

SECOND REGULAR SESSION

# HOUSE BILL NO. 3409

103RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE HOVIS.

6076H.011

JOSEPH ENGLER, Chief Clerk

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## AN ACT

To amend chapter 261, RSMo, by adding thereto eleven new sections relating to agricultural data ownership and market competition, with penalty provisions.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Chapter 261, RSMo, is amended by adding thereto eleven new sections, to  
2 be known as sections 261.150, 261.152, 261.154, 261.156, 261.158, 261.160, 261.162,  
3 261.164, 261.166, 261.168, and 261.170, to read as follows:

261.150. Sections 261.150 to 261.170 shall be known and may be cited as the  
2 "Missouri Agricultural Data Ownership and Market Competition Act".

261.152. As used in sections 261.150 to 261.170, the following terms mean:

2 (1) "Agricultural data", any information in any format that is generated from,  
3 derived from, or relates to agricultural production operations, agricultural equipment  
4 operations, or agricultural land including, but not limited to:

5 (a) Yield data, soil data, crop data, and field data;

6 (b) Precision agriculture data including GPS coordinates, application rates, and  
7 prescription maps;

8 (c) Equipment operational data, diagnostic data, telematics data, and machine  
9 performance data;

10 (d) Livestock data including health records, production metrics, breeding data,  
11 and performance analytics;

12 (e) Weather data, environmental data, and climate data specific to agricultural  
13 operations not otherwise publicly available;

EXPLANATION — Matter enclosed in bold-faced brackets ~~thus~~ in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

- 14           **(f) Input data including seed, fertilizer, pesticide, herbicide, Diesel Emission**  
15 **Fluid (DEF), and fuel usage data;**
- 16           **(g) Financial data specific to agricultural production operations; and**
- 17           **(h) Agronomic analyses, predictive models, and benchmarking reports derived**  
18 **from the foregoing data;**
- 19           **(2) "Agricultural equipment", any equipment used in agricultural production**  
20 **operations that generates, collects, transmits, stores, or processes agricultural data;**
- 21           **(3) "Agricultural producer", a person or entity engaged in agricultural**  
22 **production operations as a landowner, tenant farmer, contract grower, livestock owner,**  
23 **or other agricultural operator;**
- 24           **(4) "Agricultural production operations", any activity conducted for the**  
25 **purpose of producing agricultural commodities including crop production, livestock**  
26 **production, aquaculture, horticulture, viticulture, and similar activities;**
- 27           **(5) "County data market share", the percentage of total agricultural data**  
28 **collected from agricultural producers within a single county of Missouri by a data**  
29 **collector or its affiliates;**
- 30           **(6) "Data aggregator", a person or entity that collects, compiles, or processes**  
31 **agricultural data from multiple agricultural producers for the purpose of analysis, sale,**  
32 **licensing, or other commercial use;**
- 33           **(7) "Data collector", a person or entity that collects, receives, accesses,**  
34 **transmits, stores, or processes agricultural data, including original equipment**  
35 **manufacturers, platform providers, service providers, and data aggregators;**
- 36           **(8) "Data owner", a person or entity who holds ownership rights in agricultural**  
37 **data as determined under section 261.154;**
- 38           **(9) "Data transaction", any sale, license, transfer, or other commercial exchange**  
39 **of agricultural data or rights therein;**
- 40           **(10) "Department", the department of agriculture;**
- 41           **(11) "Fair and reasonable terms", terms and conditions for data transactions**  
42 **that:**
- 43           **(a) Are transparent and clearly disclosed;**
- 44           **(b) Do not impose costs that unreasonably exceed the actual costs of providing**  
45 **the data or services;**
- 46           **(c) Do not include terms that are discriminatory, predatory, or that**  
47 **unreasonably restrict the data owner's rights; and**
- 48           **(d) Provide the data owner with adequate compensation reflecting the value of**  
49 **the data;**

50 (12) "Independent data service provider", a person or entity that provides  
51 agricultural data services including data analysis, storage, management, or  
52 monetization services that are not provided by an original equipment manufacturer  
53 or an affiliate of an original equipment manufacturer;

54 (13) "Landowner", a person or entity that holds a fee simple, life estate, or other  
55 possessory interest in agricultural land;

56 (14) "Livestock owner", a person or entity that holds ownership rights in  
57 livestock;

58 (15) "Original equipment manufacturer", a person or entity that manufactures  
59 agricultural equipment or licenses for the use of its brand name for agricultural  
60 equipment manufactured by others;

61 (16) "Platform provider", a person or entity that operates a digital platform,  
62 application, or service through which agricultural data is collected, stored, transmitted,  
63 processed, or made available;

64 (17) "Transformed data", agricultural data that has been processed, analyzed,  
65 aggregated, or otherwise transformed through the application of proprietary  
66 algorithms, analytical methods, or creative processes to produce copyrightable works  
67 including agronomic analyses, predictive models, field prescriptions, comparative  
68 benchmarking reports, or validated farming practices.

