

# SENATE BILL 631

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SB 412/21 – FIN

2lr1998  
CF 2lr2398

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By: **Senator Hester**

Introduced and read first time: February 3, 2022

Assigned to: Finance

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## A BILL ENTITLED

1 AN ACT concerning

2 **Consumer Protection – Consumer Electronic Equipment – Right to Repair**

3 FOR the purpose of requiring an original equipment manufacturer of consumer electronic  
4 equipment to make available, on fair and reasonable terms, certain documentation,  
5 parts, and tools to an independent repair provider or owner of consumer electronic  
6 equipment; and generally relating to consumer electronics.

7 BY adding to

8 Article – Commercial Law

9 Section 13–301(14)(xxxiii); and 14–4401 through 14–4404 to be under the new  
10 subtitle “Subtitle 44. Consumer Electronic Equipment Repair”

11 Annotated Code of Maryland

12 (2013 Replacement Volume and 2021 Supplement)

13 BY repealing and reenacting, with amendments,

14 Article – Commercial Law

15 Section 13–301(14)(xxxiii) through (xxxv)

16 Annotated Code of Maryland

17 (2013 Replacement Volume and 2021 Supplement)

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
19 That the Laws of Maryland read as follows:

20 **Article – Commercial Law**

21 13–301.

22 Unfair, abusive, or deceptive trade practices include any:

23 (14) Violation of a provision of:

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1                   **(XXXIII)     TITLE 14, SUBTITLE 44 OF THIS ARTICLE;**

2                   **[(xxxiii)] (XXXIV)   The federal Military Lending Act;**

3                   **[(xxxiv)] (XXXV)    The federal Servicemembers Civil Relief Act; or**

4                   **[(xxxv)] (XXXVI)   § 11–210 of the Education Article; or**

5                   **SUBTITLE 44. CONSUMER ELECTRONIC EQUIPMENT REPAIR.**

6   **14–4401.**

7           **(A)    IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**  
8   **INDICATED.**

9           **(B)    (1)    “AUTHORIZED REPAIR PROVIDER” MEANS A PERSON WHO HAS AN**  
10   **ARRANGEMENT WITH THE ORIGINAL EQUIPMENT MANUFACTURER UNDER WHICH**  
11   **THE ORIGINAL EQUIPMENT MANUFACTURER AUTHORIZES THE PERSON TO:**

12                   **(I)    USE A TRADE NAME, SERVICE MARK, OR OTHER**  
13   **PROPRIETARY IDENTIFIER FOR THE PURPOSE OF OFFERING THE SERVICES OF**  
14   **DIAGNOSIS, MAINTENANCE, OR REPAIR OF CONSUMER ELECTRONIC EQUIPMENT**  
15   **UNDER THE NAME OF THE ORIGINAL EQUIPMENT MANUFACTURER; OR**

16                   **(II)   OFFER DIAGNOSIS, MAINTENANCE, OR REPAIR SERVICES**  
17   **ON BEHALF OF THE ORIGINAL EQUIPMENT MANUFACTURER.**

18           **(2)    “AUTHORIZED REPAIR PROVIDER” INCLUDES AN ORIGINAL**  
19   **EQUIPMENT MANUFACTURER WHO:**

20                   **(I)    OFFERS DIAGNOSIS, MAINTENANCE, OR REPAIR SERVICES**  
21   **FOR ITS OWN CONSUMER ELECTRONIC EQUIPMENT; AND**

22                   **(II)   DOES NOT HAVE AN ARRANGEMENT DESCRIBED IN**  
23   **PARAGRAPH (1) OF THIS SUBSECTION WITH AN UNAFFILIATED INDIVIDUAL OR**  
24   **BUSINESS.**

25           **(C)    (1)    “CONSUMER ELECTRONIC EQUIPMENT” MEANS DIGITAL**  
26   **ELECTRONIC EQUIPMENT THAT IS:**

27                   **(I)    TANGIBLE PERSONAL PROPERTY THAT IS DISTRIBUTED IN**  
28   **COMMERCE; AND**

1 (II) NORMALLY USED FOR PERSONAL, FAMILY, OR HOUSEHOLD  
2 PURPOSES.

3 (2) "CONSUMER ELECTRONIC EQUIPMENT" INCLUDES:

4 (I) LAPTOPS, CELL PHONES, SMART WATCHES, AND TABLETS;

5 (II) WASHING MACHINES, DRYERS, DISHWASHERS,  
6 REFRIGERATORS, TOASTERS, MIXERS, AND OTHER KITCHEN APPLIANCES; AND

7 (III) TELEVISIONS, STEREO EQUIPMENT, AND OTHER HOME  
8 ENTERTAINMENT EQUIPMENT.

9 (D) "DIGITAL ELECTRONIC EQUIPMENT" MEANS A PRODUCT THAT  
10 DEPENDS FOR ITS FUNCTIONING, WHOLLY OR PARTLY, ON DIGITAL ELECTRONICS  
11 EMBEDDED IN OR ATTACHED TO THE PRODUCT.

