

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Agriculture, Food Resiliency, and Forestry to which was  
3 referred House Bill No. 81 entitled “An act relating to fair repair” respectfully  
4 reports that it has considered the same and recommends that

5 Sec. 1. SHORT TITLE

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

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

8 CHAPTER 106. AGRICULTURAL EQUIPMENT; FAIR REPAIR

9 § 4051. DEFINITIONS

10 As used in this chapter:

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

16 (2)(A) “Authorized repair provider” means an individual or business  
17 that has an arrangement with the original equipment manufacturer under which  
18 the original equipment manufacturer grants to the individual or business a  
19 license to use a trade name, service mark, or other proprietary identifier for the  
20 purposes of offering the services of diagnosis, maintenance, or repair of  
21 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 this subdivision with an unaffiliated individual or  
6 business shall be considered an authorized repair provider with respect to such  
7 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 used in effecting the services of diagnosis,  
11 maintenance, or repair of agricultural or forestry equipment.

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

15 (A) For parts:

16 (i) Cost. The cost for the part is fair to both parties, considering  
17 the agreed-upon conditions, promised quality, and timeliness of delivery. Fair  
18 and reasonable costs are subject to statutory and regulatory limitations.

19 (ii) Terms.

20 **(I)** The terms governing the sale of the part do not impose on  
21 an owner or an independent repair provider any substantial obligation to use or

1 any restriction on the use of the part to diagnose, maintain, or repair equipment  
2 sold, leased, or otherwise supplied by the original farm equipment  
3 manufacturer, including:

4 (aa) a condition that the owner or independent repair  
5 provider become an authorized repair provider of the original equipment  
6 manufacturer; or

7 (bb) a requirement that a part be registered, paired with, or  
8 approved by the original equipment manufacturer or an authorized repair  
9 provider before the part is operational.

10 (II) prohibit Under the terms governing the sale of the part an  
11 original equipment manufacturer from imposing does not impose any  
12 additional cost or burden that is not reasonably necessary or is designed to be  
13 an impediment on the owner or independent repair provider.

14 (B) For tools and documentation:

15 (i) Costs are equivalent to Cost. The cost for the tool does not  
16 exceed the lowest actual cost for which the original equipment manufacturer  
17 offers the tool, software, or documentation to an authorized repair provider,  
18 including any discount, rebate, or other financial incentive offered to an  
19 authorized repair provider.

20 (ii) Terms.

1                   (I) The terms governing the sale of the tool are equivalent to  
2                   the most favorable terms under which an original equipment manufacturer  
3                   offers the tool ~~part, software, or documentation~~ to an authorized repair  
4                   provider, including the methods and timeliness of delivery of the tool ~~part,~~  
5                   ~~software, or documentation.~~

6                   (II) The terms governing the sale of the tool do not impose on  
7                   an owner or an independent repair provider any substantial obligation to use or  
8                   any restriction on the use of the tool, ~~software, or documentation~~ to diagnose,  
9                   maintain, or repair equipment sold, leased, or otherwise supplied by the  
10                  original equipment manufacturer, including:

11                   (aa) a condition that the owner or independent repair  
12                  provider become an authorized repair provider of the original equipment  
13                  manufacturer; or

14                   (bb) a requirement that a tool be registered, paired with, or  
15                  approved by the original equipment manufacturer or an authorized repair  
16                  provider before such part or tool is operational.

17                   (III) ~~prohibit~~ Under the terms governing the sale of the tool an  
18                  original equipment manufacturer ~~from imposing~~ does not impose any  
19                  additional cost or burden that is not reasonably necessary or is designed to be  
20                  an impediment on the owner or independent repair provider.

1           (C) Documentation. The original equipment manufacturer makes  
2 documentation available at no charge, except that, when the documentation is  
3 requested in physical printed form, the original equipment manufacturer may  
4 impose a charge for the reasonable actual costs of preparing and sending the  
5 copy.

6           (5) “Forestry equipment” means non-divisible equipment, implements,  
7 accessories, and contrivances used directly and principally in cutting or  
8 removing timber or other sold wood forest products, including equipment used  
9 to construct, maintain, or install infrastructure necessary to and associated with  
10 a logging operation.

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

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

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

20           (9) “Part” means any replacement part, either new or used, made  
21 available by an original equipment manufacturer for purposes of effecting the

1 services of maintenance or repair of agricultural or forestry equipment  
2 manufactured by or on behalf of, sold or otherwise supplied by, the original  
3 equipment manufacturer.

4 (10) “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 (11) “Trade secret” has the same meaning as in 9 V.S.A. § 4601.

11 § 4052. REQUIREMENTS.

12 (a)(1) For agricultural or forestry equipment, and parts for such equipment,  
13 sold or used in this State, an original equipment manufacturer shall make  
14 available, for purposes of diagnosis, maintenance, or repair of such equipment,  
15 to any independent repair provider, or to the owner of ~~electronics-enabled~~  
16 agricultural or forestry equipment manufactured by or on behalf of, or sold or  
17 otherwise supplied by, the original equipment manufacturer, on fair and  
18 reasonable terms, documentation, parts, and tools, required for the diagnosis,  
19 maintenance, or repair of such equipment and parts for such equipment,  
20 including any updates to information.

1           (2) An original equipment manufacturer shall make the documentation,  
2           parts, and tools available either directly or through an authorized repair  
3           provider.

4           (b)(1) For equipment that contains an electronic security lock or other  
5           security-related function, the original equipment manufacturer shall make  
6           available to the owner and to independent repair providers, on fair and  
7           reasonable terms, any special documentation, tools, and parts needed to access  
8           and reset the lock or function when disabled in the course of diagnosis,  
9           maintenance, or repair of the equipment.

10           (2) The documentation, tools, and parts may be made available by  
11           means of an appropriate secure system.

12           § 4053. ENFORCEMENT

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

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

18           § 4054. LIMITATION

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

1       (b) This chapter does not alter the terms of any arrangement described in  
2       subdivision 4151(1) of this section in force between an authorized repair  
3       provider and an original equipment manufacturer, including the performance  
4       or provision of warranty or recall repair work by an authorized repair provider  
5       on behalf of an original equipment manufacturer pursuant to such arrangement,  
6       except that any provision governing such an arrangement that purports to  
7       waive, avoid, restrict, or limit the original equipment manufacturer’s  
8       obligations to comply with this chapter is void and unenforceable.

9       **Sec. 3. APPLICABILITY**

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

12       **Sec. 4. EFFECTIVE DATE**

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

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

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Representative \_\_\_\_\_  
FOR THE COMMITTEE