

House File 2763 - Introduced

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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
2 equipment.

3 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. 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
8 implement, baler, and other equipment used to plant, cultivate,
9 or harvest 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
16 highway.

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

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

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

26 (iii) A snowmobile.

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

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

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

1 the owner's equipment or a part, grants the person any of the
2 following:

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

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

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

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

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

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

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

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

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

35 *a.* With respect to obtaining documentation, embedded

1 software, firmware, or tools from a manufacturer to provide
2 services.

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

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

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

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

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

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

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

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

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

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

1 an authorized repair provider of the manufacturer.

2 (2) A requirement that a part, embedded software, embedded
3 software for agricultural equipment, firmware, or tool be
4 registered or paired with or approved by the manufacturer or an
5 authorized repair provider before the part, embedded software,
6 embedded software for agricultural equipment, firmware, or tool
7 is operational.

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

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

15 (1) Neither a manufacturer's authorized repair provider nor
16 affiliated with a manufacturer's authorized repair provider.

17 (2) Engaged in offering or providing services.

18 b. *"Independent repair provider"* includes all of the
19 following:

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

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

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

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

34 12. *"Part"* means a new or used replacement part for
35 agricultural equipment that a manufacturer offers for sale

1 or otherwise makes available for the purpose of providing
2 services.

3 13. "*Services*" means diagnostic, maintenance, or repair
4 services performed on agricultural equipment.

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

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

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

22 Sec. 2. NEW SECTION. 322E.2 Agricultural equipment —
23 obligations regarding services — exemption.

24 1. Except as provided in subsection 2, all of the following
25 apply:

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

1 owner authorization, data.

2 *b.* With respect to agricultural equipment that contains an
3 electronic security lock or other security-related function, a
4 manufacturer shall, with fair and reasonable terms and costs,
5 make available to independent repair providers and owners any
6 documentation, parts, embedded software, embedded software
7 for agricultural equipment, firmware, tools, or, with owner
8 authorization, data needed to reset the lock or function when
9 disabled in the course of providing services. The manufacturer
10 may make the documentation, parts, embedded software, embedded
11 software for agricultural equipment, firmware, tools, or,
12 with owner authorization, data available to independent
13 repair providers and owners through appropriate secure release
14 systems.

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

16 *a.* A part that is no longer available to the original
17 equipment manufacturer.

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

27 3. Neither an original equipment manufacturer nor an
28 agricultural equipment dealer is liable for faulty or otherwise
29 improper repairs provided by an independent repair provider
30 or owner, including faulty or otherwise improper repairs that
31 cause any of the following:

32 *a.* Damage to agricultural equipment that occurs during such
33 repairs.

34 *b.* Any indirect, incidental, special, or consequential
35 damages.

1 c. An inability to use, or a reduced functionality of, a
2 piece of agricultural equipment resulting from the faulty or
3 otherwise improper repair.

4 4. A manufacturer that provides data to an independent
5 repair provider in compliance with this chapter is neither
6 responsible nor liable to the owner, the independent repair
7 provider, or another party for any action that the independent
8 repair provider or another party takes while using or relying
9 on the data.

10

EXPLANATION

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

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