

LC004801

**IN GENERAL ASSEMBLY**

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RELATING TO COMMERCIAL LAW -- GENERAL REGULATORY PROVISIONS --  
AGRICULTURAL EQUIPMENT RIGHT TO REPAIR ACT

Referred To: House Corporations

1           SECTION 1. Title 6 of the General Laws entitled "COMMERCIAL LAW — GENERAL  
2   REGULATORY PROVISIONS" is hereby amended by adding thereto the following chapter:

## AGRICULTURAL EQUIPMENT RIGHT TO REPAIR ACT

6       This chapter shall be known and may be cited as the "Agricultural Equipment Right to  
7       Repair Act".

9 As used in this chapter:

(1) "Authorized repair provider" means an individual or business who is affiliated with an original equipment manufacturer and who has an arrangement with the original equipment manufacturer, for a definite or indefinite period, under which the original equipment manufacturer grants to the individual or business a license to use a trade name, service mark, or other proprietary identifier for the purposes of offering the services of diagnosis, maintenance, or repair of electronics-enabled agricultural equipment under the name of the original equipment manufacturer, or other arrangement with the original equipment manufacturer to offer such services on behalf of the original equipment manufacturer. An original equipment manufacturer who offers the services of diagnosis, maintenance, or repair of its own electronics-enabled agricultural equipment, shall be

1 considered an authorized repair provider, with respect to such equipment.

2 (2) "Documentation" means any manual, diagram, reporting output, service code  
3 description, schematic, product guides, product service demonstrations, training seminars, clinics,  
4 fleet management information, connected support, mobile applications, on-board diagnostics via  
5 diagnostics port or wireless interface, or other guidance or information on service, parts, operation,  
6 safety, electronic field diagnostic service tools, or training for use in effecting the services of  
7 diagnosis, maintenance, or repair of electronics-enabled agricultural equipment.

8 (3) "Electronics-enabled agricultural equipment" or "equipment" means any product, part  
9 of a product, or attachment to a product, when sold or leased for use in farming, ranching, or other  
10 agriculture, that depends for its functioning, in whole or in part, on digital electronics embedded in  
11 or attached to it. The term includes, but is not limited to, a tractor, trailer, combine, tillage, planting,  
12 irrigation, or cultivating implement, baler, unmanned aircraft system, or off-road vehicle.  
13 Electronics-enabled agricultural equipment or equipment does not include motor vehicles, and does  
14 not include consumer electronic devices, including wireless communication devices and  
15 computers.

16 (4) "Embedded software" means any programmable instructions provided on firmware  
17 delivered with electronics-enabled agricultural equipment, or with a part for such equipment, for  
18 purposes of equipment operation, including all relevant patches and fixes made available by the  
19 manufacturer of such equipment or part for such purposes.

20 (5) "Fair and reasonable terms for obtaining a part, a tool, documentation, or software"  
21 means at fair and reasonable costs and terms, that do not impair the contracts and agreements  
22 between authorized repair providers affiliated with the original equipment manufacturer. Fair and  
23 reasonable terms shall not include additional cost or burden not reasonably necessary, or designed  
24 to be an impediment on the independent repair provider or equipment owner.

25 (6) "Fair and reasonable terms for software tools" means permitting or effecting the  
26 diagnosis, maintenance, or repair and enabling full functionality of electronics-enabled agricultural  
27 equipment without requiring authorization or Internet access, or in a manner that impairs the  
28 efficient and cost-effective performance of any of those activities, unless authorization is required  
29 to prevent access to source code or infringement of intellectual property in software or hardware  
30 that is owned and licensed to the original equipment manufacturer by a third party and subject to  
31 terms of use.

32 (7) "Firmware" means a software program or set of instructions programmed on  
33 electronics-enabled agricultural equipment, or on a part for such equipment, to allow the equipment  
34 or part to communicate within itself or with other computer hardware.

1       (8) "Independent repair provider" means an individual or business operating in this state,  
2 that does not have an arrangement with an original equipment manufacturer and is not affiliated  
3 with any individual or business which has such an arrangement with an original equipment  
4 manufacturer, and is engaged in the service, diagnosis, maintenance, or repair of electronics-  
5 enabled agricultural equipment. An original equipment manufacturer, individual or business which  
6 has a service or repair arrangement with another original equipment manufacturer shall be  
7 considered an independent repair provider for purposes of those instances in which it engages in  
8 the service, diagnosis, maintenance, or repair of electronics-enabled agricultural equipment that is  
9 not manufactured by or sold under the independent repair provider's brand name.

