

**HOUSE BILL No. 2309**

By Representative Xu

2-10

1 AN ACT concerning agriculture; creating the agricultural equipment right-  
2 to-repair act; requiring manufacturers of electronics-enabled equipment  
3 used in agriculture, animal husbandry and ranching to make available  
4 to farmers, ranchers and independent repair providers, on fair and  
5 reasonable terms, the documentation, parts and tools used to diagnose,  
6 maintain and repair such equipment.  
7

8 *Be it enacted by the Legislature of the State of Kansas:*

9 Section 1. Sections 1 through 5, and amendments thereto, shall be  
10 known and may be cited as the agricultural equipment right-to-repair act.

11 Sec. 2. As used in the agricultural equipment right-to-repair act:

12 (a) "Act" means the agricultural equipment right-to-repair act.

13 (b) "Authorized repair provider" means an individual or business that  
14 is unaffiliated with an original equipment manufacturer and that has an  
15 arrangement with the original equipment manufacturer, for a definite or  
16 indefinite period, under which the original equipment manufacturer grants  
17 to the individual or business a license to use a trade name, service mark or  
18 other proprietary identifier for the purposes of offering the services of  
19 diagnosis, maintenance or repair of electronics-enabled agricultural  
20 equipment under the name of the original equipment manufacturer, or  
21 other arrangement with the original equipment manufacturer to offer such  
22 services on behalf of the original equipment manufacturer. An original  
23 equipment manufacturer that offers the services of diagnosis, maintenance  
24 or repair of its own electronics-enabled agricultural equipment, and that  
25 does not have an arrangement described in this subsection with an  
26 unaffiliated individual or business, shall be considered an authorized repair  
27 provider with respect to such equipment.

28 (c) "Electronics-enabled agricultural equipment" or "equipment"  
29 means any product, part of a product or attachment to a product, when sold  
30 or leased for use in farming, ranching or other forms of agriculture that  
31 depends for its functioning, in whole or in part, on digital electronics  
32 embedded in or attached to it. "Electronics-enabled agricultural  
33 equipment" or "equipment" includes, but is not limited to, a tractor, trailer,  
34 combine, tillage, planting, irrigation or cultivating implement, baler,  
35 unmanned aircraft system or off-road vehicle. "Electronics-enabled  
36 agricultural equipment" or "equipment" does not include "motor vehicles"

1 as defined in this section.

2 (d) "Documentation" means any manual, diagram, reporting output,  
3 service code description, schematic or other guidance or information used  
4 in effecting the services of diagnosis, maintenance or repair of electronics-  
5 enabled agricultural equipment.

6 (e) "Embedded software" means any programmable instructions  
7 provided on firmware delivered with electronics-enabled agricultural  
8 equipment, or with a part for such equipment, for the purposes of  
9 equipment operation, including all relevant patches and fixes made by the  
10 manufacturer of such equipment or part for these purposes.

11 (f) (1) "Fair and reasonable terms" for obtaining a part or tool or  
12 documentation means at costs and terms that are equivalent to the most  
13 favorable costs and terms under which an original equipment manufacturer  
14 offers the part, tool or documentation to an authorized repair provider:

15 (A) Accounting for any discount, rebate, convenient means of  
16 delivery, means of enabling fully restored and updated functionality, rights  
17 of use or other incentive or preference the original equipment  
18 manufacturer offers to an authorized repair provider, or any additional  
19 cost, burden or impediment the original equipment manufacturer imposes  
20 on an independent repair provider;

21 (B) not conditioned on or imposing a substantial obligation or  
22 restriction that is not reasonably necessary for enabling the owner or  
23 independent repair provider to engage in the diagnosis, maintenance or  
24 repair of electronics-enabled agricultural equipment made by or on behalf  
25 of the original equipment manufacturer; and

26 (C) not conditioned on an arrangement described in subsection (b).

27 (2) For documentation, including any relevant updates, "fair and  
28 reasonable terms" means at no charge, except that, when the  
29 documentation is requested in physical printed form, a charge may be  
30 included for the reasonable actual costs of preparing and sending the copy.

31 (3) For software tools, "fair and reasonable terms" means at no charge  
32 and without requiring authorization or internet access, or imposing  
33 impediments to access or use, in the course of effecting the diagnosis,  
34 maintenance or repair and enabling full functionality of electronics-  
35 enabled agricultural equipment in a manner that impairs the efficient and  
36 cost-effective performance of any of those activities.

37 (g) "Firmware" means a software program or set of instructions  
38 programmed on electronics-enabled agricultural equipment, or on a part  
39 for such equipment, to allow the equipment or part to communicate within  
40 itself or with other computer hardware.

41 (h) (1) "Independent repair provider" means an individual or business  
42 operating in this state that:

43 (A) Does not have an arrangement described in subsection (b) with an

1 original equipment manufacturer;

2 (B) is not affiliated with any individual or business that has such an  
3 arrangement; and

4 (C) is engaged in the services of diagnosis, maintenance or repair of  
5 electronics-enabled agricultural equipment.

