

HOUSE BILL NO. 4651

May 24, 2023, Introduced by Reps. McKinney and Zorn and referred to the Committee on Agriculture.

A bill to provide definitions for the agricultural equipment repair act.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. As used in the agricultural equipment repair act:

2 (a) "Authorized repair provider" means, with respect to an
3 original equipment manufacturer, a person that is unaffiliated with
4 the original equipment manufacturer and that has an arrangement
5 with the original equipment manufacturer, for a definite or
6 indefinite period, under which the original equipment manufacturer

1 grants to the person a license to use a trade name, service mark,
2 or other proprietary identifier for the purposes of offering the
3 services of diagnosis, maintenance, or repair of electronics-
4 enabled agricultural equipment under the name of the original
5 equipment manufacturer, or otherwise to offer those services on
6 behalf of the original equipment manufacturer. An original
7 equipment manufacturer that offers diagnosis, maintenance, or
8 repair services of its own electronics-enabled agricultural
9 equipment and that does not have an arrangement described in this
10 subdivision with an unaffiliated person is considered an authorized
11 repair provider with respect to that equipment.

12 (b) "Documentation" means any manual, diagram, reporting
13 output, service code description, schematic, product guide, or
14 other guidance or information used for purposes of diagnosis,
15 maintenance, or repair services of electronics-enabled agricultural
16 equipment.

17 (c) "Electronics-enabled agricultural equipment" means any
18 product, part of a product, or attachment to a product, when sold
19 or leased for use in farming, ranching, or other agriculture, that
20 depends, in whole or in part, on digital electronics embedded in or
21 attached to the product to function. The term includes, but is not
22 limited to, a tractor, trailer, combine, tillage, planting,
23 irrigation, or cultivating implement, baler, unmanned aircraft
24 system, or off-road vehicle. The term does not include a motor
25 vehicle or a wireless communication device, computer, or other
26 consumer electronic device.

27 (d) "Embedded software" means any programmable instructions
28 provided on firmware delivered with electronics-enabled
29 agricultural equipment, or with a part for electronics-enabled

1 agricultural equipment, for purposes of equipment operation,
2 including all relevant patches and fixes made by the original
3 equipment manufacturer for this purpose.

4 (e) "Fair and reasonable terms" means costs and terms that
5 meet all of the following requirements:

6 (i) For obtaining a part or tool, documentation, or software,
7 costs and terms that meet all of the following:

8 (A) Are equivalent to the most favorable costs and terms under
9 which an original equipment manufacturer offers the part, tool,
10 documentation, or software to an authorized repair provider,
11 accounting for any discount, rebate, convenient means of delivery,
12 means of enabling fully restored and updated functionality, rights
13 of use, or other incentive or preference the original equipment
14 manufacturer offers to an authorized repair provider, or any
15 additional cost, burden, or impediment the original equipment
16 manufacturer imposes on an independent repair provider.

17 (B) Are not conditioned on entering an arrangement described
18 in subdivision (a).

19 (C) Are not conditioned on or do not impose a substantial
20 obligation or restriction that is not reasonably necessary for
21 enabling the owner or independent repair provider to engage in the
22 diagnosis, maintenance, or repair of electronics-enabled
23 agricultural equipment made by or on behalf of the original
24 equipment manufacturer.

25 (ii) For documentation, including any relevant updates, at no
26 charge, except that, if the documentation is required in physical
27 printed form, a charge may be included for the reasonable actual
28 costs of preparing and sending the copy.

29 (iii) For software tools, without requiring authorization or

1 internet access, or imposing impediments to access or use, in the
2 course of effecting the diagnosis, maintenance, or repair and
3 enabling full functionality of electronics-enabled agricultural
4 equipment, in a manner that impairs the efficient and cost-
5 effective performance of any of those activities.

6 (f) "Firmware" means a software program or set of instructions
7 programmed on electronics-enabled agricultural equipment or on a
8 part for that equipment, to allow the equipment or part to
9 communicate within itself or with other computer hardware.

10 (g) "Independent repair provider" means, with respect to an
11 original equipment manufacturer, a person operating in this state
12 that does not have an arrangement described in subdivision (a) with
13 the original equipment manufacturer, and that is not affiliated
14 with any person that has such an arrangement, and that is engaged
15 in diagnosis, maintenance, or repair services of electronics-
16 enabled agricultural equipment. An original equipment manufacturer
17 or, with respect to that original equipment manufacturer, a person
18 that has an arrangement described in subdivision (a) with that
19 original equipment manufacturer, or that is affiliated with a
20 person that has such an arrangement with that original equipment
21 manufacturer, is considered an independent repair provider for
22 purposes of those instances in which it engages in diagnosis,
23 maintenance, or repair services of electronics-enabled agricultural
24 equipment that is not manufactured by or sold under the name of
25 that original equipment manufacturer.

26 (h) "Motor vehicle" means a vehicle that is designed for
27 transporting persons or property on a street or highway and is
28 certified by the manufacturer under all applicable federal safety
29 and emissions standards and requirements for distribution and sale

1 in the United States.

2 (i) "Original equipment manufacturer" means a person engaged
3 in the business of selling, leasing, or otherwise supplying new
4 electronics-enabled agricultural equipment manufactured by or on
5 behalf of itself.

6 (j) "Owner" means a person that owns or leases electronics-
7 enabled agricultural equipment purchased or used in this state.

8 (k) "Part" means any replacement part, either new or used,
9 made available by an original equipment manufacturer for purposes
10 of maintenance or repair services of electronics-enabled
11 agricultural equipment manufactured by or on behalf of, sold by, or
12 otherwise supplied by the original equipment manufacturer.

13 (l) "Person" means an individual, partnership, corporation,
14 association, or other legal entity.

15 (m) "Tool" means any software program, hardware implement, or
16 other apparatus used for diagnosis, maintenance, or repair of
17 electronics-enabled agricultural equipment, including software or
18 other mechanisms that provision, program, or pair a new part,
19 calibrate functionality, or perform any other function required to
20 bring the product back to fully functional condition.

21 (n) "Trade secret" means that term as defined in section 2 of
22 the uniform trade secrets act, 1998 PA 448, MCL 445.1902.

23 Enacting section 1. This act does not take effect unless
24 Senate Bill No. ____ or House Bill No. 4650 (request no. 00431'23 *)
25 of the 102nd Legislature is enacted into law.