



January 22<sup>nd</sup>, 2024

The Honorable Jacquelyn Baginski

Chairperson, House Innovation, Internet and Technology Committee  
82 Smith Street  
Providence, RI 02903

**Re: H. 7095: Digital Right to Repair – Oppose or Amend**

Dear Chair Baginski and Members of the House Innovation, Internet and Technology Committee:

The Marine Retailers Association of the Americas (MRAA), National Marine Manufacturers Association (NMMA), and the Rhode Island Marine Trade Association (RIMTA) would like to thank you for the opportunity to express our opposition to H.7095 as written and ask that the Committee oppose the bill or add language to exclude all off-road vehicles.

The Marine Retailers Association of the Americas (MRAA) is the leading trade association of North American small businesses that sell and service new and pre-owned recreational boats and operate marinas, boatyards, and accessory stores. MRAA represents more than 1,300 individual member retail locations and conducts advocacy efforts on their behalf, including 7 members located in Rhode Island.

The National Marine Manufacturers Association (NMMA) is the premier trade association for the U.S. recreational boating industry, representing nearly 1,300 marine businesses, including recreational boat, marine engine, and accessory manufacturers. Our members are often U.S.-based small businesses, many of which are family owned. NMMA members collectively manufacture more than 85 percent of the marine products sold in the U.S. Furthermore, the recreational boating industry has a \$230 Billion impact on the nation's economy and in communities across the country, with 812,000 American jobs across 36,000 U.S.-based marine businesses. In Rhode Island alone, NMMA members contribute \$1.7 Billion in annual economic impact, supporting 7,069 jobs and 381 businesses.

The Rhode Island Marine Trade Association (RIMTA) is a non-profit trade organization serving approximately 300-member businesses within the Rhode Island recreational boating industry, including but not limited to, marine manufacturers, marine construction, marinas and boatyards, diving and salvage, vessel operators and professional services. RIMTA works to support industry and businesses by partnering with associations such as NMMA and MRAA to ensure the stability and growth of the marine industry in RI and upholding its importance within the emerging Blue Economy.

While we do not question the good intentions of this legislation, we are concerned that the broadly tailored language in H.7095 could negatively affect the marine industry and if passed as written, H.7095 would pose serious threats to the marine industry and the consumers that enjoy and depend on our products. For example, this legislation will allow access to software, specialized tools, and mechanical, electrical, safety, and emissions features that are incorporated into marine engine and marine electronic products. Granting consumers access to such information could result in modifications to the engine that could run afoul with federal emissions and safety requirements or compromise important technology crucial for navigation and the safe operation of a vessel, like radar and GPS.

We do not oppose a consumer's right to make repairs to their equipment, and in fact many of our members work with their customers to provide the required parts and train them to do simple repairs on their watercrafts independently. We do, however, oppose providing access to the proprietary code of the products our members sell due to concerns of safety, emissions, compliance, and product reliability. Providing this level of access to untrained individuals would negatively affect the products' compliance with federal safety, security, and emission standards. Not only is there a risk of putting consumers and the boating public in danger, but marine manufacturers are also required by U.S. Environmental Protection Agency (EPA), under 40 CFR 1068.50 to ensure "adjustable parameters"<sup>1</sup> are unable to be tampered with by unauthorized technicians, ensuring engines maintain their safety and emissions protocols.

However, the extent of that access is strictly limited by the EPA and the Clean Air Act. To comply with the Clean Air Act and meet EPA mandates, recreational marine engine manufactures cannot provide access to pollution control devices. In guidance issued on Nov. 23, 2020, by Susan Parker Bodine, EPA Assistant Administrator for Enforcement and Compliance Assurance, tampering with emission controls is a federal offense. Manufacturers are the gatekeepers. They must ensure that access to the software controlling an engine's emissions only be made available to those who can be expected to adhere with Clean Air Act mandates and to keep emission tolerances within federally required levels. Original Engine Manufacturers must limit access to these highly regulated sections of software to factory-trained and certified technicians, and even then, some access points are only available to representatives of the manufacturer. As Ms. Bodine states in the official guidance:

*"Section 203(a)(3) of the [Clean Air] Act prohibits tampering with emissions controls and prohibits making and selling products with a principal effect of bypassing, defeating, or rendering inoperative emissions controls. The prohibitions in section 203(a)(3) apply to all vehicles, engines, and equipment subject to the certification requirements under section 206 of the Act, or other design requirements in the Act or regulations. This includes... nonroad vehicles (e.g., all-terrain vehicles, off-road motorcycles) and nonroad engines (e.g., marine engines, engines used in generators, lawn and garden equipment, agricultural equipment, construction equipment). Certification requirements include those for exhaust or "tailpipe" emissions, evaporative emissions, and onboard diagnostic systems."*<sup>2</sup>

H. 7095 must account for federal anti-tampering requirements as well as emissions and safety standards.

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<sup>1</sup> [eCFR :: 40 CFR 1068.50 -- Adjustable parameters.](#)

<sup>2</sup> Bodine, S. (2020, November 23). Memorandum: EPA Tampering Policy: The EPA Enforcement Policy on Vehicle and Engine Tampering and Aftermarket Defeat Devices under the Clean Air Act. United States Environmental Protection Agency. Washington D.C.

Furthermore, equipment manufacturers and dealerships have invested millions of dollars in educating and training their technicians, and obtaining certifications that qualify them to properly service their products. Marine manufacturers put their confidence in certified dealers and technicians to maintain a given engine throughout its lifetime. This legislation would undercut this important aspect of marine dealer's businesses while potentially putting consumers and customers at risk.

For these reasons, MRAA, NMMA, and RIMTA oppose H. 7095 and respectfully asks you to protect the boating industry in Rhode Island by either opposing this bill or adding the below language to exempt marine engines and components.

*Requested Amendment Language*

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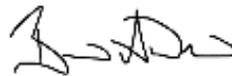
*Manufacturers, distributors, importers or dealers of all off-road (non-road) equipment, including without limitation, farm and utility tractors, farm implements, farm machinery, forestry equipment, industrial equipment, utility equipment, construction equipment, compact construction equipment, road-building 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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Thank you for your time and the consideration of our request. Please contact us if you have any questions about our position or recommendations.



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CC: First Vice Chair Arthur Handy  
Second Vice Chair Lauren H Carson  
Members of the House Committee on Innovation, Internet and Technology