

Committee: Senate Commerce and Energy

Tuesday, February 02, 2021 10:00 AM

Roll Call

Present: Sen. Foster, Sen. Novstrup, Sen. Stalzer, Sen. Steinhauer, Sen. Tobin,
Sen. Wheeler, Sen. Zikmund, Sen. Schoenbeck, and Sen. Crabtree

OTHERS PRESENT: See Original Minutes

The meeting was called to order by Senator Crabtree

MOTION: TO APPROVE THE MINUTES OF THURSDAY, JANUARY 28TH

Moved by: Wheeler
Second by: Steinhauer
Action: Prevailed by voice vote

NOTE: Chair Crabtree passed the gavel to Vice Chair Schoenbeck.

SCR 603 : Supporting the establishment of the Economic Development Professionals Association of South Dakota.

Presented by: Casey Crabtree, Senator
Proponents: David Lambert, self, Mitchell
Travis Dovre, Gov's Office of Econ Dev
David Owen, South Dakota Chamber of Commerce and Industry

MOTION: DO PASS SCR 603

Moved by: Wheeler
Second by: Novstrup
Action: Prevailed by roll call vote (9-0-0-0)

Voting Yes: Foster, Novstrup, Stalzer, Steinhauer, Tobin, Wheeler, Zikmund, Schoenbeck,
and Crabtree

NOTE: The gavel was passed back to Chair Crabtree, who presided over the remainder of the meeting.

SB 101 : revise provisions regarding warranty agreements with vehicle dealers.

Presented by: Erin Tobin, Senator

MOTION: AMEND SB 101

101A

On page 1, line 1, of the Introduced bill, delete " vehicle dealers" and insert " certain repair facilities"
On page 1, line 3, of the Introduced bill, after "Dakota:" delete "Section 1. That § 32-6B-58 be
AMENDED."
On page 1, line 4, of the Introduced bill, after "AMENDED." delete "32-6B-58. "

On page 1, line 4, of the Introduced bill, after "32-6B-58. " delete "Franchisor or manufacturer-- Duties--Warranty agreements, labor, and parts--Disposition of dealer and customer claims."

On page 1, line 6, of the Introduced bill, after "claims." delete "Every franchisor or manufacturer shall properly fulfill any warranty agreement and compensate, as set forth in § 32-6B-61, each of its vehicle dealers for labor and parts. The franchisor or manufacturer shall pay all claims made by a vehicle dealer for the labor and parts within thirty days following their approval. The franchisor or manufacturer shall either approve or disapprove the claim within thirty days after its receipt. If a claim is disapproved, the vehicle dealer who submitted the claim shall be notified in writing of the claim's disapproval within the thirty-day period. Any claim rejected for technical reasons may be put into proper form by the vehicle dealer. Any claim resubmitted by the vehicle dealer within thirty days after the receipt of the claim shall be considered to be approved and payment shall be made within thirty days. The franchisor or manufacturer has the right to audit any vehicle dealer claim for a period of one year after the claim is paid to the dealer and to charge back to the new vehicle dealer the amount of any unsubstantiated claim. If there is evidence of fraud by the vehicle dealer, the audit period is two years from the actual or constructive notice of facts constituting the alleged fraud. The obligations set forth in this section also apply to a franchisor or manufacturer of a new motor vehicle engine, transmission, or rear axle that separately warrants its components to customers."

On page 1, after line 22, of the Introduced bill, insert "

Section 1. That a NEW SECTION be added:

32-6B-58.1. Franchisor or manufacturer--Duties--Separate warranty for an engine, transmission, or rear axle--Disposition of dealer and customer claims.

A franchisor or manufacturer that provides a separate warranty for an engine, transmission, or rear axle installed in a commercial medium- and heavy-duty on-highway vehicle, as defined in 49 U.S.C. § 32901(a)(7) as of January 1, 2021, shall compensate any authorized repair facility that performs warranty work to repair or replace the engine, transmission or rear axle upon the same terms and conditions as provided in § 32-6B-61 for compensation of warranty work performed by a vehicle dealer. The franchisor or manufacturer shall pay all claims made by the facility for the labor and parts within thirty days following approval. The franchisor or manufacturer shall either approve or disapprove the claim within thirty days after receiving the claim. If a claim is disapproved, the facility that submitted the claim shall be notified in writing of the claim's disapproval within the thirty-day period. Any claim rejected for technical reasons may be put into proper form by the facility. Any claim resubmitted by the facility within thirty days after the receipt of the claim shall be considered to be approved and payment shall be made within thirty days. The franchisor or manufacturer has the right to audit any facility's claim for a period of one year after the claim is paid to the facility and to charge back to the facility the amount of any unsubstantiated claim. If there is evidence of fraud by the facility, the audit period is two years from the actual or constructive notice of facts constituting the alleged fraud.

"

Moved by: Stalzer
Second by: Steinhauer
Action: Prevailed by voice vote

SB 101 : **revise provisions regarding warranty agreements with vehicle dealers.**

Presented by: Erin Tobin, Senator

Proponents: Myron L Rau, South Dakota Auto Dealers Association, SIOUX FALLS

William Rush, self, Sioux Falls
Dan Mills, self, Geddes

MOTION: DO PASS SB 101 AS AMENDED

Moved by: Schoenbeck
Second by: Zikmund
Action: Prevailed by roll call vote (8-0-1-0)

Voting Yes: Foster, Novstrup, Stalzer, Steinhauer, Tobin, Zikmund, Schoenbeck, and Crabtree

Excused: Wheeler

SB 110 : revise certain provisions for authorizing wholesalers to purchase alcoholic beverages.

