

1 TO THE HONORABLE SENATE:

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

7 Sec. 1. FINDINGS AND PURPOSE

8 (a) Findings. The General Assembly finds:

9 (1) The Vermont food, agriculture, and forest sectors are significant  
10 components of the State’s economy, its rural heritage, and its identity as a  
11 State.

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

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

1           (C) The Vermont Sustainable Jobs Fund estimates that Vermont’s  
2           forest products industry generates an annual economic output of \$1.4 billion  
3           and supports 10,500 jobs.

4           (2) Agricultural and forestry activity varies by season, is weather-  
5           dependent, and is heavily reliant on having access to increasingly sophisticated  
6           agricultural and forestry equipment. Vermont farmers’ and foresters’ access to  
7           safe and reliable equipment is essential to timely planting, cultivating, tilling,  
8           and harvesting of produce, protein, grain, timber, and other wood forest  
9           products.

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

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

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

21           However, in order to maintain complex safety and emissions systems,

1 limitations on software-related repairs implemented by original equipment

2 manufacturers have led to frustration for some customers.

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

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

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

13 (9) Original equipment manufacturer shops and authorized repair  
14 providers are sometimes not located close to owners or independent repair  
15 providers, which may require owners or independent repair providers to travel  
16 long distances for repair or to be without functioning agricultural or forestry  
17 equipment for longer periods of time.

18 (10) Many owners are capable of performing their own diagnosis,  
19 maintenance, and repair services for their equipment.

20 (11) Independent repair providers play a vital role in Vermont's  
21 economy. Providing access to information, parts, and diagnostic and repair

**Commented [CM1]:** This language was edited without noting it in the recent drafts. We prefer the language as passed by the House, which reads: "However, the continued movement toward computerized agricultural and forestry equipment means that independent repair providers and owners do not have full access to the software, codes, and other information necessary to perform all of the diagnosis, maintenance, and repair services required to ensure equipment remains operational."

**Commented [CM2]:** This language was edited without noting it in the recent drafts. We prefer the House passed language, which reads: "(10) Many owners are capable of performing diagnosis, maintenance, and repair services for their equipment, but often lack sufficient access to information necessary to perform repairs. Limits placed on software and operating systems, including capping the number of users and employing proprietary diagnostic and repair programs, have resulted in the pirating of agricultural and forestry equipment software and the hacking of equipment, endangering farmers and foresters in the conduct of their work and potentially causing additional air pollution and environmental harm."

1 tools is essential in contributing to a competitive repair market and allowing  
2 independent repair shop employees to fix equipment safely.

3 (12) Extending the useful life and efficient operation of equipment may  
4 provide additional benefits for farmers, foresters, and the environment.

5 (A) Computerized components of modern agricultural and forestry  
6 equipment include precious metals that are finite.

7 (B) Emissions of agricultural and forestry equipment are better  
8 regulated and limited by functional software and hardware computer elements,  
9 thereby increasing the need for access to timely and effective repairs to ensure

10 optimal functionality that is within the confines of federal regulatory

11 limitations and existing technology needed to preserve intellectual property.

12 (13) Broader distribution of the information, tools, and parts necessary  
13 to repair modern agricultural and forestry equipment may shorten repair times,  
14 lengthen the useful lives of the equipment, lower costs for users, and benefit  
15 the environment.

16 (b) Purpose. The purpose of this act is to ensure equitable access to the  
17 parts, tools, and documentation that are necessary for independent repair  
18 providers and owners to perform timely repair of agricultural and forestry  
19 equipment in a safe, secure, reliable, and sustainable manner.

20 Sec. 2. SHORT TITLE

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

**Commented [CM3]:** Language in (12) was edited without noting it in the recent drafts. We prefer to keep it as passed by the House: (12) In addition to providing better access for timely repair, extending the useful life and efficient operation of equipment can ensure additional benefits for farmers, foresters, and the environment.

