

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Commerce and Economic Development 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 report of the Committee on Agriculture, Food Resiliency,  
6 and Forestry be amended by striking out all after the enacting clause and  
7 inserting in lieu thereof the following:

8 Sec. 1. FINDINGS AND PURPOSE

9 (a) Findings. The General Assembly finds:

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

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

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

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

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

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

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

18           (5) In general, original equipment manufacturers and authorized repair  
19           providers are able to provide independent repair providers and owners with  
20           adequate access to necessary parts for agricultural and forestry equipment.  
21           However, the continued movement toward computerized agricultural and

1 forestry equipment means that independent repair providers and owners do not  
2 have full access to the software, codes, and other information necessary to  
3 perform all of the diagnosis, maintenance, and repair services required to  
4 ensure equipment remains operational.

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

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

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

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

20 (10) Many owners are capable of performing diagnosis, maintenance,  
21 and repair services for their equipment, but often lack sufficient access to

1 information necessary to perform repairs. Limits placed on software and  
2 operating systems, including capping the number of users and employing  
3 proprietary diagnostic and repair programs, have resulted in the pirating of  
4 agricultural and forestry equipment software and the hacking of equipment,  
5 endangering farmers and foresters in the conduct of their work and potentially  
6 causing additional air pollution and environmental harm.

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

11 (12) In addition to providing better access for timely repair, extending  
12 the useful life and efficient operation of equipment can ensure additional  
13 benefits for farmers, foresters, and the environment.

14 (A) Computerized components of modern agricultural and forestry  
15 equipment include precious metals that are finite, and unnecessary early  
16 disposal can be avoided with greater accessibility to proper and affordable  
17 repair.

18 (B) Emissions of agricultural and forestry equipment are better  
19 regulated and limited by functional software and hardware computer elements,  
20 thereby increasing the need for access to timely and effective repairs to ensure  
21 optimal functionality.

1           (13) Broader distribution of the information, tools, and parts necessary  
2           to repair modern agricultural and forestry equipment will shorten repair times,  
3           lengthen the useful lives of the equipment, lower costs for users, and benefit  
4           the environment.

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

9           Sec. 2. SHORT TITLE

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

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

12           CHAPTER 106. AGRICULTURAL AND FORESTRY EQUIPMENT;  
13           FAIR REPAIR

14           § 4051. DEFINITIONS

15           As used in this chapter:

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

1           (2)(A) “Authorized repair provider” means an individual or business  
2           that has an arrangement with the original equipment manufacturer under which  
3           the original equipment manufacturer grants to the individual or business a  
4           license to use a trade name, service mark, or other proprietary identifier for the  
5           purposes of offering the services of diagnosis, maintenance, or repair of  
6           equipment under the name of the original equipment manufacturer or other  
7           arrangement with the original equipment manufacturer to offer such services  
8           on behalf of the original equipment manufacturer.

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

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

20           (4) “Forestry equipment” means nondivisible equipment, implements,  
21           accessories, and contrivances used directly and principally off road in

1 harvesting timber or for on-site processing of wood forest products, including  
2 equipment used to construct, maintain, or install infrastructure necessary to and  
3 associated with a logging operation.

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

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

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

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

18 (9) “Tools” means any software program, hardware implement, or other  
19 apparatus used for diagnosis, maintenance, or repair of agricultural or forestry  
20 equipment, including software or other mechanisms that provision, program, or

1 pair a new part, calibrate functionality, or perform any other function required  
2 to bring the product back to fully functional condition, including any updates.

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

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

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

11 § 4052. AVAILABILITY OF PARTS, TOOLS, AND DOCUMENTATION

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

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

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



1 the function and to reset the lock or function after the diagnosis, maintenance,  
2 or repair is complete.

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

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

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

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

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

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

3           (c) Costs; limitations. An original equipment manufacturer shall offer for  
4           sale or otherwise make available parts, tools, and documentation to an  
5           independent repair provider or an owner at a cost:

6           (1) that is fair to both parties, considering the agreed-upon conditions,  
7           promised quality, and timeliness of delivery; and

8           (2) that does not discourage or disincentivize repairs to be made by an  
9           owner or an independent repair provider.

10          § 4053. ENFORCEMENT

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

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

16          § 4054. APPLICATION; LIMITATIONS

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

19          (b) This chapter does not alter the terms of any arrangement described in  
20          subdivision 4051(2)(A) of this title in force between an authorized repair  
21          provider and an original equipment manufacturer, including the performance

1 or provision of warranty or recall repair work by an authorized repair provider  
2 on behalf of an original equipment manufacturer pursuant to such arrangement,  
3 except that any provision governing such an arrangement that purports to  
4 waive, avoid, restrict, or limit the original equipment manufacturer's  
5 obligations to comply with this chapter is void and unenforceable.

6 (c) An independent repair provider or owner shall not:

7 (1) modify agricultural or forestry equipment to deactivate a safety  
8 notification system, except as necessary to provide diagnosis, maintenance, or  
9 repair services;

10 (2) access any function of a tool that enables the independent repair  
11 provider or owner to change the settings for a piece of agricultural or forestry  
12 equipment in a manner that brings the equipment out of compliance with any  
13 applicable federal, State, or local safety or emissions law, except as necessary  
14 to provide diagnosis, maintenance, or repair services; or

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

18 Sec. 4. EFFECTIVE DATE

19 This act shall take effect on January 1, 2025.  
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(Committee vote: \_\_\_\_\_)

\_\_\_\_\_

Representative \_\_\_\_\_

FOR THE COMMITTEE