

1 H.81

2 An act relating to fair repair of agricultural equipment

3 It is hereby enacted by the General Assembly of the State of Vermont:

4 Sec. 1. FINDINGS AND PURPOSE

5 (a) Findings. The General Assembly finds:

6 (1) The Vermont food, agriculture, and forest sectors are significant
7 components of the State's economy, its rural heritage, and its identity as a
8 State.

9 (A) According to the Working Lands Enterprise Initiative, about 20
10 percent of Vermont's land is used for agriculture, while another 78 percent is
11 forested. In surveys conducted by the Initiative, over 97 percent of
12 Vermonters expressed that they value the working landscape.

13 (B) The 2023 U.S. Food and Agriculture Industries Economic Impact
14 Study found that the food and agriculture industries in Vermont were
15 associated with nearly 104,000 jobs, \$5.2 billion in wages, and \$19.3 billion in
16 economic output.

17 (C) The Vermont Sustainable Jobs Fund estimates that Vermont's
18 forest products industry generates an annual economic output of \$1.4 billion
19 and supports 10,500 jobs.

20 (2) Agricultural and forestry activity varies by season, is weather-
21 dependent, and is heavily reliant on having access to increasingly sophisticated

1 agricultural and forestry equipment. Vermont farmers' and foresters' access to
2 safe and reliable equipment is essential to timely planting, cultivating, tilling,
3 and harvesting of produce, protein, grain, timber, and other wood forest
4 products.

5 (3) The COVID-19 pandemic further highlighted the increased and
6 ongoing need for functional agricultural and forestry equipment as individuals
7 in Vermont increasingly rely on the equipment to guarantee access to food and
8 wood products during periods of supply chain disruption, raw material and
9 commodities shortages, and heightened food insecurity.

10 (4) Authorized repair providers are important Vermont businesses that
11 play a critical role for farmers and foresters by offering access to diagnosis,
12 maintenance, and repair services for agricultural and forestry equipment.

13 (5) In general, original equipment manufacturers and authorized repair
14 providers are able to provide independent repair providers and owners with
15 adequate access to necessary parts for agricultural and forestry equipment.

16 However, the continued movement toward computerized agricultural and
17 forestry equipment means that independent repair providers and owners do not
18 have full access to the software, codes, and other information necessary to
19 perform all of the diagnosis, maintenance, and repair services required to
20 ensure equipment remains operational.

1 (6) Due to workforce and geographic constraints, authorized repair
2 providers are not always able to meet the demand for timely diagnosis,
3 maintenance, or repair services to farmers and foresters in this State.

4 (7) As for many Vermont employers, critical workforce shortages
5 prevent authorized repair providers from operating at full staff capacity, which
6 can contribute to costly delays in performing diagnosis, maintenance, and
7 repair services.

8 (8) The need for more accessible and affordable repair options is felt
9 more acutely among specific sectors of the population, notably Vermont
10 residents in more rural and remote areas.

11 (9) Original equipment manufacturer shops or authorized repair
12 providers are often located in a small number of locations found in larger
13 communities, which may require technicians and users to travel long distances
14 for repair or be without functioning agricultural or forestry equipment for long
15 periods of time.

16 (10) Many owners are capable of performing diagnosis, maintenance,
17 and repair services for their equipment, but often lack sufficient access to
18 information necessary to perform repairs. Limits placed on software and
19 operating systems, including capping the number of users and employing
20 proprietary diagnostic and repair programs, have resulted in the pirating of
21 agricultural and forestry equipment software and the hacking of equipment,

1 endangering farmers and foresters in the conduct of their work and potentially
2 causing additional air pollution and environmental harm.

3 (11) Independent repair providers play a vital role in Vermont's
4 economy. Providing access to information, parts, and diagnostic and repair
5 tools is essential in contributing to a competitive repair market and allowing
6 independent repair shop employees to fix equipment safely.

7 (12) In addition to providing better access for timely repair, extending
8 the useful life and efficient operation of equipment can ensure additional
9 benefits for farmers, foresters, and the environment.

10 (A) Computerized components of modern agricultural and forestry
11 equipment include precious metals that are finite, and unnecessary early
12 disposal can be avoided with greater accessibility to proper and affordable
13 repair.

14 (B) Emissions of agricultural and forestry equipment are better
15 regulated and limited by functional software and hardware computer elements,
16 thereby increasing the need for access to timely and effective repairs to ensure
17 optimal functionality.

18 (13) Broader distribution of the information, tools, and parts necessary
19 to repair modern agricultural and forestry equipment will shorten repair times,
20 lengthen the useful lives of the equipment, lower costs for users, and benefit
21 the environment.

1 equipment under the name of the original equipment manufacturer or other
2 arrangement with the original equipment manufacturer to offer such services
3 on behalf of the original equipment manufacturer.

4 (B) An original equipment manufacturer that offers the services of
5 diagnosis, maintenance, or repair of its own equipment and that does not have
6 an arrangement described in subdivision (A) of this subdivision (2) with an
7 unaffiliated individual or business shall be considered an authorized repair
8 provider with respect to such equipment.

9 (3) “Documentation” means any manual, diagram, reporting output,
10 service code description, schematic diagram, security code, password, or other
11 guidance or information, whether in an electronic or tangible format, that an
12 original equipment manufacturer provides to an authorized repair provider to
13 assist with the services of diagnosis, maintenance, or repair of agricultural or
14 forestry equipment.

15 (4) “Forestry equipment” means nondivisible equipment, implements,
16 accessories, and contrivances used directly and principally off road in
17 harvesting timber or for on-site processing of wood forest products, including
18 equipment used to construct, maintain, or install infrastructure necessary to and
19 associated with a logging operation.

