

ANTHONY G. BROWN
Attorney General

CANDACE MCLAREN LANHAM
Chief of Staff

CAROLYN QUATTROCKI
Deputy Attorney General



WILLIAM D. GRUHN
Chief
Consumer Protection Division

STATE OF MARYLAND
OFFICE OF THE ATTORNEY GENERAL
CONSUMER PROTECTION DIVISION

Writer's Fax No.

Writer's Direct Dial No.

February 22, 2023

To: The Honorable C.T. Wilson
Chair, Economic Matters Committee

From: Elizabeth J. Bonomo
Law Clerk

Re: House Bill 712 - Consumer Protection - Right to Repair - Farm Equipment (SUPPORT)

The Consumer Protection Division of the Office of the Attorney General supports House Bill 712, sponsored by Delegate Hornberger and sixteen co-sponsors, which would guarantee the Right to Repair farm equipment at the repair facility of the farmer's choosing. The attached article describes the problem that is still faced by Maryland's farmers, even in light of a memorandum of understanding (MOU) signed last month between the American Farm Bureau Federation and John Deere.

House Bill 712 ensures that Maryland consumers needing repairs to their farm equipment are not restricted to "authorized" repair facilities but, instead, may obtain repairs from independent repair facilities as well, thereby lowering repair costs for Maryland consumers and providing competition in the marketplace. The bill requires original equipment manufacturers, such as John Deere, to make available to independent repair shops and the owners of digital farm equipment the necessary documentation, parts, tools or updates to information or embedded software so that they are able to perform repairs to the equipment. While the Farm Bureau MOU represents a step in the right direction for John Deere, it leaves Maryland farmers without recourse if its terms are violated. House Bill 712 ensures that John Deere will be held to their word, and holds other manufacturers that are not party to the MOU to the same standard.

Manufacturers' intellectual property rights will not be harmed by this bill. House Bill 712 specifies that an original equipment manufacturer is not required to divulge trade secrets. The Division also believes that the manufacturers' contentions that introducing competition in farm equipment repair will harm consumers' privacy and security is without foundation. There is no reason to believe that repairs made by an independent repair facility would put consumers' data at risk any more than repairs at an authorized repair facility.

The Honorable C.T. Wilson
House Bill 712
February 22, 2023
Page Two

The opponents of Right to Repair legislation raise concerns about the repair instructions being used by unscrupulous repair facilities and farmers to disable pollution controls or otherwise improperly modify their farm equipment. However, the potential that a handful of individuals might engage in this kind of illegal activity does not justify denying Maryland farmers the opportunity to get their farm equipment repaired promptly and at a competitive price.

For these reasons, we ask that the Economic Matters Committee return a favorable report on House Bill 712.

cc: The Honorable Kevin Hornberger
Co-sponsors



BUSINESS

John Deere vows to open up its tractor tech, but right-to-repair backers have doubts

January 10, 2023 · 5:00 AM ET

JOE HERNANDEZ



A John Deere autonomous tractor is on display at CES 2022 in Las Vegas, Nevada.

Alex Wong/Getty Images

Like many parts of modern life, tractors have gone high-tech, often running on advanced computer systems.

But some manufacturers are tight-lipped about how these electronics work, making it difficult or nearly impossible for farmers and independent repair shops to diagnose and fix problems with the equipment.

An agreement by John Deere may finally give farmers a greater hand in repairing the company's products.

The American Farm Bureau Federation announced Sunday that it had reached a memorandum of understanding with John Deere promising farmers and independent repair shops information they would need to service the company's equipment.

The company said the agreement "reaffirms the longstanding commitment Deere has made to ensure our customers have the diagnostic tools and information they need to make many repairs to their machines."

But some in the agricultural field worry that the latest agreement doesn't go far enough and is a veiled attempt to stave off the passage of "right-to-repair" legislation at the federal and state levels.

