

1                                   A bill to be entitled  
 2           An act relating to the fair repair of agricultural  
 3           equipment; providing a short title; creating s.  
 4           686.35, F.S.; defining terms; requiring original  
 5           equipment manufacturers of agricultural equipment to  
 6           make certain manufacturing, diagnostic, and repair  
 7           information available to independent repair providers  
 8           and owners; prohibiting the original equipment  
 9           manufacturers from excluding certain information  
 10          concerning security-related functions; providing  
 11          construction and applicability; providing civil  
 12          liability; providing an effective date.

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 14   Be It Enacted by the Legislature of the State of Florida:

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 16           Section 1.   This act may be cited as the "Agricultural  
 17           Equipment Fair Repair Act."

18           Section 2.   Section 686.35, Florida Statutes, is created to  
 19           read:

20           686.35 Fair repair of agricultural equipment.-

21           (1) As used in this section, the term:

22           (a) "Authorized repair provider" means an individual or an  
 23           entity that has an arrangement for a definite or indefinite  
 24           period in which an original equipment manufacturer grants to a  
 25           separate individual or entity a license to use a trade name,

26 service mark, or related characteristic for the purpose of  
27 offering repair services under the name of the original  
28 equipment manufacturer.

29 (b) "Embedded software" means any programmable  
30 instructions provided on firmware delivered with the equipment  
31 for the purpose of equipment operation, including all relevant  
32 patches and fixes made by the original equipment manufacturer  
33 for this purpose. The term includes, but is not limited to, a  
34 basic internal operating system, an internal operating system, a  
35 machine code, an assembly code, a robot code, or a microcode.

36 (c) "Equipment" means digital electronic equipment, or a  
37 part for such equipment, which is originally manufactured for  
38 farm equipment, including combines, tractors, implements, self-  
39 propelled equipment, and related attachments and implements, and  
40 which is manufactured for distribution and sale in this state.

41 (d) "Fair and reasonable terms" means an equitable price  
42 in light of relevant factors, including, but not limited to:

43 1. The net cost to the authorized repair provider for  
44 similar information obtained from an original equipment  
45 manufacturer, excluding any discounts, rebates, or other  
46 incentive programs;

47 2. The cost to the original equipment manufacturer for  
48 preparing and distributing the information, excluding any  
49 research and development costs incurred in designing and  
50 implementing, upgrading, or altering the product, but including

51 amortized capital costs for the preparation and distribution of  
52 the information;

53 3. The price charged by other original equipment  
54 manufacturers for similar information;

55 4. The price charged by original equipment manufacturers  
56 for similar information before the launch of original equipment  
57 manufacturer websites;

58 5. The ability of aftermarket technicians or shops to  
59 afford the information;

60 6. The means by which the information is distributed;

61 7. The extent to which the information is used, including  
62 the number of users and the frequency, duration, and volume of  
63 use; and

64 8. Inflation.

65 (e) "Firmware" means a software program or set of  
66 instructions programmed on a hardware device to allow the device  
67 to communicate with other computer hardware.

68 (f) "Independent repair provider" means a person or  
69 business operating in this state which is not affiliated with an  
70 original equipment manufacturer or an original equipment  
71 manufacturer's authorized repair provider and which is engaged  
72 in the diagnosis, service, maintenance, or repair of equipment.  
73 However, an original equipment manufacturer meets the definition  
74 of an independent repair provider when such original equipment  
75 manufacturer engages in the diagnosis, service, maintenance, or

76 repair of equipment that is not affiliated with the original  
 77 equipment manufacturer.

78 (g) "Motor vehicle" means any vehicle that is designed for  
 79 transporting persons or property on a street or highway and  
 80 certified by the motor vehicle manufacturer under all applicable  
 81 federal safety and emissions standards and requirements for  
 82 distribution and sale in the United States. The term does not  
 83 include a motorcycle or a recreational vehicle or manufactured  
 84 home equipped for habitation.

