

**First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 23-0218.01 Jennifer Berman x3286

HOUSE BILL 23-1011

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A BILL FOR AN ACT

101 **CONCERNING A REQUIREMENT THAT AN AGRICULTURAL EQUIPMENT**
102 **MANUFACTURER FACILITATE THE REPAIR OF ITS EQUIPMENT BY**
103 **PROVIDING CERTAIN OTHER PERSONS WITH THE RESOURCES**
104 **NEEDED TO REPAIR THE MANUFACTURER'S AGRICULTURAL**
105 **EQUIPMENT.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

Usually, an owner of agricultural equipment must seek diagnostic, maintenance, or repair services of the equipment from the agricultural

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

SENATE
Amended 2nd Reading
March 15, 2023

HOUSE
Amended 3rd Reading
February 21, 2023

HOUSE
Amended 2nd Reading
February 17, 2023

equipment manufacturer (manufacturer).

Starting January 1, 2024, the bill requires a manufacturer to provide parts, embedded software, firmware, tools, or documentation, such as diagnostic, maintenance, or repair manuals, diagrams, or similar information (resources), to independent repair providers and owners of the manufacturer's agricultural equipment to allow an independent repair provider or owner to conduct diagnostic, maintenance, or repair services on the owner's agricultural equipment.

The bill folds agricultural equipment into the existing consumer right-to-repair statutes, which statutes provide the following:

- A manufacturer's failure to comply with the requirement to provide resources is a deceptive trade practice;
- In complying with the requirement to provide resources, a manufacturer need not divulge any trade secrets to independent repair providers and owners; and
- Any new contractual provision or other arrangement that a manufacturer enters into that would remove or limit the manufacturer's obligation to provide resources to independent repair providers and owners is void and unenforceable.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **amend** 6-1-1501 as
3 follows:

4 **6-1-1501. Short title.** The short title of this part 15 is the
5 "Consumer ~~Wheelchair~~ Repair Bill of Rights Act".

6 **SECTION 2.** In Colorado Revised Statutes, 6-1-1502, **amend** (1),
7 (2), (4), (5)(a)(II) and (6); and **add** (1.3), (1.5), (1.7), (3.2), (5)(d), and
8 (5)(e).

9 **6-1-1502. Definitions.** As used in this part 15, unless the context
10 otherwise requires:

11 (1) (a) ~~"Authorized repair provider" means a person that is~~
12 ~~unaffiliated with a manufacturer other than through an arrangement with~~
13 ~~the manufacturer, whether for a definite or an indefinite period, in which~~
14 ~~the manufacturer, for the purpose of offering to provide services to an~~

1 equipment owner regarding the owner's equipment or a part, grants the
2 person:

3 ~~(I) A license to use a trade name, service mark, or other~~
4 ~~proprietary identifier; or~~

5 ~~(II) Authorization under any other arrangement to act on behalf of~~
6 ~~the manufacturer.~~

7 ~~(b) "Authorized repair provider" includes a manufacturer that~~
8 ~~offers to provide services to an owner of the manufacturer's equipment~~
9 ~~regarding the owner's equipment or a part if the manufacturer does not~~
10 ~~have an arrangement with an unaffiliated person, as described in~~
11 ~~subsection (1)(a) of this section "AGRICULTURAL EQUIPMENT" MEANS~~
12 ~~EQUIPMENT THAT IS PRIMARILY DESIGNED FOR USE IN A FARM OR RANCH~~
13 ~~OPERATION.~~

14 (b) "AGRICULTURAL EQUIPMENT" INCLUDES:

15 (I) A TRACTOR, TRAILER, COMBINE, SPRAYER, TILLAGE
16 IMPLEMENT, BALER, AND OTHER EQUIPMENT USED TO PLANT, CULTIVATE,
17 OR HARVEST AGRICULTURAL PRODUCTS OR TO RANCH; AND

18 (II) ATTACHMENTS TO AND REPAIR PARTS FOR EQUIPMENT
19 DESCRIBED IN SUBSECTION (1)(b)(I) OF THIS SECTION.

