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HOUSE BILL NO. 468
Offered January 10, 2018
Prefiled January 7, 2018
A BILL to amend the Code of Virginia by adding in Title 59.1 a chapter numbered 52, consisting of sections numbered 59.1-571, 59.1-572, and 59.1-573, relating to the deactivation or alteration of embedded software in digital devices.
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Patrons—Carter, Cole and Plum
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Referred to Committee on Science and Technology
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Be it enacted by the General Assembly of Virginia:
1. That the Code of Virginia is amended by adding in Title 59.1 a chapter numbered 52, consisting of sections numbered 59.1-571, 59.1-572, and 59.1-573, as follows:
CHAPTER 52.
DEACTIVATION OR ALTERATION OF EMBEDDED SOFTWARE.
§ 59.1-571. Definitions.
As used in this chapter, unless the context requires a different meaning:
"Digital device" means digital electronic equipment originally manufactured for distribution and sale in the United States.
"Embedded software" means any programmable instructions provided on firmware delivered with a digital device for the purposes of the digital device's operation, including all relevant patches and fixes made by the original equipment manufacturer for this purpose. "Embedded software" includes such instructions that are designated as a basic internal operating system, internal operating system, machine code, assembly code, root code, microcode, or any synonym thereof.
"Independent repair provider" means a person or business operating in the Commonwealth that (i) is not affiliated with an OEM or an OEM's authorized repair provider and (ii) is engaged in the diagnosis, service, maintenance, or repair of digital devices.
"Original equipment manufacturer" or "OEM" means any person that, in the ordinary course of its business, is engaged in the business of manufacturing digital devices and is engaged in the diagnosis, service, maintenance, or repair of digital devices.
"Owner" means a person who owns or leases a digital device purchased or used in the Commonwealth.
§ 59.1-572. Deactivation or alteration of embedded software prohibited.
No OEM of digital devices sold and used in the Commonwealth shall:
1. Deactivate embedded software in any digital device as a response to the digital device being repaired by an independent repair provider at the request of its owner; or
2. Alter embedded software so as to substantially alter the functioning of the digital device as a response to the digital device being repaired by an independent repair provider at the request of its owner.
§ 59.1-573. Action for damages.
Any owner who is aggrieved by a violation of this chapter shall be entitled to initiate an action to enjoin such violation and to recover actual damages. In addition to any damages awarded, the owner may be awarded reasonable attorney fees and costs.