**Commented [CM4]:** We don't think this is necessary. There is nothing in the bill that alters anything about IP rights and the AG office clearly stated there is no risk.

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

2 CHAPTER 106. AGRICULTURAL AND FORESTRY EQUIPMENT;

3 FAIR REPAIR

4 § 4051. DEFINITIONS

5 As used in this chapter:

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

11 (2)(A) “Authorized repair provider” means an individual or business  
12 that has an arrangement with the original equipment manufacturer under which  
13 the original equipment manufacturer grants to the individual or business a  
14 license to use a trade name, service mark, or other proprietary identifier for the  
15 purposes of offering the services of diagnosis, maintenance, or repair of  
16 equipment under the name of the original equipment manufacturer or other  
17 arrangement with the original equipment manufacturer to offer such services  
18 on behalf of the original equipment manufacturer.

19 (B) An original equipment manufacturer that offers the services of  
20 diagnosis, maintenance, or repair of its own equipment and that does not have  
21 an arrangement described in subdivision (A) of this subdivision (2) with an

1 unaffiliated individual or business shall be considered an authorized repair  
2 provider with respect to such equipment.

3 (3) “Documentation” means any manual, diagram, reporting output,  
4 service code description, schematic diagram, security code, password, or other  
5 guidance or information, whether in an electronic or tangible format, to  
6 perform the services of diagnosis, maintenance, or repair of agricultural or  
7 forestry equipment.

8 (4) “Forestry equipment” means nondivisible equipment, implements,  
9 accessories, and contrivances used directly and solely off road in harvesting  
10 timber or for on-site processing of wood forest products necessary to and  
11 associated with a logging operation.

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

16 (6) “Memorandum of understanding” means an agreement that is:  
17 (A) related to the right to repair of forestry or agricultural equipment;  
18 (B) not legally binding; and  
19 (C) between the original equipment manufacturer and the American  
20 Farm Bureau Federation or similar organization that advocates on behalf of  
21 farmers.

**Commented [CM5]:** Our main ask here is to change “solely” to “principally” as it was done in another section.

**Commented [CM6]:** The committee discussed changing this to “physically operating in this State” and that is sufficient for us. We would like to see the new draft by legislative counsel though to be sure we do not limit independent repair providers.

**Commented [CM7]:** Since the committee is moving towards only applying this bill to apply to those without an MOU, we ask to have a strong definition of MOU to ensure folks cannot get around the bill with a weak agreement. If we expand the scope to other groups -- particularly groups that might be created just for the purpose of creating additional exemptions to the statute -- the bill is not as effective. We would be ok with the definition but strike “or similar organization that advocates on behalf of farmers.”

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

4           (8) “Owner” means an individual or business that owns or leases  
5 agricultural or forestry equipment used in this State.

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

11           (10) “Repair” means to maintain, diagnose, or fix agricultural or forestry  
12 equipment resulting in the equipment being returned to its original equipment  
13 manufacturer specifications. “Repair” does not include the ability to:

14           (A) reset an immobilizer system or security-related electronic  
15 modules;

16           (B) modify from original equipment specifications the embedded  
17 software or code;

18           (C) change any equipment or engine settings that negatively affect  
19 emissions or safety compliance; or

20           (D) download or access the source code of any embedded software or  
21 code.

**Commented [CM8]:** We asked to keep the definition of "owner" as written in this draft, but we are ok with the language Brian Carpenter shared.

**Commented [CM9]:** We believe we don't need to define "repair" because it's about parity, but if the committee wants a definition, we are ok with having "Repair means to maintain, diagnose, or fix agricultural or forestry equipment resulting in the equipment being returned to its fully functional conditions", not OEM specifications, then strike the rest.

A. Is necessary to leave out because if locked out, you need to get back in to the system.

B. Is already allowed as it is legal to modify software under copyright law.

C. Is already covered under EPA clean air act; and

D. Is controlled by the copyright office and owners can already download/access software.

Also, you'd typically address these concerns in the limitations section, which this bill does. An important phrase that this leaves out is "except as necessary for repair." If your immobilizer is triggered, you need to reset it after the repair so that you can get back to work.

