

**Testimony offered on behalf of:
Norfolk Power Equipment**

**House Corporations Committee
H. 5159–Right to Repair
Via Electronic Mail:
HouseCorporations@rilegislature.gov
Hearing: February 11, 2025**

OPPOSE H. 5159

Good afternoon, Chair Solomon and Committee Members.

For the record, my name is Brian Coulter, and I am here to testify in opposition to H.B. 5159. I am the Vice President for Norfolk Power Equipment. Our dealership has three locations. Our Burrillville location is in the beautiful state of Rhode Island. We are independently owned and operated, and our business employs over 60 employees. I am here today because the text of H. 5159 is defined broadly to include many of the products my dealership carries. Specifically, the definition of applicable products provided in H. 5159 is: “any product, part of a product, or attachment to a product, when sold or leased for use in farming, ranching, or other agriculture, that depends for its functioning, in whole or in part, on digital electronics embedded in or attached to it. The term includes, but is not limited to, a tractor, trailer, combine, tillage, planting, irrigation, or cultivating implement, baler, unmanned aircraft system, or off-road vehicle.” As such, this legislation could certainly be construed to encompass many, if not all, of the other products we sell and service such as tractors, skid steers, excavators, UTVs, chainsaws, blowers and many other implements.

On behalf of Norfolk Power Equipment, I am expressing our opposition to H.5159, and I would like to take this opportunity to express and explain my opposition to this bill as it pertains to our business on three grounds.

First and foremost, Norfolk Power Equipment fully supports our farmers’ “right to repair” and we have worked diligently to educate our farmers about the broad and cost-effective diagnostic and repair options which they can take advantage of. Since 2022, when this legislation was first considered, the industry has come under the purview of formal governing agreements designed to enable customer self-repair. Specifically, John Deere, CaseIH, New Holland, AGCO, Kubota and Class have all entered Memoranda of Understanding (“MOU”) with the American Farm Bureau Federation (AFBF). A copy of those MOU(s) are available on the AFBF website. As demonstrated in the text of the MOU(s), these repair offerings are readily available today to owners and third-party repair providers across the country.

The MOU paradigm provides a nationwide solution with a uniform set of options for equipment repair across the country. These industry MOU(s) provides much needed flexibility. Under the MOU, the parties regularly meet and confer to ensure that customers' needs are being met with the advancement of technology. In addition, AFBF has a formal grievance process for customers to utilize if they have a self-repair issue. A copy of the AFBF grievance form is attached for reference. Given the existence of this MOU, grievance process and the continued opportunity to adjust the agreement with technological advances, there is no need for H.B. 5159. Instead, H.B. 5159 will undermine Rhode Island business and jeopardize timely customer access to parts needed for repairs. If proponents of this legislation have not yet used this tool, I would encourage them to do so. The American Farm Bureau Federation is actively working to implement solutions for equipment owners to ensure that their repair needs are met under the MOU(s).

A second issue with the legislation is that it is vague on key aspects surrounding the sale of parts, tools and documentation. Without further clarifications, H.B. 5159 appears to require original equipment manufacturers (OEMs) to sell parts directly to end users and independent repair providers at "fair and reasonable terms". The term "fair and reasonable" would create uncertainty as to what amount can be charged for parts by OEMs or how those parts must be distributed. Perhaps most importantly, H.B. 5159 lacks language which definitively ensures that OEMs can sell parts through authorized dealerships or allow those dealerships to earn a profit.

If my dealership is unable to make a profit on parts, the economic incentive to stock those parts is eliminated. As a practical matter, this will leave Rhode Island farmers who need parts with an inability to locally source an OEM part. Instead, the farmer will be forced to order the part from the OEM and have it shipped. While overnight shipping may be available in some cases, supply chain issues continue to influence the industry and would no doubt become a factor in the timely arrival of replacement OEM parts needed for farmer repairs. Shipping of large parts can also be costly, and the farmer will not have the benefits of a bulk shipping program utilized under the current, equipment dealership distribution model. All in all, a forced, direct OEM to farmer parts mandate will lead to a lack of locally sourced OEM parts, slower parts replacement times, reduced repair options and higher priced whole goods for farmers.

Third, H.B. 5159, while seemingly well-meaning in terms of ensuring that safety and emissions systems remain in-tact, fails to provide adequate clarity to ensure the integrity of these systems. Specifically, there are significant ambiguities as to access of these systems for purposes of "repair" and the caveats listed in the trade secrets sections seemingly undermine the stated restrictions related to modification. H.B. 5159 does not consistently define repair as restoration of a piece of equipment to original equipment manufacturer specifications. Instead, it states only that the parts, tools and documentation must enable "fully functionality" in some sections. (See Section 6-60-2(6) – appears to conflict with Section 6-60-2(13)). A piece of equipment can be fully

functional while having safety and emissions systems disabled. Furthermore, the trade secret language appears to erode these federally regulated protections if those trade secrets are related to repair. H.B. 5159 also fails to reference the federal statutes that govern trade secrets practices across the United States, potentially creating a patch work or conflict between Rhode Island laws and federal standards.

Without further clarity to ensure that repairs are defined as restoration to original equipment specifications and do not include access to federally protected trade secrets, this legislation would open the door to unauthorized modification of equipment including increasing engine horsepower and increasing ground speeds beyond manufacturer specifications. As authorized dealers, some repairs require internet connection and/or that the repairing party to obtain authorization from the OEM to ensure that the repair is done in compliance with safety or emissions specifications. H.B. 5159 would create confusion about when these technologies can be used. Plainly, the legislation does not provide the flexibility needed to prevent illegal tampering of safety and emissions features.

I invite you to visit our Rhode Island facility to learn more about this issue and see for yourself how we already support our farmer's "Right to Repair." In any event I hope I can count on your support to stop H.B. 5159 which is, a "solution in search of a problem," from advancing both now and in the future.

Therefore, Norfolk Power Equipment respectfully requests an **UNFAVORABLE VOTE** on H.B. 5159.

Respectfully Submitted,

Norfolk Power Equipment