, according to the EPA, there is bipartisan congressional interest behind bills to make it easier for average citizens to repair what they own, a potential boon to consumers and the environment.

After decades of providing directions, parts and guidance to customers who wanted to mend a broken tool or machine, manufacturers often no longer do so, advocates say, adding that the original manufacturers of a given product often direct their customers back to themselves or to approved third-party repair shops.

"It's so easy for manufacturers to block repair," Gay Gordon-Byrne, executive director of The Repair Association, a nonpartisan network of companies that advocates for so-called right-to-repair legislation at the state and federal levels, said in an interview.

Gordon-Byrne, who worked in the computer industry, said a watershed moment came in 2010, when computer firm Oracle acquired Sun Microsystems and then blocked the option for independent repair for Sun-made equipment. "Oracle got people upset in 2010 when it took

over Sun Microsystems," Gordon-Byrne said.

Opposite Gordon-Byrne and other supporters, who include farmers, ranchers, tinkerers, hobbyists, consumer rights advocates and environmentalists, are companies that make electronics and heavy machinery who say passing repair laws would infringe on their [intellectual property](#), harm rural regional U.S. economies and pose security problems.

"The dangers associated with someone remotely hacking into a machine for nefarious purposes or an adversary of the United States having access to this technology has broad security and economic ramifications," Ken Taylor, president of a heavy equipment company in Ohio, told the House Small Business Committee in September.

Though two states—Colorado and New York—have passed right-to-repair legislation, legislatures in 25 are considering it, according to The Repair Association, and there are bills in the House and Senate that would address various industries, including farming equipment, electronics and automobiles.

In the House, Rep. Joseph D. Morelle, D-N.Y., has legislation to require electronics companies to share records about diagnostics, repair and maintenance with owners and third-party repair shops.

"This pandemic has magnified our need to be self-reliant and have the ability to repair our own devices, especially when large retailers are forced to shutter," Morelle said when he introduced the bill.

The Federal Trade Commission, an independent agency, would be tasked with enforcing Morelle's bill and other federal repair legislation.

At a September hearing of the House Rules Committee, Morelle said

there is a "fundamental idea" that when someone owns a product, they own all of it, including the prerogative to fix it.

Rep. Michael C. Burgess, R-Tex., called Morelle's bill "a beneficial starting point for discussions," adding that it was "interesting that the right to repair debate does not divide itself neatly along partisan lines."

Waste

High costs to fix electronics and increased corporate control over repair processes have led to mushrooming levels of electronic waste, or e-waste, and rising demand for raw materials.

"By encouraging replacement over repair, manufacturers' monopolization of aftermarkets contributes to environmental damage and resource depletion," Sandeep Vaheesan, legal director for Open Markets Institute, said. "Decreasing the average life cycle of a car by just a year can mean millions of more cars are sent to landfills and manufactured over a decade."

E-waste also contains toxic materials, like lead and lithium, which may leach into water and soil. Then, there is the air. "When these electronics are incinerated, the toxins are released into the air and contribute to an assortment of serious ailments, including cancer," Vaheesan said.

About 50 million tons of electronic waste, or e-waste, are discarded worldwide every year, according to a 2019 United Nations report, which found the waste surpassed the weight of all commercial airplanes ever made.

Eighty-five percent of the [greenhouse gas emissions](#) from smartphones come from making them, and their production consumes hundreds of tons of raw materials, according to the nonpartisan Public Interest

Research Group, or PIRG. "A single phone produces the planet-warming equivalent of 122.7 pounds of carbon dioxide," the group said.

According to Nathan Proctor of PIRG, Americans toss about 416,000 cell phones every day.

"There are more than 162 Empire State Buildings' worth of electronics discarded annually," Lisa Frank of Environment America said.

A bill by Rep. Bobby L. Rush, D-Ill., would allow owners to access data on their cars and aftermarket parts, while Rep. Darrell Issa, R-Calif., introduced a bipartisan automobile-specific repair bill. Reps. Mondaire Jones, D-N.Y., and Victoria Spartz, R-Ind., have their own repair legislation on electronics.

"Farmers operate in tight windows and on tight margins, and they simply can't afford to waste time or money bringing their equipment to dealer-authorized mechanics in the middle of a season," said Sen. Jon Tester, D-Mont., who has an agriculture repair bill. Sens. Cynthia Lummis, a Wyoming Republican, and Ben Ray Lujan of New Mexico and Ron Wyden of Oregon have also taken an interest with their own repair legislation.

Lobbying

Federal disclosures show trade groups and companies involved in making electronics, video games, appliances, [heavy machinery](#), medical devices and automobiles, among other sectors, have this year lobbied on repair bills.

"Repair mandates undermine the intellectual property laws intended to protect video game devices and the actual games themselves in ways that increase security concerns and weaken critical anti-piracy features

necessary to ensure the best consumer experience," said a spokesperson for the Entertainment Software Association, a video game lobby.

The Association of Equipment Manufacturers, which represents companies like Cummins, Sherwin-Williams, Yokohama, Caterpillar, John Deere and Chemours, said farm equipment today is more technical to make it safer, more reliable and more efficient.

"Farmers should always have the right to repair their own equipment, and that is why comprehensive repair and diagnostic information is now available for the vast majority of the tractor and combine market," AEM said in an e-mailed statement.

"Unfortunately, the so-called 'right to repair' legislation special interests are pushing is not at all about giving farmers the right to repair their own equipment," the group said in its statement, "but instead about illegal tampering with equipment that jeopardizes the safety, durability, and environmental sustainability of farm equipment."

Daniel Fisher, senior vice president of government and external affairs at Associated Equipment Distributors, which represents agriculture, mining, construction, electric utility and forestry companies, said his organization opposes right-to-repair legislation.

"The bills, if enacted, have serious environmental, safety, legal, economic, intellectual property and cybersecurity implications," Fisher said, without naming specific legislation. "The application of right-to-repair proposals to the equipment industry is based on a false narrative that customers are unable to fix their own tractors and machinery."

President Joe Biden in July 2021 signed Executive Order 14036, which directed the FTC to pursue "unfair anti-competitive restrictions on third-party repair or self-repair of items, such as the restrictions imposed by

powerful manufacturers that prevent farmers from repairing their own equipment."

The FTC began soliciting public input Oct. 17 for a potential rule to require manufacturers to provide repair directions for major home appliances and other consumer goods, and last year, it issued a sweeping report on the right to repair.

Separately, Rep. Jan Schakowsky, D-Ill., chairwoman of the consumer protection subcommittee of Energy and Commerce, asked the Government Accountability Office, the investigative arm of Congress, to study consumers' access to repairs.

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