1           (11) “Tools” means any software program, hardware implement, or  
2 other apparatus used for diagnosis, maintenance, or repair of agricultural or  
3 forestry equipment, including software or other mechanisms that are ~~provision,  
4 program, or pair a new part, calibrate functionality, or perform any other  
5 function~~ required to restore the product to its original manufacturer  
6 specifications ~~bring the product back to fully functional condition, including  
7 any updates.~~

8           (12) “Trade secret” has the same meaning as provided in 18 U.S.C.  
9 § 1839.

10 § 4052. AVAILABILITY OF PARTS, TOOLS, AND DOCUMENTATION

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

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

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

**Commented [CM10]:** We prefer to keep this as the House passed language. If farmers do not have the capability, they cannot fix a piece of equipment fully. Farmers and foresters need to be able provision, program, calibrate, etc. new parts to be able to fully repair their equipment.  
  
"Original manufacturer specifications" contradicts any updates. I think the concern here is likely about safety/emissions skirting—that should be addressed in the limitations.

**Commented [CM11]:** We are ok with striking this language if the definition of “repair” is sufficient.



1 ~~after the diagnosis, maintenance, or repair is complete~~ a secured authorization  
2 process in order to prevent access to the source code or infringement of  
3 intellectual property in software or hardware owned by the original equipment  
4 manufacturer or licensed to the original equipment manufacturer by a third  
5 party and subject to terms of use.

6 (3) An original equipment manufacturer **may satisfy its obligation to**  
7 make parts, tools, and documentation available to an independent repair  
8 provider or owner through an authorized repair provider that consents to sell or  
9 make available parts, tools, or documentation on behalf of the manufacturer.

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

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

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

**Commented [CM12]:** We want to keep the House passed language. Copyright law already allows farmers to backup and restore 100% of the software (including source code) that comes with the machine for purposes of repair. Removing any federally granted opportunities is another abuse of owners' rights and adds no additional IP protections to the OEM. Additionally, a "secure authorization process" is another way for OEMs to maintain a gatekeeper status over repair.

1 ~~(3) a requirement that a part, tool, or documentation be registered,~~  
2 ~~paired with, or approved by the original equipment manufacturer or an~~  
3 ~~authorized repair provider before the part, tool, or documentation is~~  
4 ~~operational; or~~

5 (3) an additional burden or material change that adversely affects the  
6 timeliness or method of delivering parts, tools, or documentation.

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

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

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

14 § 4053. ATTORNEY GENERAL ENFORCEMENT; NOTICE

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

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

20 (c) The Attorney General shall be notified in writing by the original  
21 equipment manufacturer not later than 30 days after a method of understanding

**Commented [CM13]:** We want to keep House passed language as it ensures parts pairing isn't allowed. This is a big problem as Deere, and others, are both selling parts but refusing to allow those parts to be used without their special approval -- often requiring a physical visit and not just a simple download. This violates the rights of owners to use their legally acquired property, creates an illegal tying agreement under antitrust law, violates statutes governing unfair and deceptive acts and practices, and vastly extends the delay for a complete repair which the statute is intended to reduce.

1 expires or has been terminated, withdrawn, or canceled by an original  
2 equipment manufacturer subject to this chapter.

3 § 4054. APPLICATION; LIMITATIONS

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

6 (b) This chapter does not alter the terms of any arrangement described in  
7 subdivision 4051(2)(A) of this title in force between an authorized repair  
8 provider and an original equipment manufacturer, including the performance  
9 or provision of warranty or recall repair work by an authorized repair provider  
10 on behalf of an original equipment manufacturer pursuant to such arrangement,  
11 except that any provision governing such an arrangement that purports to  
12 waive, avoid, restrict, or limit the original equipment manufacturer's  
13 obligations to comply with this chapter is void and unenforceable.

