

AMENDMENTS TO LB525

Introduced by Banking, Commerce and Insurance.

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 that originates from the farm, land, devices,
7 and equipment of agricultural producers. To protect the economic value of
8 this data and the autonomy of Nebraska producers, the sale of such data
9 shall be protected and the security of such data shall be maintained
10 through reasonable safeguards.

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

12 (1) Affiliate means a person or entity that directly or indirectly
13 controls, is controlled by, or is under common control with a controller
14 or processor;

15 (2) Aggregated data means agricultural data that has been combined
16 with other data from various sources and summarized so that the resulting
17 data cannot reasonably be linked to an identified or identifiable
18 agricultural producer, farm, parcel, device, or equipment;

19 (3) Agricultural data:

20 (a) Means any of the following that is collected, produced, or
21 generated in this state and is linked or reasonably linked to an
22 identified or reasonably identifiable agricultural producer: Agronomic
23 data, climate and weather data, land data, livestock data, management
24 data, and sustainability data; and

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

26 (4) Agricultural producer means the person that is the owner,
27 lessee, or renter of the farm, livestock, land, device, or equipment from

1 which agricultural data originates;

2 (5) Agronomic data means information relating to soil management or
3 crop production, including data relating to any crop, field, planting
4 activity, seed type, yield, disease and pest management, fertilizer type
5 or application, or prescription;

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

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

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

16 (7) Controller means a person who or entity that, alone or jointly
17 with others, determines the purpose and means of processing agricultural
18 data;

19 (8) Derived data means data that has been significantly modified,
20 processed, analyzed, or compiled. Derived data includes agronomic
21 insights, reports, and predictive models;

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

26 (10) Livestock data means information regarding the production of
27 animals by an agricultural producer, including animal identification
28 practices, pedigree information, genetic information, and feed
29 consumption information;

30 (11) Management data means information regarding the management of
31 an agricultural producer's agricultural operations. Farm management data

1 includes:

2 (a) The finances, taxes, and employment of the agricultural
3 producer;

4 (b) The price received or paid for any commodity;

5 (c) Data regarding the compliance of the agricultural producer with
6 any law;

7 (d) Data regarding the supply chain for a commodity that is produced
8 or used by the agricultural producer; and

9 (e) Information regarding the tillage and conservation practices of
10 the agricultural producer;

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

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

16 (b) Sale of agricultural data does not include any:

17 (i) Disclosure or transfer of agricultural data to a processor by a
18 controller;

19 (ii) Use of agricultural data by a processor, if such use is
20 authorized by a controller;

21 (iii) Disclosure, transfer, or use of agricultural data for the
22 purpose of a controller or processor providing a service to an
23 agricultural producer;

24 (iv) Disclosure, transfer, or use of agricultural data to an
25 affiliate of the controller or processor;

26 (v) Disclosure that is expressly directed, initiated, or authorized
27 in writing by an agricultural producer to a designated third party,
28 including any input provider, advisor, lender, insurer, cooperative, or
29 digital platform chosen by the producer;

30 (vi) Disclosure that is required by a state or federal law,
31 regulation, subpoena, investigative demand, or court order;

1 (vii) Disclosure that is required for compliance with a state or
2 federal safety, emissions, or environmental obligation;

3 (viii) Disclosure of information that an agricultural producer:

4 (A) Intentionally made available to the general public through a
5 mass media channel; and

6 (B) Did not restrict to a specific audience;

7 (ix) Disclosure or transfer of agricultural data by a controller to
8 a third party as an asset in which the third party assumes control of all
9 or a part of the controller's assets and that is part of a proposed or
10 actual:

11 (A) Merger;

12 (B) Acquisition;

13 (C) Bankruptcy; or

14 (D) Transaction; or

15 (x) Disclosure, transfer, or use that is reasonably necessary to
16 detect, prevent, or respond to any fraud, abuse, cybersecurity threat,
17 illegal conduct, data integrity issue, or equipment misuse;

18 (14) Service means any service that is provided by a controller or
19 processor to an agricultural producer and that may be used to maintain,
20 diagnose, repair, support, secure, improve, or provide any equipment,
21 software, device, technology, product, or service to the agricultural
22 producer, including any telematic service, remote diagnostic, predictive
23 maintenance, warranty administration, safety notification, recall
24 activity, cybersecurity service, product improvement, quality
25 improvement, system performance enhancement, internal algorithm training,
26 over-the-air update, or purchase of a commodity from the agricultural
27 producer; and

28 (15) Sustainability data means information regarding greenhouse-gas
29 emissions, carbon sequestration, and water-quality impact, and any other
30 environmental or conservation practice used to verify sustainability
31 claims.

1 **Sec. 4. (1)** An agricultural producer is the owner of agricultural
2 data that originates from the farm, land, device, or equipment of such
3 agricultural producer.

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

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

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

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

19 (2) Any contract provision that waives or limits the requirements of
20 the Agricultural Data Privacy Act is contrary to public policy and is
21 void and unenforceable.

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

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

30 **Sec. 8. (1)** The Attorney General may bring an action in the district
31 court of Lancaster County against any controller or processor that

1 violates the Agricultural Data Privacy Act to:

2 (a) Seek injunctive relief; or

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

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

11 **Sec. 9.** (1) Prior to bringing an action to recover a civil penalty
12 for a violation of section 6 or 7 of this act, the Attorney General shall
13 provide a controller or processor with a written notice that identifies
14 the specific provision of section 6 or 7 of this act that the Attorney
15 General alleges has been or is being violated.

16 (2) No such action for a civil penalty shall be initiated if, within
17 forty-five days after receiving the written notice, the controller or
18 processor:

19 (a) Cures each such alleged violation; and

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

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

26 **Sec. 10.** The Agricultural Data Privacy Act shall not be construed
27 to:

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

30 (2) Relieve any person from any duty or obligation otherwise imposed
31 by law; or

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