



State Privacy and Security Coalition, Inc.



March 15, 2017

The Honorable Susan Lynn
301 6th Avenue North, Suite 102
War Memorial Bldg.
Nashville, TN 37243

RE: HB 1382 – Concerns from Electronic Products Manufacturers

Dear Chairwoman Lynn:

On behalf of the thousands of technology companies our organizations represent, we appreciate the opportunity to comment on HB 1382, legislation that would require manufacturers of “digital electronic products” sold and used in Tennessee to make diagnostic and repair information and parts, including technical updates and embedded software updates, available for independent repair facilities and device owners.

The undersigned associations represent thousands of the country’s leading technology companies in manufacturing, computer networking and information technology, clean energy, life sciences, Internet media, entertainment software, ecommerce, and education sectors. Our member companies are committed to advancing public policies and private sector initiatives that make the U.S. the most innovative country in the world. While we understand the intent of the bill is to bracket these regulations to farm equipment manufacturers, we are concerned that the bill as currently drafted has much broader implications which compromise intellectual property, establish indefensible legal precedents, undermine data protection measures, interfere in the free market economy, and threaten innovation.

The electronics industries strongly support the ability for consumers to repair their products. However, proper repair of digital electronic products is extremely detailed and complicated. In order to protect both the consumer and their brand names, manufacturers often ensure that their products are serviced by qualified professionals who understand the intricacies of their products and have spent time procuring the knowledge necessary to safely and securely repair the device and return it to the consumer without compromising those standards.

Consumers have substantial choice when it comes to obtaining a repair that best suits their needs. When a device requires repair, a consumer has choices, including visiting the original equipment manufacturer’s (OEM) retail store, mail-in repair services, or a local shop close to their home, depending upon the repair options offered by the manufacturer. Our free market economy already provides a wide range of consumer choice for repair with varying levels of quality, price and convenience without the

mandates established by this legislation. This includes independent repair companies, third party parts suppliers, and other companies that are not part of authorized repair networks that currently serve the electronics market.

Manufacturers have authorized networks of repair facilities to ensure that repairs meet OEM standards. If an OEM's brand and warranty are to stand behind repair work and assume product liability, it is only reasonable that the repair facility demonstrate competency and reliability. Without training and other quality assurance requirements of authorized service providers – implemented through enforceable legal contracts that ensure compliance and accountability that protect consumers – manufacturers would not be able to stand behind their work, enforce warranties, technical support, ongoing training, and business support.

Futhermore, HB 1382 mandates the disclosure of protected proprietary information. Manufacturers make significant investments in the development of products and services, and the protection of intellectual property and trade secrets is a legitimate and important aspect of sustaining the health of the vibrant and innovative technology industry. In some cases, the software tools that would allow a third party to repair hardware would also enable that person to modify other, more sensitive aspects of the firmware, such as digital locks that protect software from illegal copying. HR 1382 exposes to potential abuse the manufacturers' IP and proprietary information and the security of consumers' private information. Providing unauthorized repair facilities and individuals with access to proprietary information without the contractual safeguards currently in place between OEMs and authorized service providers could put at risk many other companies and significant numbers of jobs in Tennessee and elsewhere.

We understand that economic growth in the tech sector, entrepreneurship, innovation, and workforce development are major priorities for Tennessee and we share those priorities. We hope you will consider putting this bill aside and focusing on issues that will help to advance, and not harm, Tennessee's growing technology economy. Please do not hesitate to contact us if we can answer any questions or if you need any additional information.

Sincerely,

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Director, State Government Affairs – South
CompTIA

Lisa McCabe
Director, State Government Affairs
CTIA – The Wireless Association

Tom Foulkes
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Chris Cleet, QEP
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