

1 H.81

2 Representatives X move that move that House concur in the Senate the  
3 proposal of amendment with further proposal of amendment by striking out all  
4 after the enacting clause and inserting in lieu thereof the following:

5 Sec. 1. FINDINGS AND PURPOSE

6 (a) Findings. The General Assembly finds:

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

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

14 (B) The 2023 U.S. Food and Agriculture Industries Economic Impact  
15 Study found that the food and agriculture industries in Vermont were  
16 associated with nearly 104,000 jobs, \$5.2 billion in wages, and \$19.3 billion in  
17 economic output.

18 (C) The Vermont Sustainable Jobs Fund estimates that Vermont’s  
19 forest products industry generates an annual economic output of \$1.4 billion  
20 and supports 10,500 jobs.

1           (2) Agricultural and forestry activity varies by season, is weather-  
2           dependent, and is heavily reliant on having access to increasingly sophisticated  
3           agricultural and forestry equipment. Vermont farmers’ and foresters’ access to  
4           safe and reliable equipment is essential to timely planting, cultivating, tilling,  
5           and harvesting of produce, protein, grain, timber, and other wood forest  
6           products.

7           (3) The COVID-19 pandemic further highlighted the increased and  
8           ongoing need for functional agricultural and forestry equipment as individuals  
9           in Vermont increasingly rely on the equipment to guarantee access to food and  
10           wood products during periods of supply chain disruption, raw material and  
11           commodities shortages, and heightened food insecurity.

12           (4) Authorized repair providers are important Vermont businesses that  
13           play a critical role for farmers and foresters by offering access to diagnosis,  
14           maintenance, and repair services for agricultural and forestry equipment.

15           (5) In general, original equipment manufacturers and authorized repair  
16           providers are able to provide independent repair providers and owners with  
17           adequate access to necessary parts for agricultural and forestry equipment.  
18           However, in order to maintain complex safety and emissions systems,  
19           limitations on software-related repairs implemented by original equipment  
20           manufacturers have led to frustration for some customers.

1           (6) Due to workforce, seasonal workload, and geographic constraints,  
2           authorized repair providers are not always able to meet the demand for timely  
3           diagnosis, maintenance, or repair services to farmers and foresters in this State.

4           (7) As for many Vermont employers, critical workforce shortages  
5           prevent authorized repair providers from operating at full staff capacity, which  
6           can contribute to costly delays in performing diagnosis, maintenance, and  
7           repair services.

8           (8) The need for more accessible and affordable repair options is felt  
9           more acutely among specific sectors of the population, notably Vermont  
10           residents in more rural and remote areas.

11           (9) Original equipment manufacturer shops and authorized repair  
12           providers are sometimes not located close to owners or independent repair  
13           providers, which may require owners or independent repair providers to travel  
14           long distances for repair or to be without functioning agricultural or forestry  
15           equipment for longer periods of time.

16           (10) Owners may be capable of performing their own diagnosis,  
17           maintenance, and repair services for their equipment.

18           (11) Independent repair providers play a vital role in Vermont's  
19           economy. Providing access to information, parts, and diagnostic and repair  
20           tools is essential in contributing to a competitive repair market and allowing  
21           independent repair shop employees to fix equipment safely.

1           (12) Extending the useful life and efficient operation of equipment may  
2           provide additional benefits for farmers, foresters, and the environment.

3           (A) Computerized components of modern agricultural and forestry  
4           equipment include precious metals that are finite.

5           (B) Emissions of agricultural and forestry equipment are better  
6           regulated and limited by functional software and hardware computer elements,  
7           thereby increasing the need for access to timely and effective repairs to ensure  
8           optimal functionality that is within the confines of federal regulatory  
9           limitations and existing technology needed to preserve intellectual property.

10          (13) Broader distribution of the information, tools, and parts necessary  
11          to repair modern agricultural and forestry equipment may shorten repair times,  
12          lengthen the useful lives of the equipment, lower costs for users, and benefit  
13          the environment.

14          (b) Purpose. The purpose of this act is to ensure equitable access to the  
15          parts, tools, and documentation that are necessary for independent repair  
16          providers and owners to perform timely repair of agricultural and forestry  
17          equipment in a safe, secure, reliable, and sustainable manner.

