

**Testimony of the Truck and Engine Manufacturers Association**

**By  
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**Senate File 1598**

**Public Hearing of the Commerce and Consumer Protection Committee  
Minnesota State Legislature**

**February 28, 2023**

Chair Klein, Vice Chair Seeberger and Members of the Committee:

The Truck and Engine Manufacturers Association (EMA) opposes Minnesota Senate File 1598 (S.F. 1598). EMA represents the world's leading manufacturers of commercial vehicles as well as 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.

S.F. 1598, the "Digital Fair Repair Act," simply goes too far. Among other things, it will create unnecessary confusion, complications, burdens, and risks for Minnesota users and manufacturers alike; and will lead to significant adverse safety, environmental, and security impacts.

The bill's overly broad definition of "digital electronic equipment" would apply to many of the engines, vehicles and equipment manufactured by EMA's members. Further, the bill specifically excludes "motor vehicles," yet lacks clarity on the exclusion of other similarly complex machinery (e.g., off-road engines and equipment) that would face the same significant impacts.

As currently written, the bill would allow anyone – whether trained or not – to access and change the microprocessors on engines, vehicles and equipment that control critical safety, emissions, and performance systems. Thus creating significant adverse unintended consequences to the products manufactured by EMA's members. Such legislation simply is not needed for engines, vehicles or off-road equipment, and creates a solution in search of a problem.

The correct use of service information, such as diagnostic and repair tools, on the complex machinery manufactured by EMA members requires highly trained and skilled personnel. Allowing unfettered access to service information to untrained individuals 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 untrained personnel will intentionally or unintentionally, and illegally, alter or disable federally mandated emission control systems. Such

illegal tampering is increasingly occurring today, especially on off-highway equipment and trucks, and the U.S. EPA has undertaken a National Compliance Initiative<sup>1</sup> to respond to the numerous instances of tampering<sup>2</sup> 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.

Further, the bill fails to contain 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. Today’s legislation will simply make those efforts easier.

Lastly, we note that the State of New York recently recognized the significant adverse unintended consequences that would be created in including heavy machinery in legislation focused on consumer electronic products. New York Assembly bill A.7006B/S.4104A, which was signed into law in 2022, is similar in scope to S.F. 1598 and excludes motor vehicles and offroad equipment (*see Sec. 4(a)-(c)*).

For all of these reasons, EMA requests that any digital right to repair legislation clarifies that all on- and off-highway engines, vehicles, and equipment are expressly excluded. Those products are not the type of consumer goods that appear to be the focus of this bill, and they are already covered by existing state and federal laws and existing manufacturer commitments. S.F. 1598 otherwise will 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 Minnesota, 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: [tsutton@emamail.org](mailto:tsutton@emamail.org), (312) 929-1976.

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<sup>1</sup> U.S. EPA National Compliance Initiative: <https://www.epa.gov/enforcement/national-compliance-initiative-stopping-aftermarket-defeat-devices-vehicles-and-engines>

<sup>2</sup> U.S. EPA Clean Air Act Vehicle and Engine Enforcement Case Resolutions: <https://www.epa.gov/enforcement/clean-air-act-vehicle-and-engine-enforcement-case-resolutions>