

House File 2529 - Introduced

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BY COMMITTEE ON AGRICULTURE

(SUCCESSOR TO HSB 684)

A BILL FOR

1 An Act providing for the repair of a diesel exhaust fluid
2 system that is part of farm equipment, and providing
3 penalties.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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

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

4 1. "*Authorized repair provider*" means a person other than an
5 original farm equipment manufacturer with whom the manufacturer
6 has entered into an oral or written agreement for a definite
7 or indefinite period, if the manufacturer grants to the
8 person a license to use a trade name, service mark, or related
9 characteristic for the purposes of offering repair services
10 under the name of the manufacturer.

11 2. "*Diesel exhaust fluid*" means the same as defined in 40
12 C.F.R. §1036.801.

13 3. "*Diesel exhaust fluid system*" or "*system*" means a system
14 that utilizes diesel exhaust fluid as part of a selective
15 catalytic reduction process that is operated by one or more
16 digital electronic components.

17 4. "*Digital electronic component*" means an item containing
18 an integrated circuit, if manufactured as part of a diesel
19 exhaust fluid system that is integrated into farm equipment.

20 5. a. "*Embedded software*" means programmable instructions
21 provided on firmware delivered with digital electronic
22 components for the purposes of operating a diesel exhaust fluid
23 system integrated into farm equipment, including all relevant
24 patches and fixes made by the original equipment manufacturer.

25 b. "*Embedded software*" includes but is not limited to an
26 internal operating system, a machine code, an assembly code, a
27 root code, or a microcode.

28 6. "*Farm equipment*" means a type of diesel-powered motorized
29 equipment that is designed or adapted and used exclusively for
30 the production of agricultural commodities, including a crop
31 as defined in section 202.1 or livestock as defined in section
32 717.1.

33 7. "*Firmware*" means a software program or set of
34 instructions programmed on a hardware device to allow the
35 device to communicate with other computer hardware.

1 8. "*Interest holder*" means a person who holds a legal
2 interest in farm equipment that includes a diesel exhaust fluid
3 system, if the person is the owner, lessee, or licensee of a
4 digital electronic component that operates a diesel exhaust
5 fluid system integrated into the farm equipment.

6 9. "*Original farm equipment manufacturer*" or "*manufacturer*"
7 means a person who, in the ordinary course of business, is
8 engaged in the business of doing all of the following:

9 a. Manufacturing and assembling parts of new farm equipment
10 for sale or lease, if the new farm equipment includes a diesel
11 exhaust fluid system.

12 b. Providing items and documentation for servicing,
13 maintaining, or repairing a diesel exhaust fluid system that
14 is integrated into the new farm equipment, including providing
15 replacement parts.

16 10. "*Replacement part*" means a part of a digital electronic
17 component that is an element of a diesel exhaust fluid system
18 integrated into farm equipment, if the part is manufactured
19 to perform the same or a similar function as the part being
20 replaced, and the part restores digital electronic components
21 to an operational condition or improves the efficiency or
22 capability of the digital electronic components.

23 11. "*Trade secret*" means anything tangible or intangible
24 or electronically stored or kept that constitutes, represents,
25 evidences, or records intellectual property, including
26 secret or confidentially held designs, processes, procedures,
27 formulas, inventions, or improvements; secret or confidentially
28 held scientific, technical, merchandising, production,
29 financial, business, or management information; or any other
30 trade secret as defined in 18 U.S.C. §1839.

31 Sec. 2. NEW SECTION. 322E.2 Rulemaking authority.

32 The attorney general shall adopt rules pursuant to chapter
33 17A to administer this chapter.

34 Sec. 3. NEW SECTION. 322E.3 Enforcement authority.

35 1. The attorney general shall enforce this chapter,

1 including rules adopted under this chapter.

2 2. A district court may prevent and restrain a violation
3 of this chapter through the issuance of an injunction. The
4 attorney general or a county attorney shall institute suits on
5 behalf of the state to prevent and restrain violations of this
6 chapter.

7 Sec. 4. NEW SECTION. 322E.4 **Application.**

8 1. This chapter shall not be construed to require an
9 original equipment manufacturer to divulge a trade secret.

