



North American Vermeer Dealers Association  
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## **SB 412 Position Statement**

The proposed legislation is unnecessary and divisive with far-reaching unintended consequences. At the outset, construction equipment should not be part of this bill. Construction equipment is not a consumer good. Construction equipment purchases involve large transactions that are primarily business-to-business with sophisticated parties on both sides.

Concerning construction equipment, what this bill intends to achieve is already available to end users. Diagnostic equipment, manuals, tools and software updates are accessible already from manufacturers. In addition, major construction equipment manufacturers have committed to providing greater access to diagnostic capabilities by 2021 as part of an industry commitment to improve the ability of customers to perform their own repairs.

End users of construction equipment have the right to repair, not modify. This bill would open up the ability to modify equipment in a way that would jeopardize the safety of our dealer's employees, the security of customer's data, and the protections provided for proprietary information.

Finally, if passed, this bill would likely be held unconstitutional on several grounds. First, it would violate both the state and federal contracts clause. Equipment dealers and manufacturers have long-established agreements that provide exclusive areas of responsibility for selling and servicing equipment. Second, it would most likely be pre-empted by federal copyright law, the federal Defend Trade Secrets Act, and the federal Computer Fraud and Abuse Act.

This bill would create an entirely new regulatory framework that would needlessly jeopardize proprietary information, create unforeseeable changes to existing contracts between equipment dealers and original equipment manufacturers, and would very likely not withstand constitutional scrutiny for several reasons.

For these reasons, we urge you to oppose SB 412.

Eric Wareham  
North American Vermeer Dealers Association

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