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Written Testimony of Kimberly A. Trapp, President of Bobcat Enterprises, Inc.

Before the Senate Financial  
Institution and Technology  
Committee on

Digital Fair Repair Act (SB73)

Chair Wilson, Vice Chair Hackett, and other committee members, Bobcat Enterprises, Inc (BEI) appreciates the opportunity to offer this testimony regarding the Senate Financial Institutions and Technology Committee hearing related to the Digital Fair Repair Act (SB 73).

Bobcat Enterprises, Inc is a family-owned construction equipment dealership headquartered in Cincinnati and serves Ohio markets from Columbus south to the Ohio river. We serve customers primarily in Agricultural, Energy, Construction, and Industrial production. We were founded in 1975 and I am the second generation leading our 150-member team. We were founded with an entrepreneurial spirit and desire to provide legendary customer service to our customers.

The Digital Fair Repair Act (SB73) has serious environmental, safety, legal, intellectual property, and economic implications for equipment dealers like Bobcat Enterprises, Inc, original equipment manufacturers, suppliers, and the general public.

- **Solution in Search of a Problem.** A primary basis for applying right to repair policies to the equipment industry is based on a false narrative that customers are unable to fix their machinery. To the contrary, unlike many consumer electronic products, equipment manufacturers and distributors make available diagnostic tools, repair information, parts, and remote customer support. BEI has significantly invested in parts inventory that is available to customers. In addition to our shop service, we also offer 24/7 availability of Field Service Technicians to address urgent needs of our customers.
- **Environmental Harm.** The equipment industry has invested significant time and resources to meet the Environmental Protection Administration's (EPA) Tier 4 diesel emissions standards. These specifications, applicable to engines used in off-road equipment have resulted in a significant reduction in emissions. Unfortunately, this proposal threatens important environmental gains as it would permit unfettered access to embedded software to circumvent emissions protections.
- **Detrimently Impact Family-Owned Companies.** The equipment distribution industry is dominated by small-medium-sized, family-owned companies, many which are multi-generational. BEI falls into all these categories and if forced to sell parts at cost, would be at risk of maintaining a minimum margin to survive. We operate in a highly competitive market where our customers have unlimited options for service and support. We have significant investment in parts inventory, shop tools as well as training for our service technicians. We budget an average of \$7,000 per each week of training for a technician.
- **Compromise Safety.** Modern heavy equipment has numerous safety features to protect both equipment operators and the public, the latter who oftentimes are driving or walking past construction sites and other areas while machinery is in use. Granting access to override safety features poses undue risk for operators and bystanders. BEI's technicians are trained to safely work on equipment and maintain all safety features.
- **Legal Liability.** I have serious concerns of BEI's increased liability associated with allowing the tampering of safety features on our equipment. We don't want anyone to get hurt while using, repairing our being around our equipment. I envision an increase of incidents related to lack of safety and BEI being named in cases where we have no involvement. These cases are costly and time consuming.

### **Suggested Amendment**

Given the substantial concerns with SB 73 outlined above, BEI would urge you to adopt exemption language that protects public safety and the economic viability of the equipment distribution industry. The language is identical to an amendment adopted by New York before passage of right to repair legislation last year and has been utilized in numerous states with similar proposals:

*Manufacturers, distributors, importers or dealers of all off-road (non-road) equipment, including without limitation, farm and utility tractors, farm implements, farm machinery, forestry equipment, industrial equipment, utility equipment, construction equipment, compact construction equipment, road-building equipment, mining equipment, turf, yard and garden equipment, outdoor power equipment, portable generators, marine, all-terrain sports and recreational vehicles (including racing vehicles), stand-alone or integrated stationary or mobile internal combustion engines, other power sources, (including without limitation, generator sets, electric/battery and fuel cell power), power tools, and any tools, technology, attachments, accessories, components and repair parts for any of the foregoing.*

### **In Closing**

For the construction equipment industry, SB 73 is a solution in search of a problem. BEI provides customers and third-party repair providers with parts, tools, and other resources to complete nearly all repairs.

Enacting SB 73 will stifle entrepreneurship and result in an unprecedented intrusion by government into the free enterprise system. The viability of the equipment distribution industry will be severely hampered, causing lost economic activity, job creation, and technological advancement.

In conclusion, end-users of machinery have the information, tools and parts they need to repair and fix their equipment.

Thank you for the committee's consideration of my testimony.

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