

AMENDMENTS TO LB543

Introduced by Brandt, 32.

1 1. Strike the original sections and insert the following new
2 sections:

3 Section 1. Sections 1 to 6 of this act shall be known and may be
4 cited as the Agricultural Equipment Right-To-Repair Act.

5 Sec. 2. For purposes of the Agricultural Right-To-Repair Act:

6 (1) Authorized repair provider means an individual or business who
7 is affiliated with an original equipment manufacturer and who has an
8 arrangement with the original equipment manufacturer, for a definite or
9 indefinite period, under which the original equipment manufacturer grants
10 to the individual or business a license to use a trade name, service
11 mark, or other proprietary identifier for the purposes of offering the
12 services of diagnosis, maintenance, or repair of electronics-enabled
13 agricultural equipment under the name of the original equipment
14 manufacturer, or other arrangement with the original equipment
15 manufacturer to offer such services on behalf of the original equipment
16 manufacturer. An original equipment manufacturer who offers the services
17 of diagnosis, maintenance, or repair of its own electronics-enabled
18 agricultural equipment, and who does not have an arrangement described in
19 this subsection with an affiliated individual or business, shall be
20 considered an authorized repair provider with respect to such equipment;

21 (2) Electronics-enabled agricultural equipment or equipment means
22 any product, part of a product, or attachment to a product, when sold or
23 leased for use in farming, ranching, or other agriculture, that depends
24 for its functioning, in whole or in part, on digital electronics embedded
25 in or attached to it. The term includes, but is not limited to, a
26 tractor, trailer, combine, tillage, planting, irrigation, or cultivating
27 implement, baler, unmanned aircraft system, or off-road vehicle.

1 Electronics-enabled agricultural equipment or equipment does not include
2 motor vehicles, and does not include consumer electronic devices,
3 including wireless communication devices and computers;

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

12 (4) Embedded software means any programmable instructions provided
13 on firmware delivered with electronics-enabled agricultural equipment, or
14 with a part for such equipment, for purposes of equipment operation,
15 including all relevant patches and fixes made by the manufacturer of such
16 equipment or part for such purposes;

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

25 (b) For software tools, fair and reasonable terms also means without
26 requiring authorization or Internet access, or imposing impediments to
27 access or use, in the course of effecting the diagnosis, maintenance, or
28 repair and enabling full functionality of electronics-enabled
29 agricultural equipment, in a manner that impairs the efficient and cost-
30 effective performance of any of those activities unless authorization is
31 required to prevent access to source code or infringement of intellectual

1 property in software or hardware that is owned and licensed to the
2 original equipment manufacturer by a third party and subject to terms of
3 use;

4 (6) Firmware means a software program or set of instructions
5 programmed on electronics-enabled agricultural equipment, or on a part
6 for such equipment, to allow the equipment or part to communicate within
7 itself or with other computer hardware;

8 (7) Independent repair provider means an individual or business
9 operating in this state, who does not have an arrangement described in
10 subdivision (1) of this section with an original equipment manufacturer,
11 and who is not affiliated with any individual or business who has such an
12 arrangement, and who is engaged in the services of diagnosis,
13 maintenance, or repair of electronics-enabled agricultural equipment,
14 except that an original equipment manufacturer or, with respect to that
15 original equipment manufacturer, an individual or business who has such
16 an arrangement with that original equipment manufacturer, or who is
17 affiliated with an individual or business who has such an arrangement
18 with that original equipment manufacturer, shall be considered an
19 independent repair provider for purposes of those instances in which it
20 engages in the services of diagnosis, maintenance, or repair of
21 electronics-enabled agricultural equipment that is not manufactured by or
22 sold under the name of that original equipment manufacturer;

23 (8) Motor vehicle means a vehicle that is designed for transporting
24 persons or property on a street or highway and is certified by the
25 manufacturer under all applicable federal safety and emissions standards
26 and requirements for distribution and sale in the United States;

27 (9) Original equipment manufacturer means a business engaged in the
28 business of selling, leasing, or otherwise supplying new electronics-
29 enabled agricultural equipment manufactured by or on behalf of itself, to
30 any individual or business;

31 (10) Owner means an individual or business that owns or leases

1 electronics-enabled agricultural equipment purchased or used in this
2 state;

3 (11) Part means any replacement part, either new or used, made
4 available by an original equipment manufacturer for purposes of effecting
5 the services of maintenance or repair of electronics-enabled agricultural
6 equipment manufactured by or on behalf of, sold or otherwise supplied by
7 the original equipment manufacturer;

8 (12) Repair means to maintain, diagnose, and repair machinery that
9 results in the machine being returned to its original specifications.
10 Repair does not include performing any activities that result in the
11 machine being modified outside of the original equipment manufacturer
12 specifications. Specifically, repair does not include the ability to:

13 (a) Reset an immobilizer system or security-related electronic
14 modules;

15 (b) Reprogram any electronic processing units or engine control
16 units and parameters;

17 (c) Change any equipment or engine settings that negatively affect
18 emissions or safety compliance; and

19 (d) Download or access the source code of any proprietary embedded
20 software or code;

21 (13) Tools means any software program, hardware implement, product
22 service demonstrations, training, seminars, clinics, on-board diagnostics
23 via diagnostics port or wireless interface, electronic field diagnostic
24 service tools and training on how to use them, or other apparatus used
25 for diagnosis, maintenance, or repair of electronics-enabled agricultural
26 equipment, including software or other mechanisms that provision,
27 program, or pair a new part, calibrate functionality, or perform any
28 other function required to bring the product back to specifications; and

29 (14) Trade secret has the same meaning as in section 87-502.

30 Sec. 3. For electronics-enabled agricultural equipment, and parts
31 for such equipment, sold or used in this state, an original equipment

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

11 Sec. 4. Violation of the Agricultural Right-To-Repair Act is an
12 unlawful practice under the Uniform Deceptive Trade Practices Act. All
13 remedies, penalties, and authority granted to the Attorney General by the
14 Uniform Deceptive Trade Practices Act shall be available to the Attorney
15 General for the enforcement of the Agricultural Right-To-Repair Act.

16 Sec. 5. (1) Nothing in the Agricultural Right-To-Repair Act shall
17 be construed to require an original equipment manufacturer to divulge a
18 trade secret to an owner or an independent service provider except as
19 necessary to provide documentation, parts, and tools on fair and
20 reasonable terms.

21 (2) No provision in the Agricultural Right-To-Repair Act shall be
22 construed to alter the terms of any arrangement described in subdivision
23 (1) of section 2 of this act in force between an authorized repair
24 provider and an original equipment manufacturer, including, but not
25 limited to, the performance or provision of warranty or recall repair
26 work by an authorized repair provider on behalf of an original equipment
27 manufacturer pursuant to such arrangement, except that any provision in
28 such terms that purports to waive, avoid, restrict, or limit the original
29 equipment manufacturer's obligations to comply with the act shall be void
30 and unenforceable.

31 Sec. 6. The Agricultural Right-To-Repair Act applies with respect

1 to equipment sold or in use on or after the effective date of this act.