261.154. 1. Unless otherwise provided by written agreement between the  
2 parties:

3 (1) Agricultural data generated from crop production operations belongs to the  
4 landowner of the agricultural land on which the data was generated, whether the  
5 landowner farms the land directly or leases it to tenant farmers;

6 (2) Agricultural data generated from livestock operations belongs to the  
7 livestock owner, regardless of where the livestock is housed or who manages the  
8 livestock;

9 (3) Data generated by agricultural equipment during agricultural production  
10 operations belongs to the owner or lessee of the equipment at the time the data was  
11 generated; and

12 (4) When agricultural data is transformed into copyrightable works through the  
13 application of proprietary algorithms, analytical methods, or creative processes, the  
14 data owner who provided the underlying raw data retains an ownership interest in the  
15 transformed data proportional to the contribution of their raw data to the  
16 transformation.

17 2. No browsewrap agreement, clickwrap agreement, terms of service, end-user  
18 license agreement, or similar instrument shall be effective to transfer or waive a data

19 owner's rights under sections 261.150 to 261.170 unless the data owner has provided  
20 express, informed, written consent specifically acknowledging the transfer or waiver of  
21 such rights.

22 3. Nothing in this section shall prevent parties from negotiating alternative data  
23 ownership arrangements through written contract. Agricultural producers may  
24 negotiate data ownership and revenue-sharing arrangements based on their specific  
25 circumstances including, but not limited to, tenant farming arrangements,  
26 sharecropping arrangements, contract growing operations, custom farming  
27 operations, and equipment leasing arrangements.

261.156. 1. A data collector that collects, receives, or accesses agricultural data  
2 from an agricultural producer shall:

3 (1) Provide clear, conspicuous, and complete disclosure of:

4 (a) The types of agricultural data being collected;

5 (b) The purposes for which the data will be used;

6 (c) The third parties with whom the data has been or may be shared, sold, or  
7 licensed;

8 (d) The data owner's rights under sections 261.150 to 261.170; and

9 (e) The estimated commercial value of the data being collected, if known or  
10 reasonably ascertainable;

11 (2) Obtain express, informed consent from the data owner prior to collecting,  
12 using, or sharing the data including, but not limited to, data collected for the past five  
13 years;

14 (3) Provide the data owner with a copy of all data collected in a standardized,  
15 portable, machine-readable format upon request for the past five years from the date  
16 requested;

17 (4) Fully delete the data owner's data upon written request, except to the extent  
18 retention is required under federal or state law; and

19 (5) Provide a written, legally binding certification of the deletion upon request.

20 2. A data collector shall offer agricultural producers access to their own data on  
21 fair and reasonable terms, which shall not:

22 (1) Impose fees that unreasonably exceed the actual costs of providing the data;

23 (2) Condition access to equipment, services, or functionality on the producer's  
24 consent to data collection or sharing beyond what is necessary for the requested service;

25 (3) Impose discriminatory terms based on the producer's data sharing decisions;

26 or

27 (4) Restrict the producer's ability to share their data with independent data  
28 service providers of their choosing either directly or indirectly.

29           **3. A data collector shall provide agricultural producers with the ability to export**  
30 **their data in standardized, interoperable formats that allow the data to be used with**  
31 **systems and services provided by independent data service providers.**

**261.158. 1. For purposes of this section:**

2           **(1) Affiliates of a data collector shall include any entity that directly or indirectly**  
3 **controls, is controlled by, or is under common control with the data collector;**

4           **(2) Agricultural production acreage shall be determined using data from the**  
5 **United States Department of Agriculture Census of Agriculture, or similar authoritative**  
6 **source;**

7           **(3) Agricultural production of livestock shall be determined by the herd count**  
8 **divided by the annual number of animals harvested for each species.**

