

SENATE BILL NO. 509

INTRODUCED BY W. CURDY

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE AGRICULTURAL EMBEDDED SOFTWARE ACT; ENSURING THAT EMBEDDED SOFTWARE THAT IS NECESSARY FOR THE FULL FUNCTIONALITY OF AGRICULTURAL EQUIPMENT DOES NOT RESTRICT THE USE, INTENDED CAPABILITIES, OR SALE OF THE AGRICULTURAL EQUIPMENT THROUGH CONTRACTS OR OTHER MEANS; PROVIDING DEFINITIONS; AND PROVIDING A DELAYED EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Short title.** [Sections 1 through 4] may be cited as the "Agricultural Embedded Software Act".

NEW SECTION. **Section 2. Definitions.** As used in [sections 1 through 4], unless the context clearly indicates otherwise, the following definitions apply:

(1) "Agricultural equipment" or "equipment" means the mobile equipment consisting of binders, reapers, tractors, harvesters, harrows, tedders, and other similar equipment and accessories involved in agricultural processes and that depends for its functioning, in whole or in part, on digital electronics embedded in or attached to the equipment.

(2) (a) "Authorized repair provider" means an individual or business who has:

(i) an arrangement with the original equipment manufacturer under which the original equipment manufacturer grants to the individual or business a license to use a tradename, service mark, or other proprietary identifier for offering the services of diagnosis, maintenance, or repair of agricultural equipment under the name of the original equipment manufacturer; or

(ii) another arrangement with the original equipment manufacturer to offer the services of diagnosis, maintenance, or repair of agricultural equipment on behalf of or under contract to the original equipment manufacturer.

(b) An original equipment manufacturer who offers the services of diagnosis, maintenance, or repair of its own agricultural equipment is considered an authorized repair provider with respect to this equipment.

(3) "Documentation" means a manual, maintenance procedure, functional or wiring diagram, reporting output, service code description, circuit board schematic, security code, password, training material, troubleshooting information, list of required tools, parts list, or other guidance or information used in the services of diagnosis, maintenance, or repair of the agricultural equipment.

(4) "Embedded software" means any programmable software instructions that are delivered with or loaded into the agricultural equipment or a part of the equipment to allow the equipment or part to operate or communicate with other computer hardware. The term includes all relevant software updates, patches, and fixes that the manufacturer makes for purposes of diagnosis, maintenance, or repair of the agricultural equipment.

(5) "Independent repair provider" means an individual or business operating in the state that does not have an arrangement described in subsection (2) with an original equipment manufacturer and who is engaged in the services of diagnosis, maintenance, or repair of agricultural equipment.

(6) "On fair and reasonable terms" means:

(a) at costs and terms that are equivalent to the most favorable costs and terms an original equipment manufacturer offers to an authorized repair provider, accounting for:

(i) any discount, rebate, convenient and timely means of delivery, means of enabling fully restored and updated functionality, rights of use, or other incentive and preference the original manufacturer offers to an authorized repair provider; or

(ii) any additional cost, burden, or impediment the original equipment manufacturer imposes on an owner or independent repair provider;

(b) with respect to documentation, made available by the original equipment manufacturer at no charge, except that, when the documentation is requested in physical printed form, a charge may be included for the reasonable, actual costs of preparing and sending the copy;

(c) with respect to tools, made available by the original equipment manufacturer:

(i) at no charge, except that, when a tool is requested in physical form, a charge may be included

1 for the reasonable, actual costs of preparing and sending the tool;

2 (ii) without requiring authorization or internet access for the use or operation of these tools and
3 without imposing impediments to access to or use of the tools to diagnose, maintain, or repair and enable full
4 functionality of digital electronic equipment; and

5 (iii) not in a manner that impairs the efficient and cost-effective performance of any diagnosis,
6 maintenance, or repair; or

7 (d) with respect to parts, made available by the original equipment manufacturer, either directly or
8 through an authorized repair provider, in a manner that:

9 (i) does not condition access to parts on any additional contract, other than a purchase order; and

10 (ii) if the parts are necessary for the owner or independent repair provider to diagnose, maintain,
11 or repair agricultural equipment made by or on behalf of the original equipment manufacturer, does not impose
12 a substantial obligation or restriction through minimum or reasonable maximum purchase requirements.

