

House File 2680
Testimony before Minnesota House Commerce Finance & Policy Committee
Monday, March 27, 2023

Todd Martin, Service Director, Arnold's Companies Inc.

Good afternoon Mr. Chairman and Committee Members. My name is Todd Martin and I'm the Service Director at Arnold's Companies Inc. Our company is a family owned Ag, construction and power equipment dealership representing sales, parts and service in Kimball, Mankato, St Cloud, St Martin, Willmar, Glencoe, and Alden Minnesota. We have supported our farm and construction customers for over 80 years. I'm proud to say Arnold's employs nearly 300 of our friends and neighbors in our business, who are also from Minnesota.

The "Digital Fair Repair" legislation in HF 2680 will lead to circumvention of safety and environmental protection safeguards which are required by law and strictly observed by authorized dealers.

Today, we see a growing problem with something called "chipping" – where a customer, through illegally sourced software, -- has increased the horsepower of an engine, often far beyond the manufacturer's specifications. This results in safety concerns, excess exhaust containing harmful CO₂, and premature wear of the machine.

We also see a lot of units that have had their emissions systems "deleted" – or "modified." These machines do not meet federal emissions standards any longer. This is something we take very seriously and can be fined by the EPA if we resell a non-compliant machine. **It is important to note that this practice causes harm to our natural environment through the release of harmful CO₂ and diesel particulate matter into our atmosphere. I should note that in their 2023 rule making paper, the EPA reported that one-half of the diesel particulate matter in our atmosphere is generated by non-road engines.**

Arnold's understands that we and our manufacturers share a joint responsibility to ensure compliance with State and Federal emissions requirements. Failure to act puts our dealer agreements at risk, can void customer warranties and expose us and customers to financial penalties. These emissions standards are so important that we, as a dealership, do not have access to the embedded code, regardless of the purpose. Likewise, we have certain obligations of use that ensure that we and our manufacturers meet compliance with our duties related to emission systems tampering.

Arnold's thrives on delivering high value to our customers and community. We invest significant amounts of capital each year to ensure our technicians have the latest safety, repair and technology training. This leads to a more efficient and quality repair process, which also benefits our customers' bottom line and safety.

The "Digital Fair Repair" language in HF 2680 is too broad in product scope. Our concern is that this legislation will, incentivize a race to the bottom, for heavy-duty equipment consumers and their satisfaction, equipment technicians, and the environment.

As Service Director of our family owned Minnesota dealership, we DO fully support our customers having the ability to repair their equipment. And we provide the resources to do so. However, we cannot support unauthorized and unsafe modifications – and for those reasons I ask you to please exempt farm equipment from Article 4, Section 9 of HF 2680.

Thank you.

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Tom Schuneman, Operations Manager, Kibble Equipment

Chairman and committee members, my name is Tom Schuneman and I am the Operations Manager at Kibble Equipment. We are proud to serve in communities across central MN including Wheaton, Sleepy Eye, Marshall, Redwood Falls, Wabasso, and Mankato. We work with farmers, independent repair providers, homeowners, and ag business providers with our dedicated team of over 350 Minnesotans who are employed and live in these communities.

Kibble Equipment sells new and used farm and turf equipment, as well provides parts and repair services. We provide access to repair parts with over \$20 million of inventory on hand in our locations, the ability to secure the parts online for customer convenience, or the ability to order parts with next day availability. Furthermore, we support our customers' ability to repair their own equipment to the extent they are comfortable or able. Our team supports these efforts by offering access to manuals, providing training, purchasing special tools, and often providing advice and instruction on "how to" repairs.

One of the most impactful resources we offer to customers is Customer Service Advisor. This software application provides repair steps and instructions, electrical schematics, and electrical test procedures for customers to perform many repairs themselves. It also provides the ability for customers to connect to their machines via a laptop for retrieving codes and includes step-by-step instructions for diagnosing these codes. A recently added function is the ability to clear "latched" after-treatment (emissions) exhaust codes on machines which used to be a dealer only performed task. This serves as another example of dealers' and manufacturers' efforts to provide our customers with the tools and information they need to perform their own repairs.

Although we completely support equipment owners "right to repair", we do not support the "right to modify" or change the embedded source code or software of a machine. These modifications are often desired to increase horsepower through modifying software or "chipping". Chipping is illegally sourced software that increases the horsepower of an engine, often beyond the manufacturer's specifications. This results in safety and reliability concerns leading to failures and unintended downtime for customers. Another modification that is often desired is the ability to remove or "delete" emissions componentry from a machine which creates excess exhaust containing harmful CO2 that harms our natural environment. These emissions components are required by law and is necessary to be compliant with the EPA Clean Air Act. Failure to comply puts our dealer agreement at risk, can void customer warranties, and exposes us and our customers to financial penalties. These emissions standards are so important that we, as an authorized repair provider, do NOT have access to the embedded code within equipment.

We are concerned that the "Digital Fair Repair" legislation in HF 2680 will further encourage people to remove vital emissions components from equipment and also present significant safety concerns for those operating equipment and those near it. Please understand that farm equipment is not like a laptop or cellphone.....these are highly technological, dangerous, and sometimes deadly pieces of equipment.

