

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

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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