

1 H.161

2 Introduced by Representatives Donahue of Northfield, Priestley of Bradford,
3 Marcotte of Coventry, and Tomlinson of Winooski

4 Referred to Committee on

5 Date:

6 Subject: Commerce and trade; consumer protection; right to repair

7 Statement of purpose of bill as introduced: This bill proposes to require
8 original equipment manufacturers of certain agricultural, electronic, and
9 forestry equipment to make available the parts, tools, and documentation
10 necessary to repair such equipment to independent repair providers and owners
11 of the equipment.

12 An act relating to the Vermont Fair Repair Act

13 It is hereby enacted by the General Assembly of the State of Vermont:

14 Sec. 1. PURPOSE

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

19 Sec. 2. SHORT TITLE

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

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

2 CHAPTER 106. VERMONT FAIR REPAIR ACT

3 § 4051. DEFINITIONS

4 As used in this chapter:

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

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

18 (B) An original equipment manufacturer that offers the services of
19 diagnosis, maintenance, or repair of its own equipment shall be considered an
20 authorized repair provider with respect to such equipment.

21 (3) “Documentation” means any manual, diagram, reporting output,
22 service code description, schematic diagram, security code, password, or other

1 guidance or information, whether in an electronic or tangible format, used to
2 perform the services of diagnosis, maintenance, or repair of agricultural,
3 electronic, or forestry equipment.

4 (4) “Embedded software” means any programmable software
5 instructions delivered with, or loaded onto, equipment or a part of equipment
6 to allow the equipment or part to operate or communicate with other computer
7 hardware. Embedded software includes all relevant patches and fixes that the
8 manufacturer makes for the purposes of diagnosis, maintenance, or repair of
9 equipment.

10 (5) “Electronic equipment” means digital electronic equipment or a part
11 for such equipment originally manufactured for distribution and sale in the
12 United States.

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

18 (7) “Independent repair provider” means a person operating in this State,
19 either through a physical business location or through a mobile service that
20 offers on-site repairs in the State, that does not have an arrangement described
21 in subdivision (2) of this section with an original equipment manufacturer and

1 that is engaged in the services of diagnosis, maintenance, or repair of
2 agricultural, electronic, or forestry equipment.

3 (8) “Medical device” means an instrument, apparatus, implement,
4 machine, contrivance, implant, or other similar or related article, including a
5 component part or accessory, as defined in the federal Food, Drug, and
6 Cosmetic Act, 21 U.S.C. § 321, as amended, that is intended for use in the
7 diagnosis of disease or other conditions or in the cure, mitigation, treatment, or
8 prevention of disease in humans or other animals.

9 (9) “Motor vehicle” means any vehicle that is designed for transporting
10 persons or property on a street or highway and is certified by the motor vehicle
11 manufacturer under all applicable federal safety and emissions standards and
12 requirements for distribution and sale in the United States. The term does not
13 include a motorcycle or a recreational vehicle or manufactured home equipped
14 for habitation.

15 (10) “Motor vehicle dealer” means a person who, in the ordinary course
16 of business, is engaged in the business of selling or leasing new motor vehicles
17 to a person pursuant to a franchise agreement and who is engaged in the
18 diagnosis, service, maintenance, or repair of motor vehicles or motor vehicle
19 engines pursuant to such franchise agreement.

20 (11) “Motor vehicle manufacturer” means a person engaged in the
21 business of manufacturing or assembling new motor vehicles.

1 (12) “Original equipment manufacturer” means a person who, in the
2 ordinary course of business, is engaged in the business of selling or leasing
3 new agricultural, electronic, or forestry equipment manufactured by or on
4 behalf of the person.

5 (13) “Owner” means a person who owns or leases agricultural,
6 electronic, or forestry equipment used in this State;

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

12 (15) “Parts pairing” means the practice by original equipment
13 manufacturers of using software to identify component parts through a unique
14 identifier.