20 (5) “Independent repair provider” means a person operating in this State
21 that does not have an arrangement described in subdivision (2) of this section

1 with an original equipment manufacturer and that is engaged in the services of
2 diagnosis, maintenance, or repair of agricultural or forestry equipment.

3 (6) “Original equipment manufacturer” means a person engaged in the
4 business of selling, leasing, or otherwise supplying new agricultural or forestry
5 equipment manufactured by or on behalf of itself to any individual or business.

6 (7) “Owner” means an individual or business that owns or leases
7 agricultural or forestry equipment purchased or used in this State.

8 (8) “Part” means any replacement part, either new or used, made
9 available by an original equipment manufacturer for purposes of effecting the
10 services of maintenance or repair of agricultural or forestry equipment
11 manufactured by or on behalf of, sold or otherwise supplied by, the original
12 equipment manufacturer.

13 (9) “Tools” means any software program, hardware implement, or other
14 apparatus used for diagnosis, maintenance, or repair of agricultural or forestry
15 equipment, including software or other mechanisms that provision, program, or
16 pair a new part, calibrate functionality, or perform any other function required
17 to bring the product back to fully functional condition, including any updates.

18 (10) “Trade secret” means information, including a formula, pattern,
19 compilation, program, device, method, technique, or process, that:

20 (A) derives independent economic value, actual or potential, from not
21 being generally known to, and not being readily ascertainable by proper means

1 by, other persons who can obtain economic value from its disclosure or use;

2 and

3 (B) is the subject of efforts that are reasonable under the
4 circumstances to maintain its secrecy.

5 § 4052. AVAILABILITY OF PARTS, TOOLS, AND DOCUMENTATION

6 (a) Duty to make available parts, tools, and documentation.

7 (1) An original equipment manufacturer shall offer for sale or otherwise
8 make available to an independent repair provider or owner the parts, tools, and
9 documentation that the original equipment manufacturer offers for sale or
10 otherwise makes available to an authorized repair provider.

11 (2) If agricultural or forestry equipment includes an electronic security
12 lock or other security-related function that must be unlocked or disabled to
13 perform diagnosis, maintenance, or repair of the equipment, an original
14 equipment manufacturer shall make available to an independent repair provider
15 or owner any parts, tools, and documentation necessary to unlock or disable
16 the function and to reset the lock or function after the diagnosis, maintenance,
17 or repair is complete.

18 (3) An original equipment manufacturer may make parts, tools, and
19 documentation available to an independent repair provider or owner through an
20 authorized repair provider that consents to sell or make available parts, tools,
21 or documentation on behalf of the manufacturer.

1 (b) Terms; limitations. Under the terms governing the sale or provision of
2 parts, tools, and documentation, an original equipment manufacturer shall not
3 impose on an independent repair provider or owner an additional cost or
4 burden that is not reasonably necessary within the ordinary course of business
5 or is designed to be an impediment on the independent repair provider or
6 owner, including:

7 (1) a substantial obligation to use, or a restriction on the use of, the
8 parts, tools, or documentation necessary to diagnose, maintain, or repair
9 agricultural or forestry equipment;

10 (2) a condition that the independent repair provider or owner become an
11 authorized repair provider of the original equipment manufacturer;

12 (3) a requirement that a part, tool, or documentation be registered,
13 paired with, or approved by the original equipment manufacturer or an
14 authorized repair provider before the part, tool, or documentation is
15 operational; or

16 (4) an additional burden or material change that adversely affects the
17 timeliness or method of delivering parts, tools, or documentation.

18 (c) Costs; limitations. An original equipment manufacturer shall offer for
19 sale or otherwise make available parts, tools, and documentation to an
20 independent repair provider or an owner at a cost:

1 (1) that is fair to both parties, considering the agreed-upon conditions,
2 promised quality, and timeliness of delivery; and

3 (2) that does not discourage or disincentivize repairs to be made by an
4 owner or an independent repair provider.

5 § 4053. ENFORCEMENT

6 (a) A person who violates a provision of this chapter commits an unfair and
7 deceptive act in trade and commerce in violation of section 2453 of this title.

8 (b) The Attorney General has the same authority to make rules, conduct
9 civil investigations, enter into assurances of discontinuance, and bring civil
10 actions as provided in chapter 63, subchapter 1 of this title.

11 § 4054. APPLICATION; LIMITATIONS

12 (a) This chapter does not require an original equipment manufacturer to
13 divulge a trade secret to an owner or an independent service provider.

14 (b) This chapter does not alter the terms of any arrangement described in
15 subdivision 4051(2)(A) of this title in force between an authorized repair
16 provider and an original equipment manufacturer, including the performance
17 or provision of warranty or recall repair work by an authorized repair provider
18 on behalf of an original equipment manufacturer pursuant to such arrangement,
19 except that any provision governing such an arrangement that purports to
20 waive, avoid, restrict, or limit the original equipment manufacturer's
21 obligations to comply with this chapter is void and unenforceable.

1 (c) An independent repair provider or owner shall not:

2 (1) modify agricultural or forestry equipment to deactivate a safety
3 notification system, except as necessary to provide diagnosis, maintenance, or
4 repair services;

5 (2) access any function of a tool that enables the independent repair
6 provider or owner to change the settings for a piece of agricultural or forestry
7 equipment in a manner that brings the equipment out of compliance with any
8 applicable federal, State, or local safety or emissions law, except as necessary
9 to provide diagnosis, maintenance, or repair services; or

10 (3) obtain or use parts, tools, or documentation to evade or violate
11 emissions, copyright, trademark, or patent laws or to engage in any other
12 illegal activity.

13 Sec. 4. EFFECTIVE DATE

14 This act shall take effect on January 1, 2025.