

HOUSE BILL 799

I3, C2

0lr1406

By: **Delegates Hornberger, Feldmark, and Griffith**

Introduced and read first time: February 3, 2020

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Consumer Protection – Right to Repair Farm Equipment**

3 FOR the purpose of requiring a farm equipment manufacturer to make available certain
4 documentation, updates, or information to an independent repair provider or owner
5 of farm equipment to allow for the diagnosis, maintenance, or repair of the farm
6 equipment; providing that a violation of certain provisions of this Act is an unfair,
7 abusive, or deceptive trade practice and subject to certain enforcement and penalty
8 provisions; providing that any contractual agreement purporting to waive, avoid, or
9 limit a farm equipment manufacturer's compliance with this Act shall be void;
10 defining certain terms; providing for the application of this Act; and generally
11 relating to consumer protection.

12 BY repealing and reenacting, without amendments,
13 Article – Commercial Law
14 Section 1–201(b)(27)
15 Annotated Code of Maryland
16 (2013 Replacement Volume and 2019 Supplement)

17 BY adding to
18 Article – Commercial Law
19 Section 13–301(14)(xxxii); and 14–4201 through 14–4204 to be under the new
20 subtitle “Subtitle 42. Farm Equipment Repair”
21 Annotated Code of Maryland
22 (2013 Replacement Volume and 2019 Supplement)

23 BY repealing and reenacting, with amendments,
24 Article – Commercial Law
25 Section 13–301(14)(xxxii) and (xxxiii)
26 Annotated Code of Maryland
27 (2013 Replacement Volume and 2019 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Commercial Law

1–201.

(b) Subject to definitions contained in other articles of the Maryland Uniform Commercial Code that apply to particular titles or parts of titles of the Maryland Uniform Commercial Code:

(27) “Person” means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, or instrumentality, public corporation, or any other legal or commercial entity.

13–301.

Unfair, abusive, or deceptive trade practices include any:

(14) Violation of a provision of:

(XXXII) TITLE 14, SUBTITLE 42 OF THIS ARTICLE;

[(xxxii)] (XXXIII) [the] THE federal Military Lending Act; or

[(xxxiii)] (XXXIV) [the] THE federal Servicemembers Civil Relief Act;

or

SUBTITLE 42. FARM EQUIPMENT REPAIR.

14–4201.

(A) IN THIS SUBTITLE THE FOLLOWING TERMS HAVE THE MEANINGS INDICATED.

(B) (1) “AUTHORIZED REPAIR PROVIDER” MEANS A PERSON THAT HAS AN ARRANGEMENT WITH THE FARM EQUIPMENT MANUFACTURER UNDER WHICH THE FARM EQUIPMENT MANUFACTURER AUTHORIZES THE PERSON TO:

(I) USE A TRADE NAME, A SERVICE MARK, OR ANY OTHER PROPRIETARY IDENTIFIER FOR THE PURPOSE OF OFFERING THE SERVICES OF DIAGNOSIS, MAINTENANCE, OR REPAIR OF FARM EQUIPMENT UNDER THE NAME OF THE FARM EQUIPMENT MANUFACTURER; OR

(II) OFFER DIAGNOSIS, MAINTENANCE, OR REPAIR SERVICES ON BEHALF OF THE FARM EQUIPMENT MANUFACTURER.

(2) "AUTHORIZED REPAIR PROVIDER" INCLUDES A FARM EQUIPMENT MANUFACTURER THAT OFFERS DIAGNOSIS, MAINTENANCE, OR REPAIR SERVICES OF ITS OWN FARM EQUIPMENT.

(C) "DOCUMENTATION" MEANS ANY MANUAL, DIAGRAM, REPORTING OUTPUT, SERVICE CODE DESCRIPTION, SCHEMATIC DIAGRAM, OR OTHER INFORMATION PROVIDED TO AN AUTHORIZED REPAIR PROVIDER FOR THE DIAGNOSIS, MAINTENANCE, OR REPAIR OF FARM EQUIPMENT.

(D) (1) "FARM EQUIPMENT" MEANS EQUIPMENT THAT IS USED OR INTENDED FOR USE IN A FARM OPERATION.

(2) "FARM EQUIPMENT" INCLUDES ANY COMBINE, TRACTOR, IMPLEMENT, ENGINE, MOTOR, OR ATTACHMENT.

(3) "FARM EQUIPMENT" DOES NOT INCLUDE A VEHICLE AS DEFINED IN § 11-176 OF THE TRANSPORTATION ARTICLE.

