

House File 2763 - Introduced

HOUSE FILE 2763
BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO HF 2709)
(SUCCESSOR TO HSB 751)

A BILL FOR

- 1 An Act providing for services relating to agricultural equipment.
- 2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

unofficial

1 Section 1. NEW SECTION. **322E.1 Definitions.**

2 As used in this chapter, unless the context otherwise
3 requires:

4 1. a. "Agricultural equipment" means equipment that is
5 primarily designed for use in a farming operation.

6 b. "Agricultural equipment" includes any of the following:

7 (1) A tractor, trailer, combine, sprayer, tillage implement,
8 baler, and other equipment used to plant, cultivate, or harvest
9 agricultural products.

10 (2) An attachment to and repair part for equipment described
11 in subparagraph (1).

12 (3) "Agricultural equipment" does not include any of the
13 following:

14 (a) A self-propelled vehicle designed primarily for the
15 transportation of individuals or property on a street or highway.

16 (b) A powersports vehicle, including any of the following:

17 (i) A vehicle for off-road operation.

18 (ii) A personal watercraft that is a motorboat that is
19 designed to be operated by a person sitting, standing, or
20 kneeling on the vessel, rather than the conventional manner of
21 sitting or standing inside the vessel, and that is designed
22 primarily for use off of the public highways, and that uses
23 either an inboard motor powering a water jet pump or an outboard
24 motor-driven propeller.

25 (iii) A snowmobile.

26 (c) Any aircraft used in an agricultural aircraft operation,
27 as defined in 14 C.F.R. §137.3.

28 (d) Any equipment designed and used primarily for irrigation
29 purposes.

30 2. a. "Authorized repair provider" means a person that
31 is unaffiliated with a manufacturer other than through an
32 arrangement with the manufacturer, whether for a definite or an
33 indefinite period, in which the manufacturer, for the purpose
34 of offering to provide services to an equipment owner regarding
35 the owner's equipment or a part, grants the person any of the

1 following:

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

4 (2) Authorization under any other arrangement to act on
5 behalf of the manufacturer.

6 b. "*Authorized repair provider*" includes a manufacturer that
7 offers to provide services to an owner of the manufacturer's
8 agricultural equipment regarding the owner's agricultural
9 equipment or a part if the manufacturer does not have an
10 arrangement with an unaffiliated person, as described in
11 paragraph "a".

12 3. "*Data*" means, with the consent of an owner, transmitted
13 or compiled information arising from the operation of an owner's
14 agricultural equipment or its parts.

15 4. "*Documentation*" means a manual; diagram, including a
16 schematic diagram; reporting output; service code description;
17 security code or password; or similar type of guidance or
18 information, whether in an electronic or tangible format, that a
19 manufacturer provides to an authorized repair provider to assist
20 the authorized repair provider with services performed on the
21 manufacturer's agricultural equipment or a part.

22 5. a. "*Embedded software for agricultural equipment*" means
23 any programmable instructions provided on firmware delivered
24 with or loaded to the agricultural equipment, with respect to
25 agricultural equipment operation.

26 b. "*Embedded software for agricultural equipment*" includes
27 all relevant patches and fixes that the manufacturer makes,
28 including but not limited to items described as a basic internal
29 operating system, internal operating system, machine code,
30 assembly code, root code, and microcode.

31 6. "*Equipment dealer*" means any person primarily engaged in
32 the retail sale of agricultural equipment.

33 7. "*Fair and reasonable terms and costs*" means the following:

34 a. With respect to obtaining documentation, embedded
35 software, firmware, or tools from a manufacturer to provide

1 services.

2 b. With respect to documentation, the manufacturer provides
3 the documentation, including any relevant updates to the
4 documentation, at no charge, except that the manufacturer may
5 charge a fee for a printed copy of the documentation if the
6 amount of the fee covers only the manufacturer's actual cost to
7 prepare and send the printed copy of the documentation.

8 c. With respect to tools that are software programs, the
9 manufacturer provides the tools that are software programs
10 subject to all of the following:

11 (1) At no charge and without requiring authorization or
12 internet access or otherwise imposing impediments to access or
13 use.

14 (2) In the course of effectuating the diagnosis, maintenance,
15 or repair and enabling the full functionality of the agricultural
16 equipment or part.

17 (3) In a manner that does not impair the efficient and
18 cost-effective performance of the agricultural equipment or part.

19 d. Notwithstanding paragraph "a", parts shall be sold to an
20 owner or an independent repair provider under equitable terms
21 for access to or receipt of any part pertaining to agricultural
22 equipment and in a manner that is any of the following:

23 (1) Is fair to both parties in light of any agreed-upon
24 conditions, the promised quality, and the timeliness of the
25 delivery.

26 (2) Does not discourage or disincentivize repairs to be made
27 by an owner or an independent repair provider.

28 e. Terms are fair if the terms do not impose on an owner or
29 independent repair provider any of the following:

30 (1) Substantial obligation to use, or any restriction on
31 the use of, a part, embedded software, embedded software
32 for agricultural equipment, firmware, or tool, including a
33 condition that the owner or independent repair provider become an
34 authorized repair provider of the manufacturer.

35 (2) A requirement that a part, embedded software, embedded

1 software for agricultural equipment, firmware, or tool be
2 registered or paired with or approved by the manufacturer or an
3 authorized repair provider before the part, embedded software,
4 embedded software for agricultural equipment, firmware, or tool
5 is operational.

6 8. "*Firmware*" means a software program or set of instructions
7 programmed on equipment or a part to allow the equipment or part
8 to function or communicate with itself or with other computer
9 hardware.

