



AGC MAINE

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Testimony of Matthew Marks in Opposition to LD 1487 **“An Act to Ensure That Residents of the State Have the Right to Repair** **Their Own Electronic Devices”**

Joint Committee on Innovation, Development,
Economic Advancement and Business

April 18, 2023

Senator Curry, Representative Roberts, and distinguished members of the Joint Standing Committee on Innovation, Development, Economic Advancement, and Business my name is Matthew Marks, I am a Principal at Cornerstone Government Affairs, and here today to speak on behalf of my client The Associated General Contractors of Maine. AGC Maine is a statewide commercial construction trade association and a Chapter of AGC America.

I am testifying against LD 1487 because of the potential impacts on safety, the environment, and economic harm caused by the outcome. Generally, we understand the intent of providing the tools needed to repair equipment owned and operated by an individual or corporation. It's the unintended consequences that concern AGC Maine.

The construction industry is comprised of contractors, service providers, and suppliers and that chain is important to the operation of a successful industry. As technology continues to evolve, more electronics are integrated into complex and simplest tools. Below are some specific examples that we hope the Committee considers.

Safety

New heavy equipment with a bucket, like an excavator or loaders, can include new sensor technology. For instance, when the material is loaded into a bucket, the operator will be alerted when the weight allowed is exceeded to prevent tipping. The same is true for new personnel lifts that include sensors that prevent deployment when working on uneven ground outside of a capacity range or recognizing potential hazards. The technology continues to improve both operator and co-worker safety. The computer systems onboard have greatly improved productivity and worker safety. Quite frankly, the list of safety improvements is extensive, and it's concerning a device could be disabled or overridden against the manufacturer's intent.

OSHA specifically addresses equipment modifications in the cranes and derricks standard. In section 1926.1434(a) states *Modifications or additions which affect the capacity or safe operation of the equipment are prohibited except where the requirements of paragraphs (a)(1), (a)(2), (a)(3), (a)(4), or (a)(5) of this section are met which requires manufacturer review and approval.* This bill allows for access to operating systems that would open the door to violating the standard, perhaps even unknown to the repair facility.

Environment

In 2010 the Environmental Protection Agency mandated new requirements for diesel engines to reduce nitrogen oxides (NOx). The industry added diesel emissions fluid, known by most as DEF, that is injected into the equipment or truck's exhaust streaming, reducing NOx by 90%. When a DEF tank is low, the sensor will send a signal to the electronic control unit alerting the operator. If you don't refill the tank, the engine will shut off. While DEF technology has a proven community benefit, it's clear the added use of the fluid can be a nuisance to operators, and opening the system to avoid refilling will be difficult to determine and even tougher to enforce.

AGC Maine members who attended a meeting to review this bill reported the relationship between suppliers is essential and compliments their team's ability to assess problems. The increased use of telematics allows for remote access by certified experts at dealerships to help with field crews reviewing an issue with equipment or the company's repair technicians. It's imperative that proprietary advancements continue, and opening the door completely has the potential for advancements to become slow to market. That will be especially true as new electric-driven equipment continues to reach the market.

Furthermore, some equipment features could yield improper results when tampered with or modified incorrectly. Sensors used to measure temperature, weight or density are vital to the project's outcome and they could be visibly unknown to the operator. Those setbacks would remove industry advances over the last few decades and could increase both costs and project completion deadlines or worse vital outcomes that rely on the accurate data outputs for the intended use.

The construction industry urges the Committee to vote against LD 1487 and welcomes any questions.