9           **2. No data collector, together with its affiliates, shall collect agricultural data**  
10 **from agricultural producers representing more than twenty-five percent of the total**  
11 **agricultural production acreage within any single county of Missouri and based upon**  
12 **the number of animals harvested annually.**

13           **3. A data collector that collects agricultural data from producers in Missouri**  
14 **shall:**

15           **(1) Report annually to the department the total agricultural acreage and**  
16 **harvested animals represented by the producers from whom it collects data in each**  
17 **county; and**

18           **(2) Maintain records sufficient to verify compliance with this section for a period**  
19 **of not less than five years.**

20           **4. The agricultural market data concentration limits set forth in this section**  
21 **shall not apply to data collection conducted by:**

22           **(1) A governmental entity for regulatory, research, or statistical purposes;**

23           **(2) A land-grant university or agricultural research institution for bona fide**  
24 **research purposes; or**

25           **(3) An agricultural cooperative owned and controlled by agricultural producers,**  
26 **provided that the data is used solely for the benefit of the cooperative's members and**  
27 **not resold.**

28           **5. A data collector that violates the provisions of this section shall:**

29           **(1) Within ninety days of becoming aware of or being notified of the violation by**  
30 **the department or attorney general, divest data-collection activities within that county**  
31 **and delete the excess data that would be sufficient to bring the data collector into**  
32 **compliance; or**

33           **(2) Be subject to the provisions of section 261.164.**

34           **6. The provisions of this section shall become effective on July 1, 2027.**

261.160. 1. An agricultural producer shall have the right to monetize their agricultural data by selling, licensing, or otherwise commercializing such data, either directly or through an independent data service provider or data aggregator of their choosing.

2. A data collector shall not:

(1) Prevent, restrict, or impede an agricultural producer from monetizing their data through third parties;

(2) Impose contractual provisions that grant the data collector exclusive rights to the producer's data; or

(3) Discriminate against a producer in terms, pricing, or service based on the producer's exercise of data monetization rights.

3. When agricultural data is sold, licensed, or otherwise commercialized by a data collector or data aggregator:

(1) The data owner shall be entitled to receive fair compensation for the use of their data, which shall be disclosed prior to the data transaction;

(2) The data collector or aggregator shall provide the data owner with a transparent accounting of all data transactions involving the owner's data upon request; and

(3) Revenue-sharing arrangements shall be established through a written agreement between the parties which shall specify the percentage or amount of revenue to be paid to the data owner.

4. An agricultural producer who develops innovative farming methodologies, systems, or practices that demonstrably improve agricultural outcomes shall have the right to:

(1) Transform such methodologies into copyrightable intellectual property through documentation and validation using operational data;

(2) License or sell such validated farming practices to other agricultural producers or entities; and

(3) Receive royalties or other compensation for the use of such validated farming practices.

261.162. 1. Data transactions involving agricultural data that occur within Missouri or involve Missouri agricultural producers shall be subject to state sales tax as provided in chapter 144.

2. A data collector or data aggregator that facilitates data transactions involving agricultural data shall:

(1) Calculate and collect applicable sales taxes on data transactions;

7           **(2) Remit collected taxes to the Missouri department of revenue under**  
8 **applicable law; and**

9           **(3) Provide data owners with documentation of taxes collected on data**  
10 **transactions involving their data.**

11           **3. The following data transactions shall be exempt from sales tax under this**  
12 **section:**

13           **(1) Data transactions conducted for bona fide research purposes by land-grant**  
14 **universities or agricultural research institutions;**

15           **(2) Data transactions conducted by governmental entities for regulatory or**  
16 **statistical purposes; and**

17           **(3) Data transactions within agricultural cooperatives that are solely for the**  
18 **benefit of cooperative members.**

19           **4. All moneys collected under this section shall be deposited to the credit of the**  
20 **general revenue fund and shall be appropriated as provided by law.**

21           **5. The department in consultation with the department of revenue shall**  
22 **promulgate rules necessary to implement the provisions of this section including, but not**  
23 **limited to, rules relating to the following:**

24           **(1) Valuation methods for agricultural data transactions;**

25           **(2) Reporting requirements for data collectors and aggregators; and**

26           **(3) Procedures for tax collection and remittance.**

27           **6. The provisions of this section shall become effective on July 1, 2027.**