10 9. a. "*Independent repair provider*", except as otherwise
11 provided in paragraph "b", means a person in the state that is
12 all of the following:

13 (1) Neither a manufacturer's authorized repair provider nor
14 affiliated with a manufacturer's authorized repair provider.

15 (2) Engaged in offering or providing services.

16 b. "*Independent repair provider*" includes all of the
17 following:

18 (1) An authorized repair provider if the authorized repair
19 provider is offering or providing services for a manufacturer
20 other than a manufacturer with which the authorized repair
21 provider has an arrangement described in subsection 2.

22 (2) A manufacturer with respect to offering or providing
23 services for another manufacturer's agricultural equipment or
24 part.

25 10. "*Original equipment manufacturer*" or "*manufacturer*" means
26 a person doing business in the state and engaged in the
27 business of selling, leasing, or otherwise supplying agricultural
28 equipment or parts manufactured by or on behalf of itself to any
29 individual, business, or other entity.

30 11. "*Owner*" means a person that owns agricultural equipment,
31 or an agent of the owner.

32 12. "*Part*" means a new or used replacement part for
33 agricultural equipment that a manufacturer offers for sale or
34 otherwise makes available for the purpose of providing services.

35 13. "*Services*" means diagnostic, maintenance, or repair

1 services performed on agricultural equipment.

2 14. "Tools" means any software program, hardware implement,
3 or other apparatus used for diagnosis, maintenance, or repair
4 of agricultural equipment or parts, including software or
5 another mechanism that provides, programs, or pairs a new
6 part, calibrates functionality, or performs any other function
7 required to return the agricultural equipment or part to a fully
8 functional condition.

9 15. a. "Trade secret" means the whole or any portion
10 or phase of any scientific or technical information, design,
11 process, procedure, formula, improvement, or confidential
12 business or financial information; a listing of names, addresses,
13 or telephone numbers; or other information relating to any
14 business or profession that is secret and of value.

15 b. To be a trade secret, the owner thereof must have taken
16 measures to prevent the secret from becoming available to persons
17 other than those selected by the owner to have access thereto for
18 limited purposes.

19 Sec. 2. NEW SECTION. **322E.2 Agricultural equipment —**
20 **obligations regarding services — exemption.**

21 1. Except as provided in subsection 2, all of the following
22 apply:

23 a. For the purpose of providing services for agricultural
24 equipment in the state, an original equipment manufacturer shall,
25 with fair and reasonable terms and costs, make available to
26 an independent repair provider or owner of the manufacturer's
27 equipment any documentation, parts, embedded software, embedded
28 software for agricultural equipment, firmware, tools, or, with
29 owner authorization, data that are intended for use with the
30 equipment or any part, including updates to documentation, parts,
31 embedded software, embedded software for agricultural equipment,
32 firmware, tools, or, with owner authorization, data.

33 b. With respect to agricultural equipment that contains an
34 electronic security lock or other security-related function, a
35 manufacturer shall, with fair and reasonable terms and costs,

1 make available to independent repair providers and owners
2 any documentation, parts, embedded software, embedded software
3 for agricultural equipment, firmware, tools, or, with owner
4 authorization, data needed to reset the lock or function when
5 disabled in the course of providing services. The manufacturer
6 may make the documentation, parts, embedded software, embedded
7 software for agricultural equipment, firmware, tools, or,
8 with owner authorization, data available to independent repair
9 providers and owners through appropriate secure release systems.

10 2. Subsection 1 does not apply to any of the following:

11 a. A part that is no longer available to the original
12 equipment manufacturer.

13 b. Conduct that would require the manufacturer to divulge
14 a trade secret, except that a manufacturer shall not refuse
15 to make available to an independent repair provider or owner
16 any documentation, part, embedded software, embedded software
17 for agricultural equipment, firmware, tool, or, with owner
18 authorization, data necessary to provide services on grounds that
19 the documentation, part, embedded software, embedded software
20 for agricultural equipment, firmware, tool, or, with owner
21 authorization, data itself is a trade secret.

22 3. Neither an original equipment manufacturer nor an
23 agricultural equipment dealer is liable for faulty or otherwise
24 improper repairs provided by an independent repair provider or
25 owner, including faulty or otherwise improper repairs that cause
26 any of the following:

27 a. Damage to agricultural equipment that occurs during such
28 repairs.

29 b. Any indirect, incidental, special, or consequential
30 damages.

31 c. An inability to use, or a reduced functionality of, a
32 piece of agricultural equipment resulting from the faulty or
33 otherwise improper repair.

34 4. A manufacturer that provides data to an independent repair
35 provider in compliance with this chapter is neither responsible

1 nor liable to the owner, the independent repair provider, or
2 another party for any action that the independent repair provider
3 or another party takes while using or relying on the data.

4 EXPLANATION

5 The inclusion of this explanation does not constitute agreement with
6 the explanation's substance by the members of the general assembly.

7 This bill regulates practices by an original farm equipment
8 manufacturer (manufacturer). For the purpose of providing
9 services for agricultural equipment in the state, a manufacturer
10 must, with fair and reasonable terms and costs, make available
11 to an independent repair provider or owner of the manufacturer's
12 equipment any documentation, parts, embedded software, embedded
13 software for agricultural equipment, firmware, tools, or, with
14 owner authorization, data that are intended for use with the
15 equipment or any part, including updates to documentation, parts,
16 embedded software, embedded software for agricultural equipment,
17 firmware, tools, or, with owner authorization, data.