



Testimony of VPIRG Consumer Protection Associate Daniel Brown concerning S.180 – Vermont Fair Repair Act

**Testimony before the Senate Government Operations Committee
February 7, 2018**

Good morning, Chairman Sirotkin and members of the Committee. For the record, my name is Daniel Brown and I'm a Consumer Protection Associate with VPIRG, the Vermont Public Interest Research Group. For over 45 years, VPIRG has advocated for the public interest in policy debates concerning the environment, health care, democracy, and consumer protection, and so I thank you for this opportunity to share my thoughts on S. 180, the Vermont Fair Repair Act.

VPIRG strongly supports S. 180 and the concept of Fair Repair in general. This Vermont Fair Repair Act will give consumers more options to repair their electronics, save businesses and consumers their money, and greatly reduce the amount of hazardous e-waste produced in Vermont. If passed, Fair Repair will attract skilled workers to Vermont, reduce costs for our struggling farmers and save all Vermonters money by increasing the longevity of their electronic products.

The Problem

The way the system of electronic repair for devices and appliances currently works puts consumers and repair shop owners at a severe disadvantage to the wealthy and powerful manufacturers that essentially control the marketplace. This is true in Vermont as it across the country.

As our lives become seemingly more and more dependent on computerized products, the ability for consumers to repair the products that they own in a timely, affordable and efficient manner is a modern day necessity.

Vermont farmers, for instance, are severely disadvantaged by having to wait days or even weeks for costly repairs to tractors and equipment that, just 20 years ago, could have been repaired on-site by the farmer or a local repair professional. For a rural Vermont farmer under increasing pressure, this added expense can be especially burdensome.

The same is true across the board, whether it is a smart phone, a farm tractor or even your dishwasher, repairing your products has never been more difficult. One reason for this is the lengths to which companies like Apple and John Deere have gone¹ to thwart consumers' efforts to repair their products themselves, or have them repaired by independent repair shops. The manufacturers are working hard to discourage or prevent consumers from even considering repairing their products. Make no mistake, this system benefits large corporations at the expense of Vermonters and the environment.

Manufacturers have a vested interest in ensuring that consumers are regularly upgrading and replacing their electronics. Planned obsolescence is essentially baked into these companies' business models. We're all familiar with the phrase, "they just don't make things like they used to," and it's never been more true.

The National Association of Homebuilders found that major appliances, on average, last less than 15 years – compared with the 25 plus years that one could expect in the 1970s. According to Business Insider, the average consumer replaces their smartphone every 22 months,² and a recent report by US PIRG found that, on average, Vermonters throw out 700 phones per day.³ All of this planned waste equals planned profits for manufacturers. To be clear, we're not against creative businesses earning a profit. But right now the playing field is tilted in their favor. It's unfair for consumers and it's bad for our environment and our health.

In 2014 alone, 41.8 million tons of e-waste was created worldwide.⁴ The EPA found that while e-waste only makes up 2% of the solid waste stream, it accounts for 70% of the hazardous materials found in landfills.⁵ In the United States alone, of the 3.4 million tons of e-waste generated, only 29% was recycled in 2014.⁶ In 2009, the Environmental Protection Agency found that only 8% of smartphones phones were recycled.⁷ We can never know how much of that e-waste was composed of electronic products that simply needed a repair or replacement part. A recent investigation by Greenpeace found that just a handful of electronic manufacturers are responsible for over 70% of e-waste worldwide.⁸

Tackling the e-waste problem is going to be very important going forward, and passing the Fair Repair Act would be a significant step in that direction. The same manufacturer practices that make electronics difficult or impossible to repair also makes them difficult to recycle. If you are purposefully making a product that cannot be taken apart, you are making a product that can be extremely difficult to recycle. That is one reason why so much of our e-waste simply ends up in the trash.

¹ John Deere: <https://www.wired.com/2015/04/dmca-ownership-john-deere/> ; Apple:

<https://www.wired.com/2016/02/apple-shouldnt-get-to-brick-your-iphone-because-you-fixed-it-yourself/>

² <http://www.businessinsider.com/how-long-people-wait-to-upgrade-phones-chart-2017-3>

³ US PIRG Recharge Repair Report, <https://drive.google.com/file/d/1-CL43uUqsXq4O2OnvbuMSGDCnwALev8c/view>

⁴ <https://www.thebalance.com/e-waste-recycling-facts-and-figures-2878189>

⁵ Ibid.

⁶ Ibid.

⁷ Ibid.

⁸ <https://www.wastedive.com/news/greenpeace-apple-samsung-products-among-biggest-contributors-of-e-waste/446738/>

Instead of poisoning our environment and threatening our health, many electronic products could be repaired, re-used or properly recycled – and this would help the Vermont economy. An analysis by iFixit found that 200 repair jobs could be created for every 1,000 tons of used electronics.⁹

The Solution

Fair Repair is a smart, sensible solution to the dual issues of rising e-waste and costly repair monopolies. Fair Repair would require original equipment manufacturers to release repair manuals, diagnostic tools and spare parts to consumers and independent repair professionals. The requirement of equipment manufacturers to release diagnostic manuals and spare parts at a fair and reasonable rate is not radical. This bill would simply level the playing field between “authorized repair providers” and independent repair providers and consumers. This creates no significant burden for equipment manufacturers as they already produce and distribute these diagnostic manuals and spare parts to their authorized repair providers.

Following the success of the Automotive Right to Repair movement in Massachusetts, automotive manufacturers have begun to make available diagnostic tools and spare parts for all cars starting in model year 2018. That is why automotive vehicles are exempt from this bill – Massachusetts spurred the automotive industry into making Fair Repair an industry standard.

This Fair Repair bill does not require manufacturers to reveal trade secrets, and it does not infringe upon intellectual property rights. The bill was written carefully in order to avoid preempting any existing federal copyright laws. Furthermore, it does not require any manufacturer of medical devices to implement any provision that is not permitted under the federal Food, Drug and Cosmetic Act.

The Vermont Fair Repair act will restore competition and choice in the repair market, and create jobs opportunities for skilled repair professionals in Vermont. The reality is that consumers, repair professionals and farmers are already attempting to repair their products. This policy would simply provide people with the diagnostic materials and spare parts that are necessary to make those repairs safely and with confidence in the results.

Passage of the Fair Repair Act in Vermont will benefit consumers, farmers and business owners in every corner of the state. This policy is good for consumers, for our environment, and for our local economy. For these reasons, and on behalf of our 50,000 members and supporters, VPIRG urges you to support S.180.

Thank you for the opportunity to testify today, and I’m happy to take any questions that you may have at this time.

⁹ <https://ifixit.org/ewaste>