20 (c) "AGRICULTURAL EQUIPMENT" DOES NOT INCLUDE:

21 (I) A SELF-PROPELLED VEHICLE DESIGNED PRIMARILY FOR THE
22 TRANSPORTATION OF INDIVIDUALS OR PROPERTY ON A STREET OR
23 HIGHWAY;

24 (II) A POWERSPORTS VEHICLE AS DEFINED IN SECTION 44-20-402
25 (11); OR

26 (III) ANY AIRCRAFT USED IN AN AGRICULTURAL AIRCRAFT
27 OPERATION, AS DEFINED IN 14 CFR 137.3; OR

1 (IV) ANY EQUIPMENT DESIGNED AND USED PRIMARILY FOR
2 IRRIGATION PURPOSES.

3 (1.3) (a) "AUTHORIZED REPAIR PROVIDER" MEANS A PERSON THAT
4 IS UNAFFILIATED WITH A MANUFACTURER OTHER THAN THROUGH AN
5 ARRANGEMENT WITH THE MANUFACTURER, WHETHER FOR A DEFINITE OR
6 AN INDEFINITE PERIOD, IN WHICH THE MANUFACTURER, FOR THE PURPOSE
7 OF OFFERING TO PROVIDE SERVICES TO AN EQUIPMENT OWNER REGARDING
8 THE OWNER'S EQUIPMENT OR A PART, GRANTS THE PERSON:

9 (I) A LICENSE TO USE A TRADE NAME, SERVICE MARK, OR OTHER
10 PROPRIETARY IDENTIFIER; OR

11 (II) AUTHORIZATION UNDER ANY OTHER ARRANGEMENT TO ACT
12 ON BEHALF OF THE MANUFACTURER.

13 (b) "AUTHORIZED REPAIR PROVIDER" INCLUDES A MANUFACTURER
14 THAT OFFERS TO PROVIDE SERVICES TO AN OWNER OF THE
15 MANUFACTURER'S EQUIPMENT REGARDING THE OWNER'S EQUIPMENT OR
16 A PART IF THE MANUFACTURER DOES NOT HAVE AN ARRANGEMENT WITH
17 AN UNAFFILIATED PERSON, AS DESCRIBED IN SUBSECTION (1.3)(a) OF THIS
18 SECTION.

19 (1.5) "DATA" MEANS TRANSMITTED OR COMPILED INFORMATION
20 ARISING FROM THE OPERATION OF AN OWNER'S AGRICULTURAL EQUIPMENT
21 OR ITS PARTS.

22 (1.7) "DEALER" MEANS A PERSON, OTHER THAN A MANUFACTURER,
23 THAT IS ENGAGED IN THE BUSINESS OF BUYING, SELLING, OR EXCHANGING
24 EQUIPMENT IN THE STATE.

25 (2) "Documentation" means a manual; diagram, including a
26 schematic diagram; reporting output; service code description; SECURITY
27 CODE OR PASSWORD; or similar type of GUIDANCE OR information,

1 whether in an electronic or tangible format, that a manufacturer provides
2 to an authorized repair provider ~~for purposes of assisting~~ TO ASSIST the
3 authorized repair provider with services performed on the manufacturer's
4 equipment or a part.

5 (3.2)(a) "EMBEDDED SOFTWARE FOR AGRICULTURAL EQUIPMENT"
6 MEANS ANY PROGRAMMABLE INSTRUCTIONS PROVIDED ON FIRMWARE
7 DELIVERED WITH OR LOADED TO THE AGRICULTURAL EQUIPMENT, WITH
8 RESPECT TO AGRICULTURAL EQUIPMENT OPERATION.

