Truck & Engine Manufacturers Association®
Bringing Clean Power to the World™

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VIA E-MAIL

House Committee on Agriculture, Food Resiliency, and Forestry
Vermont State House
Room 49
115 State Street
Montpelier, VT 05633-5301

Re: House Bill 81

Dear Members of the House Committee on Agriculture, Food Resiliency, and Forestry:

The Truck and Engine Manufacturers Association (EMA) has several concerns with Vermont House Bill 81. EMA represents the world's leading manufacturers of commercial vehicles as well as on- and off-road engines used in applications such as: trucks; buses; construction and farm equipment; locomotives; marine vessels; lawn and garden equipment; and stationary generators.

Enacting "fair repair requirements" would create unnecessary confusion, complications, burdens, and risks for Vermont users and manufacturers alike; and will lead to significant adverse safety, environmental, and security impacts. While the legislation focuses on farm and agricultural equipment, and thus excludes motor vehicles, those vehicles and equipment are similarly complex and would face the same significant impacts.

While the "fair repair requirements" might seem innocuous, in fact they would create significant adverse unintended consequences to the products manufactured by EMA's members, as such requirements would provide unfettered access to change the microprocessors on engines, vehicles and equipment that control critical safety, emissions, and performance systems. Legislation enabling such access is potentially dangerous, and simply is not needed.

Repair of the large, complex, and specialized products manufactured by EMA members requires highly trained and skilled personnel, who are qualified to properly use service and repair information. Allowing untrained individuals and the general public to have unfettered access to service information to is dangerous and unnecessary. Further, it will undermine the integrity of the equipment and allow for safety features on heavy equipment – such as braking systems and electronic stability (anti-rollover) controls – to be altered and compromised. Unfettered access also will increase the likelihood that untrained personnel will intentionally or unintentionally, and illegally, alter or disable federally mandated emission control systems. Such illegal tampering is increasingly occurring today, especially on off-highway equipment and trucks. Tampering contributes substantial excess pollution that harms public health and air quality. The U.S. EPA has undertaken a National Compliance Initiative to respond to the numerous instances of engine

tampering across the country[1], some of which include the use of software to alter or disable digitally controlled emission technologies. Further, a listing of those cases that have been resolved are also available on EPA's website.[2] In addition to safety and emissions concerns, allowing access to software that controls federally regulated systems also exposes owners and operators to both civil and criminal liability for tampering. The U.S. Department of Justice's Energy and Natural Resources Division announced a consent decree and settlement of one such case, resulting in $3.1 million in criminal fines and civil penalties for the sale of devices designed to delete emissions controls.

Further, proposed repair legislation consistently fails to contain meaningful safeguards or restrictions that would prevent or mitigate the risk of cybersecurity incidents. Widespread and unfettered access to service information increases the opportunity for hackers to improperly obtain or tamper with such information – creating enormous cybersecurity risks. Legislation to make those efforts easier is ill advised and unnecessary.

EMA and its members support and have worked with regulatory agencies (including U.S. EPA) to develop programs to expand the availability of service and repair information to qualified independent service repair personnel. Those programs and regulations include needed safeguards and restrictions to mitigate the risk of the unfettered release of safety and emissions control tools and other proprietary information. Such regulations also provide the same set of requirements across the country, in contrast to legislation that would mandate special state-based requirements that, if enacted, would actually hurt Vermont businesses.

For all of these reasons, EMA has serious concerns with the subject "fair repair requirements." Such requirements otherwise will create enormous safety, environmental, and security risks and liability exposure for owners and the general public, and will limit the availability – and/or increase the costs – of products sold in Vermont, as those products will be forced to have unique characteristics.

Thank you for the opportunity to provide our comments. If you have any questions or need additional information, please do not hesitate to contact me at: phanz@emamail.org, (312) 929-1979.

Very truly yours,

Patricia Hanz

Patricia Hanz

[1] U.S. EPA National Compliance Initiative: https://www.epa.gov/enforcement/national-compliance-initiative-stopping-aftermarket-defeat-devices-vehicles-and-engines
[2] U.S. EPA Clean Air Act Vehicle and Engine Enforcement Case Resolutions: https://www.epa.gov/enforcement/clean-air-act-vehicle-and-engine-enforcement-case-resolutions