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MEMORANDUM OF OPPOSITION

BILL: S.5771 (May) / A.6601-A (Kelles)

SUBJECT: "Farm Equipment Fair Repair Act"

DATE: March 26, 2025

The Associated General Contractors of New York State, (AGC NYS) the leading statewide trade association representing union and open shop construction companies opposes S.5771 (May) / A.6601-A (Kelles). The bill requires original equipment manufacturers (OEMs) of farm equipment to make diagnostic and repair information for such equipment sold or used in this state available to consumers and independent repair providers. It also makes the equipment or service parts, including software updates, available for purchase by the owner of such equipment, authorized agents, or independent repair providers at fair and reasonable terms.

While well intentioned for individuals seeking to repair "agricultural equipment", this bill would establish a dangerous and overly broad "right to repair" mandate on manufacturers, owners, and operators of heavy-duty construction equipment. Manufacturers of heavy-duty construction equipment engineer highly complex machines that meet or exceed safety and environmental standards, ensuring that workers and the public are protected from adverse and potentially life-threatening situations. Owners and users of heavy-duty construction equipment depend on machinery that is thoroughly repaired by skilled technicians. Skilled technicians working on heavy duty construction equipment are highly trained individuals that receive annual recertification through an intensive training program. Typically, technicians receive up to 250 hours of annual training because rapid technological innovation has created equipment that has proprietary software, firmware, engines, transmissions, complex fuel systems, emissions systems, highly pressurized hydraulics, and other moving parts.

This bill would discourage innovation and strict regulatory compliance, because manufacturers and dealers would be mandated to allow access to back-end source code which can be used to reset safety features, reprogram control units, or change settings that affect emissions and safety compliance. Given New York's strict construction safety, environmental laws, and regulations this bill would jeopardize worker safety, increase emissions, and contribute to broadening the civil and criminal liability for businesses.

Furthermore, inflation, tariffs, federal funding cuts, New York City congestion pricing uncertainties, construction job losses, and New York's excessive costs for commercial general liability and workers' compensation insurance, already pose a significant threat to New York's construction industry. Simply put, this bill will make New York's construction costs soar even higher.

Therefore, AGC NYS opposes S.5771 (May) / A.6601-A (Kelles) and urges legislators to reject this bill.