

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

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, ~~and unnecessary early~~  
7 ~~disposal can be avoided with greater accessibility to proper and affordable~~  
8 ~~repair.~~

9 (B) Emissions of agricultural and forestry equipment are better  
10 regulated and limited by functional software and hardware computer elements,  
11 thereby increasing the need for access to timely and effective repairs to ensure  
12 optimal functionality **that is within the confines of federal regulatory**  
13 **limitations and existing technology needed to preserve intellectual property**  
14 **rights.**

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

19 (b) Purpose. The purpose of this act is to ensure equitable access to the  
20 parts, tools, and documentation that are necessary for independent repair

1 providers and owners to perform timely repair of agricultural and forestry  
2 equipment in a safe, secure, reliable, and sustainable manner.

3 Sec. 2. SHORT TITLE

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

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

6 CHAPTER 106. AGRICULTURAL AND FORESTRY EQUIPMENT;

7 FAIR REPAIR

8 § 4051. DEFINITIONS

9 As used in this chapter:

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

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

1 arrangement with the original equipment manufacturer to offer such services  
2 on behalf of the original equipment manufacturer.

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

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

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

19 (5) “Independent repair provider” means a person **with a physical retail**  
20 **or business location** ~~operating~~ in this State that does not have an arrangement  
21 described in subdivision (2) of this section with an original equipment

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

3 (6) “Method of understanding” means an agreement that is:

4 (A) related to the right to repair of forestry or agricultural equipment;

5 (B) not legally binding; and

6 (C) between the original equipment manufacturer and the American  
7 Farm Bureau Federation or similar organization that advocates on behalf of  
8 farmers.

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

12 (8) “Owner” means an individual or business that owns ~~or leases~~  
13 agricultural or forestry equipment purchased ~~and~~ ~~or~~ used in this State.

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

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

1           (A) reset an immobilizer system or security-related electronic  
2 modules;

3           (B) modify from original equipment specifications the embedded  
4 software or code;

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

7           (D) download or access the source code of any embedded software or  
8 code.

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

16           (12) “Trade secret” has the same meaning as provided in 18 U.S.C.  
17 § 1839.

18 § 4052. AVAILABILITY OF PARTS, TOOLS, AND DOCUMENTATION

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

20           (1) An original equipment manufacturer shall offer for sale or otherwise  
21 make available to an independent repair provider or owner the parts, tools, and



1 documentation that are necessary for repair, the original equipment  
2 manufacturer offers for sale or otherwise makes available to an authorized  
3 repair provider.

4 (2) If agricultural or forestry equipment includes an electronic security  
5 lock or other security-related function that must be unlocked, enabled, or  
6 disabled to perform diagnosis, maintenance, or repair of the equipment, an  
7 original equipment manufacturer may require shall make available to an  
8 independent repair provider or owner any parts, tools, and documentation  
9 necessary to unlock or disable the function and to reset the lock or function  
10 after the diagnosis, maintenance, or repair is complete a secured authorization  
11 process in order to prevent access to the source code or infringement of  
12 intellectual property in software or hardware owned by the original equipment  
13 manufacturer or licensed to the original equipment manufacturer by a third  
14 party and subject to terms of use.

15 (3) An original equipment manufacturer may satisfy its obligation to  
16 make parts, tools, and documentation available to an independent repair  
17 provider or owner through an authorized repair provider that consents to sell or  
18 make available parts, tools, or documentation on behalf of the manufacturer.

19 (b) Terms; limitations. Under the terms governing the sale or provision of  
20 parts, tools, and documentation, an original equipment manufacturer shall not  
21 impose on an independent repair provider or owner an additional cost or

1 burden that is not reasonably necessary within the ordinary course of business  
2 or is designed to be an impediment on the independent repair provider or  
3 owner, including:

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

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

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

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

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

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

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

1     § 4053. ATTORNEY GENERAL ENFORCEMENT; NOTICE

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

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

7             (b) The Attorney General shall be notified not later than 30 days after a  
8     method of understanding expires or has been terminated, withdrawn, or  
9     canceled by an original equipment manufacturer subject to this chapter.

10    § 4054. APPLICATION; LIMITATIONS

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

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

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

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

4           (2) access any function of a tool that enables the independent repair  
5           provider or owner to change the settings for a piece of agricultural or forestry  
6           equipment in a manner that brings the equipment out of compliance with the  
7           original manufacturer specifications or any applicable federal, State, or local  
8           safety or emissions laws, except as necessary to provide diagnosis,  
9           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           (d) Original equipment manufacturers and authorized repair providers are  
14           not liable for faulty or otherwise improper repairs completed by independent  
15           repair providers or owners, including repairs that cause:

16           (1) damage to agricultural or forestry equipment that occurs during such  
17           repairs; and

18           (2) an inability to use, or the reduced functionality of, agricultural or  
19           forestry equipment resulting from the faulty or otherwise improper repair.

1           (e) In the event that federal law preempts part of the activity regulated by  
2           this chapter, this chapter shall be construed to regulate activity that has not  
3           been preempted.

4           (f) This chapter shall not apply to an original equipment manufacturer that  
5           has entered into a memorandum of understanding that substantially  
6           incorporates the provisions of this chapter. In the event that a memorandum of  
7           understanding expires or is terminated, withdrawn, or canceled by an original  
8           equipment manufacturer, the original equipment manufacturer shall be  
9           required to comply with all provisions of this chapter immediately upon such  
10           termination, withdrawal, cancellation, or expiration. This chapter shall apply  
11           immediately in the event that a memorandum of understanding is not honored  
12           by an original equipment manufacturer.

13       Sec. 4. EFFECTIVE DATE

14           This act shall take effect on January 1, 2027.

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16           (Committee vote: \_\_\_\_\_)

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Senator \_\_\_\_\_

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FOR THE COMMITTEE