13 However, if the parts are not strictly necessary, the original equipment manufacturer may set minimum and
14 reasonable maximum quantity limits for the purchase of the parts.

15 (7) "Original equipment manufacturer" or "manufacturer" means a business engaged in the
16 occupation of selling, leasing, or otherwise supplying new agricultural equipment manufactured by or on behalf
17 of the business, to any individual or business.

18 (8) "Part" means any replacement part, either new or used, generally available or used by an
19 original equipment manufacturer or its authorized repair providers, for the services of maintenance or repair of
20 agricultural equipment manufactured by or on behalf of, sold, or otherwise supplied by the original equipment
21 manufacturer.

22 (9) "Parts pairing" means the practice by manufacturers of using software to identify component
23 parts through a unique identifier.

24 (10) "Secure release system" means a system with the purpose of sharing information, including
25 digital files and text, and is protected against unauthorized access.

26 (11) "Tool" means any software program, hardware implement, or other apparatus used for
27 diagnosis, maintenance, or repair of agricultural equipment, including software or other mechanisms that
28 provision, program, or pair a new part, calibrate functionality, or perform any other function required to bring the

1 product back to fully functional condition, including any software updates.

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3 NEW SECTION. Section 3. Requirements. (1) All embedded software provided with, or
4 subsequently updated in, agricultural equipment is considered sold, rather than licensed, under state law.

5 (2) A manufacturer of agricultural equipment may not require an owner or any subsequent owners
6 to enter into an agreement that restricts the use of the equipment's embedded software capabilities, whether as
7 originally intended or as subsequently updated, for the duration of the equipment's useful life.

8 (3) Upon the valid sale or transfer of agricultural equipment to a third party, all rights and privileges
9 granted to the original owner must transfer to the new owner without requiring approval or notification from the
10 manufacturer.

11 (4) Any embedded software necessary for the operation of agricultural equipment, including the
12 software originally provided and subsequent software updates, must be made freely available by the
13 manufacturer or an authorized repair provider to the owner or an independent repair provider to ensure the
14 agricultural equipment's full functionality.

15 (5) Manufacturers shall make available to the owner or an independent repair provider all parts,
16 tools, and documentation necessary to test and install any embedded software that is equivalent to that
17 provided to an authorized repair provider on fair and reasonable terms.

18 (6) If a part that houses embedded software fails and requires replacement, the manufacturer shall
19 provide the necessary parts, tools, and documentation to install the embedded software, including any software
20 updates, for the new part at no charge.

21 (7) An original equipment manufacturer may not use parts pairing or any other mechanism to:

22 (a) prevent the installation or functioning of any otherwise functional part, including a
23 nonmanufacturer replacement part or component;

24 (b) inhibit or reduce the functioning of any part or board-level component in a manner that
25 replacement by an independent repair provider or owner would cause the equipment to operate with reduced
26 functionality or performance;

27 (c) create false, misleading, or deceptive alerts or warnings about parts;

28 (d) charge additional fees or increased prices for future repairs; or

(e) limit who can purchase documentation, parts, and tools or perform repair services.

(8) (a) For agricultural equipment that requires the deactivation of an electronic lock for diagnosis, maintenance, or repair purposes, the original equipment manufacturer shall make available, on fair and reasonable terms, all documentation, tools, and parts necessary to access and reset the lock or function that was disabled during the diagnosis, maintenance, or repair of the agricultural equipment.

(b) The original equipment manufacturer shall make the documentation, tools, and parts available to:

(i) the equipment owner; or

(ii) an independent repair provider with the express permission of the equipment owner.

(c) The documentation, tools, and parts may be provided through an appropriate secure release system to protect against unauthorized access.

(9) A software update may not delete or diminish the functionality of agricultural equipment as originally intended, except for the purposes of safety and security.

NEW SECTION. Section 4. Enforcement -- penalty. A violation of a provision of [sections 1 through 4] is an unfair or deceptive trade practice under Title 30, chapter 14, part 2, and the penalties provided in 30-14-224(1) apply.

NEW SECTION. Section 5. Effective date. [This act] is effective January 1, 2026.

NEW SECTION. Section 6. Codification instruction. [Sections 1 through 4] are intended to be codified as an integral part of Title 30, chapter 11, part 8, and the provisions of Title 30, chapter 11, part 8, apply to [sections 1 through 4].

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