

**Testimony offered on behalf of:
John Deere**

**IN OPPOSITION TO:
S.B. 121–Right to Repair**

**General Law Committee
Hearing: February 22, 2022, at 10:00 AM**

JOHN DEERE OPPOSES S.B. 121

Dear Honorable Members of the General Law Committee:

Thank you for the opportunity to present today in opposition to S.B. 121. My name is Grant Suhre and I have responsibility for U.S. and Canada customer support for agriculture and turf care products.

At John Deere, we take a lot of pride supporting our Customers and Dealers. John Deere does not succeed if farmers and contractors do not succeed. Today, the committee has heard from three JD dealers during this hearing, and all are available to answer any questions about their unique and independent business operations. We are thankful to work with fourteen (14) John Deere dealer locations across the state of Connecticut.

We support our customer's ability to repair their machines. As equipment dealers from multiple brands have testified, uptime is critical when raising a crop and tending to livestock. Today, without the passage of S.B. 121, expansive offerings of necessary repair products are already available and on the market. We have a competitive industry and customers have choices as to when and who services their equipment.

Very little in the way of repair is confined to the authorized dealer network. While each John Deere equipment dealers' business model and client base is unique, many dealers report more than fifty percent (50%) of stocked parts are sold "over the counter" to customers or third-party repair providers who are accomplishing repairs outside of the authorized dealer network. The information that is restricted relates to access to reprogramming secure software that protects environmental and safety features. In fact, from a John Deere perspective, less than 2% of repairs require any reprogramming. By way of example, John Deere's latest combine has over five thousand (5,000) unique parts. Of those parts, there are approximately twenty-five (25) which would require reprogramming and, therefore, require the assistance of a dealer to ensure EPA and safety standards are maintained. The open access and the information that S.B. 121 would require would conflict with federal manufacturer obligations to ensure that equipment and engine emissions systems remain compliant to Tier 4 standards during their entire useful life. *See 40 CFR 1039.240, 1039.245; see also 1039.101(g) (useful life requirements); 42 USC § 7525(a)(1) reference to testing to determine conformance to regulations prescribed under § 7521; § 7521(a)(1) requires regulations to prescribe a "useful life" over which vehicles/engines shall comply with emission standards.*

If passed, S.B. 121 would violate these regulatory requirements and manufacturers like John Deere could be held liable for providing a "defeat device" to the market in the form of a service tool that allows end-users to circumvent certain engine/machine performance inhibitors related to emission controls. This is especially true for selective catalytic reduction ("SCR") -equipped engines that rely on routine end-user action (e.g., filling the diesel exhaust fluid ("DEF") tank) to ensure proper

operation of the SCR system. If the end-user doesn't take that action, the regulations require engine manufacturers to inhibit operation of the engine. The bottom line is that if manufacturers provide customers the tool for overriding those inhibitors in the way that S.B. 121 would require, that could be considered by the U.S. EPA as circumventing the regulatory requirements.

In summary, the unfettered customer access required by S.B. 121 conflicts with manufacturer's Clean Air Act obligations to ensure the integrity of Tier 4 emissions systems. John Deere has and is committed to pursuing technology which improves the customer experience and maximizes equipment uptime, as we have done since 1837.

We don't need S.B. 121 as customers are widely able to service their own equipment with only limited caveats. Those small caveats pose far too great a risk to the safety of equipment owners and the environment so I would ask for your UNFAVORABLE vote today. In the alternative, we would ask that the Committee adopt an amendment which exempts our industry before any further advancement of this bill. Such an amendment is below for consideration.

Sincerely,
Grant Suhre
Customer Support Manager
John Deere

SENATE BILL 121

Non-Road Exemption Language

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, mining equipment, turf, yard and garden equipment, outdoor power equipment (including 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.