

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Commerce and Economic Development to which was
3 referred House Bill No. 81 entitled “An act relating to fair repair of agricultural
4 equipment” respectfully reports that it has considered the same and
5 recommends that the bill, as amended by the Committee on Agriculture, Food
6 Resiliency, and Forestry be further amended by striking out all after the
7 enacting clause and inserting in lieu thereof the following:

8 **Sec. 1. FINDINGS AND PURPOSE**

9 **(a) Findings. The General Assembly finds:**

10 **(1) Vermont farmers and foresters’ access to safe and reliable equipment**
11 **is essential to planting, cultivating, tilling, and harvesting, produce, protein,**
12 **grain, timber, and other wood forest products in the State of Vermont, and that**
13 **broader distribution of the information, tools, and parts necessary to repair**
14 **modern agricultural and forestry equipment will shorten repair times, lengthen**
15 **the useful lives of said equipment, lower costs for users, and benefit the**
16 **environment.**

17 **(2) The COVID-19 pandemic further highlighted the increased and**
18 **ongoing need for functional agricultural and forestry equipment as individuals**
19 **in Vermont increasingly rely on the equipment to guarantee access to food and**
20 **wood products during periods of supply chain disruption, raw material and**
21 **commodities shortages, and heightened food insecurity.**

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

4 (4) Original manufacturer shops or authorized repair providers are often
5 located in a small number of locations found in larger communities, requiring
6 users to travel long distances for repair or being without functioning
7 agricultural or forestry equipment for long periods of time.

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

12 (6) Computerized components of modern agricultural and forestry
13 equipment are composed of precious metals that are finite and unnecessary
14 early disposal can be avoided with greater accessibility to proper and
15 affordable repair.

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

19 (8) Limits placed on software and operating systems, including the
20 [capping the] number of users and [employing proprietary] diagnostic and
21 repair programs, have resulted in the pirating of agricultural and forestry

1 equipment software and the hacking of equipment, endangering farmers and
2 foresters in the conduct of their work.

3 (b) Purpose. The purpose of this act is to broaden access to the information
4 and tools necessary to repair agricultural and forestry equipment in a safe,
5 secure, reliable, and sustainable manner, thereby increasing access to
6 appropriate and affordable agricultural and forestry equipment, supporting
7 small businesses and jobs, and making it easier for all residents of Vermont to
8 consume nourishing, local foods and utilize forest products.

9 Sec. 2. SHORT TITLE

10 This act may be cited as the Fair Repair Act.

11 Sec. 3. 9 V.S.A. chapter 106 is added to read:

12 CHAPTER 106. AGRICULTURAL AND FORESTRY EQUIPMENT;

13 FAIR REPAIR

14 § 4051. DEFINITIONS

15 As used in this chapter:

16 (1) “Agricultural equipment” means a device, part of a device, or an
17 attachment to a device designed to be used principally off road for an
18 agricultural purpose, including a tractor, trailer, or combine; implements for
19 tillage, planting, or cultivation; and other equipment principally associated
20 with livestock or crop production, horticulture, or floriculture.

1 (2)(A) “Authorized repair provider” means an individual or business
2 that has an arrangement with the original equipment manufacturer under which
3 the original equipment manufacturer grants to the individual or business a
4 license to use a trade name, service mark, or other proprietary identifier for the
5 purposes of offering the services of diagnosis, maintenance, or repair of
6 equipment under the name of the original equipment manufacturer or other
7 arrangement with the original equipment manufacturer to offer such services
8 on behalf of the original equipment manufacturer.

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

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

20 (4) “Forestry equipment” means nondivisible equipment, implements,
21 accessories, and contrivances used directly and principally off road in

1 harvesting timber or for on-site processing of wood forest products, including
2 equipment used to construct, maintain, or install infrastructure necessary to and
3 associated with a logging operation.

4 (5) “Independent repair provider” means a person operating in this State
5 that does not have an arrangement described in subdivision (2) of this section
6 with an original equipment manufacturer and that is engaged in the services of
7 diagnosis, maintenance, or repair of agricultural or forestry equipment.

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

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

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

18 (9) “Tools” means any software program, hardware implement, or other
19 apparatus used for diagnosis, maintenance, or repair of agricultural or forestry
20 equipment, including software or other mechanisms that provision, program, or

1 pair a new part, calibrate functionality, or perform any other function required
2 to bring the product back to fully functional condition, including any updates.

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

5 (A) derives independent economic value, actual or potential, from not
6 being generally known to, and not being readily ascertainable by proper means
7 by, other persons who can obtain economic value from its disclosure or use;
8 and

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

11 § 4052. AVAILABILITY OF PARTS, TOOLS, AND DOCUMENTATION

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

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

17 (2) If agricultural or forestry equipment includes an electronic security
18 lock or other security-related function that must be unlocked or disabled to
19 perform diagnosis, maintenance, or repair of the equipment, an original
20 equipment manufacturer shall make available to an independent repair provider
21 or owner any parts, tools, and documentation necessary to unlock or disable

1 the function and to reset the lock or function after the diagnosis, maintenance,
2 or repair is complete.

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

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

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

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

18 (3) a requirement that a part, tool, or documentation be registered,
19 paired with, or approved by the original equipment manufacturer or an
20 authorized repair provider before the part, tool, or documentation is
21 operational;

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

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

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

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

10 § 4053. ENFORCEMENT

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

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

16 § 4054. APPLICATION; LIMITATIONS

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

19 (b) This chapter does not alter the terms of any arrangement described in
20 subdivision 4051(2)(A) of this title in force between an authorized repair
21 provider and an original equipment manufacturer, including the performance

1 or provision of warranty or recall repair work by an authorized repair provider
2 on behalf of an original equipment manufacturer pursuant to such arrangement,
3 except that any provision governing such an arrangement that purports to
4 waive, avoid, restrict, or limit the original equipment manufacturer's
5 obligations to comply with this chapter is void and unenforceable.

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

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

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

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

18 Sec. 3. EFFECTIVE DATE

19 This act shall take effect on January 1, 2025.
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(Committee vote: _____)

Representative _____

FOR THE COMMITTEE

(Committee vote: _____)

Representative _____

FOR THE COMMITTEE