Presented by: Ryan Maher, Senator

MOTION: AMEND SB 110

110A

On page 1, line 9, of the Introduced bill, after "agent" insert the comma
On page 1, line 9, of the Introduced bill, delete "brand owner or the brand owner's authorized agent has one of its employees visit " and insert "wholesaler visits "
On page 1, line 16, of the Introduced bill, after "beverages." insert " Failure to comply with the provisions of this section shall result in the forfeiture of the brand name by the wholesaler in this state."

Moved by: Steinhauer
Second by: Stalzer
Action: Prevailed by voice vote

SB 110 : revise certain provisions for authorizing wholesalers to purchase alcoholic beverages.

Presented by: Ryan Maher, Senator
Proponents: Clark Blake, self
Opponents: Jeremiah Murphy, self, Rapid City
Robert C. Riter, South Dakota Beer Distributors Association, Pierre
Jason Evans, Department of Revenue

MOTION: DEFER SB 110 TO THE 41ST LEGISLATIVE DAY

Moved by: Steinhauer
Second by: Stalzer
Action: Prevailed by roll call vote (5-4-0-0)

Voting Yes: Foster, Steinhauer, Tobin, Zikmund, and Crabtree

Voting No: Novstrup, Stalzer, Wheeler, and Schoenbeck

SB 109 : authorize certain interstate shipments of distilled spirits, to provide for the collection of taxes, and to establish certain penalties.

Presented by: Ryan Maher, Senator

MOTION: AMEND SB 109

109A

On page 2, line 6, of the Introduced bill, after "state" insert " under this chapter"
On page 2, line 17, of the Introduced bill, after "Act." delete "Section 4. That a NEW SECTION be added:
"

On page 2, line 18, of the Introduced bill, after "added:" delete "Shipping to South Dakota resident without license prohibited--Penalty."

On page 2, line 18, of the Introduced bill, after "prohibited--Penalty." delete "
No person in the business of selling distilled spirits may ship or cause to be shipped any distilled spirits to any South Dakota resident who does not hold a license issued pursuant to chapter 35-4. The department shall, for the first offense, send a certified letter to any person who violates this section and order such person to cease and desist any shipments of distilled spirits to nonlicensed South Dakota residents. Any subsequent violation of this section is a Class 1 misdemeanor."

Moved by: Schoenbeck
Second by: Stalzer
Action: Prevailed by voice vote

SB 109 : authorize certain interstate shipments of distilled spirits, to provide for the collection of taxes, and to establish certain penalties.

Presented by: Ryan Maher, Senator

MOTION: DO PASS SB 109 AS AMENDED

Moved by: Schoenbeck
Second by: Zikmund
Action: Prevailed by roll call vote (9-0-0-0)

Voting Yes: Foster, Novstrup, Stalzer, Steinhauer, Tobin, Wheeler, Zikmund, Schoenbeck, and Crabtree

HAVING PASSED UNANIMOUSLY, THE CHAIR CERTIFIED SB 109 AS UNCONTESTED AND AS SUCH BE PLACED ON THE CONSENT CALENDAR.

SB 55 : authorize certain innovative insurance products and services through insurance innovation waivers.

Presented by: Larry Deiter, Department of Labor and Regulation

MOTION: AMEND SB 55

55A

On page 2, line 21, of the Introduced bill, after "consumers" insert " or create unreasonable unfair competition in the insurance market"

On page 2, line 30, of the Introduced bill, after "bulletin." insert " The waiver may not be construed to waive any requirements except those which inhibit the introduction of the innovative insurance product or service as addressed in the innovation waiver document."

On page 3, line 11, of the Introduced bill, after "(8)" insert "Chapter 58-25 concerning title insurance; (9) Chapter 58-30 concerning sales through licensed insurance producers; (10) "

On page 3, line 14, of the Introduced bill, delete "(9)" and insert "(11)"

On page 3, line 14, of the Introduced bill, delete " (8)" and insert " (10)"

On page 3, line 16, of the Introduced bill, delete "(10)" and insert "(12)"

On page 5, line 14, of the Introduced bill, delete "an initial " and insert "a "

On page 9, line 2, of the Introduced bill, after "58-48-11" insert ". Nothing in this section may be construed to modify the ability of a consumer to discover information in pursuit of a claim against a participant"

Moved by: Stalzer

Second by: Schoenbeck

Action: Prevailed by voice vote

SB 55 : authorize certain innovative insurance products and services through insurance innovation waivers.

Presented by: Larry Deiter, Department of Labor and Regulation

Proponents: Don Hagger, Americans for Prosperity for South Dakota, Arlington, South Dakota

Mike Shaw, American Property Casualty Insurance Association, Chicago

Mike Shaw, De Smet Insurance Company of South Dakota, De Smet

MOTION: DO PASS SB 55 AS AMENDED

Moved by: Schoenbeck

Second by: Zikmund

Action: Prevailed by roll call vote (9-0-0-0)

Voting Yes: Foster, Novstrup, Stalzer, Steinhauer, Tobin, Wheeler, Zikmund, Schoenbeck, and Crabtree

MOTION: ADJOURN

Moved by: Stalzer

Second by: Wheeler

Action: Prevailed by voice vote

Lorna Shell, Committee Secretary

/s/ CASEY CRABTREE
Casey Crabtree, Chair