9 (b) "EMBEDED SOFTWARE FOR AGRICULTURAL EQUIPMENT"
10 INCLUDES ALL RELEVANT PATCHES AND FIXES THAT THE MANUFACTURER
11 MAKES, INCLUDING, BUT NOT LIMITED TO, ITEMS DESCRIBED AS "BASIC
12 INTERNAL OPERATING SYSTEM", "INTERNAL OPERATING SYSTEM",
13 "MACHINE CODE", "ASSEMBLY CODE", "ROOT CODE", AND "MICROCODE".

- 14 (4) "Equipment" means:
15 (a) A powered wheelchair; OR
16 (b) AGRICULTURAL EQUIPMENT.

17 (5) (a) (II) EXCEPT AS PROVIDED IN SUBSECTION (5)(d) OF THIS
18 SECTION, costs considered under subsection (5)(a)(I) of this section ~~must~~
19 ~~be~~ ARE calculated using net costs incurred, accounting for any discounts,
20 rebates, or incentives offered.

21 (d) "FAIR AND REASONABLE TERMS AND COSTS" WITH RESPECT TO
22 AGRICULTURAL EQUIPMENT FROM THE MANUFACTURER OR DEALER,
23 MEANS THAT PARTS SHALL BE SOLD TO AN OWNER OR AN INDEPENDENT
24 REPAIR PROVIDER UNDER EQUITABLE TERMS FOR ACCESS TO OR RECEIPT
25 OF ANY PART PERTAINING TO AGRICULTURAL EQUIPMENT, AT A COST THAT
26 IS NO GREATER THAN THE MANUFACTURER'S SUGGESTED RETAIL PRICE,
27 AND IN A MANNER THAT IS FAIR TO BOTH PARTIES IN LIGHT OF ANY

1 AGREED-UPON CONDITIONS, THE PROMISED QUALITY, AND THE TIMELINESS
2 OF THE DELIVERY.

3 (e) TERMS CONSIDERED UNDER SUBSECTION (5) OF THIS SECTION
4 ARE FAIR IF THE TERMS DO NOT IMPOSE ON AN OWNER OR INDEPENDENT
5 REPAIR PROVIDER ANY:

6 (I) SUBSTANTIAL OBLIGATION TO USE, OR ANY RESTRICTION ON
7 THE USE OF, A PART, EMBEDDED SOFTWARE, EMBEDDED SOFTWARE FOR
8 AGRICULTURAL EQUIPMENT, FIRMWARE, OR TOOL, INCLUDING A
9 CONDITION THAT THE OWNER OR INDEPENDENT REPAIR PROVIDER BECOME
10 AN AUTHORIZED REPAIR PROVIDER OF THE MANUFACTURER; OR

11 (II) REQUIREMENT THAT A PART, EMBEDDED SOFTWARE,
12 EMBEDDED SOFTWARE FOR AGRICULTURAL EQUIPMENT, FIRMWARE, OR
13 TOOL BE REGISTERED OR PAIRED WITH OR APPROVED BY THE
14 MANUFACTURER OR AN AUTHORIZED REPAIR PROVIDER BEFORE THE PART,
15 EMBEDDED SOFTWARE, EMBEDDED SOFTWARE FOR AGRICULTURAL
16 EQUIPMENT, FIRMWARE, OR TOOL IS OPERATIONAL.

17 (6) (a) "Firmware" means a software program or set of
18 instructions programmed on equipment or a part to allow the equipment
19 or part to communicate with itself or with other computer hardware.

20 (b) "FIRMWARE" DOES NOT INCLUDE ANY THIRD-PARTY SOFTWARE
21 PROGRAM OR SET OF INSTRUCTIONS THAT IS NOT PRIMARILY INTENDED FOR
22 USE WITH AGRICULTURAL EQUIPMENT.

