

H.81 as it passed the House	H.81 Senate Agriculture Amendment
<p align="center"><b>***Sec. 1. FINDINGS AND PURPOSE***</b></p>	<p align="center"><b>***Sec. 1. FINDINGS AND PURPOSE***</b></p>
<p><u>(a) Findings. The General Assembly finds:</u></p> <p><u>(1) The Vermont food, agriculture, and forest sectors are significant components of the State’s economy, its rural heritage, and its identity as a State.</u></p> <p><u>(A) According to the Working Lands Enterprise Initiative, about 20 percent of Vermont’s land is used for agriculture, while another 78 percent is forested. In surveys conducted by the Initiative, over 97 percent of Vermonters expressed that they value the working landscape.</u></p> <p><u>(B) The 2023 U.S. Food and Agriculture Industries Economic Impact Study found that the food and agriculture industries in Vermont were associated with nearly 104,000 jobs, \$5.2 billion in wages, and \$19.3 billion in economic output.</u></p> <p><u>(C) The Vermont Sustainable Jobs Fund estimates that Vermont’s forest products industry generates an annual economic output of \$1.4 billion and supports 10,500 jobs.</u></p> <p><u>(2) Agricultural and forestry activity varies by season, is weather-dependent, and is heavily reliant on having access to increasingly sophisticated agricultural and forestry equipment. Vermont farmers’ and foresters’ access to safe and reliable equipment is essential to timely planting, cultivating, tilling, and harvesting of produce, protein, grain, timber, and other wood forest products.</u></p> <p><u>(3) The COVID-19 pandemic further highlighted the increased and ongoing need for functional agricultural and forestry equipment as individuals in Vermont increasingly rely on the equipment to guarantee access to food and wood products during periods of supply chain disruption, raw material and commodities shortages, and heightened food insecurity.</u></p> <p><u>(4) Authorized repair providers are important Vermont businesses that play a critical role for farmers and foresters by offering access to diagnosis, maintenance, and repair services for agricultural and forestry equipment.</u></p> <p><u>(5) In general, original equipment manufacturers and authorized repair providers are able to provide independent repair providers and owners with adequate access to necessary parts for agricultural and forestry equipment. However, the</u></p>	<p><u>(a) Findings. The General Assembly finds:</u></p> <p><u>(1) The Vermont food, agriculture, and forest sectors are significant components of the State’s economy, its rural heritage, and its identity as a State.</u></p> <p><u>(A) According to the Working Lands Enterprise Initiative, about 20 percent of Vermont’s land is used for agriculture, while another 78 percent is forested. In surveys conducted by the Initiative, over 97 percent of Vermonters expressed that they value the working landscape.</u></p> <p><u>(B) The 2023 U.S. Food and Agriculture Industries Economic Impact Study found that the food and agriculture industries in Vermont were associated with nearly 104,000 jobs, \$5.2 billion in wages, and \$19.3 billion in economic output.</u></p> <p><u>(C) The Vermont Sustainable Jobs Fund estimates that Vermont’s forest products industry generates an annual economic output of \$1.4 billion and supports 10,500 jobs.</u></p> <p><u>(2) Agricultural and forestry activity varies by season, is weather-dependent, and is heavily reliant on having access to increasingly sophisticated agricultural and forestry equipment. Vermont farmers’ and foresters’ access to safe and reliable equipment is essential to timely planting, cultivating, tilling, and harvesting of produce, protein, grain, timber, and other wood forest products.</u></p> <p><u>(3) The COVID-19 pandemic further highlighted the increased and ongoing need for functional agricultural and forestry equipment as individuals in Vermont increasingly rely on the equipment to guarantee access to food and wood products during periods of supply chain disruption, raw material and commodities shortages, and heightened food insecurity.</u></p> <p><u>(4) Authorized repair providers are important Vermont businesses that play a critical role for farmers and foresters by offering access to diagnosis, maintenance, and repair services for agricultural and forestry equipment.</u></p> <p><u>(5) In general, original equipment manufacturers and authorized repair providers are able to provide independent repair providers and owners with adequate access to necessary parts for agricultural and forestry equipment. However, in order to</u></p>

continued movement toward computerized agricultural and forestry equipment means that independent repair providers and owners do not have full access to the software, codes, and other information necessary to perform all of the diagnosis, maintenance, and repair services required to ensure equipment remains operational.

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

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

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

(9) Original equipment manufacturer shops or authorized repair providers are often located in a small number of locations found in larger communities, which may require technicians and users to travel long distances for repair or be without functioning agricultural or forestry equipment for long periods of time.

(10) Many owners are capable of performing diagnosis, maintenance, and repair services for their equipment, but often lack sufficient access to information necessary to perform repairs. Limits placed on software and operating systems, including capping the number of users and employing proprietary diagnostic and repair programs, have resulted in the pirating of agricultural and forestry equipment software and the hacking of equipment, endangering farmers and foresters in the conduct of their work and potentially causing additional air pollution and environmental harm.