12 (E) "DOCUMENTATION" MEANS A MANUAL, DIAGRAM, REPORTING OUTPUT,  
13 SERVICE CODE DESCRIPTION, SCHEMATIC DIAGRAM, OR OTHER INFORMATION USED  
14 IN EFFECTING THE SERVICES OF DIAGNOSIS, MAINTENANCE, OR REPAIR OF  
15 CONSUMER ELECTRONIC EQUIPMENT.

16 (F) "FAIR AND REASONABLE TERMS" MEANS THE MOST FAVORABLE COSTS  
17 AND TERMS UNDER WHICH THE ORIGINAL EQUIPMENT MANUFACTURER OFFERS  
18 THE PART, TOOL, OR DOCUMENTATION TO AN AUTHORIZED REPAIR PROVIDER:

19 (1) ACCOUNTING FOR ANY:

20 (I) DISCOUNT, REBATE, CONVENIENT AND TIMELY MEANS OF  
21 DELIVERY, MEANS OF ENABLING FULLY RESTORED AND UPDATED FUNCTIONALITY,  
22 RIGHTS OF USE, OR OTHER INCENTIVE OR PREFERENCE THE ORIGINAL EQUIPMENT  
23 MANUFACTURER OFFERS TO AN AUTHORIZED REPAIR PROVIDER; OR

24 (II) ADDITIONAL COST, BURDEN, OR IMPEDIMENT THE  
25 ORIGINAL EQUIPMENT MANUFACTURER IMPOSES ON AN OWNER OR INDEPENDENT  
26 REPAIR PROVIDER; AND

27 (2) NOT CONDITIONED ON HAVING AN ARRANGEMENT DESCRIBED IN  
28 SUBSECTION (B)(1) OF THIS SECTION.

29 (G) "INDEPENDENT REPAIR PROVIDER" MEANS:

30 (1) AN INDIVIDUAL OR A BUSINESS, WHEN THE INDIVIDUAL OR

1 BUSINESS IS ENGAGED IN THE SERVICES OF DIAGNOSIS, MAINTENANCE, OR REPAIR  
2 OF CONSUMER ELECTRONIC EQUIPMENT, THAT OPERATES IN THE STATE AND:

3 (I) DOES NOT HAVE AN ARRANGEMENT DESCRIBED IN  
4 SUBSECTION (B)(1) OF THIS SECTION WITH THE ORIGINAL EQUIPMENT  
5 MANUFACTURER; AND

6 (II) IS NOT AFFILIATED WITH ANY INDIVIDUAL OR BUSINESS  
7 WHO HAS AN ARRANGEMENT DESCRIBED IN SUBSECTION (B)(1) OF THIS SECTION  
8 WITH THE ORIGINAL EQUIPMENT MANUFACTURER; OR

9 (2) THE FOLLOWING WHEN ENGAGED IN THE SERVICES OF  
10 DIAGNOSIS, MAINTENANCE, OR REPAIR OF CONSUMER ELECTRONIC EQUIPMENT  
11 THAT IS NOT MANUFACTURED BY OR ON BEHALF OF, OR SOLD OR OTHERWISE  
12 SUPPLIED BY, THE ORIGINAL EQUIPMENT MANUFACTURER:

13 (I) AN ORIGINAL EQUIPMENT MANUFACTURER;

14 (II) AN INDIVIDUAL OR A BUSINESS WHO HAS AN ARRANGEMENT  
15 DESCRIBED UNDER SUBSECTION (B)(1) OF THIS SECTION WITH AN ORIGINAL  
16 EQUIPMENT MANUFACTURER; OR

17 (III) AN INDIVIDUAL AFFILIATED WITH AN INDIVIDUAL OR A  
18 BUSINESS WHO HAS AN ARRANGEMENT DESCRIBED IN SUBSECTION (B)(1) OF THIS  
19 SECTION WITH AN ORIGINAL EQUIPMENT MANUFACTURER.

20 (H) "OWNER" MEANS AN INDIVIDUAL OR A BUSINESS WHO OWNS CONSUMER  
21 ELECTRONIC EQUIPMENT PURCHASED OR USED IN THE STATE.

22 (I) (1) "TOOL" MEANS ANY SOFTWARE PROGRAM, HARDWARE, OR OTHER  
23 APPARATUS USED FOR THE DIAGNOSIS, MAINTENANCE, OR REPAIR OF CONSUMER  
24 ELECTRONIC EQUIPMENT.

25 (2) "TOOL" INCLUDES SOFTWARE OR OTHER MECHANISMS THAT  
26 PROVISION, PROGRAM, PAIR A PART, CALIBRATE FUNCTIONALITY, OR PERFORM ANY  
27 OTHER FUNCTION REQUIRED TO BRING THE PRODUCT BACK TO FULLY FUNCTIONAL  
28 CONDITION.

29 14-4402.

