

HB261 INTRODUCED



1 HB261
2 V1JTPVV-1
3 By Representatives Travis, Chestnut, Lawrence, McCampbell,
4 Jackson, Daniels
5 RFD: Commerce and Small Business
6 First Read: 28-Feb-24

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4 SYNOPSIS:

5 An owner of agricultural equipment or an
6 independent service provider that repairs agricultural
7 equipment may find that certain documentation, tools,
8 software or other components of the equipment needed to
9 diagnose the problem, make a repair and maintain the
10 equipment are made inaccessible to them by the
11 manufacturer.

12 This bill would require that an agricultural
13 equipment manufacturer facilitate the repair and
14 maintenance of its equipment by providing owners and
15 independent service providers with the resources needed
16 to diagnose, repair and maintain its equipment at fair
17 and reasonable costs and terms, provided that it shall
18 not be required to divulge any trade secret.

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20
21 A BILL
22 TO BE ENTITLED
23 AN ACT
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25 Relating to repair of agricultural equipment; to create
26 the Alabama Consumer Repair Bill of Rights Act; to require
27 agricultural equipment manufactures to facilitate the repair
28 and maintenance of the equipment by owners or independent



HB261 INTRODUCED

repair service providers.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. This act shall be known and may be cited as the Alabama Consumer Repair Bill of Rights Act.

Section 2. For the purposes of this act, the following words have the following meanings:

(1) AGRICULTURAL EQUIPMENT. a. Equipment that is primarily designed for use in a farm or ranch operation, including, but not limited to, the following:

1. A tractor, trailer, combine, sprayer, tillage implement, baler, and other equipment used to plant, cultivate, or harvest agricultural products or to ranch.

2. Attachments to, and repair parts for, equipment described in paragraph a.

b. The term does not include any of the following:

1. A self-propelled vehicle designed primarily for the transportation of individuals or property on a street or highway.

2. A motorsports vehicle, including, but not limited to, a vehicle such as a motorcycle, scooter, snowmobile, all-terrain vehicle, utility vehicle, or jetski and other personal watercraft.

3. An aircraft used in agricultural aircraft operation, as defined in 14 C.F.R. §137.3.

4. Any equipment designed and used primarily for irrigation purposes.

(2) AUTHORIZED REPAIR PROVIDER. a. A person that is unaffiliated with a manufacturer other than through



HB261 INTRODUCED

arrangement with the manufacturer, whether for a definite or indefinite period when the manufacturer for the purpose of offering to provide services to an equipment owner pertaining to the owner's equipment or a part, grants the person either of the following:

1. A license to use a trade name, service mark, or other proprietary identifier.

2. Authorization under any other arrangement to act on behalf of the manufacturer.

b. The term includes a manufacturer that offers to provide services to an owner of the manufacturer's equipment pertaining to the owner's equipment or a part if the manufacturer does not have an arrangement with an unaffiliated person, as described in this section.

(3) DATA. With the consent of an owner, transmitted or compiled information arising from the operation of an owner's agricultural equipment or its parts.

(4) DOCUMENTATION. A manual, diagram, including a schematic diagram, reporting output, service code description, security code or password, or similar type of guidance or information, whether in an electronic or tangible format, that a manufacturer provides to an authorized repair provider to assist the authorized repair provider with services performed on the manufacturer's equipment or a part.

(5) EMBEDDED SOFTWARE FOR AGRICULTURAL EQUIPMENT. Any programmable instructions provided on firmware delivered with, or loaded to, the agricultural equipment with respect to agricultural equipment operation and all relevant patches and



HB261 INTRODUCED

fixes that the manufacturer makes, including, but not limited to, items described as "basic internal operating system," "internal operating system," "machine code," "assembly code," "root code," and "microcode."

(6) EQUIPMENT. Agricultural equipment or boating equipment consisting of a self-propelled vehicle designed primarily for transporting individuals or property on a water surface, as well as attachments to and repair parts for those vehicles.

(7) EQUIPMENT DEALER. Any person that is primarily engaged in the retail sale of agricultural equipment.

(8) FAIR AND REASONABLE TERMS AND COSTS. With respect to the sale of parts for agricultural equipment to an owner or an independent provider, equitable terms for access to, or receipt of, any part pertaining to agricultural equipment, in a manner that satisfies both of the following:

a. Is fair to both parties in light of any agreed upon conditions, the promised quality, and the timeliness of the delivery.

b. Does not discourage or disincentivize repairs to be made by an owner or an independent repair provider, but does not impose on an owner or independent repair provider either of the following:

1. Any substantial obligation to use, or any restriction on the use of, a part, embedded software, embedded software for agricultural equipment, firmware, or tool, including a condition that the owner or independent repair provider become an authorized repair provider of the



HB261 INTRODUCED

113 manufacturer.

114 2. Any requirement that a part, embedded software,
115 embedded software for agricultural equipment, firmware, or
116 tool be registered, paired with, or approved by the
117 manufacturer or an authorized repair provider before the part,
118 embedded software, embedded software for agricultural
119 equipment, firmware, or tool is operational.

