

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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SYNOPSIS:

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

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

A BILL
TO BE ENTITLED
AN ACT

Relating to repair of agricultural equipment; to create the Alabama Consumer Repair Bill of Rights Act; to require agricultural equipment manufactures to facilitate the repair and maintenance of the equipment by owners or independent



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29 repair service providers.

30 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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



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

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

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

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

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

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

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



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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,



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

199 (f) (1) With respect to a contract or other arrangement,
200 or renewal of a contract or existing arrangement, that an
201 original equipment manufacturer enters into after October 1,
202 2024, any contract term, provision, agreement, or language in
203 the contract or arrangement that waives, avoids, restricts, or
204 limits the manufacturer's obligations under this section is
205 void and unenforceable.

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

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

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

224 Section 4. This act shall be repealed if the United



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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.