



Two Maryland Locations:

New Windsor, MD

Pocomoke, MD

House Economic Matters Committee
Maryland General Assembly
Annapolis, MD 21401

2/23/2022

Good afternoon Chair Wilson, Vice-Chair Crosby, and Committee Members. For the record, my name is Brad Hershey, and I am here to testify in **opposition to House Bill 562**.

I'm shareholder and Store Manager of Hooper, Incorporated. Our company was started eighty years ago by my grandfather, Bud Hooper, and we have steadily grown to employ over 350 of our friends and neighbors in parts, service, sales, and general management. Like most of our customers, we are a proud family owned business.

We are a Case IH, Kubota, and JCB farm equipment dealership with locations in New Windsor and Pocomoke. We have additional business locations in Delaware, Pennsylvania and Virginia that help serve Maryland farm, construction and residential consumers.

The farm machinery Hooper sells is indeed an "integral link" in the world's food supply chain. Our business is built on customer support and increasing farmer productivity. Large tractors and combines are highly sophisticated machines and each year we invest heavily in training, technology and infrastructure that enables us to support the machine uptime that is vital to our customer's success.

Our company, and our major suppliers, support our customers, farmers and contractors **right-to-repair**.

Right now, we and our major equipment supplier partners, make available to our farmer customers – on a subscription basis - the diagnostic and information tools they need to allow them, or an independent repair provider, to service their machinery if they choose to do so.

These tools are the same documentation, manuals, and information that our own technicians use. The electronic diagnostic tools – the diagnostic software –

provides the same output and service code information that our technicians see while diagnosing and repairing equipment remotely or on the customer's site.

The electronic diagnostic tools that we make available to customers and independent repair providers is available on a subscription basis and includes electronic access to all technical and service parts information that our own technicians use. Likewise, we obtain these tools on a subscription basis from our OEMs.

If a Maryland customer of ours wants these tools, we support them in securing and using them in a safe and productive manner.

Likewise, with each new model year, manufacturers are providing significant advancements in our dealership ability to remotely access a customer's tractor or combine to rapidly help understand and deal with any repair issues without traveling on site.

With regards to the parts provisions in the bill. The parts provisions are a "lose / lose" proposition for everyone involved. Under "fair and reasonable terms" identified in the bill, our OEMs would be compelled to provide service parts to the public at the same price that our dealership pays.

Under this scenario customers, dealers and OEMs will suffer:

- Customer support suffers as our dealership no longer has a financial incentive to hold parts in inventory, including during peak planting, harvest, and construction times when customer needs are the greatest.
- Customer support suffers with the reduction in parts sales, as our dealership will no longer be able to employ the parts people that provide critical information and support to customers and independent repair providers that insures, they have the right parts at the right time.
- Dealers will suffer because without the financial contribution that parts sales make to the bottom line, the survival of the dealer community in Maryland is severely compromised.
- Equipment pricing will increase as customers pay less for parts, but if dealers in Maryland are to survive, customers will have to pay more for machines.
- OEMS will suffer as their business model of local dealers with expertise in local markets is upended. It will take years and great expense for OEMs to develop systems that allow ordering, selling, delivering and administration

of direct parts sales to customers and others. As a result, prices of machines will increase.

It's important to note that data suggests customers and independents do a great deal of repair on their own. Across all our dealership locations, 77% of the service parts we sell are sold "over the counter" to customers and independent service providers that install those parts on their own. Every day we work with customers and local independent repair providers to make sure they have the parts they need and equally important, the parts information and guidance they need to identify and install the correct parts for the job.

HB 562 contains ambiguous language that will lead to contention

For example: Page 7, lines 2 through 5: A FARM EQUIPMENT MANUFACTURER MAY NOT KNOWINGLY MISREPRESENT OR WITHHOLD FARM EQUIPMENT PART NUMBERS FROM A CUSTOMER FOR THE PURPOSE OF PREVENTING THE CUSTOMER FROM SHOPPING FOR A COMPETITIVE PRICE ON A REPLACEMENT PART. It's unclear what this means and further, how it can be administered.

Another example: The language: "FARM EQUIPMENT" MEANS EQUIPMENT THAT IS USED OR INTENDED FOR USE IN A FARM OPERATION. This extends the bill into certain types of construction equipment, ATVs, drones, milking systems, irrigation systems, power generation systems, marine products for aqua-culture and more. All of which are types of equipment are used in Maryland farming. The basic definition is ambiguous and over-reaching.

An additional example: The term: "FAIR AND REASONABLE TERMS" INCLUDES ANY RELEVANT UPDATES TO DOCUMENTATION AT NO CHARGE. This asks the OEMs to set-up a process for updating documentation for anyone that requests it, and do so at no charge. Meanwhile, our dealership pays a subscription fee for documentation and diagnostic software.

"At no charge" means the price of machinery will have to rise for the consumer to offset OEM costs.

Finally, the bill states that it "shall not alter the terms of existing contracts between OEMs and authorized dealers." It's very difficult for us to understand how it can't and won't interfere with existing contracts, particularly in the areas of environmental compliance, potential warranty issues and the destruction of

our service parts revenue and profit contribution. The bill also raises cross-border issues as we work with customers in surrounding states.

Finally, I want to add that the bill should give us all concern as we rapidly move toward autonomous equipment and other highly technical aspects of precision farming practices.

We support our customer's right-to-repair. We take customer productivity very seriously and that's why our industry have taken the many steps that we have to make the diagnostic tools, information and parts available to customers who can self-determine where, who and when they want to find service for their machinery.

I respectfully ask that HB 562 does not pass out of Committee.

Thank you for your time and consideration.