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Representatives Durfee of Shaftsbury, Marcotte of Coventry, O’Brien of Tunbridge, Rice of Dorset, and Templeman of Brownington move that House concur in the Senate the proposal of amendment with further proposal of amendment by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS AND PURPOSE

(a) Findings. The General Assembly finds:

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

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

(B) The 2023 U.S. Food and Agriculture Industries Economic Impact Study found that the food and agriculture industries in Vermont were associated with nearly 104,000 jobs, \$5.2 billion in wages, and \$19.3 billion in 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, seasonal workload, and geographic constraints,  
4 authorized repair providers are not always able to meet the demand for timely  
5 diagnosis, 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) Owners may be 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.

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.

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 used principally off road and designed solely 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, used 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 principally off road and designed solely for  
10 harvesting timber or for on-site processing of wood forest products necessary  
11 to and associated with a logging operation.

12 (5) “Independent repair provider” means a person operating in this State,  
13 either through a physical business location or through a mobile service that  
14 offers on-site repairs in the State, that does not have an arrangement described  
15 in subdivision (2) of this section with an original equipment manufacturer and  
16 that is engaged in the services of diagnosis, maintenance, or repair of  
17 agricultural or forestry equipment.

18 (6) “Memorandum of understanding” means an agreement that is:

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

20 (B) not legally binding; and

1           (C) between the original equipment manufacturer and the American  
2           Farm Bureau Federation or similar organization that advocates on behalf of  
3           farmers or loggers.

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

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

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

14           (10) “Repair” means to maintain, diagnose, or fix agricultural or forestry  
15           equipment resulting in the equipment being restored to its fully functional  
16           condition, including any updates. “Repair” does not include the ability to:

17           (A) permanently modify from original equipment specifications the  
18           embedded software or code;

19           (B) permanently change any equipment or engine settings that  
20           negatively affect emissions or safety compliance; or

1           (C) download or access the source code of any embedded software or  
2 code, unless doing so is required to restore the equipment to its fully functional  
3 condition, including any updates.

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

10           (12) “Trade secret” has the same meaning as provided in 18 U.S.C.  
11 § 1839.

12           § 4052. AVAILABILITY OF PARTS, TOOLS, AND DOCUMENTATION

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

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

18           (2) If agricultural or forestry equipment includes an electronic security  
19 lock or other security-related function that must be unlocked, enabled, or  
20 disabled to perform diagnosis, maintenance, or repair of the equipment, an  
21 original equipment manufacturer shall make available to an independent repair

1 provider or owner any parts, tools, and documentation necessary to unlock or  
2 disable the function and to reset the lock or function after the diagnosis,  
3 maintenance, or repair is complete.

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

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

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

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

19 (3) a requirement that a part, tool, or documentation be registered,  
20 paired with, or approved by the original equipment manufacturer or an

1 authorized repair provider before the part, tool, or documentation is  
2 operational; or

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

5 § 4053. ATTORNEY GENERAL ENFORCEMENT; NOTICE

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 under 9 V.S.A. chapter 63, subchapter 1.

11 (c) The Attorney General shall be notified in writing by the original  
12 equipment manufacturer not later than 30 days after a memorandum of  
13 understanding expires or has been terminated, withdrawn, or canceled by an  
14 original equipment manufacturer subject to this chapter.

15 § 4054. APPLICATION; LIMITATIONS

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

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

1 on behalf of an original equipment manufacturer pursuant to such arrangement,  
2 except that any provision governing such an arrangement that purports to  
3 waive, avoid, restrict, or limit the original equipment manufacturer’s  
4 obligations to comply with this chapter is void and unenforceable.

5 (c) This chapter does not alter the terms of a lease of agricultural or forestry  
6 equipment between an owner and another person.

7 (d) An independent repair provider or owner shall not:

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

11 (2) access any function of a tool, excluding a tool strictly needed for a  
12 software update or to correct a defect or safety issue, that enables the  
13 independent repair provider or owner to change the settings for a piece of  
14 agricultural or forestry equipment in a manner that brings the equipment out of  
15 compliance with the original manufacturer specifications or any applicable  
16 federal, state, or local safety or emissions laws; or

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

1       (e) Original equipment manufacturers and authorized repair providers are  
2       not liable for faulty or otherwise improper repairs completed by independent  
3       repair providers or owners, including repairs that cause:

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

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

8       (f) In the event that federal law preempts part of the activity regulated by  
9       this chapter, this chapter shall be construed to regulate activity that has not  
10       been preempted.

11       (g) If an original equipment manufacturer is a party to a memorandum of  
12       understanding:

13             (1) the original equipment manufacturer is still obligated to meet the  
14       requirements established in this chapter; and

15             (2) the memorandum of understanding may be used, subject to the  
16       provisions set forth in this chapter, to establish the processes and procedures  
17       for an independent repair provider or owner to repair agricultural or forestry  
18       equipment.

19       Sec. 4. EFFECTIVE DATE

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