

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 of agricultural
4 equipment” respectfully reports that it has considered the same and
5 recommends that the bill be amended by striking out all after the enacting
6 clause and inserting in lieu thereof the following:

7 Sec. 1. SHORT TITLE

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

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

10 CHAPTER 106. AGRICULTURAL EQUIPMENT; FAIR REPAIR

11 § 4051. DEFINITIONS

12 As used in this chapter:

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

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

1 purposes of offering the services of diagnosis, maintenance, or repair of
2 equipment under the name of the original equipment manufacturer or other
3 arrangement with the original equipment manufacturer to offer such services
4 on behalf of the original equipment manufacturer.

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

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

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

17 (A) For parts:

18 (i) Cost. The cost for the part is fair to both parties, considering
19 the agreed-upon conditions, promised quality, and timeliness of delivery.

20 (ii) Terms.

1 (I) The terms governing the sale of the part do not impose on
2 an owner or an independent repair provider any substantial obligation to use, or
3 any restriction on the use of, the part to diagnose, maintain, or repair
4 equipment sold, leased, or otherwise supplied by the original farm equipment
5 manufacturer, including:

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

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

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

16 (B) For tools:

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

21 (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 to an authorized repair provider, including the methods and
4 timeliness of delivery of the tool.

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

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

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

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

20 (C) Documentation. The original equipment manufacturer makes
21 documentation available at no charge, except as follows:

1 (i) if the documentation is requested in physical printed form, the
2 original equipment manufacturer may impose a charge for the reasonable
3 actual costs of preparing and sending the copy; or

4 (ii) if the original equipment manufacturer imposes a charge for
5 the documentation to an authorized repair provider in the normal course of
6 business, the manufacturer shall make the documentation available to an
7 independent repair provider or owner for the same cost and upon the same
8 terms.

9 (5) “Forestry equipment” means non-divisible equipment, implements,
10 accessories, and contrivances used directly and principally in harvesting timber
11 or for on-site processing of wood forest products, including equipment used to
12 construct, maintain, or install infrastructure necessary to and associated with a
13 logging operation.

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

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

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

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

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

14 (11) “Trade secret” has the same meaning as in 9 V.S.A. § 4601.
15 § 4052. REQUIREMENTS.

16 (a)(1) For agricultural or forestry equipment, and parts for such equipment,
17 sold or used in this State, an original equipment manufacturer shall make
18 available, for purposes of diagnosis, maintenance, or repair of such equipment,
19 to any independent repair provider, or to the owner of ~~electronics-enabled~~
20 agricultural or forestry equipment manufactured by or on behalf of, or sold or
21 otherwise supplied by, the original equipment manufacturer, on fair and

1 reasonable terms, documentation, parts, and tools, required for the diagnosis,
2 maintenance, or repair of such equipment and parts for such equipment,
3 including any updates to information.

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

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

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

15 § 4053. ENFORCEMENT

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

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

21 § 4054. LIMITATION

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

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

11 **Sec. 3. EFFECTIVE DATE**

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

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(Committee vote: _____)

Representative _____

FOR THE COMMITTEE