18          Sec. 2. SHORT TITLE

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

20          Sec. 3. 9 V.S.A. chapter 106 is added to read:

21            CHAPTER 106. AGRICULTURAL AND FORESTRY EQUIPMENT;

1 FAIR REPAIR

2 § 4051. DEFINITIONS

3 As used in this chapter:

4 (1) “Agricultural equipment” means a device, part of a device, or an  
5 attachment to a device used principally off road and designed solely for an  
6 agricultural purpose, including a tractor, trailer, or combine; implements for  
7 tillage, planting, or cultivation; and other equipment principally associated  
8 with livestock or crop production, horticulture, or floriculture.

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

17 (B) An original equipment manufacturer that offers the services of  
18 diagnosis, maintenance, or repair of its own equipment and that does not have  
19 an arrangement described in subdivision (A) of this subdivision (2) with an  
20 unaffiliated individual or business shall be considered an authorized repair  
21 provider with respect to such equipment.

1           (3) “Documentation” means any manual, diagram, reporting output,  
2           service code description, schematic diagram, security code, password, or other  
3           guidance or information, whether in an electronic or tangible format, used to  
4           perform the services of diagnosis, maintenance, or repair of agricultural or  
5           forestry equipment.

6           (4) “Forestry equipment” means nondivisible equipment, implements,  
7           accessories, and contrivances used principally off road and designed solely for  
8           harvesting timber or for on-site processing of wood forest products necessary  
9           to and associated with a logging operation.

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

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

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

18           (B) not legally binding; and

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

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 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) “Repair” means to maintain, diagnose, or fix agricultural or forestry  
12           equipment resulting in the equipment being returned to its original equipment  
13           manufacturer specifications, which includes security updates and corrections to  
14           defects and safety issues. “Repair” does not include the ability to:

15           (A) permanently modify from original equipment specifications the  
16           embedded software or code;

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

19           (C) download or access the source code of any embedded software or  
20           code, unless doing so is required to return the equipment to the original

1 equipment specifications which includes security updates and corrections to  
2 defects and safety issues.

3 (11) “Tools” means any software program, hardware implement, or  
4 other apparatus used for diagnosis, maintenance, or repair of agricultural or  
5 forestry equipment, including software or other mechanisms required to restore  
6 the product to its original manufacturer specifications, including any updates.

7 (12) “Trade secret” has the same meaning as provided in 18 U.S.C.  
8 § 1839.

9 § 4052. AVAILABILITY OF PARTS, TOOLS, AND DOCUMENTATION

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

11 (1) An original equipment manufacturer shall offer for sale or otherwise  
12 make available to an independent repair provider or owner the parts, tools, and  
13 documentation for diagnosis or repair.

14 (2) If agricultural or forestry equipment includes an electronic security  
15 lock or other security-related function that must be unlocked, enabled, or  
16 disabled to perform diagnosis, maintenance, or repair of the equipment, an  
17 original equipment manufacturer may require a secured authorization process  
18 in order to prevent access to the source code or infringement of intellectual  
19 property in software or hardware owned by the original equipment  
20 manufacturer or licensed to the original equipment manufacturer by a third  
21 party and subject to terms of use.

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

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

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

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

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

18           § 4053. ATTORNEY GENERAL ENFORCEMENT; NOTICE

19           (a) A person who violates a provision of this chapter commits an unfair and  
20           deceptive act in trade and commerce in violation of section 2453 of this title.

1       **(b) The Attorney General has the same authority to make rules, conduct**  
2       **civil investigations, enter into assurances of discontinuance, and bring civil**  
3       **actions as provided under 9 V.S.A. chapter 63, subchapter 1.**

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

8       § 4054. APPLICATION; LIMITATIONS

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

11       (b) This chapter does not alter the terms of any arrangement described in  
12       subdivision 4051(2)(A) of this title in force between an authorized repair  
13       provider and an original equipment manufacturer, including the performance  
14       or provision of warranty or recall repair work by an authorized repair provider  
15       on behalf of an original equipment manufacturer pursuant to such arrangement,  
16       except that any provision governing such an arrangement that purports to  
17       waive, avoid, restrict, or limit the original equipment manufacturer's  
18       obligations to comply with this chapter is void and unenforceable.

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

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

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

4           (2) excluding a tool needed for a security update or correcting a defect  
5           or safety issue, access any function of a tool that enables the independent  
6           repair provider or owner to change the settings for a piece of agricultural or  
7           forestry equipment in a manner that brings the equipment out of compliance  
8           with the original manufacturer specifications or any applicable federal, state, or  
9           local safety or emissions laws,; or

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

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

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

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

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

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

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

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

12        Sec. 4. EFFECTIVE DATE

13          This act shall take effect on January 1, 2026.