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

(12) In addition to providing better access for timely repair, extending the useful life and efficient operation of equipment can ensure

maintain complex safety and emissions systems. Limitations on software-related repairs implemented by original equipment manufacturers have led to frustration for some customers

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

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

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

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

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

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

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

<p><u>additional benefits for farmers, foresters, and the environment.</u></p> <p><u>(A) Computerized components of modern agricultural and forestry equipment include precious metals that are finite, and unnecessary early disposal can be avoided with greater accessibility to proper and affordable repair.</u></p> <p><u>(B) Emissions of agricultural and forestry equipment are better regulated and limited by functional software and hardware computer elements, thereby increasing the need for access to timely and effective repairs to ensure optimal functionality.</u></p> <p><u>(13) Broader distribution of the information, tools, and parts necessary to repair modern agricultural and forestry equipment may shorten repair times, lengthen the useful lives of the equipment, lower costs for users, and benefit the environment.</u></p> <p><u>(b) Purpose. The purpose of this act is to ensure equitable access to the parts, tools, and documentation that are necessary for independent repair providers and owners to perform timely repair of agricultural and forestry equipment in a safe, secure, reliable, and sustainable manner.</u></p>	<p><u>(A) Computerized components of modern agricultural and forestry equipment include precious metals that are finite.</u></p> <p><u>(B) Emissions of agricultural and forestry equipment are better regulated and limited by functional software and hardware computer elements, thereby increasing the need for access to timely and effective repairs to ensure optimal functionality that is within the confines of federal regulatory limitations and existing technology needed to preserve intellectual property.</u></p> <p><u>(13) Broader distribution of the information, tools, and parts necessary to repair modern agricultural and forestry equipment may shorten repair times, lengthen the useful lives of the equipment, lower costs for users, and benefit the environment.</u></p> <p><u>(b) Purpose. The purpose of this act is to ensure equitable access to the parts, tools, and documentation that are necessary for independent repair providers and owners to perform timely repair of agricultural and forestry equipment in a safe, secure, reliable, and sustainable manner.</u></p>
<p>Sec. 2. SHORT TITLE  <u>This act may be cited as the Fair Repair Act.</u></p> <p>Sec. 3. 9 V.S.A. chapter 106 is added to read:  <u>CHAPTER 106. AGRICULTURAL AND FORESTRY EQUIPMENT;  FAIR REPAIR</u></p> <p><b><u>*** § 4051. DEFINITIONS ***</u></b></p>	<p>Sec. 2. SHORT TITLE  <u>This act may be cited as the Fair Repair Act.</u></p> <p>Sec. 3. 9 V.S.A. chapter 106 is added to read:  <u>CHAPTER 106. AGRICULTURAL AND FORESTRY EQUIPMENT;  FAIR REPAIR</u></p> <p><b><u>*** § 4051. DEFINITIONS ***</u></b></p>
<p><u>As used in this chapter:</u></p> <p><u>(1) “Agricultural equipment” means a device, part of a device, or an attachment to a device used principally off road and designed solely for an agricultural purpose, including a tractor, trailer, or combine; implements for tillage, planting, or cultivation; and other equipment principally associated with livestock or crop production, horticulture, or floriculture.</u></p> <p><u>(2)(A) “Authorized repair provider” means an individual or business that has an arrangement with the original equipment manufacturer under which the original equipment manufacturer grants to the</u></p>	<p><u>As used in this chapter:</u></p> <p><u>(1) “Agricultural equipment” means a device, part of a device, or an attachment to a device used principally off road and designed solely for an agricultural purpose, including a tractor, trailer, or combine; implements for tillage, planting, or cultivation; and other equipment principally associated with livestock or crop production, horticulture, or floriculture.</u></p> <p><u>(2)(A) “Authorized repair provider” means an individual or business that has an arrangement with the original equipment manufacturer under which the original equipment manufacturer grants to the</u></p>

individual or business a license to use a trade name, service mark, or other proprietary identifier for the purposes of offering the services of diagnosis, maintenance, or repair of equipment under the name of the original equipment manufacturer or other arrangement with the original equipment manufacturer to offer such services on behalf of the original equipment manufacturer.

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

(3) “Documentation” means any manual, diagram, reporting output, service code description, schematic diagram, security code, password, or other guidance or information, whether in an electronic or tangible format, that an original equipment manufacturer provides to an authorized repair provider to assist with the services of diagnosis, maintenance, or repair of agricultural or forestry equipment.

(4) “Forestry equipment” means nondivisible equipment, implements, accessories, and contrivances used directly and principally off road in harvesting timber or for on-site processing of wood forest products, including equipment used to construct, maintain, or install infrastructure necessary to and associated with a logging operation.

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

“Memorandum of understanding” was not defined in the House version.

individual or business a license to use a trade name, service mark, or other proprietary identifier for the purposes of offering the services of diagnosis, maintenance, or repair of equipment under the name of the original equipment manufacturer or other arrangement with the original equipment manufacturer to offer such services on behalf of the original equipment manufacturer.

