



March 24, 2023

Rep. Cathy McMorris Rodgers
Chair, House Energy and Commerce Committee

Rep. Frank Pallone
Ranking Member, House Energy and Commerce Committee

Senator Maria Cantwell
Chair, Committee on Commerce, Science, and Transportation

Senator Ted Cruz
Ranking Member, Committee on Commerce, Science, and Transportation

Dear Representative McMorris Rodgers, Representative Pallone, Senator Cantwell and Senator Cruz:

As our states' chief consumer protection and antitrust enforcers, we write to respectfully request that you redouble your efforts in the 118th Congress to pass expansive Right-to-Repair legislation targeted at automobiles, agricultural equipment, and digital electronic equipment to protect our consumers and farmers across the nation. The Right-to-Repair is a bipartisan issue that impacts every consumer, household, and farm in a time of increasing inflation. It is about ensuring that consumers have choices as to who, where, when and at what cost their vehicles can be repaired. It is about ensuring small automobile businesses and "mom-and-pop" auto shops can remain competitive against a closed system favored by original equipment manufacturers (OEMs). It is about ensuring that farmers can repair their tractors for a reasonable price and quickly enough to harvest their crops. It is about ensuring that consumers can fix their smartphones at small, independent repair shops for a fraction of the cost and time of sending their phone back to the OEM or replacing it. It is about ensuring that rural consumers can obtain important repairs locally and quickly. Ultimately, it is about safeguarding competition as a key part of our free market economy.

Manufacturing of automobiles, digital devices, and agricultural equipment is increasingly becoming more technologically advanced and built with more embedded electronics. OEMs often control access to these electronics parts, creating unfair restraint of trade and a monopoly on repair. This can harm consumers directly by driving up prices and is antithetical to a free market. The Federal Trade Commission (FTC) recently highlighted the myriad ways in which manufacturers and dealers, may

“without reasonable justification, be restricting competition for repair services.”¹ These methods include using adhesives that make parts difficult to replace, limiting the availability of parts and tools, or making diagnostic software unavailable. Some restrictions may even allow OEMs to monopolize certain repair markets and/or raise prices with impunity. For example, according to the United States Bureau of Labor Statistics, the cost of repairing a vehicle—an industry with more robust independent repair than many others—has increased by more than 66% since 2000.²

Recognizing this growing problem, legislators in the 117 Congress introduced at least three bills to address the issue federally: the Fair Repair Act (H.R. 4006),³ the Saving Money on Auto Repair Transportation Act (the SMART Act) (H.R. 3664),⁴ and the Right to Equitable and Professional Auto Industry Repair Act (REPAIR Act) (H.R. 6570).⁵

The Fair Repair Act, introduced in June 2021, would require OEMs to make available to independent repair providers and device owners the documentation, parts, and tools necessary to repair their products (excluding vehicles and medical devices). This bill would decrease repair costs for everyday consumers. Moreover, it would allow farmers—whose equipment is increasingly reliant on digital components—to make on-the-spot repairs once more (or have closer, more responsive, and less expensive independent servicers make repairs).⁶ This would lower farmers’ repair costs at a time when farm input and food prices are increasing, while avoiding the disruptions to planting and harvesting that an unexpected equipment failure and distant repair shop can entail.⁷

The SMART Act, introduced in June 2021, is a bipartisan bill to limit liability for infringement of a design patent based on appearance for a part of a vehicle’s exterior, such as a hood or a fender. It also creates a sunset provision on a design patent for an exterior component of an automobile if an otherwise-infringing part is used to repair or restore a vehicle. This commonsense legislation allows repair shops to use alternative or off-brand parts to repair vehicles, lowering the cost consumers pay to fix their vehicle.

Similarly, the REPAIR Act, introduced in February 2022, is a bipartisan proposed bill to require OEMs to provide a vehicle’s owner with certain data generated by the operation of the vehicle itself related to diagnostics, repair, calibration and service through a standardized access platform. The bill also would prevent OEMs from mandating specific brands of parts, tools, or equipment be used on a vehicle (absent a recall). This proposed legislation allows a vehicle’s owner to designate access of vehicle data to any repair shop or to personally retain the data.

¹https://www.ftc.gov/system/files/documents/public_statements/1592330/p194400repairrestrictionspolicystatement.pdf; 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

² U.S. Bureau of Labor Statistics, Consumer Price Index for All Urban Consumers: Motor Vehicle Maintenance and Repair in U.S. City Average [CUSR0000SETD], retrieved from FRED, Federal Reserve Bank of St. Louis; <https://fred.stlouisfed.org/series/CUSR0000SETD>, September 16, 2022.

