

Submitted Electronically
Written Testimony of Milton Cat, RI
By
Josh Gaynor

House Bill 7095

Public Hearing of the House Innovation, Internet, and Technology Committee
Rhode Island Legislature

January 25, 2024

Chair Baginski, First Vice Chair Handy, Second Vice Chair Carson and Members of the Committee:

For the record, my name is Josh Gaynor, Vice President Service Operations at Milton Cat and I am writing to provide my testimony in opposition to H. 7095. Thank you for allowing me the opportunity to provide input on this legislation. We write to express our company's concern regarding H. 7095, relating to the sale of digital electronic equipment and providing diagnostic and repair information.

Milton CAT is concerned that this measure would create safety, environment, and liability issues for the off-road equipment industry. The machines we sell, and service are highly technical and complex. **Digital equipment is essential to the safe operation our machines compliant with numerous federal and state requirements.**

Milton CAT is the Caterpillar dealer for Rhode Island. We continue to be led by the family that founded our company more than fifty years ago and operate facilities in Cranston and other locations in 6 other states. We employ over 15 people in Rhode Island and over 1,200 companywide. We stock over \$40 Million of parts across our dealership territory inclusive of Rhode Island. All of our parts are sold either "internally", "over the counter" or through "service repairs" to owners and third-party repair providers that are doing the repairs outside of our dealership. Thus, this legislation would jeopardize our parts business and dealership, as a whole. If we are unable to make a profit on parts, there will be no incentive for us to stock those parts, locally. Instead, customers will have to order those parts and face longer wait times for repairs in time sensitive industries such as agriculture, forestry, and construction. I have included a Study Data from North America Equipment Dealers Association related to Third Party Repairs attachment for consideration.

To encourage innovation and regulatory compliance, manufacturers and dealers cannot allow access to back-end source code that can be used to reset safety features, reprogram control units, or change settings overriding emissions and safety compliance. This legislation risks the safety, durability, and environmental sustainability of heavy equipment.

Customer Access to Repair - Equipment manufacturers and dealers have a shared incentive to minimize customers' downtime and maximize productivity. Our industry has invested in cutting-

edge innovations that incorporate the latest technology, as well as training and support for the skilled technicians who service equipment.

Our company, equipment manufacturers and other dealers are committed to making available to equipment owners all the tools they need to navigate onboard technology. Owners have access to repair and diagnostic tools to aid them in making decisions about maintaining and repairing their own equipment. Diagnostic information and parts needed for a customer to repair their equipment are widely available. These include operator and technical manuals, diagnostic routines, tools, parts, schematics as well as electronic service access capabilities.

Safety Training - Federal and state laws govern our technicians' safety training for the repair of heavy equipment. Milton CAT's technicians are extensively trained, and among the hazards that our federal Occupational Safety and Health Administration (OSHA) compliant instruction wards against is *poor repair or service*. Poor repair or service of equipment is a common hazard and includes repair by an unauthorized person. Poor repairs or servicing of equipment jeopardize the safety of operators and others due to mechanical failure of heavy equipment. Milton CAT's technicians ensure the safe operation of critical safety equipment, including:

- Transmissions, drivelines, and brakes,
- Steering and suspension systems,
- Electrical and electronic systems,
- Hydraulic systems, and
- Air conditioning and transport refrigeration systems.

Emissions – Emissions from heavy equipment are also heavily regulated under federal and state statutes and regulations. Our machines meet or exceed emission standards adopted by the U.S. Environmental Protection Agency (EPA), under a comprehensive national program integrating engine and fuel technologies in non-road diesel engines to achieve the greatest emission reductions. These emission standards apply to non-road mobile machinery, emergency and non-emergency stationary units, rail applications and marine vessels. The standards have substantially reduced emissions of oxides of nitrogen (NOx), hydrocarbons (HC), carbon monoxide (CO) and particulate matter (PM) over the last three decades.

The “chipping” of heavy equipment – where a customer has increased the horsepower of an engine far beyond a manufacturer’s specifications and government standards – is unsafe and damaging to the equipment. Our service locations see many machines that have had emissions systems overridden. These “defeated” machines are not compliant with state and federal emissions standards and do produce emissions that are damaging to the environment.

You may have heard that the States of New York, Minnesota, and California have recently passed right to repair laws that fully exclude the off-road industry. The exemption language included in New York and Minnesota’s right to repair bill is included below for reference.

Overly Broad - We believe this legislation is overly broad in scope, and unnecessary considering the commitment our industry has made to our customers.

In conclusion, our industry fully supports our customers and third parties having the ability to repair their equipment, but we DO NOT support H. 7095 as it would hurt rather than help small businesses and customers in the state of Rhode Island. We encourage you to adopt the amendment below which would exclude our industry from this legislation.

We are grateful for your consideration and would be pleased to provide whatever additional information you might need in this regard. Please feel free to contact me at 508-479-1715 or Josh_Gaynor@miltoncat.com.

Respectfully submitted,

Josh Gaynor
Vice President Service Operations
Milton Cat

Enclosures: [Study Data from North American Equipment Dealers Association related to Third Party Repairs](#)

Off Road Amendment

“Manufacturers, distributors, importers or dealers of all off-road (non-road) equipment, including without limitation, farm and utility tractors, farm implements, farm machinery, forestry equipment, industrial equipment, utility equipment, construction equipment, compact construction equipment, road-building equipment, mining equipment, turf, yard and garden equipment, outdoor power equipment, portable generators, marine, all-terrain sports and recreational vehicles (including racing vehicles), stand-alone or integrated stationary or mobile internal combustion engines, other power sources, (including without limitation, generator sets, electric/battery and fuel cell power), power tools, and any tools, technology, attachments, accessories, components and repair parts for any of the foregoing.”