28           **261.164. 1. A violation of any provisions or requirement of sections 261.150 to**  
29 **261.170 shall be deemed a violation of section 407.020, and any person violating such**  
30 **provisions or requirement shall be subject to all penalties, remedies, and procedures**  
31 **provided in sections 407.010 to 407.145. The attorney general shall have all powers,**  
32 **rights, and duties regarding violations of sections 261.150 to 261.170 as are provided in**  
33 **sections 407.010 to 407.145.**

34           **2. A data collector who violates the provisions of sections 261.150 to 261.170**  
35 **shall be subject to a civil penalty in an amount not to exceed fifty thousand dollars per**  
36 **violation. Each day of continuing violation shall constitute a separate offense. The**  
37 **remedies under this subsection shall not be deemed exclusive and shall be in addition to**  
38 **any other remedies permitted by law.**

39           **3. An agricultural producer who is aggrieved by a violation or violations under**  
40 **sections 261.150 to 261.170 may seek injunctive relief or bring a civil action in any court**  
41 **of competent jurisdiction for damages sustained as a consequence of the violation or**  
42 **violations, together with the actual costs of the action, including reasonable attorney's**  
43 **fees. A court may award the following to the prevailing party:**

17           **(1) Actual damages or statutory damages of up to ten thousand dollars per**  
18 **violation, whichever is greater; and**

19           **(2) Reasonable attorney's fees and court costs.**

**261.166. 1. Sections 261.150 to 261.170 shall not be construed to:**

2           **(1) Preempt or conflict with applicable federal laws including, but not limited to,**  
3 **the federal Copyright Act of 1976, Pub. L. No. 94-553, 17 U.S.C. Section 101 et seq., as**  
4 **amended, federal patent law 35 U.S.C. Section 100 et seq., as amended, or trade secret**  
5 **law 18 U.S.C. Section 1831 et seq., as amended;**

6           **(2) Require a data collector to divulge any trade secret defined under section**  
7 **417.453 to any data owner or independent data service provider; or**

8           **(3) Be superseded by any private memorandum of understanding or similar**  
9 **agreement between equipment manufacturers and agricultural associations unless such**  
10 **memorandum provides protections at least as protective of agricultural producers as**  
11 **those provided under sections 261.150 to 261.170.**

**261.168. The department shall have the authority to:**

2           **(1) Receive and investigate complaints relating to violations under sections**  
3 **261.150 to 261.170; and**

4           **(2) Refer complaints to the attorney general's office for appropriate follow-up**  
5 **action.**

6           **2. The department shall publish an annual report or reports by December**  
7 **thirtieth of each year on agricultural data market concentration including, but not**  
8 **limited to, moneys collected, complaints received, complaints referred to the attorney**  
9 **general, civil actions filed, and other matters that are germane to the overall**  
10 **effectiveness of complying with sections 261.150 to 261.170.**

11           **3. The department shall promulgate all necessary rules and regulations for the**  
12 **administration of this section including, but not limited to, the complaint process, forms**  
13 **and related requirements. Any rule or portion of a rule, as that term is defined in**  
14 **section 536.010, that is created under the authority delegated in this section shall**  
15 **become effective only if it complies with and is subject to all of the provisions of chapter**  
16 **536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable**  
17 **and if any of the powers vested with the general assembly pursuant to chapter 536 to**  
18 **review, to delay the effective date, or to disapprove and annul a rule are subsequently**  
19 **held unconstitutional, then the grant of rulemaking authority and any rule proposed or**  
20 **adopted after August 28, 2026, shall be invalid and void.**

**261.170. 1. Except as provided in sections 261.158 and 261.162, sections 261.150**  
2 **to 261.170 shall become effective January 1, 2027.**

3           **2. Under section 23.253 of the Missouri sunset act:**

4           **(1) The provisions of the new program authorized under sections 261.150 to**  
5 **261.170 shall sunset six years after the effective date of sections 261.150 to 261.170**  
6 **unless reauthorized by an act of the general assembly; and**

7           **(2) Sections 261.150 to 261.170 shall terminate on September first of the**  
8 **calendar year immediately following the calendar year in which the program authorized**  
9 **under sections 261.150 to 261.170 is sunset.**

10           **3. Prior to the termination of the provisions of sections 261.150 to 261.170, the**  
11 **department shall conduct a comprehensive review of the effectiveness of the Missouri**  
12 **agricultural data ownership and market competition act and submit a report to the**  
13 **general assembly with recommendations regarding the continuation, modification, or**  
14 **repeal of sections 261.150 to 261.170.**

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