We believe this bill will serve to promote the illegal and unsafe modification of equipment. For this reason, we ask you to please exempt farm equipment from Article 4, Section 9 of HF 2680.

Thank you.

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Ben Pias, General Manager, Titan Machinery

Good afternoon. My name is Ben Pias. I am a General Manager at Titan Machinery. We have construction and farm equipment stores located in Herman, Elbow Lake, Fergus Falls, Marshall and 12 other locations across Minnesota.

Our company, and our major suppliers, support our farmers, contractors, and independent repair shops' right-to-repair. We do so by making available the same technical manuals, and diagnostic software that our technicians use in their daily work. These resources are located on our website for an easy ordering process. **Currently, approximately 60% of our service parts are sold directly to Farmers, Contractors, and Independent Repair Shops for repairs that they perform themselves.** This reflects that the current Dealer model is working very well and indicates self-repair is happening on a broad scale, without legislation.

A mandate that our manufacturer must abandon us and sell repair parts directly to consumers is a disastrous proposition for our business as well as other Minnesota Dealers. With 24/7 access to large, on-hand parts inventories that are managed by local, experienced, and knowledgeable parts experts, Equipment Dealers have a time tested parts distribution model that supports their customers through both critical demand seasons and day-in and day-out parts needs. Currently there is strong competition among a broad and diversified network of over 150 Minnesota Dealer locations representing multiple competitive brands – this creates value and price competitiveness.

Manufacturers don't have the resources nor desire to sell parts directly to our customers – and with the added costs of labor, freight and warehousing, parts pricing from a manufacturer direct model would be equal to or greater than today's competitive Dealer pricing.

This mandate would put Dealers out of business and customers would be at the mercy of manufacturers for parts pricing and availability. In the end, changes to the current Dealer parts distribution model would be a lose/lose for Farmers, Contractors, Independent Repair Shops along with Dealers and local communities. The customers we do business with have a deep appreciation for the parts we stock and access to our parts people on a local basis.

In closing, I appreciate the opportunity to testify and on behalf of myself and the over 4000 Minnesota Dealership employees, I respectfully ask that off-road equipment to be excluded from the current self-repair bill, similar to recent legislation in New York. Our Industry has been more pro-active than any other, including the auto industry, in providing tools and technical information to those who prefer self-repair. Our customers not only expect but rely on their local farm equipment and construction equipment dealer to stock needed parts to support their operations.

Mr. Chairman, thank you for the opportunity to testify.

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John Weber, General Manager, RDO Equipment Company

My name is John Weber, I'm a General Manager at RDO Equipment Company (RDO) and live in Delano, MN. I'm here representing my family and all the professional Minnesotans that work at RDO's stores in Moorhead, Hawley, Breckenridge, Fergus Falls and 7 other locations in our state. In total we have more than 500 team members in Minnesota and our payroll totals more than \$47 million each year.

RDO is a full-service business that supports our customers with product sales, parts, and service of construction and agricultural equipment. Our team of professionals carry a heavy responsibility because the products that we sell are extremely complex and inherently dangerous. These machines, when operated and repaired responsibly, are the backbone of how Minnesota's infrastructure is created and maintained, and how our farmers continue to provide for a growing population.

The "Digital Fair Repair" legislation in HF 2680 is broad reaching and has serious, potentially devastating consequences beyond what most people may realize. Please allow me to draw the connection between how this bill puts MN lives and livelihoods at risk. A good example is simply looking at an excavator.

Excavators represent about 40% of all the construction equipment machines sold in Minnesota. They are used in road building, civil construction, underground, quarries, etc. An excavator is extremely versatile and it is usually the first machine on a work site and the last one to leave. Excavators vary in size but a mid-size excavator, often seen on a construction site, can weigh in excess of 50,000 lbs. and cost hundreds of thousands of dollars. These excavators have valves that control the movement of the excavator. If machine valves suffer failure due to modification or improper repair, the result can be unexpected machine movement and possibly death. When a machine this size moves on its own, the laborers working around it are in extreme danger. In fact, everything around the machine is in danger. Suffice to say, these machines clearly have a dramatically different risk profile than any consumer electronic.

To be clear, we support the right to repair and we do that every day. In Minnesota alone, RDO keeps more than \$26M in parts inventory, the majority of which is sold "over the counter" which means that we don't install it.

Our customers can and already do perform repairs on their equipment. And, we support their efforts by offering access to manuals, providing training, and giving advice. On our website, rdoequipment.com, there's a page that provides resources to those who want to perform their own repairs. We also have videos and conduct presentations at owner events so that they are well educated regarding their repair options. We offer all of this at no charge to the customer.

We do not, however, support the right to modify the software that governs these highly complex, highly dangerous machines. There is a big difference between a hand-held cell phone and a 50,000 lb excavator. We believe that additional access to the software will increase the risk to our team, our customers, and our neighbors. And those risks are simply too great. For these reasons, I respectfully ask you to EXEMPT construction and farm equipment from Article 4 Section 9 of HF 2680.

Thank you.