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

15 (1) modify agricultural or forestry equipment to deactivate safety  
16 notification systems, ~~except as necessary to provide diagnosis, maintenance, or~~  
17 ~~repair services;~~

18 (2) access any function of a tool that enables the independent repair  
19 provider or owner to change the settings for a piece of agricultural or forestry  
20 equipment in a manner that brings the equipment out of compliance with ~~the~~  
21 original manufacturer specifications or any applicable federal, State, or local

**Commented [CM14]:** We want to keep House passed language. There are cases where you have to temporarily deactivate a safety notification in the course of diagnosis, maintenance and repair. As long as the equipment is returned to fully functional condition, the safety notification will be put back in place.

This reinforces the rights of the owner to control their own safety and security without any negative impact on the OEM. The OEMS will have already disclaimed their responsibility for any hacking of safety or security in their own purchase documentation and this phrasing adds equivocation to another very clear disclaimer. Federal State and Local laws are still on the books and applicable.

**Commented [CM15]:** We ask to remove this language. If it's legal, the OEM should not be able to dictate how you use your equipment.

1 ~~safety or emissions laws, except as necessary to provide diagnosis,~~

2 ~~maintenance, or repair services; or~~

3 (3) ~~obtain or use parts, tools, or documentation to evade or violate~~

4 ~~emissions, copyright, trademark, or patent laws or to engage in any other~~

5 ~~illegal activity.~~

6 (d) **Original equipment manufacturers and authorized repair providers are**

7 **not liable for faulty or otherwise improper repairs completed by independent**

8 **repair providers or owners, including repairs that cause:**

9 (1) **damage to agricultural or forestry equipment that occurs during such**

10 **repairs; and**

11 (2) **an inability to use, or the reduced functionality of, agricultural or**

12 **forestry equipment resulting from the faulty or otherwise improper repair.**

13 (e) **In the event that federal law preempts part of the activity regulated by**

14 **this chapter, this chapter shall be construed to regulate activity that has not**

15 **been preempted.**

16 (f) **This chapter shall not apply to an original equipment manufacturer that**

17 **has entered into a memorandum of understanding that substantially**

18 **incorporates the provisions of this chapter. In the event that a memorandum of**

19 **understanding expires or is terminated, withdrawn, or canceled by an original**

20 **equipment manufacturer, the original equipment manufacturer shall be**

21 **required to comply with all provisions of this chapter no later than 30 days**

**Commented [CM16]:** If there is a need to nod to the MOUs, the language needs to include that those MOUs have at least meet the conditions of the bill. If they want to go further, that's great. The MOUs are also not subjected to enforcement. Here's language in the Colorado law that can be a reference:

"If an agricultural equipment manufacturer enters into, or is covered under, a nationwide memorandum of understanding regarding a right to repair agricultural equipment, the memorandum of understanding governs an owner's right to provide services, or to engage the services of an independent repair provider, for that manufacturer's brand of agricultural equipment; except that, if compliance with the memorandum of understanding would deny the owner any rights afforded to the owner in this part 15, including any rights to documentation, data, tools, or embedded software for agricultural equipment necessary for the diagnosis, maintenance, or repair of the owner's agricultural equipment, the owner is entitled to the documentation, data, tools, or embedded software for agricultural equipment in accordance with this part 15. An agricultural equipment manufacturer that enters into a memorandum of understanding is still obligated to meet the requirements established in this part 15."

1 ~~upon such termination, withdrawal, cancellation, or expiration. This chapter~~  
2 ~~shall apply immediately in the event that a memorandum of understanding is~~  
3 ~~not honored by an original equipment manufacturer.~~

4 Sec. 4. EFFECTIVE DATE

5 This act shall take effect on January 1, 2026,

Commented [CM17]: We prefer January 1, 2025.

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7 (Committee vote: \_\_\_\_\_)

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\_\_\_\_\_

9

Senator \_\_\_\_\_

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FOR THE COMMITTEE