23 **SECTION 3.** In Colorado Revised Statutes, 6-1-1503, **amend (1),**
24 **(2)(a)(II), (2)(b)(II), (3)(a), and (3)(c) as follows:**

25 **6-1-1503. Equipment manufacturer obligations regarding**
26 **services - exemptions. (1) Except as provided in subsection (2) of this**
27 **section:**

1 (a) For the purpose of providing services for equipment in the
2 state, an original equipment manufacturer shall, with fair and reasonable
3 terms and costs, make available to an independent repair provider or
4 owner of the manufacturer's equipment any documentation, parts,
5 embedded software, EMBEDDED SOFTWARE FOR AGRICULTURAL
6 EQUIPMENT, firmware, or tools that are intended for use with the
7 equipment or any part, including updates to documentation, parts,
8 embedded software, EMBEDDED SOFTWARE FOR AGRICULTURAL
9 EQUIPMENT, firmware, or tools.

10 (b) With respect to equipment that contains an electronic security
11 lock or other security-related function, a manufacturer shall, with fair and
12 reasonable terms and costs, make available to independent repair
13 providers and owners any documentation, parts, embedded software,
14 EMBEDDED SOFTWARE FOR AGRICULTURAL EQUIPMENT, firmware, or tools
15 needed to reset the lock or function when disabled in the course of
16 providing services. The manufacturer may make the documentation, parts,
17 embedded software, EMBEDDED SOFTWARE FOR AGRICULTURAL
18 EQUIPMENT, firmware, or tools available to independent repair providers
19 and owners through appropriate secure release systems.

20 (2) (a) Subsection (1) of this section does not apply to:

21 (II) Conduct that would require the manufacturer to divulge a
22 trade secret; except that a manufacturer shall not refuse to make available
23 to an independent repair provider or owner any documentation, part,
24 embedded software, EMBEDDED SOFTWARE FOR AGRICULTURAL
25 EQUIPMENT, firmware, or tool necessary to provide services on grounds
26 that the documentation, part, embedded software, EMBEDDED SOFTWARE
27 FOR AGRICULTURAL EQUIPMENT, firmware, or tool itself is a trade secret.

1 (b) (II) A manufacturer may withhold information regarding a
2 component of, design of, functionality of, or process of developing a part,
3 embedded software, EMBEDDED SOFTWARE FOR AGRICULTURAL
4 EQUIPMENT, firmware, or a tool if the information is a trade secret and the
5 usability of the part, embedded software, EMBEDDED SOFTWARE FOR
6 AGRICULTURAL EQUIPMENT, firmware, or tool for the purpose of
7 providing services is not diminished.

8 (3) NEITHER an original equipment manufacturer NOR A DEALER
9 is not liable for faulty or otherwise improper repairs provided by
10 independent repair providers or owners, including faulty or otherwise
11 improper repairs that cause:

12 (a) Damage to powered wheelchairs OR AGRICULTURAL
13 EQUIPMENT that ~~occur~~ OCCURS during such repairs;

14 (c) An inability to use, or a reduced functionality of, a powered
15 wheelchair OR PIECE OF AGRICULTURAL EQUIPMENT resulting from the
16 faulty or otherwise improper repair.

17 **SECTION 4. In Colorado Revised Statutes, 6-1-1504, amend (2);**
18 **and add (1)(a.5) as follows:**

19 **6-1-1504. Limitations.** (1) Subject to subsection (2) of this
20 section, nothing in this part 15:

21 (a.5) AUTHORIZES AN INDEPENDENT REPAIR PROVIDER OR OWNER
22 TO:

23 (I) MAKE ANY MODIFICATION TO AGRICULTURAL EQUIPMENT THAT
24 PERMANENTLY DEACTIVATES A SAFETY NOTIFICATION SYSTEM;

25 (II) ACCESS ANY FUNCTION OF A TOOL THAT ENABLES THE
26 INDEPENDENT REPAIR PROVIDER OR OWNER TO CHANGE THE SETTINGS FOR
27 A PIECE OF AGRICULTURAL EQUIPMENT IN A MANNER THAT BRINGS THE