6 (2) "Independent repair provider" includes any original equipment  
7 manufacturer or an individual or business that has an arrangement under  
8 subsection (b) with such original equipment manufacturer, or that is  
9 affiliated with an individual or business that has such an arrangement with  
10 that original equipment manufacturer, when it engages in the services of  
11 diagnosis, maintenance or repair of electronics-enabled agricultural  
12 equipment that is not manufactured by or sold under the name of that  
13 original equipment manufacturer.

14 (i) "Motor vehicle" means a vehicle that is designed for transporting  
15 persons or property on a street or highway and is certified by the  
16 manufacturer under all applicable federal safety and emissions standards  
17 and requirements for distribution and sale in the United States. "Motor  
18 vehicle" does not include:

19 (1) A motorcycle; or

20 (2) a recreational vehicle or an auto home equipped for habitation.

21 (j) "Original equipment manufacturer" means a business engaged in  
22 the business of selling, leasing or otherwise supplying new electronics-  
23 enabled agricultural equipment manufactured by or on behalf of itself to  
24 any individual or business.

25 (k) "Owner" means an individual or business that owns or leases  
26 electronics-enabled agricultural equipment purchased or used in the state  
27 of Kansas.

28 (l) "Part" means any replacement part, either new or used, made  
29 available by an original equipment manufacturer for purposes of effecting  
30 the services of maintenance or repair of electronics-enabled agricultural  
31 equipment manufactured by or on behalf of, sold or otherwise supplied by  
32 the original equipment manufacturer.

33 (m) "Tools" means any software program, hardware implement or  
34 other apparatus used for diagnosis, maintenance or repair of electronics-  
35 enabled agricultural equipment, including software or other mechanisms  
36 that program or pair a new part, calibrate functionality or perform any  
37 other function required to bring the product back to fully functional  
38 condition.

39 (n) "Trade secret" means anything tangible, intangible or  
40 electronically stored or kept that constitutes, represents, evidences or  
41 records intellectual property, including secret or confidentially held  
42 designs, processes, procedures, formulas, inventions, improvements or  
43 secret or confidentially-held scientific, technical, merchandising,

1 production, financial, business or management information, or any other  
2 trade secret as defined in 18 U.S.C. § 1839, as in effect on January 1,  
3 2021.

4 Sec. 3. (a) For electronics-enabled agricultural equipment and parts  
5 for such equipment, sold or used in the state of Kansas, an original  
6 equipment manufacturer shall make available, on fair and reasonable  
7 terms, documentation, parts and tools, inclusive of any updates to  
8 information or embedded software, for purposes of diagnosis, maintenance  
9 or repair of such equipment to any independent repair provider or to the  
10 owner of electronics-enabled agricultural equipment manufactured by or  
11 on behalf of, or sold or otherwise supplied by, the original equipment  
12 manufacturer. Nothing in this subsection requires an original equipment  
13 manufacturer to make available a part if the part is no longer available to  
14 the original equipment manufacturer.

15 (b) For equipment that contains an electronic security lock or other  
16 security-related function, the original equipment manufacturer shall make  
17 available to the owner and to independent repair providers, on fair and  
18 reasonable terms, any special documentation, tools and parts needed to  
19 disable the lock or function and to reset it when disabled in the course of  
20 diagnosis, maintenance or repair of the equipment. Such documentation,  
21 tools and parts may be made available by means of an appropriate secure  
22 system.

23 (c) (1) When the original equipment manufacturer has made an  
24 express warranty with respect to electronics-enabled agricultural  
25 equipment and the wholesale price of the equipment is \$100 or more, the  
26 manufacturer shall provide, at a reasonable price, such parts, tools and  
27 documentation as to enable:

28 (A) The repair of the equipment during the warranty period at an  
29 equitable price; and

30 (B) convenient delivery and functionality.

31 (2) Such price shall account for the:

32 (A) Actual cost to the original equipment manufacturer to prepare and  
33 distribute the part, tool or documentation, exclusive of any research and  
34 development costs incurred;

35 (2) ability of owners and independent repair providers to afford the  
36 part, tool or documentation; and

37 (3) means by which the part, tool or documentation is distributed.

38 Sec. 4. (a) Nothing in this act shall be construed to require an original  
39 equipment manufacturer to divulge a trade secret to an owner or an  
40 independent service provider except as necessary to provide  
41 documentation, parts and tools on fair and reasonable terms.

42 (b) No provision in this act shall be construed to alter the terms of  
43 any arrangement described in section 2(b), and amendments thereto, in

1 force between an authorized repair provider and an original equipment  
2 manufacturer, including, but not limited to, the performance or provision  
3 of warranty or recall repair work by an authorized repair provider on  
4 behalf of an original equipment manufacturer pursuant to such  
5 arrangement, except that any provision in such terms that purports to  
6 waive, avoid, restrict or limit the original equipment manufacturer's  
7 obligations to comply with this act shall be void and unenforceable.

8 (c) The provisions of this act shall apply to equipment sold or that is  
9 in use on or after the effective date of this act.

10 Sec. 5. A violation of this act shall be an unclassified nonperson  
11 misdemeanor punishable by a fine of \$5,000.

12 Sec. 6. This act shall take effect and be in force from and after its  
13 publication in the statute book.