10       (9) "Motor vehicle" shall have the same meaning as set forth in § 31-1-3.

11       (10) "Original equipment manufacturer" means a business engaged in the business of  
12 selling, leasing, or otherwise supplying new electronics-enabled agricultural equipment  
13 manufactured by or on behalf of itself to any individual or business.

14       (11) "Owner" means an individual or business that owns or has leased for use in this state,  
15 electronics-enabled agricultural equipment.

16       (12) "Part" means any replacement part, either new or used, made available by an original  
17 equipment manufacturer for purposes of effecting the service, maintenance or repair of electronics-  
18 enabled agricultural equipment, manufactured by or on behalf of, sold or otherwise supplied by the  
19 original equipment manufacturers, implemented by or with surrogate distributors.

20       (13) "Repair" means to maintain, diagnose, and repair machinery that results in the machine  
21 being returned to its original specifications. Repair does not include performing any activities that  
22 result in the machine being modified outside of the original equipment manufacturer specifications.  
23 Specifically, repair does not include the ability to:

24       (i) Reset an immobilizer system or security-related electronic modules;

25       (ii) Reprogram any electronic processing units or engine control units and parameters;

26       (iii) Change any equipment or engine settings that negatively affect emissions or safety  
27 compliance; or

28       (iv) Download or access the source code of any proprietary embedded software or code.

29       (14) "Surrogate distributor" means any independent dealership, wholesale distributor,  
30 and/or any retail establishment, dealing in agricultural equipment.

31       (15) "Tool" means any software program, hardware implement, product service  
32 demonstrations, training, seminars, clinics, on-board diagnostics via diagnostics port or wireless  
33 interface, electronic field diagnostic service tools and training on how to use them, or other  
34 apparatus used for diagnosis, maintenance, or repair of electronics-enabled agricultural equipment.

1 including software or other mechanisms that provision, program, or pair a new part, calibrate  
2 functionality, or perform any other function required to bring the product back to specifications.

3 (16) "Trade secret" shall have the same meaning as set forth in § 6-41-1.

4 **6-63-3. Agricultural equipment manufacturer's duty.**

5 For electronics-enabled agricultural equipment, and parts for such equipment, sold or used  
6 in this state, an original equipment manufacturer shall make available, for purposes of diagnosis,  
7 maintenance, or repair of such equipment, to any independent repair provider, or to the owner of  
8 electronics-enabled agricultural equipment manufactured by or on behalf of, sold or otherwise  
9 supplied by, the original equipment manufacturer, on fair and reasonable terms, documentation,  
10 parts, and tools, inclusive of any updates to information or embedded software. Nothing in this  
11 section requires an original equipment manufacturer to make available documentation, parts, and  
12 tools if such documentation, parts, and/or tools are no longer available to the original equipment  
13 manufacturer.

14 **6-63-4. Trade secrets.**

15 Nothing in this chapter shall be construed to require an original equipment manufacturer  
16 to divulge a trade secret to an owner or an independent service provider, except as is necessary to  
17 provide documentation, parts, and tools on fair and reasonable terms.

18 **6-63-5. Warranty and recalls.**

19 No provision in this chapter shall be construed to alter the terms of any arrangement in  
20 force between an authorized repair provider and an original equipment manufacturer, including,  
21 but not limited to, the performance or provision of warranty or recall repair work by an authorized  
22 repair provider on behalf of an original equipment manufacturer pursuant to such arrangement,  
23 except that any provision in such terms that purports to waive, avoid, restrict, or limit the original  
24 equipment manufacturer's obligations to comply with the provisions of this chapter shall be void  
25 and unenforceable.

26 **6-63-6. Enforcement.**

27 (a) Any person suffering a loss due to a violation of this chapter may bring a civil action to  
28 recover actual damages, reasonable attorneys' fees and court costs.

29 (b) The attorney general may enforce the provisions of this chapter in an action for an  
30 injunction or other equitable relief.

31 (c) Any action for damages pursuant to this chapter or to enforce the provisions of this  
32 chapter shall be filed within three (3) years of the violation.

1           SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T  
RELATING TO COMMERCIAL LAW -- GENERAL REGULATORY PROVISIONS --  
AGRICULTURAL EQUIPMENT RIGHT TO REPAIR ACT

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- 1           This act would provide that original agricultural equipment manufacturers, implemented  
2   by or with surrogate distributors, of agricultural equipment would provide to independent service  
3   providers; repair information and tools to maintain and repair electronics-enabled agricultural  
4   equipment.
- 5           This act would take effect upon passage.

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