

AMENDMENTS TO LB525

Introduced by Jacobson, 42.

1 1. Strike the original sections and insert the following new
2 sections:

3 **Section 1.** Sections 1 to 10 of this act shall be known and may be
4 cited as the Agricultural Data Privacy Act.

5 **Sec. 2.** The Legislature finds that agricultural data is a
6 proprietary business asset originating from the farm, land, devices, and
7 equipment of the producer. To protect the economic value of this data and
8 the autonomy of Nebraska producers, the sale of such data shall be
9 protected and the security of such data shall be maintained through
10 reasonable safeguards.

11 **Sec. 3.** For purposes of the Agricultural Data Privacy Act:

12 (1) Aggregated data means agricultural data that has been combined
13 with other data from various sources and summarized so that the resulting
14 data does not identify a specific agricultural producer or the farm,
15 land, device, or equipment of such agricultural producer;

16 (2) Agricultural data:

17 (a) Means any of the following that is collected, produced, or
18 generated in this state: Agronomic data, climate and weather data, farm
19 management data, land data, livestock data, machine data, and
20 sustainability data; and

21 (b) Does not include aggregated data or derived data;

22 (3) Agricultural producer means the individual who or entity that is
23 the owner of the agricultural data originating from the farm, land,
24 device, or equipment of such individual or entity;

25 (4) Agronomic data means information relating to soil management or
26 crop production, including any crop, field, planting activity, seed type,
27 yield, disease and pest management, fertilizer type and application, and

1 prescription;

2 (5) Climate and weather data means the conditions of the atmosphere
3 at a place and time and how such conditions generally prevail in such
4 place over a long period of time that is collected, produced, or
5 generated by the equipment of an agricultural producer or by devices
6 located on the land of an agricultural producer. Climate and weather
7 data:

8 (a) Includes the following information: Precipitation type and
9 amount, wind speed and direction, and temperature; and

10 (b) Does not include information that is made available to the
11 general public by a governmental entity or public source;

12 (6) Controller means a person who or entity that, alone or jointly
13 with others, determines the purpose and means of processing agricultural
14 data;

15 (7) Derived data means data that has been significantly modified,
16 processed, or analyzed. Derived data includes agronomic insights,
17 reports, and predictive models;

18 (8) Farm management data means information regarding the management
19 of an agricultural producer's farm, including the finances, taxes, and
20 employment of the agricultural producer, prices received or paid for any
21 commodity, compliance of the agricultural producer with any law, supply
22 chain for commodities produced or used by the agricultural producer, and
23 information regarding the tillage and conservation practices of the
24 agricultural producer;

25 (9) Land data means information regarding the physical attributes of
26 a parcel of land, including the types and fertility of soils, the
27 topography, elevation, watershed, and drainage of such parcel, and
28 geospatial information regarding such parcel;

29 (10) Livestock data means information regarding the production of
30 animals by an agricultural producer, including animal identification
31 practices, pedigree information, genetic information, and feed

1 consumption information;

2 (11) Machine data means information regarding telematics, fuel
3 consumption, load capabilities, machine use, and equipment health, and
4 any other machine-performance information;

5 (12) Processor means a person who or entity that processes
6 agricultural data on behalf of a controller;

7 (13) Sale of agricultural data means the exchange of agricultural
8 data for monetary or other valuable consideration by a controller or
9 processor to a third party; and

10 (14) Sustainability data means information regarding greenhouse-gas
11 emissions, carbon sequestration, and water-quality impact, and any other
12 environmental or conservation practice used to verify sustainability
13 claims.

14 **Sec. 4. (1)** The agricultural producer is the owner of agricultural
15 data that originates from the farm, land, device, or equipment of such
16 agricultural producer.

17 (2) A controller or processor may maintain and store agricultural
18 data as necessary to provide services to an agricultural producer, unless
19 a written contract between the parties expressly provides to the
20 contrary.

21 **Sec. 5. (1)** A controller or processor shall not engage in the sale
22 of agricultural data without the express written consent of the
23 agricultural producer.

24 (2) Written consent for the sale of agricultural data shall be
25 obtained through a clear and conspicuous disclosure that is separate from
26 the primary terms of service or data use agreement.

27 **Sec. 6. (1)** Beginning on January 1, 2027, every new contract or
28 agreement involving the collection or processing of agricultural data in
29 this state shall contain a specific provision stating that the controller
30 or processor is prohibited from selling the agricultural data without the
31 express written consent of the agricultural producer.

1 (2) Any contract provision that waives or limits the requirements of
2 this act is contrary to public policy and is void and unenforceable.

3 **Sec. 7. (1)** Any controller or processor in custody or possession of
4 agricultural data shall establish, implement, and maintain reasonable
5 administrative, technical, and physical data security practices to
6 protect the confidentiality, integrity, and accessibility of such
7 agricultural data.

8 (2) Such security practices shall be appropriate for the volume and
9 nature of the agricultural data and protect against unauthorized access,
10 use, disclosure, modification, or loss.

11 **Sec. 8. (1)** The Attorney General may bring an action in the district
12 court of Lancaster County against any controller or processor that
13 violates the Agricultural Data Privacy Act to:

14 (a) Seek injunctive relief; or

15 (b) Recover a civil penalty in the amount of one thousand dollars
16 for each separate violation. Any such recovered civil penalty shall be
17 remitted to the State Treasurer for distribution in accordance with
18 Article VII, section 5, of the Constitution of Nebraska.

19 (2) The Agricultural Data Privacy Act shall not be construed to
20 create any new private cause of action. The enforcement authority granted
21 to the Attorney General under this section shall be the exclusive remedy
22 for violations of the Agricultural Data Privacy Act.

23 **Sec. 9. (1)** Prior to bringing an action to recover a civil penalty
24 for a violation of section 6 or 7 of this act, the Attorney General shall
25 provide a controller or processor with a written notice that identifies
26 the specific violations of section 6 or 7 of this act that the Attorney
27 General alleges have been or are being violated.

28 (2) No such action for a civil penalty shall be initiated if, within
29 thirty days after receiving the written notice, the controller or
30 processor:

31 (a) Cures each such alleged violation; and

1 (b) Provides the Attorney General with a written statement that
2 specifies that each such alleged violation has been cured and that such
3 controller or processor will refrain from further violations of the
4 Agricultural Data Privacy Act.

5 (3) This section shall not apply to any violation of section 5 of
6 this act.

7 **Sec. 10.** The Agricultural Data Privacy Act shall not be construed
8 to:

9 (1) Limit or supersede any duty or obligation that is imposed by any
10 federal law or any other law of the State of Nebraska;

11 (2) Relieve any person from any duty or obligation otherwise imposed
12 by law; or

13 (3) Impair, supersede, or otherwise affect the terms of any private
14 contract that is in existence prior to the effective date of this act.