30 (A) THIS SUBTITLE APPLIES ONLY TO DOCUMENTATION, PARTS, TOOLS, OR  
31 UPDATES REQUIRED FOR THE DIAGNOSIS, MAINTENANCE, OR REPAIR OF CONSUMER  
32 ELECTRONIC EQUIPMENT.

1           **(B) THIS SUBTITLE DOES NOT APPLY TO:**

2                   **(1) A MOTOR VEHICLE MANUFACTURER;**

3                   **(2) A MANUFACTURER OF MOTOR VEHICLE EQUIPMENT;**

4                   **(3) A MOTOR VEHICLE DEALER ACTING AS A MANUFACTURER OF**  
5 **MOTOR VEHICLE EQUIPMENT;**

6                   **(4) A PRODUCT OR SERVICE OF A MOTOR VEHICLE MANUFACTURER;**

7                   **(5) A PRODUCT OR SERVICE OF A MANUFACTURER OF MOTOR**  
8 **VEHICLE EQUIPMENT;**

9                   **(6) A PRODUCT OR SERVICE OF A MOTOR VEHICLE DEALER ACTING**  
10 **AS A MANUFACTURER OF MOTOR VEHICLE EQUIPMENT;**

11                   **(7) A PRODUCT NOT CURRENTLY OR PREVIOUSLY AVAILABLE FOR**  
12 **RETAIL SALE;**

13                   **(8) A MOTORBOAT MANUFACTURER; OR**

14                   **(9) A MANUFACTURER OF FARM EQUIPMENT.**

15           **(C) THIS SUBTITLE MAY NOT BE CONSTRUED TO:**

16                   **(1) REQUIRE AN ORIGINAL EQUIPMENT MANUFACTURER TO DIVULGE**  
17 **A TRADE SECRET;**

18                   **(2) INTERFERE WITH OR ALTER AN ARRANGEMENT BETWEEN AN**  
19 **AUTHORIZED REPAIR PROVIDER AND AN ORIGINAL EQUIPMENT MANUFACTURER;**

20                   **(3) REQUIRE AN ORIGINAL EQUIPMENT MANUFACTURER TO PROVIDE**  
21 **ACCESS TO THE SOURCE CODE OF ANY PROPRIETARY EMBEDDED SOFTWARE OR**  
22 **CODE; OR**

23                   **(4) GRANT TO THE LESSEE OF LEASED EQUIPMENT ANY RIGHT THAT**  
24 **IS OTHERWISE RESTRICTED UNDER THE TERMS OF THE LEASE AGREEMENT.**

25 **14-4403.**

26           **(A) AN ORIGINAL EQUIPMENT MANUFACTURER SHALL, ON FAIR AND**

1 REASONABLE TERMS, MAKE AVAILABLE TO AN INDEPENDENT REPAIR PROVIDER OR  
2 OWNER OF CONSUMER ELECTRONIC EQUIPMENT:

3 (1) FOR CONSUMER ELECTRONIC EQUIPMENT, OR PARTS FOR  
4 CONSUMER ELECTRONIC EQUIPMENT, MANUFACTURED BY IT OR ON ITS BEHALF, OR  
5 SOLD OR OTHERWISE SUPPLIED BY IT, AND SOLD OR USED IN THIS STATE, ON FAIR  
6 AND REASONABLE TERMS, DOCUMENTATION, PARTS, AND TOOLS INCLUSIVE OF ANY  
7 UPDATES FOR PURPOSES OF THE DIAGNOSIS, MAINTENANCE, OR REPAIR OF THE  
8 CONSUMER ELECTRONIC EQUIPMENT; AND

9 (2) FOR CONSUMER ELECTRONIC EQUIPMENT THAT CONTAINS AN  
10 ELECTRONIC SECURITY LOCK OR OTHER SECURITY-RELATED FUNCTION, ON FAIR  
11 AND REASONABLE TERMS, ANY SPECIAL DOCUMENTATION, PARTS, AND TOOLS  
12 NEEDED TO DISABLE THE LOCK OR FUNCTION, AND TO RESET IT WHEN DISABLED.

13 (B) THIS SUBSECTION DOES NOT REQUIRE AN ORIGINAL EQUIPMENT  
14 MANUFACTURER TO MAKE AVAILABLE A PART THAT IS NO LONGER AVAILABLE TO  
15 THE ORIGINAL EQUIPMENT MANUFACTURER.

16 14-4404.

17 A VIOLATION OF THIS SUBTITLE IS:

18 (1) AN UNFAIR, ABUSIVE, OR DECEPTIVE TRADE PRACTICE WITHIN  
19 THE MEANING OF TITLE 13 OF THIS ARTICLE; AND

20 (2) SUBJECT TO THE ENFORCEMENT AND PENALTY PROVISIONS  
21 CONTAINED IN TITLE 13 OF THIS ARTICLE.

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to  
23 apply only prospectively and may not be applied or interpreted to have any effect on or  
24 application to any equipment sold or in use before the effective date of this Act.

25 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
26 October 1, 2022.