85 (h) "Motor vehicle dealer" means a person or business  
 86 that, in the ordinary course of business, is engaged in the  
 87 selling or leasing of new motor vehicles to a person or business  
 88 pursuant to a franchise agreement; is engaged in the diagnosis,  
 89 service, maintenance, or repair of motor vehicles or motor  
 90 vehicle engines pursuant to such franchise agreement; and has  
 91 obtained a license under s. 320.27.

92 (i) "Motor vehicle manufacturer" means a person or  
 93 business engaged in the manufacturing or assembling of new motor  
 94 vehicles.

95 (j) "Original equipment manufacturer" means a person or  
 96 business that, in the ordinary course of business, is engaged in  
 97 the selling or leasing of new equipment to a person or business  
 98 and is engaged in the diagnosis, service, maintenance, or repair  
 99 of such equipment.

100 (k) "Owner" means a person or business that owns or leases

101 a digital electronic product purchased or used in this state.

102 (l) "Part" means a replacement part, either new or used,  
103 which the original equipment manufacturer makes available to the  
104 authorized repair provider for purposes of effecting repair.

105 (m) "Trade secret" means anything tangible or intangible  
106 or electronically stored or kept which constitutes, represents,  
107 evidences, or records intellectual property, including secret or  
108 confidentially held designs, processes, procedures, formulas,  
109 inventions, or improvements or secret or confidentially held  
110 scientific, technical, merchandising, production, financial,  
111 business, or management information. The term also includes any  
112 other trade secret as defined in 18 U.S.C. s. 1839, as such  
113 section existed on January 1, 2020.

114 (2) For equipment sold and used in this state, the  
115 original equipment manufacturer shall make available diagnostic  
116 and repair documentation, including repair technical updates and  
117 updates and corrections to embedded software, to any independent  
118 repair provider or owner of equipment manufactured by such  
119 original equipment manufacturer. The information must be made  
120 available for no charge or provided in the same manner as the  
121 original equipment manufacturer makes such diagnostic and repair  
122 documentation available to an authorized repair provider.  
123 Thereafter, the original equipment manufacturer is not  
124 responsible for the content and functionality of such  
125 aftermarket diagnostic tools, diagnostics, or service

126 information systems.

127 (3) Original equipment manufactured by the original  
128 equipment manufacturer which is sold or used in this state to  
129 provide security-related functions may not exclude from  
130 information provided to an owner or independent repair provider  
131 any diagnostic, service, and repair documentation necessary to  
132 reset a security-related electronic function. If such  
133 documentation is excluded under this section, the documentation  
134 necessary to reset an immobilizer system or a security-related  
135 electronic module must be obtained by an owner or independent  
136 repair provider through the appropriate secure data release  
137 systems.

138 (4) This section may not be construed to do any of the  
139 following:

140 (a) Require an original equipment manufacturer to divulge  
141 a trade secret.

142 (b) Abrogate, interfere with, contradict, or alter the  
143 terms of an agreement executed and in force between an  
144 authorized repair provider and an original equipment  
145 manufacturer, including, but not limited to, the performance or  
146 provision of warranty or recall repair work by an authorized  
147 repair provider on behalf of an original equipment manufacturer  
148 pursuant to such authorized repair agreement, except that any  
149 provision in such an authorized repair agreement which purports  
150 to waive, avoid, restrict, or limit an original equipment

151 manufacturer's compliance with this section is void and  
152 unenforceable.

153 (c) Require original equipment manufacturers or authorized  
154 repair providers to provide an owner or independent repair  
155 provider access to nondiagnostic and repair documentation  
156 provided by an original equipment manufacturer to an authorized  
157 repair provider pursuant to the terms of an authorized repair  
158 agreement.

159 (5) This section does not apply to motor vehicle  
160 manufacturers, any product or service of a motor vehicle  
161 manufacturer, or motor vehicle dealers.

162 (6) Any original equipment manufacturer found in violation  
163 of this section is liable for a civil penalty of not more than  
164 \$500 for each violation.

165 Section 3. This act shall take effect July 1, 2022.