(E) "FARM EQUIPMENT MANUFACTURER" MEANS ANY PERSON ENGAGED IN THE BUSINESS OF SELLING OR LEASING NEW FARM EQUIPMENT TO ANOTHER PERSON AND ENGAGED IN THE DIAGNOSIS, SERVICE, MAINTENANCE, OR REPAIR OF FARM EQUIPMENT.

(F) (1) "INDEPENDENT REPAIR PROVIDER" MEANS A PERSON OPERATING IN THE STATE THAT IS NOT AFFILIATED WITH A FARM EQUIPMENT MANUFACTURER OR ITS AUTHORIZED REPAIR PROVIDER AND THAT IS ENGAGED IN THE DIAGNOSIS, SERVICE, MAINTENANCE, OR REPAIR OF FARM EQUIPMENT.

(2) "INDEPENDENT REPAIR PROVIDER" INCLUDES A FARM EQUIPMENT MANUFACTURER WHEN IT ENGAGES IN THE DIAGNOSIS, SERVICE, MAINTENANCE, OR REPAIR OF FARM EQUIPMENT THAT IS NOT AFFILIATED WITH THE FARM EQUIPMENT MANUFACTURER.

(G) "TRADE SECRET" HAS THE MEANING STATED IN § 11-1201 OF THIS ARTICLE.

14-4202.

(A) THIS SUBTITLE APPLIES ONLY TO FARM EQUIPMENT THAT IS SOLD OR USED IN THE STATE.

(B) THIS SUBTITLE DOES NOT APPLY TO A FARM EQUIPMENT MANUFACTURER THAT PROVIDES DIAGNOSTIC REPAIR DOCUMENTATION TO AFTERMARKET DIAGNOSTIC TOOL MANUFACTURERS, DIAGNOSTIC PROVIDERS, OR SERVICE INFORMATION PUBLICATIONS AND SYSTEMS.

(C) THIS SUBTITLE MAY NOT BE CONSTRUED TO REQUIRE AN EQUIPMENT MANUFACTURER OR AUTHORIZED REPAIR PROVIDER TO:

(1) DIVULGE A TRADE SECRET; OR

(2) PROVIDE ACCESS TO DOCUMENTATION THAT DOES NOT SERVE A SECURITY RESET, DIAGNOSTIC, SERVICE, OR REPAIR PURPOSE.

14-4203.

(A) A FARM EQUIPMENT MANUFACTURER SHALL MAKE DIAGNOSTIC AND REPAIR DOCUMENTATION AVAILABLE TO AN INDEPENDENT REPAIR PROVIDER OR OWNER OF FARM EQUIPMENT MANUFACTURED BY THE FARM EQUIPMENT MANUFACTURER.

(B) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A FARM EQUIPMENT MANUFACTURER THAT SELLS FARM EQUIPMENT THAT CONTAINS A SECURITY-RELATED FUNCTION SHALL MAKE AVAILABLE TO AN OWNER OR INDEPENDENT REPAIR PROVIDER ANY REPAIR DOCUMENTATION OR UPDATES NEEDED TO RESET THE LOCK OR FUNCTION.

(2) IF NECESSARY FOR SECURITY PURPOSES, A FARM EQUIPMENT MANUFACTURER MAY PROVIDE INFORMATION NECESSARY TO RESET AN IMMOBILIZER SYSTEM OR SECURITY-RELATED ELECTRONIC MODULE THROUGH A SECURE DATA RELEASE SYSTEM.

(C) ANY PROVISION IN AN AUTHORIZED REPAIR AGREEMENT PURPORTING TO WAIVE, AVOID, OR LIMIT A FARM EQUIPMENT MANUFACTURER'S COMPLIANCE WITH THIS SUBTITLE SHALL BE VOID.

14-4204.

A VIOLATION OF THIS SUBTITLE IS:

(1) AN UNFAIR, ABUSIVE, OR DECEPTIVE TRADE PRACTICE WITHIN THE MEANING OF TITLE 13 OF THIS ARTICLE; AND

1 **(2) SUBJECT TO THE ENFORCEMENT AND PENALTY PROVISIONS**
2 **CONTAINED IN TITLE 13 OF THIS ARTICLE.**

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to
4 apply only prospectively and may not be applied or interpreted to abrogate, interfere with,
5 contradict, or alter the terms of any contract that is executed between an authorized repair
6 provider and a farm equipment manufacturer before the effective date of this Act.

7 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 October 1, 2020.