

Submitted Electronically
Written Testimony of the Truck and Engine Manufacturers Association
By
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House Bill 7095

Public Hearing of the House Innovation, Internet and Technology Committee
Rhode Island Legislature

January 25, 2024

Chair Baginski, First Vice Chair Handy, Second Vice Chair Carson and Members of the Committee:

The Truck and Engine Manufacturers Association (EMA) opposes Rhode Island House Bill 7095 (H. 7095). EMA represents the world's leading manufacturers of commercial vehicles as well as on- and off-road engines used in several applications, including: trucks; buses; construction and farm equipment; locomotives; marine vessels; lawn and garden equipment; and stationary generators.

H. 7095, the "Digital Electronics Right to Repair Act", is simply too broad in its scope. Among other things, it will create unnecessary confusion, complications, burdens, and risks for Rhode Island users and manufacturers alike; and will lead to significant adverse safety, environmental, and security impacts.

The bill's overly broad definition of "digital electronic equipment" would apply to many of the engines, vehicles and equipment manufactured by EMA's members. It is imperative that the bill specifically exclude "motor vehicles," and similarly complex machinery (e.g., off-road engines and equipment). EMA opposes the bill unless it is amended to specifically exclude these vehicles and products.

As currently written, the bill would allow anyone – whether trained or not – to access and change the microprocessors on engines, vehicles and equipment that control critical safety, emissions, and performance systems. Thus creating significant adverse unintended consequences to the products manufactured by EMA's members. Such legislation simply is not needed for on-road vehicles, engines, vehicles, or off-road equipment, and creates a solution in search of a problem.

The correct use of service information, such as diagnostic and repair tools, on the complex machinery manufactured by EMA members requires highly trained and skilled personnel. Allowing unfettered access to service information to untrained individuals will undermine the integrity of the equipment and allow for safety features on heavy equipment – such as braking

systems and electronic stability (anti-rollover) controls – to be altered and compromised. Unfettered access also will increase the likelihood that untrained personnel will intentionally or unintentionally, and illegally, alter or disable federally mandated emission control systems. Such illegal tampering is increasingly occurring today, especially in both on- and off-highway equipment and trucks, and the U.S. EPA has undertaken a National Compliance Initiative¹ to respond to the numerous instances of tampering² across the country, some of which include the use of software to alter or disable digitally controlled emission technologies. Tampering contributes substantial excess pollution that harms public health and air quality.

Further, the bill fails to contain meaningful safeguards or restrictions that would prevent or mitigate the risk of cybersecurity incidents. Widespread and unfettered access to service information increases the opportunity for hackers to improperly obtain or tamper with such information – creating enormous cybersecurity risks. Today’s legislation will simply make those efforts easier.

Lastly, we note that the State of New York recently recognized the significant adverse unintended consequences that would be created in including heavy machinery in legislation focused on consumer electronic products. New York Assembly bill A.7006B/S.4104A, which was signed into law in 2022, is similar in scope to H 7095 and excludes motor vehicles and offroad equipment (*see Sec. 4(a)-(c)*). Similar exclusions to Digital Equipment legislation were adopted in Minnesota and California. We specifically request that H. 7095 be amended to exclude:

- (a) Motor vehicles; and
- (b) Off-road (non-road) equipment including without limitation farm and utility tractors, farm implements, farm machinery, forestry 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, or other power sources , including without limitation generator sets, electric/battery and fuel cell power, power tools, any tools, technology, attachments, accessories, components and repair parts for the foregoing.

For all these reasons, EMA requests that any digital equipment right to repair legislation clarifies that all on- and off-highway engines, vehicles, and equipment are expressly excluded. Those products are not the type of consumer goods that appear to be the focus of this bill, and they are already covered by existing state and federal laws and existing manufacturer commitments. H 7095 otherwise will create enormous safety, environmental, and security risks and liability exposure for owners and the general public. Finally, the bill will limit the availability – and/or increase the costs – of products sold in Rhode Island, as those products will be forced to have unique characteristics.

¹ U.S. EPA National Compliance Initiative: <https://www.epa.gov/enforcement/national-compliance-initiative-stopping-aftermarket-defeat-devices-vehicles-and-engines>

² U.S. EPA Clean Air Act Vehicle and Engine Enforcement Case Resolutions:

<https://www.epa.gov/enforcement/clean-air-act-vehicle-and-engine-enforcement-case-resolutions>

Thank you for the opportunity to provide our comments. I would be happy to answer any questions following the hearing at: phanz@emamail.org, (312) 929-1979.