



453 Exchange St., Middlebury, VT 05753 (802)388-4967

Senate Committee on Economic Development, Housing and General Affairs  
Vermont General Assembly  
State Capitol – Montpelier, VT

20 February 2023

### **Opposition to S.46**

Chair Ram Hinsdale, Vice-Chair Clarkson and Committee Members

Our company was founded over fifty years ago and, like most of our customers, we are a proud, family owned and operated business. We serve agricultural and construction customers in Vermont from our locations in Middlebury, St. Albans, Derby, Berlin, and Essex.

Farm and construction equipment are highly sophisticated machines and every year we invest heavily in training people on the latest developments in industry innovation that allows our customers to be more productive and better environmental stewards than ever before. We also make routine investments in the latest technology and the product support infrastructure that enables us to support our customer's success.

**Our company, and our major suppliers, support our farmer's and contractor's right-to-repair.** We do so by making available the same technical manuals, parts manuals, schematics and diagnostic software that our technicians use in their daily work. The manuals are not free-of-charge to our company and should not be free-of-charge to the public. Likewise, our leading suppliers make the same diagnostic software tools that our technicians use available to farmers and contractors on a subscription basis – this is the same way our company accesses the software tools and again, these are not free-of-charge.

A mandate that our OEM supplier's sell repair parts direct to customers and repair providers is a disastrous proposition for our business and the off-road equipment businesses across Vermont. This is a "lose / lose" proposition for everyone involved. Were this provision to pass, our company would no longer have the economic incentive to stock repair parts at our five Vermont locations if customers can purchase them direct from the manufacturer at the same price. Customers would suffer from diminished support and our business would no



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longer have the economic capacity to employ parts experts that support customers in their daily operations. Likewise, dealer financial viability would be negatively impacted, and the effect would likely be further loss of the strong dealer infrastructure Vermont currently enjoys.

It's important to note that data suggests customers and independents already do a great deal of repair on their own. Our records reveal that 64% of the service parts we sell are sold "over the counter" to customers and independent service providers that use those parts for their own repairs. Furthermore, our parts and service staff work with customers and local independent repair providers to make sure they have the parts they need and equally important, the parts information and guidance they need to identify and install the correct parts for the job.

Last biennium when a similar Bill was before the House and Senate AG committees, the Vermont Farm Bureau surveyed its membership on the need for the legislation. The lack of demand and now the national movement of manufacturers to ensure needed manuals and tools are available for our customers negates a need to legislate this at the state level within the AG equipment industry and you will note the Vermont Farm Bureau has stated such.

As you may know, New York recently passed a Digital Fair Repair Act (S4104-A/A7006-B) into law. The New York law exempts heavy-duty off-road equipment. The exemption language reads as follows:

*Manufacturers, distributors, importers or dealers of all off-road (non-road) equipment, including without limitation, farm and utility tractors, farm implements, farm machinery, forestry equipment, industrial equipment, utility equipment, construction equipment, compact construction equipment, road-building equipment, mining equipment, turf, yard and garden equipment, outdoor power equipment, portable generators, marine, all-terrain sports and recreational vehicles (including racing vehicles), stand-alone or integrated stationary or mobile internal combustion engines, other power sources, (including without limitation, generator sets, electric/battery and fuel cell power), power tools, and any tools, technology, attachments, accessories, components and repair parts for any of the foregoing.*



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New York recognized the vast differences in products that were to be included in their original right-to-repair bill. The NY bill sponsors also recognized the potential environmental impact of tampering with emissions control systems on engines and the potential safety hazards of equipment that has been tampered with.

I respectfully ask that the New York language be considered for inclusion in S.46 and that the bill in its current state not pass out of Committee as written.

Thank you for your time and consideration. I am available at any time to meet committee members to answer questions and discuss S.46 in detail.

Brian Carpenter  
President  
Champlain Valley Equipment