³ <https://www.congress.gov/bill/117th-congress/house-bill/4006/text>

⁴ <https://www.congress.gov/bill/117th-congress/house-bill/3664/text>

⁵ <https://www.congress.gov/bill/117th-congress/house-bill/6570>

⁶ We suggest that the Chairs look to the pending Agricultural Right to Repair Act (S. 3549) as another possible right to repair act or as a means of adding express agricultural right-to-repair to the Fair Repair Act. That said, the Fair Repair Act’s definition of covered devices encompasses agricultural equipment.

⁷ 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

Most importantly, the public wants Right-to-Repair legislation: In a national survey, the Car Coalition, a coalition of the independent auto parts manufacturing industry, insurers and other companies and associations involved in the auto repair industry, found that 78% of voters agreed with these types of Right-to-Repair legislation and 92% of voters agree that consumers should be able to choose between automaker branded and aftermarket car parts when making repairs.⁸ In a national survey of farmers by the U.S. PIRG Education Fund and National Farmers Union, 95% of farmers supported the Right-to-Repair their agricultural equipment.⁹ Finally, a 2021 Consumer Reports survey shows that around 75% off all consumers believe that the manufacturers should be required to make available to independent repair professionals and consumers the basic diagnostic information, tools, and replacement parts needed to make repairs of products generally.¹⁰ But despite widespread public support, none of these bills moved forward in the House of Representatives.

As State Attorneys General, we seek federal partners to provide necessary changes to the law that will better protect America's consumers, particularly at this time of economic uncertainty. Any law should include consumer protections to ensure consumers are receiving a safe repair and that sensitive consumer data that could be accessed and collected during a repair is appropriately protected. Accordingly, we urge you to take action to support Right to Repair legislation, with appropriate consumer protections.

Sincerely,



Kwame Raoul
Illinois Attorney General



Todd Rokita
Indiana Attorney General

⁸ <https://carcoalition.com/wp-content/uploads/2020/07/FTI-survey-release.pdf>

⁹ <https://pirg.org/edfund/resources/why-farmers-need-right-to-repair-2/>

¹⁰ Page 30,

https://article.images.consumerreports.org/prod/content/dam/surveys/Consumer_Reports_Right_to_Repair_Survey_2021



Treg R. Taylor
Alaska Attorney General



Kris Mayes
Arizona Attorney General



Rob Bonta
California Attorney General



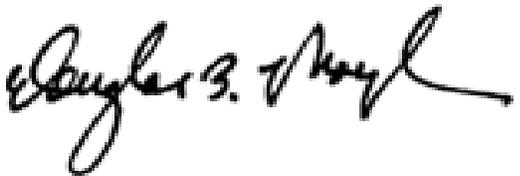
William Tong
Connecticut Attorney General



Kathleen Jennings
Delaware Attorney General



Brian Schwalb
District of Columbia Attorney General



Douglas B. Moylan
Guam Attorney General



Anne E. Lopez
Hawaii Attorney General



Raúl Labrador
Idaho Attorney General



Jeff Landry
Louisiana Attorney General



Aaron M. Frey
Maine Attorney General



Anthony G. Brown
Maryland Attorney General



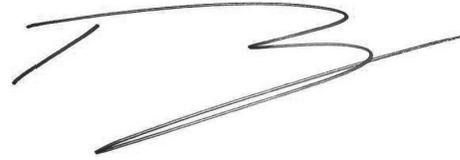
Dana Nessel
Michigan Attorney General



Keith Ellison
Minnesota Attorney General



Aaron D. Ford
Nevada Attorney General



Raúl Torrez
New Mexico Attorney General



Edward Manibusan
Northern Mariana Islands Attorney General



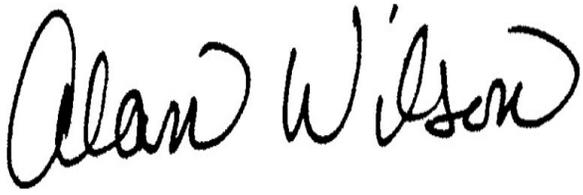
Ellen F. Rosenblum
Oregon Attorney General



Michelle Henry
Pennsylvania Attorney General



Peter F. Neronha
Rhode Island Attorney General



Alan Wilson

South Carolina Attorney General



Marty Jackley

South Dakota Attorney General



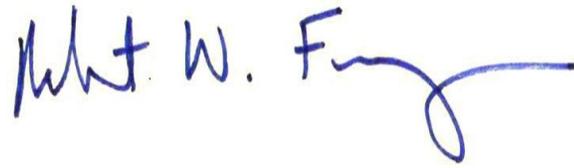
Jonathan Skrmetti

Tennessee Attorney General



Charity Clark

Vermont Attorney General



Robert W. Ferguson

Washington Attorney General



Joshua L. Kaul

Wisconsin Attorney General