



Midwest-SouthEastern EQUIPMENT DEALERS ASSOCIATION

To: House Committee on Economic Matters
From: Nick George, Midwest SouthEastern Equipment Dealers Association
Date: February 23, 2022, 1:00 PM
Re: HB0562 - Consumer Protection, Right to Repair Agricultural Equipment - Oppose

The Midwest SouthEastern Equipment Dealers Association respectfully opposes House Bill 562 and urges members of this committee to table the measure. The bill is unnecessary, exposes dealers and customers to increased safety concerns, creates increased liability exposure, and sets prices on machinery parts.

The Bill is Not Necessary. Almost everything a customer needs to diagnose or repair their equipment is already available. This includes operators and technical manuals, diagnostic routines, tools, parts, schematics, and electronic service capabilities. Our members want customers to be successful and providing these services is a means to that end.

Currently the sale of parts to customers and independent repair shops is a large part of an equipment dealers' business. Therefore, dealers keep millions of dollars of parts in inventory so that they are readily available locally. Besides the benefit of immediate availability of parts and service, dealers extend credit, provide expertise, perform warranty and returns, and make sure the right parts are in stock when they are most needed.

Under the "fair and reasonable terms" definition in the bill, OEMs are required to sell service parts to anyone in the public at the same price that a dealership pays. This creates a lose / lose situation for all. Dealers lose an incentive to stock parts and keep knowledgeable people on staff, and customers lose because they will no longer have the dealer knowledge, services and local parts inventory to support them during critical seeding and harvest time or construction projects. Clearly, customers, dealers and OEMs will suffer from this government mandated over-reach.

Customer support will diminish as our dealerships will no longer be able justify employing well trained and knowledgeable 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.

Increased Safety Concerns. Though we support a customer's right to repair, we do not support a right to make software modifications. This bill creates a pathway to the machine operating software - a path currently not available to anyone but OEMs - which creates a tremendous safety concern. Dealers agree

that safety is always a priority, and that improperly modifying the software on a machine can potentially cause anyone using or working on a machine to be injured or even killed.

Today, no dealer has open access to the manufacturer's software, nor do they need it. These machines are very sophisticated and dealers spend hundreds of thousands of dollars every year ensuring that employees have the proper training and tools to keep the customer up and running – but to do so safely.

Engine "chipping", is an example of a software modification that creates a potential safety hazard. As EPA regulations have expanded, we see a significant rise in engine "chipping" – where a customer has increased the horsepower of an engine, often far beyond the manufacturer's specs. It seems harmless but the results could be dangerous. Not only could a customer be injured operating the modified machinery, but a dealer could be injured working on a machine without knowing that it has been modified.

Increased Liability Exposure. This bill creates the potential for increased liability due to the unsafe practices mentioned above and the lack of consumer protection information. In cases of "chipping" or defeating emissions software, or any software modification, dealers generally have no way of recognizing that a machine was ever tampered with. After the unit software has been tampered with, it may or may not be set back to manufacturers specs prior to being traded in and without the dealers knowing WHAT was changed. In that case dealers could potentially be misrepresenting the equipment to the next buyer since they are unaware of the extent of damage done to useful life when it was run under modification. This undermines the overall integrity of the used equipment market and opens customers and dealers to possible liability.

For the reasons stated above, we respectfully ask that the committee table this bill as being unnecessary, and may increase exposure to safety and liability issues for customers and dealers.

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