

HB 3409 -- MISSOURI AGRICULTURAL DATA OWNERSHIP ACT

SPONSOR: Hovis

This bill creates the "Missouri Agricultural Data Ownership and Market Competition Act", that specifies that unless agreed upon by the parties, agricultural data generated from crop production operations or livestock operations belongs to the landowner of the agricultural land or livestock owner; data generated by agricultural equipment during agricultural production operations belongs to the owner or lessee of the equipment; and when agricultural data is transformed into copyrightable works through the application of proprietary algorithms, analytical methods, or creative processes, the data owner who provided the underlying raw data retains an ownership interest in the transformed data proportional to the contribution of their raw data to the transformation.

No browsewrap agreement, clickwrap agreement, terms of service, end-user license agreement, or similar instrument may transfer or waive a data owner's rights unless the data owner has provided consent to the transfer or waiver of rights. Nothing prevents parties from negotiating alternative data ownership arrangements through a written contract.

A data collector that collects, receives, or accesses agricultural data from an agricultural producer must provide certain information to the producer, fully delete the data owner's data upon written request, and offer agricultural producers access to their own data on fair and reasonable terms as specified in the bill. A data collector must also provide agricultural producers with the ability to export their data in standardized, interoperable formats that allow the data to be used with systems and services provided by independent data service providers.

Beginning July 1, 2027, no data collector or its affiliates may collect agricultural data from producers representing more than 25% of the total agricultural production acreage within any single county of Missouri and based upon the number of animals harvested annually. A data collector that collects agricultural data from producers in Missouri must maintain certain records and annually report information to the Department of Agriculture.

Beginning July 1, 2027, within 90 days of becoming aware of a violation, a data collector must divest data-collection activities within that county and delete the excess data that

would be sufficient to bring the data collector into compliance or be subject to the penalties specified in the bill.

An agricultural producer has 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. An agricultural producer who develops innovative farming methodologies, systems, or practices that demonstrably improve agricultural outcomes has certain rights specified in the bill.

Data transactions involving agricultural data that occur within Missouri or involve Missouri agricultural producers are subject to state sales tax. The bill specifies certain requirements for a data collector or data aggregator that facilitates data transactions involving agricultural data. All money collected will be deposited to the credit of the General Revenue Fund and be appropriated as provided by law.

Data transactions conducted for research purposes by a land-grant university or agricultural research institution; conducted by governmental entities for regulatory or statistical purposes; and within agricultural cooperatives that are solely for the benefit of cooperative members are exempt from sales tax.

A violation of the provisions of the bill is considered a violation of the Merchandising Practices Act. A data collector who violates the provisions of the bill will be subject to a civil penalty in an amount not to exceed \$50,000 per violation. An agricultural producer who is aggrieved by a violation may seek injunctive relief or bring a civil action in any court of competent jurisdiction for actual damages sustained as a consequence of the violation or violations or up to \$10,000 per violation, together with the actual costs of the action, including reasonable attorney's fees.

The bill does not preempt or conflict with applicable federal laws or require a data collector to divulge any trade secrets to any data owner or independent data service provider. The provisions of the bill are not superseded by any private memorandum of understanding or agreement between equipment manufacturers and agricultural associations unless such memorandum provides protections at least as protective of agricultural producers as those provided in the bill.

The Department has the authority to investigate complaints relating to violations and refer complaints to the Attorney General's Office for appropriate follow-up action. The Department must also publish an annual report by December 30th of each year on agricultural data market concentration.

Except as specified otherwise in the bill, the provisions of the bill become effective January 1, 2027, and will sunset 6 years after the effective date.