

Submitted Electronically
Written Testimony of the Truck and Engine Manufacturers Association
By
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Rhode Island HB 5159
House Corporations Committee

February 11, 2025

Chair Solomon, First Vice Chair O'Brien, Second Vice Chair Caldwell and Members of the House Corporations Committee:

The Truck and Engine Manufacturers Association (EMA) opposes Rhode Island House Bill 5159.

EMA represents the world's leading manufacturers of commercial vehicles as well as on- and off-road engines used in applications such as trucks; buses; construction and farm equipment; locomotives; marine vessels; lawn and garden equipment; and stationary generators.

While the "fair repair requirements" might seem innocuous, in fact they would create significant adverse unintended consequences to the products manufactured by EMA's members, as such requirements would provide unfettered access to change the microprocessors on engines and equipment that control critical safety, emissions, and performance systems. Legislation enabling such access is potentially dangerous and simply is not needed. Manufacturers already provide access to diagnostic, maintenance and repair information. Manufacturers have programs available in which daily, weekly, monthly and yearly information can be provided to independent repair facilities and owners. In addition, it appears to prohibit manufacturers from charging for diagnostic, maintenance and repair documentation and software – essentially requiring manufacturers to give away technology which they have spent significant resources to develop.

The major manufacturers of agricultural equipment entered a Memorandum of Understanding with the American Farm Bureau Federation in 2023 which documents the arrangement under which access will be provided and the obligations and responsibilities of the signatories. Importantly, there is a continuing commitment to meet on a regular basis to assess the MOU and update it based on operational concerns or technological advancements.

Repairing large, complex, and specialized products manufactured by EMA members require highly trained and skilled personnel, who are qualified to properly use service and repair information. Allowing untrained individuals and the general public to have unfettered access to service information to is dangerous and unnecessary. Further, it will undermine the integrity of the equipment and allow for safety features on agricultural equipment – such as braking systems and electronic stability (anti-rollover) controls – to be altered and compromised. Unfettered access also will increase the likelihood that untrained personnel will intentionally or unintentionally, and illegally, alter or disable federally mandated emission control systems. Such illegal tampering is

increasingly occurring today, especially on off-highway equipment. Tampering contributes substantial excess pollution that harms public health and air quality. The U.S. EPA has undertaken a National Compliance Initiative to respond to the numerous instances of engine tampering across the country, some of which include the use of software to alter or disable digitally controlled emission technologies. Further, a listing of those cases that have been resolved is also available on EPA's website. In addition to safety and emissions concerns, allowing access to software that controls federally regulated systems also exposes owners and operators to both civil and criminal liability for tampering. The U.S. Department of Justice's Energy and Natural Resources Division announced a consent decree and settlement of one such case, resulting in \$3.1 million in criminal fines and civil penalties for the sale of devices designed to delete emissions controls.

Further, proposed repair legislation consistently fails to contain meaningful safeguards or restrictions that would prevent or mitigate the risk of cybersecurity incidents. Widespread and unfettered access to service information increases the opportunity for hackers to improperly obtain or tamper with such information – creating enormous cybersecurity risks. Legislation to make those efforts easier is ill advised and unnecessary. The “open access platform” envisioned by the legislation simply does not exist. The cybersecurity risk and the risk associated with the broad ability to remotely access and send commands that control equipment critical safety systems has been recognized by federal agencies including the National Highway Traffic Safety Commission (NHTSA).

EMA and its members support and have worked with regulatory agencies (including U.S. EPA) to develop programs to expand the availability of service and repair information to qualified independent service repair personnel. Those programs and regulations include safeguards and restrictions needed to mitigate the risk of the unfettered release of safety and emissions control tools and other proprietary information. Such regulations also provide the same set of requirements across the country, in contrast to legislation that would mandate special state-based requirements that, if enacted, would actually hurt Rhode Island businesses.

For all these reasons, EMA has serious concerns with the subject “fair repair requirements.” Such requirements otherwise will create enormous safety, environmental, and security risks and liability exposure for owners and the public and will limit the availability – and/or increase the costs – of products sold in Rhode Island, as those products will be forced to have unique characteristics.

Thank you for the opportunity to provide our Written Testimony. If you have any questions or need additional information, please do not hesitate to contact me at: phanz@emamail.org, (312) 929-1979.

cc: Representatives Shallcross Smith, Chippendale, Nardone, Casimiro and Fogarty