

# Right to Repair Movement Continues to Pick Up Steam

A customer's "right to repair" the products they purchase continues to be hotly disputed. Customers argue that they should be able to choose who can repair their products. Manufacturers argue that restrictions are necessary, especially when the products include complex equipment and proprietary software. Companies who want to repair products argue that manufacturers are putting too many restrictions on the repairs, including who can make them. Both consumers and service providers argue that restrictions on the right to repair lead to substantial service delays and unreasonable repair costs. The conflict has given rise to class action lawsuits, actual and potential legislation, and the active involvement of trade associations and federal agencies.

Recent developments include new right to repair laws. For example, New York passed the Fair Repair Act (the Act) in December 2022. That law requires, among other things, that manufacturers of "digital electronic equipment" make documentation, parts and tools required for the diagnosis, maintenance and repair available to independent repair providers. The Act empowers the state attorney general to seek injunctions and restitution. It also allows for a civil penalty of up to \$500 per violation. More than 20 other states have implemented or proposed some form of a right to repair law, and additional state—and perhaps even federal—legislation may be on the way.

Right to repair lawsuits also continue to make their way through the courts. Several lawsuits filed against Harley-Davidson alleging violations of consumers' right to repair their vehicles were recently [consolidated into a multidistrict litigation](#) in the U.S. District Court for the Eastern District of Wisconsin. These lawsuits allege that Harley-Davidson's warranties wrongfully suggest that purchasers must use only its branded parts and designated repair services for the warranty to remain valid. Additionally, several class action lawsuits filed against John Deere were [consolidated into one case](#) that is pending in the U.S. District Court for the Northern District of Illinois. The plaintiffs in that case allege that John Deere violated federal antitrust law by unfairly limiting farmers' rights to repair their equipment. The U.S. Department of Justice recently [weighed in on the case](#), siding with the plaintiff-purchasers.

However, compromise may be possible. For example, on January 8, 2023, the

## POSTED:

Feb 24, 2023

## RELATED PRACTICES:

### [Litigation](#)

<https://www.reinhartlaw.com/practices/litigation>

### [Corporate Law](#)

<https://www.reinhartlaw.com/practices/corporate-law>

### [Intellectual Property](#)

<https://www.reinhartlaw.com/practices/intellectual-property>

## RELATED SERVICES:

### [Commercial and Competition Law](#)

<https://www.reinhartlaw.com/services/commercial-and-competition-law>

## RELATED PEOPLE:

### [Laura A. Brenner](#)

<https://www.reinhartlaw.com/people/laura-brenner>

### [Olivia J. Brooks](#)

<https://www.reinhartlaw.com/people/olivia-brooks>



American Farm Bureau Federation, an agricultural lobbying organization, announced that it negotiated an agreement that included a commitment by John Deere to provide greater access to diagnostic and repair codes, manuals and product guides. Although the [Memorandum of Understanding](#) (MOU) memorializing this agreement does not include enforcement provisions, it demonstrates that compromise short of legislation may be possible. It is not yet clear what impact the MOU will have on the pending class action lawsuit.

These developments serve as good reminders to dealers, repair businesses and consumers to understand their rights when it comes to post-sale product repairs. Product manufacturers should likewise consider applicable laws and possible pushback even when implementing reasonable repair restrictions. Manufacturers may also want to work with their own trade associations to resolve concerns and to ensure that any right to repair laws and regulations are not overly restrictive.

Please contact Laura Brenner, Olivia Brooks or any member of Reinhart's Commercial and Competition Law Team with questions concerning warranties, the right to repair or recent developments that might affect your business or your rights.

*These materials provide general information which does not constitute legal or tax advice and should not be relied upon as such. Particular facts or future developments in the law may affect the topic(s) addressed within these materials. Always consult with a lawyer about your particular circumstances before acting on any information presented in these materials because it may not be applicable to you or your situation. Providing these materials to you does not create an attorney/client relationship. You should not provide confidential information to us until Reinhart agrees to represent you.*