



Before the

Rhode Island General Assembly

House Corporations Committee

Regarding H 6141

AGRICULTURAL EQUIPMENT RIGHT TO REPAIR ACT

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Statement of

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My name is Allen Schaeffer, and I am the executive director of the Diesel Technology Forum, and we are a national not-for profit educational organization headquartered in Frederick MD, established in 2000. We are proud to represent manufacturers of diesel engines and equipment, components, petroleum, and renewable biofuel producers. A list of our members is attached.

I am here today in opposition to House Legislation H 6141 "Agricultural Equipment Right to Repair Act." because if enacted, it has the potential to

- make Rhode Island's air dirtier, not cleaner,
- jeopardize heavy-equipment safety for both farmers, vehicle service technicians and the public that share roads, and
- facilitate a practice that is in clear violation of the federal Clean Air Act.

Diesel engines and fuel power nearly all farm tractors and machines thanks to its unique combination of efficiency, power, durability, and reliability. Over the last two decades, manufacturers of diesel engines and equipment have invested billions of dollars to reduce emissions and meet federal clean air requirements. As a result, today new diesel models of everything from highway tractor trailers to construction machines, work boats and farm tractors now achieve near zero emissions for both nitrogen oxides and particulate matter, as you can see in the attached chart in my written testimony.

These advances in lower emissions are a key part of Rhode Island's clean air plan and achieving the national ambient air quality standards.

Achieving near-zero emissions in new diesel engines is accomplished thanks to a highly integrated system controlled by engine control units -- ensuring on a real time basis that the engine performance of the machine is meeting EPA emissions standards and is in compliance with safety requirements.

This legislation seeking to provide so called Right to Repair opportunities could also be titled “Right to Tamper,” as it seeks to legitimize and facilitate the modifying of farm equipment software. Being sold as “boosting performance for pennies on the dollar compared to the cost of buying higher-capacity equipment.” In fact, this practice may void the equipment’s warranty along with insurance agreements and is illegal in the U.S.

The U.S. Clean Air Act requires equipment manufacturers to build in base level tampering safeguards in emissions control units/engine computers. Restricting access to software that defines the machine’s emissions performance is part of these base level tampering safeguards put in place to meet the requirements of the Act.

The US EPA Air Enforcement Division (“AED”) released a substantial [report](#) in November of 2020 regarding the incidence of tampering with diesel engines and emissions controls.

- Based on EPA enforcement actions, they identified that a substantial portion of the subject vehicles identified by USEPA enforcement actions had software modifications to their engine emissions control units.
- As a result, USEPA AED estimates that the emissions controls have been removed from more than 550,000 diesel pickup trucks nationwide in the last decade. As a result of this tampering, more than 570,000 tons of excess oxides of nitrogen (NOx) and 5,000 tons of particulate matter (PM) will be emitted by these tampered trucks over the lifetime of the vehicles.
- The report did not directly quantify the extent of tampering in off road engines and equipment, but it notes that **...AED has reason to believe this conduct occurs within most or all categories of vehicles and engines , including commercial trucks, passenger vehicles , pickup trucks, motorcycles , forestry equipment, and agricultural equipment.**
- These findings highlight the challenging and real problem of what happens when there is tampering with engine emissions controls; passage of H 6141 would only further enable, facilitate, and encourage this practice.

We are also concerned with the impacts of modifying engine emission controls on the safety and reliability / durability of altered machines and how these alterations impact other machine functions that are controlled by software. Modifying engine computers to boost performance can result in higher operating speeds, exhaust temperatures, overheating, accelerated wear and stress on high-speed parts, like power take off’s and hydraulic and belt-driven systems. There are also a number of documented cases of personal injury from tractors and machines where unauthorized engine programming modifications were made.

Summary

Manufacturers are implementing plans to facilitate more access to tools and documentation needed to ensure safe and legal repair for ag equipment owners. Taking matters into your own hands in repairing large and powerful machinery poses unnecessary risks to current and future owners and operators.

We urge your vote in opposition to H 6141 because this legislation takes us the wrong way for clean air and the wrong way on safety.

Thank you for the opportunity to appear today.

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