120 c. Except as provided in this subdivision, costs shall
121 be calculated using net costs incurred, accounting for any
122 discounts, rebates, or incentives offered.

123 (9) FIRMWARE. A software program or set of instructions
124 programmed on equipment or a part to allow the equipment or
125 part to function or communicate with itself or with other
126 computer hardware.

127 Section 3. (a) As used in this section "documentation,
128 parts, or embedded software" means any documentation, parts,
129 embedded software, embedded software for agricultural
130 equipment, firmware, tools, or, with owner authorization,
131 data, that are intended for use with the equipment or any
132 part, including updates to documentation, parts, embedded
133 software, embedded software for agricultural equipment,
134 firmware, tools, or, with owner authorization, data.

135 (b) Except as provided in subsection (c):

136 (1) For the purpose of providing services for equipment
137 in the state, an original equipment manufacturer, with fair
138 and reasonable terms and costs, shall make available to an
139 independent repair provider or owner of the manufacturer's
140 equipment the documentation, parts, or embedded software,



HB261 INTRODUCED

including updates to the documentation, parts, or embedded software.

(2) With respect to equipment that contains an electronic security lock or other security-related function, a manufacturer, with fair and reasonable terms and costs, shall make available to independent repair providers and owners the documentation, parts, or embedded software needed to reset the lock or function when disabled in the course of providing services. The manufacturer may make the documentation, parts, or embedded software available to independent repair providers and owners through appropriate secure release systems.

(c)(1) Subsection (b) shall not apply to conduct that would require the manufacturer to divulge a trade secret, except that a manufacturer shall not refuse to make available to an independent repair provider or owner any documentation, part, or embedded software necessary to provide services on grounds that the documentation, part, or embedded software itself is a trade secret.

(2) A manufacturer may withhold information regarding a component of, design of, functionality of, or process of developing a part, embedded software, embedded software for agricultural equipment, firmware, or a tool if the information is a trade secret and the usability of the part, embedded software, embedded software for agricultural equipment, firmware, or tool for the purpose of providing services is not diminished.

(d)(1) Neither an original equipment manufacturer nor an equipment dealer shall be liable for faulty or otherwise



HB261 INTRODUCED

improper repairs provided by independent repair providers or owners, including faulty or otherwise improper repairs that cause any of the following:

a. Damage to boating equipment or agricultural equipment that occurs during the repair.

b. An inability to use, or a reduced functionality of, powered boating equipment or a piece of agricultural equipment resulting from the faulty or otherwise improper repair.

(2) A manufacturer that provides data to an independent repair provider in compliance with this section is neither responsible nor liable to the owner, the independent repair provider, or another party for any action that the independent repair provider or another party takes while using or relying on the data.

(e) Subject to subsection (f), nothing in this section authorizes an independent repair provider or owner to do any of the following:

(1) Make any modification to agricultural equipment that deactivates a safety notification system, except as necessary to provide services.

(2) Access any function of a tool that enables the independent repair provider or owner to change the settings for a piece of agricultural equipment in a manner that brings the equipment out of compliance with any applicable federal, state, or local safety or emissions law, except as necessary to provide services.

(3) Evade emissions, copyright, trademark, or patent laws.



HB261 INTRODUCED

(4) Engage in any other illegal equipment modification activities.

(f)(1) With respect to a contract or other arrangement, or renewal of a contract or existing arrangement, that an original equipment manufacturer enters into after October 1, 2024, any contract term, provision, agreement, or language in the contract or arrangement that waives, avoids, restricts, or limits the manufacturer's obligations under this section is void and unenforceable.

(2) If an agricultural equipment manufacturer enters into, or is covered under, a nationwide memorandum of understanding regarding a right to repair agricultural equipment, the memorandum of understanding governs an owner's right to provide services or to engage the services of an independent repair provider for that manufacturer's brand of agricultural equipment, except for the following:

a. If compliance with the memorandum of understanding would deny the owner any rights afforded to the owner under this section, including any rights to documentation, data, tools, or embedded software for agricultural equipment necessary for the diagnosis, maintenance, or repair of the owner's agricultural equipment, the owner shall be entitled to the necessary documentation, data, tools, or embedded software in accordance with this section.

b. The agricultural equipment manufacturer that enters into a memorandum of understanding shall be obligated to meet the requirements established under this section.

Section 4. This act shall be repealed if the United



HB261 INTRODUCED

225 States Congress enacts federal legislation establishing a
226 right to repair boating equipment and agricultural equipment.
227 The Attorney General shall notify the Code Commissioner in
228 writing of the date on which the condition specified in this
229 section has occurred by e-mail. The repeal shall be effective
230 upon the date identified in the notice that the federal
231 legislation was enacted or, if the notice does not specify
232 that date, upon the date of the notice to the Code
233 Commissioner.

234 Section 5. This act shall become effective on October
235 1, 2024.