10 2. *a.* Except as provided in paragraph "b", this chapter
11 shall not abrogate, interfere with, contradict, or alter
12 the terms of any agreement executed by an interest holder
13 and another party relating to farm equipment, including
14 performance, a warranty, or recall repair work.

15 *b.* A provision in an agreement entered into by an interest
16 holder and another party that waives, limits, or disclaims the
17 rights set forth in this chapter is void as contrary to public
18 policy.

19 3. This chapter shall not require an original farm equipment
20 manufacturer or an authorized repair provider to provide
21 an interest holder access to nondiagnostic or nonrepair
22 information provided by the manufacturer to the authorized
23 repair provider pursuant to the terms of an agreement.

24 Sec. 5. NEW SECTION. 322E.5 **Terms and conditions of use —**
25 **diagnostic and repair information.**

26 1. *a.* An original farm equipment manufacturer shall make
27 diagnostic and repair information regarding the operation of
28 a diesel exhaust fluid system, including technical updates
29 and embedded software updates and corrections, available to
30 any interest holder for no charge or in the same manner as
31 the manufacturer makes such diagnostic and repair information
32 available to the manufacturer's authorized repair providers
33 doing business in the same region as the interest holder when
34 using the farm equipment.

35 *b.* The original farm equipment manufacturer is not required

1 to make the diagnostic and repair information available in a
2 print format.

3 2. An original farm equipment manufacturer shall not
4 require an interest holder to purchase diagnostic and repair
5 information regarding the operation of a diesel exhaust fluid
6 system if the manufacturer sells the diagnostic and repair
7 information to the manufacturer's authorized repair providers
8 on terms that are more favorable than the terms offered to the
9 interest holder.

10 Sec. 6. NEW SECTION. 322E.6 Terms and conditions of use —
11 replacement parts and diagnostic and repair tools.

12 1. a. An original farm equipment manufacturer shall make
13 available for purchase by an interest holder a replacement part
14 necessary to operate a diesel exhaust fluid system to the same
15 extent that the manufacturer makes available the same digital
16 electronic component to an authorized repair provider doing
17 business in the same region as the interest holder when using
18 the farm equipment.

19 b. The terms and conditions of the purchase described in
20 paragraph "a" shall be fair and reasonable according to criteria
21 provided in rules adopted by the attorney general. The
22 criteria may be based on the terms and conditions of agreements
23 entered into by the original farm equipment manufacturer and
24 authorized repair providers doing business in the same region
25 as the interest holder when using the farm equipment.

26 2. a. An original farm equipment manufacturer shall make
27 available for purchase by an interest holder a diagnostic
28 repair tool necessary to operate a diesel exhaust fluid system
29 to the same extent that the manufacturer makes available
30 the diagnostic repair tool to an authorized repair provider
31 doing business in the same region as the interest holder
32 when using the farm equipment. The diagnostic repair tool
33 shall incorporate the same diagnostic, repair, and remote
34 communications capabilities that the manufacturer makes
35 available to the repair or engineering personnel employed by

1 provides that a manufacturer must make certain items related to
2 the DEF system available to a person holding a legal interest
3 in the farm equipment (interest holder) in the same manner
4 and to the same extent as the manufacturer makes such items
5 available to the manufacturer's authorized repair providers
6 doing business in the same region as the interest holder. The
7 items include diagnostic and repair information, including
8 technical updates, replacement parts, and diagnostic repair
9 tools. A manufacturer is not required to provide a replacement
10 part that is no longer available to the manufacturer. The
11 bill does not require a manufacturer to divulge a trade secret
12 and the manufacturer cannot abrogate warranty provisions. A
13 provision in an agreement that is entered into by an interest
14 holder that waives a right provided in the bill is void. The
15 attorney general is responsible for enforcing the provisions
16 of the bill and is required to adopt rules necessary to
17 implement the bill's provisions. A violation of the bill by
18 a manufacturer is considered an unfair or deceptive trade
19 practice. The attorney general or county attorney may bring
20 a civil action against the manufacturer, including by seeking
21 injunctive relief or by asking a court to impose a civil
22 penalty not to exceed \$40,000 per violation.