

2021 South Dakota Legislature

Senate Bill 101**AMENDMENT 101A FOR THE INTRODUCED BILL**

1 **An Act to revise provisions regarding warranty agreements with ~~vehicle dealers~~**
2 **certain repair facilities.**

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 **Section 1.** That ~~§ 32-6B-58 be AMENDED.~~

5 ~~**32-6B-58. Franchisor or manufacturer—Duties—Warranty agreements,**~~
6 ~~**labor, and parts—Disposition of dealer and customer claims.**~~

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

24 **Section 1.** That a NEW SECTION be added:

1 **32-6B-58.1. Franchisor or manufacturer--Duties--Separate warranty for an**
2 **engine, transmission, or rear axle--Disposition of dealer and customer claims.**

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