"There's no commitment from anyone to enforce it," Walter Schweitzer, president of the Montana Farmers Union, told NPR.

BUSINESS

Standoff Between Farmers And Tractor Makers Intensifies Over Repair Issues

Schweitzer, a third-generation farmer and rancher, questioned why John Deere would reach a private agreement and pointed to a provision that allows the company to pull out of the memorandum if any right-to-repair legislation is enacted.

"If they truly, honestly wanted to give farmers and ranchers and independent repair shops the right to repair equipment, why are they so afraid of legislation that authorizes that?" he added.

The deal comes after years of pressure from farmers and right-to-repair advocates urging John Deere to make it easier to identify and repair problems with its popular

yellow and green tractors and farm equipment.

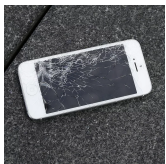
John Deere says it wants to empower customers to repair their products

Under the memorandum of understanding, farmers and independent repair shops will be able to buy access to John Deere's software, manuals, and other information need to service their equipment.

Previously, farmers generally had to wait for technicians from the company and authorized repair shops for fixes.

The federation and John Deere have also agreed to meet at least twice a year to discuss any issues related to the deal.

Sam Kieffer, the American Farm Bureau Federation's vice president of public policy, told NPR that the group preferred to reach a private agreement with the company.



POLITICS

President Biden Wants To Make It Easier For You To Get Your Broken Smartphone Fixed

"Our members asked us to pursue a private sector agreement, and our members wanted to avoid a patchwork quilt of different rules across state lines, recognizing that manufacturers — not just Deere, but manufacturers in general — will need to be operating at the national level, even internationally," Kieffer said.

The federation agreed to encourage state farm bureaus to "refrain from introducing, promoting, or supporting federal or state 'Right to Repair' legislation that imposes obligations beyond the commitments in this MOU."

Under the agreement, John Deere can also protect its trade secrets and bar users from overriding safety features in its equipment.

Skeptics applaud the idea but say the company has to follow through

Kevin O'Reilly, the right-to-repair campaign director at the Public Interest Research Group, said the memorandum of understanding appeared to be a step forward but noted that Deere and other manufacturers have made similar promises in the past.

"If this document, if this MOU, completely comes through on what it's stated to do, then this would be a win for farmers," O'Reilly told NPR. "But we're not totally convinced that that will be the case."

John Deere noted that it currently provides customers some diagnostic tools to identify problems with their equipment.

But according to Schweitzer, many farmers can be blocked from diagnosing or fixing problems with their tractors, combines, and other equipment and are forced to wait for a John Deere technician to be available.

He said in the past he's had to wait weeks for John Deere to fix his tractor, a significant chunk of time for farm equipment to be out of commission.



TED RADIO HOUR

How we can repair, repurpose, and reimagine our junk — instead of throwing it out

"Rain can wreck a crop in two, three hours. A hailstorm can destroy your whole crop in just a matter of minutes," Schweitzer said. "If you're sitting there with a \$100,000 or a

\$500,000 piece of equipment that you can't repair, then you've got a paperweight. What good is that?"

Efforts to enshrine the right to repair in law are gaining momentum

President Biden issued an executive order in July 2021 encouraging the Federal Trade Commission to make rules cracking down on manufacturers that limit users and third party companies from repair their electronics.

Shortly after, the FTC said it would devote more resources to combating unlawful repair restrictions.



TECHNOLOGY

Apple will soon sell you parts and tools to fix your own iPhone or Mac at home

There have also been recent attempts to enact laws guaranteeing consumers a right to repair the electronics they've bought.

Last year Sen. Jon Tester, a Democrat from Montana, introduced legislation to limit repair restrictions in the agricultural industry, and more than half of U.S. states are considering right-to-repair laws.

In December, New York Gov. Kathy Hochul signed a right-to-repair law that requires equipment manufacturers to provide repair information and parts for some consumer electronics, though some products such as medical devices and home appliances were carved out.

john deere