

MN Farm Equipment Dealers Oppose the A3 Parts & Repair Amendment to HF1404

**Written Testimony before Minnesota House Judiciary Finance & Civil Law Committee
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Madame Chair and members of the committee, my name is Matthew Larsgaard and I am appearing in OPPOSITION to the A3 amendment to House File 1404 on behalf of the Pioneer Equipment Dealers Association (Pioneer EDA). Our Association represents approximately 150 of Minnesota's farm equipment dealerships.

The issue contemplated within this amendment is commonly labeled and misrepresented as "Fair Repair" or "Right to Repair" legislation. Proponents are typically after more than just the resources necessary to perform repairs. "Right to Repair" legislation is usually an attempt to gain access to otherwise unavailable machine operating software that would allow the illegal and/or unsafe modification of equipment. To be clear, we are not suggesting that this is the intent of the legislation's sponsors. We are simply providing some background on this issue as this type of legislation is not unique; it has been introduced in legislatures around the nation over the last many years.

Right to Repair advocates have repeatedly lobbied for overly-broad laws that can allow access to the software that manages the technology on equipment. Much of the legislation requires manufacturers to provide access to embedded code which even our own dealers do not have access to. We are concerned that these characteristics are also embodied within A3 amendment before you today.

There is no question that the owners of farm equipment have the right to repair their equipment. However, neither our dealers nor anyone else should be allowed to modify embedded code. Modifying the embedded code can create problems, such as the equipment failing to meet customer expectations, exceeding acceptable emissions levels, or possibly creating an unsafe environment for those operating the equipment and those near the equipment. Modifications also create unknown liability issues for the individuals modifying the code, dealers who take in trade modified equipment for resale, and the subsequent owners of a modified unit.

The A3 amendment to HF1404 applies to all manufacturers who sell or lease, in this state, new products with digital electronic equipment and who are *engaged in the business of selling or leasing to any individual or business new digital electronic equipment manufactured by or on behalf of the original equipment manufacturer.*

This language would essentially allow any individuals – trained or untrained, malicious or unintended – who claim to be involved in service and repair to have access to embedded code. This unfettered access may create new and unnecessary risks. Those individuals may attempt to access this information through network systems that may be less secure than those of manufacturers and authorized repair providers. More widespread, and less secure, access also increases opportunities for hackers to improperly obtain—or even tamper with—such information.

Most new tractors and combines have some level of autonomous capability; some can drive themselves with no human interaction. Providing access to the embedded code risks both intentional harm and accidental harm.

Several years ago, a pair of expert hackers were given a federal grant to determine if they could “hack” into a modern automobile and take control of certain components like braking, acceleration, windows, and more – the hackers were successful. Another group of hackers took control of a car’s computers through cellular telephone and Bluetooth connections. Regarding farm equipment, a worst case scenario might be one of a hacker being able to take control of a 500 horsepower tractor and drive it wherever or into anything they wish. Compromised embedded code could also result in the unintentional movement or malfunction of equipment without any malignant human actor involved. Compromised or defective embedded code was one of the contributing factors in the deaths that resulted from the “unintended acceleration” of Toyota vehicles several years ago.

One other issue is within the used equipment market. Regarding some farm equipment, there is not the ability to track or create a history of modifications made to that specific equipment. For example, a person could “tune” a tractor’s engine from 400 h.p. to 475 h.p., run it for several hundred hours, tune it back to 400 h.p., and then trade it in to a dealer. That engine was operated well outside of reasonable, manufacturer specifications, and the integrity of the engine and other machine components could be severely compromised. As a result, the farmer that ends up purchasing that equipment from a dealer could have the engine “blow up” or experience a different catastrophic failure due to the unknown modification. In addition, the warranty on the engine and drivetrain components would have become void because of the modification....and the farmer who purchased that equipment may have no clue that there is no longer a warranty on that machine. That unsuspecting farmer would then be stuck with paying for a new engine that could cost up to \$70,000. Likewise, the dealer could be faced with consumer protection issues.

We have several other questions and concerns regarding this legislation:

Lines 2.1 – 2.3 and lines 2.14 - 2.16. Manufacturers must provide any *manual, diagram, reporting output, service code description, schematic diagram, or similar information provided to an authorized repair provider to affect the services of diagnosis, maintenance, or repair of digital electronic equipment...including any relevant updates* all **“free of charge”** to independent repair providers and owners of products. We do not believe it is reasonable for the government to require private businesses to provide goods or services “free of charge” to the public.

Lines 1.21 – 1.23 & 2.8 – 2.13 and lines 3.19 – 3.21 and lines 3.23 – 3.28. This language requires manufacturers to provide all digital electronic equipment and service/repair parts to equipment owners and independent repair shops at wholesale or dealer cost! ***This would include, for example, requiring Case IH to provide these same products at wholesale to its competing John Deere dealerships!** This concept would not only effectively erode the viability of the manufacturers’ distribution system, it would also essentially strip all dealers of their ability to make any meaningful profit on electronic equipment and service/repair parts. It would likely crush that portion of their business. This would be especially devastating during downturns in the Ag economy when there is little to no money in equipment sales. **A John Deere dealer would be defined as an “independent repair provider” when dealing with Case IH equipment.*

Owners and independent repair shops absolutely have the “right to repair” equipment. Not only do they have that “right,” we strongly agree with and support their ability to perform repairs themselves.

Several years ago our industry was informed that farmers wanted more access to repair resources...and we responded! Contrary to what has been promoted in the public sector; farmers and independent repair shops currently have access to the repair parts, information, software, and tools necessary to perform the vast majority of equipment repairs. In fact, many dealerships currently provide all of these resources to the general public! For example, see www.https://deerequipment.com/do-it-yourself-repairs/.

Our Association supports customers’ right to repair their equipment. As farm equipment continues to become more sophisticated, we will continue to actively work in support of our industry’s commitment to continue to make available the tools and information equipment owners and independent repair shops need to repair equipment.

As previously mentioned, manufacturers and dealers currently make available almost all of the repair resources farmers and independent repair shops need to conduct repairs. Thus, this legislation is wholly unnecessary for farm equipment IF the goal is simply to gain access to the information and tools necessary to repair equipment.

An equipment dealer’s success is tied directly to both the manufacturer’s and the customer’s success. As I described, we believe that the unintended consequences of this proposal will negatively affect manufacturers, dealers, farmers, and the public at-large.

Thank you for the opportunity to provide this testimony.

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