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H.81

Introduced by Representatives Donahue of Northfield, Sims of Craftsbury,
Andriano of Orwell, Anthony of Barre City, Biron of
Vergennes, Boyden of Cambridge, Branagan of Georgia,
Brumsted of Shelburne, Burrows of West Windsor, Demrow of
Corinth, Dolan of Waitsfield, Farlice-Rubio of Barnet, Galfetti
of Barre Town, Harrison of Chittenden, Higley of Lowell,
Labor of Morgan, LaBounty of Lyndon, Masland of Thetford,
McGill of Bridport, Morris of Springfield, Mulvaney-Stanak of
Burlington, Nicoll of Ludlow, Noyes of Wolcott, Pajala of
Londonderry, Priestley of Bradford, Sibia of Dover,
Surprenant of Barnard, Taylor of Milton, Templeman of
Brownington, White of Bethel, Williams of Barre City, and
Williams of Granby

Referred to Committee on

Date:

Subject: Commerce and trade; consumer protection

Statement of purpose of bill as introduced: This bill proposes to ensure the fair
repair of agricultural equipment.

An act relating to fair repair of agricultural equipment

1 It is hereby enacted by the General Assembly of the State of Vermont:

2 Sec. 1. SHORT TITLE

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

4 Sec. 2. 9 V.S.A. chapter 106 is added to read:

5 CHAPTER 106. AGRICULTURAL EQUIPMENT; FAIR REPAIR

6 § 4051. DEFINITIONS

7 As used in this chapter:

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

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

1 own equipment and that does not have an arrangement described in this
2 subdivision with an unaffiliated individual or business shall be considered an
3 authorized repair provider with respect to such equipment.

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

8 (4) “Fair and reasonable terms” with respect to a part, tool, software, or
9 documentation offered by an original equipment manufacturer, means the
10 following:

11 (A) For parts:

12 (i) Costs are fair to both parties, considering the agreed-upon
13 conditions, promised quality, and timeliness of delivery. Fair and reasonable
14 costs are subject to statutory and regulatory limitations.

15 (ii) Terms:

16 (I) do not impose on an owner or an independent repair
17 provider any substantial obligation to use or any restriction on the use of the
18 part to diagnose, maintain, or repair equipment sold, leased, or otherwise
19 supplied by the original farm equipment manufacturer, including a condition
20 that the owner or independent repair provider become an authorized repair
21 provider of the original equipment manufacturer, or a requirement that a part

1 be registered, paired with, or approved by the original equipment manufacturer
2 or an authorized repair provider before such part is operational; and

3 (II) prohibit an original equipment manufacturer from imposing
4 any additional cost or burden that is not reasonably necessary or is designed to
5 be an impediment on the owner or independent repair provider.

6 (B) For tools and documentation:

7 (i) Costs are equivalent to the lowest actual cost for which the
8 original equipment manufacturer offers the tool, software, or documentation to
9 an authorized repair provider, including any discount, rebate, or other financial
10 incentive offered to an authorized repair provider.

11 (ii) Terms:

12 (I) are equivalent to the most favorable terms under which an
13 original equipment manufacturer offers the part, tool, software, or
14 documentation to an authorized repair provider, including the methods and
15 timeliness of delivery of the part, tool, software, or documentation;

16 (II) do not impose on an owner or an independent repair
17 provider any substantial obligation to use or any restriction on the use of the
18 tool, software, or documentation to diagnose, maintain, or repair equipment
19 sold, leased, or otherwise supplied by the original equipment manufacturer,
20 including a condition that the owner or independent repair provider become an
21 authorized repair provider of the original equipment manufacturer, or a

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

4 (III) prohibit an original equipment manufacturer from
5 imposing any additional cost or burden that is not reasonably necessary or is
6 designed to be an impediment on the owner or independent repair provider.

7 (C) For documentation, the documentation is made available by the
8 original equipment manufacturer at no charge, except that, when the
9 documentation is requested in physical printed form, a charge may be included
10 for the reasonable actual costs of preparing and sending the copy.

11 (5) “Forestry equipment” means nondivisible equipment, implements,
12 accessories, and contrivances used directly and principally in cutting or
13 removing timber or other sold wood forest products, including equipment used
14 to construct, maintain, or install infrastructure necessary to and associated with
15 a logging operation.

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

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 purchased or 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) “Tools” means any software program, hardware implement, or
12 other apparatus used for diagnosis, maintenance, or repair of agricultural or
13 forestry equipment, including software or other mechanisms that provision,
14 program, or pair a new part, calibrate functionality, or perform any other
15 function required to bring the product back to fully functional condition,
16 including any updates.

17 (11) “Trade secret” has the same meaning as in 9 V.S.A. § 4601.
18 § 4052. REQUIREMENTS.

19 (a) For agricultural or forestry equipment, and parts for such equipment,
20 sold or used in this State, an original equipment manufacturer shall make
21 available, for purposes of diagnosis, maintenance, or repair of such equipment,

1 to any independent repair provider, or to the owner of electronics-enabled
2 agricultural equipment manufactured by or on behalf of, or sold or otherwise
3 supplied by, the original equipment manufacturer, on fair and reasonable
4 terms, documentation, parts, and tools, required for the diagnosis, maintenance,
5 or repair of such equipment and parts for such equipment, including any
6 updates to information. An original equipment manufacturer shall make the
7 documentation, parts, and tools available either directly or through an
8 authorized repair provider.

9 (b) For equipment that contains an electronic security lock or other
10 security-related function, the original equipment manufacturer shall make
11 available to the owner and to independent repair providers, on fair and
12 reasonable terms, any special documentation, tools, and parts needed to access
13 and reset the lock or function when disabled in the course of diagnosis,
14 maintenance, or repair of the equipment. Such documentation, tools, and parts
15 may be made available by means of an appropriate secure system.

16 § 4053. ENFORCEMENT

17 (a) A person who violates a provision of this chapter commits an unfair and
18 deceptive act in trade and commerce in violation of 9 V.S.A § 2453.

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

1 § 4054. LIMITATION

2 (a) Nothing in this chapter shall be construed to require an original
3 equipment manufacturer to divulge a trade secret to an owner or an
4 independent service provider.

5 (b) No provision in this chapter shall be construed to alter the terms of any
6 arrangement described in subdivision 4151(1) of this section in force between
7 an authorized repair provider and an original equipment manufacturer,
8 including the performance or provision of warranty or recall repair work by an
9 authorized repair provider on behalf of an original equipment manufacturer
10 pursuant to such arrangement, except that any provision in such terms that
11 purports to waive, avoid, restrict, or limit the original equipment
12 manufacturer's obligations to comply with this chapter shall be void and
13 unenforceable.

14 Sec. 3. APPLICABILITY

15 This act applies with respect to equipment sold or in use on or after the
16 effective date of this act.

17 Sec. 4. EFFECTIVE DATE

18 This act shall take effect on July 1, 2023.