15 (16) “Repair” means to maintain, diagnose, or fix agricultural,
16 electronic, or forestry equipment, resulting in the equipment being restored to
17 its fully functional condition, including any updates. “Repair” does not include
18 the ability to download or access the source code of any embedded software or
19 code, unless doing so is required to restore the equipment to its fully functional
20 condition, including any updates.

21 (17) “Tools” means any software program, hardware implement, or
22 other apparatus used for diagnosis, maintenance, or repair of agricultural,

1 electronic, or forestry equipment, including software or other mechanisms that
2 provision, program, or require parts pairing; calibrate functionality; or perform
3 any other function required to bring the product back to fully functional
4 condition, including any updates.

5 (18) “Trade secret” has the same meaning as provided in 18 U.S.C.
6 § 1839.

7 § 4052. REQUIREMENTS

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

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

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

20 (3) An original equipment manufacturer may satisfy its obligation to
21 make parts, tools, and documentation available to an independent repair

1 provider or owner through an authorized repair provider that consents to sell or
2 make available parts, tools, or documentation on behalf of the manufacturer.

3 (b) Unreasonable costs or burdens prohibited. Under the terms governing
4 the sale or provision of parts, tools, and documentation pursuant to subsection
5 (a) of this section, an original equipment manufacturer shall not impose on an
6 independent repair provider or owner an additional cost or burden that is not
7 reasonably necessary within the ordinary course of business or is designed to
8 be an impediment on the independent repair provider or owner, including:

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

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

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

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

20 § 4053. APPLICATION; LIMITATIONS

21 (a) This chapter does not:

1 (1) require an original equipment manufacturer to divulge a trade secret
2 to an independent repair provider or owner; or

3 (2) alter the terms of:

4 (A) any arrangement described in subdivision 4051(2)(A) of this title
5 in force between an authorized repair provider and an original equipment
6 manufacturer, including the performance or provision of warranty or recall
7 repair work by an authorized repair provider on behalf of an original
8 equipment manufacturer pursuant to such arrangement, except that any
9 provision governing such an arrangement that purports to waive, avoid,
10 restrict, or limit the original equipment manufacturer's obligations to comply
11 with this chapter is void and unenforceable; or

12 (B) a lease of agricultural, electronic, or forestry equipment between
13 an owner and another person.

14 (b) An independent repair provider or owner shall not:

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

18 (2) obtain or use parts, tools, or documentation to evade or violate
19 emissions, copyright, trademark, or patent laws or to engage in any other
20 illegal activity.

21 (c)(1) Subject to subdivision (2) of this subsection, original equipment
22 manufacturers and authorized repair providers are not liable for negligent

1 repairs completed by independent repair providers or owners, including
2 negligent repairs that cause:

3 (A) damage to agricultural, electronic, or forestry equipment that
4 occurs during such repairs; and

5 (B) an inability to use, or the reduced functionality of, agricultural,
6 electronic, or forestry equipment resulting from the negligent repair.

7 (2) A repair completed by an independent repair provider or owner
8 resulting in damage to equipment or the reduced functionality of equipment as
9 set forth in subdivision (1) of this subsection that was caused by a defective or
10 faulty part, tool, or documentation provided by the original equipment
11 manufacturer shall not be considered a negligent repair.

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

15 (e) If an original equipment manufacturer is a party to a memorandum of
16 understanding that is related to the right to repair of agricultural, electronic, or
17 forestry equipment, the original equipment manufacturer shall still be obligated
18 to meet the requirements established in this chapter

19 § 4054. EXCLUSIONS

20 (a) This chapter shall not apply to a motor vehicle manufacturer, a product
21 or service of a motor vehicle manufacturer, or a motor vehicle dealer.

1 (b) This chapter shall not require a manufacturer of a medical device to
2 implement a provision of this chapter that is not permitted under the federal
3 Food, Drug, and Cosmetic Act or any other federal law that supersedes this
4 section.

5 § 4055. ATTORNEY GENERAL ENFORCEMENT; NOTICE

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

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

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

15 Sec. 4. EFFECTIVE DATE

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