

BILL ANALYSIS

Senate Research Center
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S.B. 1654
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Like many parts of modern life, farm equipment technology has changed significantly over the years and now often runs on advanced computer systems. However, some manufacturers are not forthcoming about how these electronics work and are repaired, which makes it extremely difficult for farmers and unaffiliated repair shops to diagnose and fix problems with the equipment. Because of this, farmers are forced to pay significant costs for repairs that could have been taken care of by themselves or an independent repair shop if the proper information were provided by the manufacturer. Furthermore, time-sensitive farming practices requiring this equipment are delayed by the time it takes for a manufacturer to repair the equipment by either sending a serviceperson or requiring the user to transport the equipment to an approved repair shop far away.

S.B. 1654 bridges the gap between farmers and this technologically advanced equipment by requiring the original equipment manufacturer to provide accessible, reasonably priced documentation and tools so farmers and independent repair providers can knowledgeably repair agricultural equipment themselves.

As proposed, S.B. 1654 amends current law relating to the diagnosis, maintenance, and repair of electronics-enabled implements of agriculture.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Authorizes this Act to be cited as the Texas Agricultural Right to Repair Act.

SECTION 2. Amends Subtitle C, Title 5, Business and Commerce Code, by adding Chapter 121, as follows:

CHAPTER 121. DIAGNOSIS, MAINTENANCE, AND REPAIR OF ELECTRONICS-ENABLED IMPLEMENTS OF AGRICULTURE

Sec. 121.001. DEFINITIONS. Defines "authorized repair provider," "commonly available," "digital electronic equipment," "documentation," "electronics-enabled implement of agriculture," "embedded software," "fair and reasonable terms," "firmware," "independent repair provider," "original equipment manufacturer," "owner," "part," "tool," and "trade secret."

Sec. 121.002. APPLICABILITY. Provides that this chapter applies to an electronics-enabled implement of agriculture sold or leased in this state.

Sec. 121.003. REQUIREMENTS FOR ORIGINAL EQUIPMENT MANUFACTURERS. Requires an original equipment manufacturer to make available on fair and reasonable terms to any owner or independent repair provider:

(1) any part, tool, software, or documentation, including any updates to information or embedded software, for that equipment or part; and

(2) for equipment containing an electronic security lock or other security-related function, any part, tool, or documentation required to disable or enable an electronic security lock or other security-related function of an electronics-enabled implement of agriculture.

Sec. 121.004. PART REPLACEMENT; ACCESSIBILITY. Requires an original equipment manufacturer to ensure that any part required by the original equipment manufacturer's electronics-enabled implement of agriculture can be replaced without causing damage to the implement using a commonly available tool or a tool that is not commonly available that is made available to owners or independent repair providers by the original equipment manufacturer on fair and reasonable terms.

Sec. 121.005. CONSTRUCTION OF CHAPTER. Prohibits anything in this chapter from being construed to:

(1) require an original equipment manufacturer to divulge a trade secret to an owner or an independent repair provider, except as necessary to make available any necessary part, tool, software, or documentation on fair and reasonable terms as required by this chapter;

(2) alter the terms of an agreement between an original equipment manufacturer and an authorized repair provider, except with respect to any provision of an agreement that would limit the obligations of an original equipment manufacturer under this chapter;

(3) require an authorized repair provider to make any part, tool, software, or documentation relating to an electronics-enabled implement of agriculture available on fair and reasonable terms, unless the authorized repair provider is the original equipment manufacturer of the implement;

(4) require an original equipment manufacturer to provide any part or equipment solely used in the development of the manufacturer's products; or

(5) allow:

(A) any modification that permanently deactivates a safety notification system when an electronics-enabled implement of agriculture is being repaired;

(B) access to any function of a tool that enables the owner or independent repair provider to change the settings of an electronics-enabled implement of agriculture so as to bring the equipment permanently out of compliance with any applicable safety or emissions laws;

(C) the evasion of emissions laws or copyright laws; or

(D) any other illegal modification activities.

Sec. 121.006. DECEPTIVE TRADE PRACTICE. Provides that a violation of this chapter is a deceptive trade practice in addition to the practices described by Subchapter E (Deceptive Trade Practices and Consumer Protection), Chapter 17, and is actionable under that subchapter.

SECTION 3. Provides that a provision of an agreement entered into before the effective date of this Act prevails, to the extent of a conflict between Chapter 121, Business and Commerce Code, as added by this Act, and the provision of the agreement.

SECTION 4. Effective date: September 1, 2023.