

Testimony of the Truck and Engine Manufacturers Association

**By
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Senate Paper 608, Right to Repair Electronic Devices

**Public Hearing of the Committee on Innovation, Development, Economic Advancement
and Business
Maine State Legislature**

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Members of the Committee on Innovation, Development, Economic Advancement and Business:

I write to you today on behalf of the Truck and Engine Manufacturers Association (EMA), regarding our concerns with Maine SP 608, “Right to Repair Electronic Devices.” EMA represents the world’s leading manufacturers of commercial vehicles and on- and off-road engines used in several applications, including: trucks; buses; construction and farm equipment; locomotives; marine vessels; lawn and garden equipment; and stationary generators.

The bill has a very broad scope requiring “original equipment manufacturers of digital electronic equipment” to provide access for the purpose of diagnosis, maintenance and repair of products that use digital electronics to operate, which includes many of the products manufactured by EMA members, such as medium and heavy-duty commercial vehicles and off-road construction and agricultural equipment. Including those types of large, complex vehicles and equipment will create unnecessary confusion, complications, burdens, and risks for Maine users and manufacturers alike. As such, **EMA respectfully requests that any right to repair digital electronic equipment legislation be amended to expressly exclude all on- and off-highway commercial vehicles and equipment and the engines or motors that power them.** Those products are not typical consumer goods, and they are already covered by existing state and federal laws and manufacturer commitments. Further, their inclusion will lead to significant adverse safety, environmental, and security impacts.

As currently written, the bill would allow independent service providers and owners to access and change the microprocessors on engines, vehicles and equipment that control critical safety, emissions, and performance systems. Such digital right to repair legislation simply is not needed for commercial vehicles or agricultural or construction equipment, and creates a solution in search of a problem.

Allowing open, unfettered access to service and diagnostic information will undermine the integrity of the equipment and allow for safety features on heavy equipment – such as braking systems and electronic stability (anti-rollover) controls – to be altered and compromised. Unfettered access also will increase the likelihood that federally mandated emission control systems could intentionally, or unintentionally, (and illegally) be altered or disabled. Such illegal

tampering is increasingly occurring today, especially on off-highway equipment and commercial vehicles, and the U.S. EPA has undertaken a [National Compliance Initiative](#) to respond to the numerous [instances of tampering](#) across the country, some of which include the use of software to alter or disable digitally controlled emission technologies. Tampering contributes substantial excess pollution that harms public health and air quality.

The bill also fails to contain any 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. This legislation will simply make those efforts easier.

EMA is actively monitoring digital repair legislation, and notes that other states have recognized the significant adverse unintended consequences that would be created in including commercial vehicles and heavy machinery in such legislation and have amended it to exclude motor vehicles and offroad equipment.

Lastly, we note that at least some provisions of the legislation appear to apply to vehicles and products manufactured as early as 2018. EMA members believe that these provisions may be not just impractical to implement but may be simply infeasible and is why it is rare for legislation to apply retroactively.

For all these reasons, EMA requests that any digital product repair legislation released by the Committee clarify that all on- **and** off-highway commercial vehicles, and agricultural and construction equipment and the engines and motors that power them are expressly excluded. Maine SP 608 will otherwise create enormous safety, environmental, and security risks and liability exposure for owners and the general public. Finally, the bill will limit the availability – and/or increase the costs – of products sold in Maine, as those products will be forced to have unique characteristics.

Thank you for the opportunity to provide our comments. I would be happy to answer any questions following the hearing at: phanz@emamail.org, (312) 929-1979.