



April 19, 2023

Representative Michael Marcotte
Chair
House Committee on Commerce and
Economic Development
Vermont General Assembly
Vermont State House
115 State Street
Montpelier, VT 05633-5301

Representative Logan Nicoll
Ranking Member
House Committee on Commerce and
Economic Development
Vermont General Assembly
Vermont State House
115 State Street
Montpelier, VT 05633-5301

Re: H.81 and the right to repair

Dear Chair Marcotte and Ranking Member Nicoll:

Consumer Reports¹ writes in support of H.81, which would secure the right to repair agricultural equipment for consumers across Vermont. This important legislation will help ensure that consumers and farmers have the choice to fix their own machines, if they can, or to have them fixed by a repair servicer of their choosing, including servicers independent of the manufacturer. In recent years, President Biden has recognized the importance of this right, by way of Executive Order,² and the Federal Trade Commission released a landmark report, *Nixing the Fix*, which explores how repair restrictions hurt consumers.³ This bill would secure these important rights for Vermont's consumers, farmers, independent businesses, food-producers, and economy, and we urge your support for it.

¹ Founded in 1936, Consumer Reports (CR) is an independent, nonprofit and nonpartisan organization that works with consumers to create a fair and just marketplace. Known for its rigorous testing and ratings of products, CR advocates for laws and company practices that put consumers first. CR is dedicated to amplifying the voices of consumers to promote safety, digital rights, financial fairness, and sustainability. The organization surveys millions of Americans every year, reports extensively on the challenges and opportunities for today's consumers, and provides ad-free content and tools to 6 million members across the U.S.

² Consumer Reports: White House executive order is an important step that highlights need for greater competition in the U.S. marketplace (July 9, 2021), https://advocacy.consumerreports.org/press_release/consumer-reports-white-house-executive-order-is-an-important-step-that-highlights-need-for-greater-competition-in-the-u-s-marketplace/.

³ *Nixing the Fix: An FTC Report to Congress on Repair Restrictions*, Fed. Trade Comm'n (May 2021), https://www.ftc.gov/system/files/documents/reports/nixing-fix-ftc-report-congress-repair-restrictions/nixing_the_fix_report_final_5521_630pm-508_002.pdf.

CR has long supported this “right to repair,” including by developing model legislation to help guide state legislators. H.81 follows the structure of the model act we developed.⁴ We have also incorporated this principle into the Digital Standard, a set of best practices that Consumer Reports uses to evaluate the privacy and security of software, digital platforms and services, and internet-connected products, as well as to help influence the consumer-friendly design of these products.⁵ It is important to safeguard and maintain consumers’ and farmers’ ability to exercise their full rights of ownership over the electronics-enabled machines they purchase, including the right to repair them, and the right to resell them, even as technology evolves.⁶ Ensuring an effective right to repair will also expand choice in the marketplace, saving farmers—and ultimately, consumers—money, and reduce waste.

Consumers, farmers, and others who have been able in the past to choose to fix their own cars, machinery, appliances, or other products, or to call on a trusted neighborhood repair shop or mechanic, know how important these ownership rights are.

But as machines from smartphones and televisions to tractors and combines become increasingly outfitted with computer software, it has become easier for manufacturers to interfere with these rights. It’s often difficult now for consumers to make simple repairs on their devices—even simple repairs such as changing a battery or replacing a cracked screen.⁷ Not only are the electronics frequently designed in a way to intentionally prevent easy repair, but manufacturers are restricting access to the basic diagnostic information, repair tools, and replacement parts needed to fix the products. Some manufacturers even put digital locks and disabling tripwires on devices to block third-party repair.⁸

These tactics force consumers to rely on the manufacturer, or the manufacturer’s handpicked servicer, to fix these products.⁹ The manufacturer is then free to charge whatever it wishes, or even to refuse to repair the product and force the consumer to throw it away and buy a

⁴ *Right to Repair Model State Law*, CONSUMER REPORTS (updated December 2, 2020), <https://advocacy.consumerreports.org/research/right-to-repair-model-state-law/>.

⁵ The Digital Standard, <https://www.thedigitalstandard.org/>.

⁶ E.g., Comments of Consumers Union To U.S. Copyright Office, Software-Enabled Consumer Products Study (March 18, 2016), <http://consumersunion.org/research/comments-to-the-u-s-copyright-office-regarding-software-enabled-consumer-products/>.

⁷ Bree Fowler, *iPhone Slowing Down? It Might be Time to Replace Your Battery*, Consumer Reports (Dec. 28, 2017), <https://www.consumerreports.org/smartphones/iphone-slowing-down-it-might-be-time-to-replace-your-battery/>; Becky Worley and Sarah Messer, *Cracked iPhone Screen Help Guide: How 5 Repair Options Stack Up*, ABCNews.com (May 1, 2017), <http://abcnews.go.com/Business/cracked-iphone-screen-guide-repair-options-stack/story?id=47089610>.

⁸ Jason Koebler, *Tractor-Hacking Farmers Are Leading a Revolt Against Big Tech's Repair Monopolies*, Motherboard (Feb. 18, 2018), https://motherboard.vice.com/en_us/article/kzp7ny/tractor-hacking-right-to-repair.

⁹ Emily Matchar, *The Fight for the Right to Repair*, Smithsonian (Jul. 13, 2016), <https://www.smithsonianmag.com/innovation/fight-right-repair-180959764/>.

new product. But farmers and others who use agricultural machinery—an inherently seasonal operation—may not have the time to wait for repairs from a limited pool without missing critical moments in crop cycles.

Manufacturers and their representatives have worked to defeat Right to Repair legislation, often by using spurious arguments about safety and security.¹⁰ However, security-by-obscurity is an ineffective method to safeguarding systems. This bill would better ensure the safety of products, and without sacrificing consumer choice. Independent repair technicians would have to meet whatever certification requirements are set by state law, just like authorized repair technicians. This bill would ensure that they have the same access to proper instructions that are vetted for safety.

We would be happy to answer any questions, and look forward to working with you and others to secure an effective right to repair for consumers and farmers across Vermont.

Sincerely,

Laurel Lehman
Policy Analyst
Consumer Reports

CC: Members, House Committee on Commerce and Economic Development

¹⁰ Mikey Campbell, *Apple Lobbies Against 'Right to Repair' Proposal in Nebraska*, Apple Insider, (March 9, 2017), <http://appleinsider.com/articles/17/03/09/apple-lobbies-against-right-to-repair-proposal-in-nebraska>.