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

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

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

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

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

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

(B) not legally binding; and

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

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

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

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

“Repair” was not defined in the House version.

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

(10) “Trade secret” means information, including a formula, pattern, compilation, program, device, method, technique, or process, that:

(A) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and

(B) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

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

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

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

(10) “Repair” means to maintain, diagnose, or fix agricultural or forestry equipment resulting in the equipment being returned to its original equipment manufacturer specifications. “Repair” does not include the ability to:

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

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

(C) download or access the source code of any embedded software or code.

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

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

\*\*\* § 4052. AVAILABILITY OF PARTS, TOOLS, AND DOCUMENTATION \*\*\*

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

(1) An original equipment manufacturer shall offer for sale or otherwise make available to an independent repair provider or owner the parts, tools, and documentation that the original equipment manufacturer offers for sale or otherwise makes available to an authorized repair provider.

(2) If agricultural or forestry equipment includes an electronic security lock or other security-related function that must be unlocked or disabled to perform diagnosis, maintenance, or repair of the equipment, an original equipment manufacturer shall make available to an independent repair provider or owner any parts, tools, and documentation necessary to unlock or disable the function and to reset the lock or function after the diagnosis, maintenance, or repair is complete.

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

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

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

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

(3) a requirement that a part, tool, or documentation be registered, paired with, or approved by the original equipment manufacturer or an authorized repair provider before the part, tool, or documentation is operational; or

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

\*\*\* § 4052. AVAILABILITY OF PARTS, TOOLS, AND DOCUMENTATION \*\*\*

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

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

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

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

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

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

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

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

(3) as it existed in the House version was deleted

<p>(c) Costs; limitations. An original equipment manufacturer shall offer for sale or otherwise make available parts, tools, and documentation to an independent repair provider or an owner at a cost:</p> <p>(1) that is fair to both parties, considering the agreed-upon conditions, promised quality, and timeliness of delivery; and</p> <p>(2) that does not discourage or disincentivize repairs to be made by an owner or an independent repair provider.</p>	<p>(c) Costs; limitations as it existed in the House version was deleted</p>
<p>*** § 4053. ENFORCEMENT ***</p> <p>(a) A person who violates a provision of this chapter commits an unfair and deceptive act in trade and commerce in violation of section 2453 of this title.</p> <p>(b) The Attorney General has the same authority to make rules, conduct civil investigations, enter into assurances of discontinuance, and bring civil actions as provided in chapter 63, subchapter 1 of this title.</p> <p>(c) as it exists in the Senate version did not exist in the House version</p> <p>(c) An independent repair provider or owner shall not:</p> <p>(1) modify agricultural or forestry equipment to deactivate a safety notification system, except as necessary to provide diagnosis, maintenance, or repair services;</p> <p>(2) access any function of a tool that enables the independent repair provider or owner to change the settings for a piece of agricultural or forestry equipment in a manner that brings the equipment out of compliance with any applicable federal, State, or local safety or emissions law, except as necessary to provide diagnosis, maintenance, or repair services; or</p> <p>(e), (f), and (g) did not exist in the House version</p>	<p>*** § 4053. ATTORNEY GENERAL ENFORCEMENT; NOTICE ***</p> <p>(a) A violation of this section shall be deemed a violation of the Consumer Protection Act, 9 V.S.A. chapter 63, provided that no private right of action shall arise from the provisions of this act. The Attorney General has the same authority to make rules, conduct civil investigations, enter into assurances of discontinuance, and bring civil actions as provided under 9 V.S.A. chapter 63, subchapter 1.</p> <p>(b) The Attorney General shall be notified in writing by the original equipment manufacturer not later than 30 days after a memorandum of understanding expires or has been terminated, withdrawn, or canceled by an original equipment manufacturer subject to this chapter.</p> <p>(c) This chapter does not alter the terms of a lease of agricultural or forestry equipment between an owner and another person.</p> <p>(d) An independent repair provider or owner shall not:</p> <p>(1) modify agricultural or forestry equipment to temporarily deactivate safety notification systems, except as necessary to provide diagnosis, maintenance, or repair services;</p> <p>(2) access any function of a tool that enables the independent repair provider or owner to change the settings for a piece of agricultural or forestry equipment in a manner that brings the equipment out of compliance with the original manufacturer specifications or any applicable federal, state, or local safety or emissions laws; or</p>

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

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

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

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

(g) This chapter shall not apply to an original equipment manufacturer that has entered into a memorandum of understanding that substantially incorporates the provisions of this chapter. In the event that a memorandum of understanding expires or is terminated, withdrawn, or canceled, the original equipment manufacturer shall be required to comply with all provisions of this chapter no later than 30 days upon such termination, withdrawal, cancellation, or expiration.

\*\*\* Sec. 4. EFFECTIVE DATE \*\*\*

This act shall take effect on January 1, 2025.

\*\*\* Sec. 4. EFFECTIVE DATE \*\*\*

This act shall take effect on January 1, 2026.