1 EQUIPMENT PERMANENTLY OUT OF COMPLIANCE WITH ANY APPLICABLE
2 FEDERAL, STATE, OR LOCAL SAFETY OR EMISSIONS LAW;

3 (III) EVADE EMISSIONS, COPYRIGHT, TRADEMARK, OR PATENT
4 LAWS; OR

5 (IV) ENGAGE IN ANY OTHER ILLEGAL EQUIPMENT MODIFICATION
6 ACTIVITIES;

7 (2) (a) EXCEPT AS PROVIDED IN SUBSECTION (2)(b) OF THIS
8 SECTION, with respect to a contract or other arrangement, or renewal of
9 a contract or existing arrangement, that an original equipment
10 manufacturer enters into after January 1, 2023, any contract term,
11 provision, agreement, or language in the contract or arrangement that
12 waives, avoids, restricts, or limits the manufacturer's obligations under
13 this part 15 is void and unenforceable.

14 (b) IF AN AGRICULTURAL EQUIPMENT MANUFACTURER ENTERS
15 INTO, OR IS COVERED UNDER, A NATIONWIDE MEMORANDUM OF
16 UNDERSTANDING REGARDING A RIGHT TO REPAIR AGRICULTURAL
17 EQUIPMENT, THE MEMORANDUM OF UNDERSTANDING GOVERNS AN
18 OWNER'S RIGHT TO PROVIDE SERVICES, OR TO ENGAGE THE SERVICES OF AN
19 INDEPENDENT REPAIR PROVIDER, FOR THAT MANUFACTURER'S BRAND OF
20 AGRICULTURAL EQUIPMENT; EXCEPT THAT, IF COMPLIANCE WITH THE
21 MEMORANDUM OF UNDERSTANDING WOULD DENY THE OWNER THE RIGHT
22 TO ANY DOCUMENTATION, TOOLS, OR SOFTWARE NECESSARY FOR THE
23 DIAGNOSIS, MAINTENANCE, OR REPAIR OF THE OWNER'S AGRICULTURAL
24 EQUIPMENT, THE OWNER IS ENTITLED TO THE DOCUMENTATION, TOOLS, OR
25 SOFTWARE IN ACCORDANCE WITH THIS PART 15.

26 **SECTION 5.** In Colorado Revised Statutes, add 6-1-1505 as
27 follows:

1 **6-1-1505. Federal legislation on right to repair agricultural**
2 **equipment - repeal - notice to revisor.** THIS ARTICLE 15, AS AMENDED
3 BY HOUSE BILL 23-1011, ENACTED IN 2023, WILL BE REPEALED IF THE
4 UNITED STATES CONGRESS ENACTS FEDERAL LEGISLATION ESTABLISHING
5 A RIGHT TO REPAIR AGRICULTURAL EQUIPMENT. THE ATTORNEY GENERAL
6 SHALL NOTIFY THE REVISOR OF STATUTES IN WRITING OF THE DATE ON
7 WHICH THE CONDITION SPECIFIED IN THIS SECTION HAS OCCURRED BY
8 E-MAILING THE NOTICE TO REVISOROFSTATUTES.GA@COLEG.GOV. THIS
9 ARTICLE 15, AS AMENDED BY HOUSE BILL 23-1011, ENACTED IN 2023, IS
10 REPEALED, EFFECTIVE UPON THE DATE IDENTIFIED IN THE NOTICE THAT
11 THE FEDERAL LEGISLATION WAS ENACTED OR, IF THE NOTICE DOES NOT
12 SPECIFY THAT DATE, UPON THE DATE OF THE NOTICE TO THE REVISOR OF
13 STATUTES.

14 **SECTION 6. Act subject to petition - effective date.** This act
15 takes effect January 1, 2024; except that, if a referendum petition is filed
16 pursuant to section 1 (3) of article V of the state constitution against this
17 act or an item, section, or part of this act within the ninety-day period
18 after final adjournment of the general assembly, then the act, item,
19 section, or part will not take effect unless approved by the people at the
20 general election to be held in November 2024 and, in such case, will take
21 effect on the date of the official declaration of the vote thereon by the
22 governor.