

ONE HUNDRED SEVENTH LEGISLATURE - SECOND SESSION - 2022
COMMITTEE STATEMENT
LB543

Hearing Date: Thursday February 25, 2021
Committee On: Judiciary
Introducer: Brandt
One Liner: Adopt the Agricultural Equipment Right-To-Repair Act

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:

Aye:	5	Senators Brandt, DeBoer, Lathrop, McKinney, Pansing Brooks
Nay:	2	Senators Geist, Slama
Absent:		
Present Not Voting:	1	Senator Morfeld

Oral Testimony:

Proponents:

Senator Tom Brandt
Lance Atwater
Tom Schwarz
Jacob Bish
Andrew Bish
Willie Cade
Jerrad Stroh
Kevin Kenney
Vern Jantzen

Representing:

Introducer
Nebraska Farm Bureau
Self
Hemp Harvest Works
Hemp Harvest Works & Bish Enterprises
Repair.Org & Nebraska Farm Bureau
Self
Self
Nebraska Farmers Union

Opponents:

Grant Suhre
Trevor Mechan
Kevin Clark
Scott Raber
Mark Hennessey

Representing:

John Deere
Valmont Industries
Akr's Equipment
Titan Machinery
Iowa Nebraska Equipment Dealers Association

Neutral:

Representing:

Submitted Written Testimony:

Proponents:

Edison McDonald

Representing:

GC Resolve

Opponents:

Kristen Hassebrook

Representing:

Nebraska Chamber

Summary of purpose and/or changes:

LB 543 creates the Agricultural Equipment Right-to-Repair Act. The proposal provides for the owner or an independent repair providers to obtain documentation, parts and tools necessary to repair electronics-enabled agricultural equipment. The bill provides for the Attorney General to address violations of the Act through the Uniform Deceptive Trade Practices Act.

Section by section

Section 1 Title: Agricultural Equipment Right to Repair Act.

Section 2 Definitions:

Authorized repair provider: Person or business who has arrangement with original equipment manufacturer to provide diagnosis, maintenance, or repair.

Electronics-enabled agricultural equipment: A product that relies on embedded or attached digital electronics to function. Provides list of included products.

Documentation: Manuals, diagrams, schematics, and other items that are used to diagnose, maintain or repair.

Embedded software: Programmable instructions loaded on firmware delivered with the equipment

Fair and reasonable terms: Costs and terms that don't impose a substantial obligation or restriction for the owner or independent repair to diagnose, maintain or repair. Also includes documentation at no cost, and software tools that do not impair the cost effective performance of maintenance, diagnosis or repair.

Firmware: Set of instructions programmed on equipment.

Independent repair provider: Individual or business not affiliated with original equipment manufacturer that engages in diagnoses, maintenance or repair.

Motor Vehicle: Vehicle designed for transportation on streets or highways.

Original Equipment manufacturer: Business selling or leasing electronics enabled equipment.

Owner: Individual or business that owns or leases equipment.

Part: Replacement parts made available by original equipment manufacturer.

Repair: Maintain diagnose or repair equipment. Does not include modifying, resetting unless necessary, and programming.

Tools: Includes service demonstrations, diagnostics, and other items used for diagnosis, maintenance, and repair.

Trade secret

Section 3 Requires the original equipment manufacturer to make available, on fair and reasonable terms, the documentation, parts and tools to the owner or an independent repair provider for diagnosis, maintenance or repair of the equipment. This includes providing items necessary to disable and reset electronic security locks. These requirements apply during an express warranty period.

Section 4 Violations of the Act are an unlawful practice under the Uniform Deceptive Trade Practices Act where the Attorney General has enforcement powers.

Section 5 Does not require the original manufacturer to divulge trade secrets to the owner or independent service provider. The Act does not impair warranty or recall provisions.

Section 6 The Act applies to equipment sold or in use after the effective date of the Act.

Explanation of amendments:

Committee Amendment AM1800 is a white copy amendment that makes the following changes to the green copy of LB 543:

Adds sprayers and removes unmanned aircraft and off road vehicles from the definition of Electronics-enabled agricultural equipment. (Sec. 2(2))

Adds "or service required to bring the equipment back to full or upgraded functionality" to the definition of Documentation. (Sec 2(3))

Adds "updates" to the definition of Embedded software (Sec. 2(4))

Strikes "software program or" from the definition of Firmware. (Sec. 2(6))

Adds "or other supplier" to the definition of Part. (Sec. 2(11))

Adds "service, and restore" and strikes "repair" to the definition of Repair. Also adds/rewrites language that repair does not include modifications and strikes language referencing immobilizer systems. (Sec. 2(12))

Adds "software upgrade" and "service" training to the definition of Tools. (Sec. 2(13))
Strikes subsections (2) and (3) from Section 3 of the green copy.

Steve Lathrop, Chairperson