



2023 South Dakota Legislature

Senate Bill 159

SENATE COMMERCE AND ENERGY ENGROSSED

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: **Senator Tobin**

1 **An Act to revise provisions regarding vehicle warranty claims.**

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

3 **Section 1. That § 32-6B-1 be AMENDED:**

4 **32-6B-1.** Terms as used in this chapter mean:

- 5 (1) "Administrator," the administrator of the dealer licensing and inspection program
- 6 of the Department of Revenue;
- 7 (2) "Auctioneer," a person who presides over a public auction where following an initial
- 8 starting price, bids are taken from two or more people until a final bid or price is
- 9 established for a motor vehicle;
- 10 (3) "Authorized emergency vehicle," any vehicle of a fire department and any
- 11 ambulance and emergency vehicle of a municipal department or public service
- 12 corporation that are designated or authorized by the Department of Public Safety
- 13 or the Department of Health;
- 14 (4) "Broker," a person who, for a fee, commission, or other valuable consideration,
- 15 arranges or offers to arrange a transaction involving the sale or exchange of
- 16 vehicles, and who is not:
 - 17 (a) A dealer or a bona fide agent or employee of a dealer;
 - 18 (b) A representative or a bona fide agent or employee of a manufacturer; or
 - 19 (c) At any point in the transaction the bona fide owner of the vehicle involved
 - 20 in the transactions;
- 21 (5) "Chassis cab," any incomplete motor vehicle, with a completed occupant
- 22 compartment, that requires only the addition of cargo carrying, work performing,
- 23 or load bearing components to perform the vehicle's intended function;
- 24 (6) "Community," the franchisee's area of responsibility as stipulated in the franchise
- 25 or a minimum radius of ten miles around an existing dealership;

- 1 (7) "Converter," a person who modifies or installs on previously assembled chassis
2 special bodies or equipment that, when completed, form an integral part of the
3 vehicle and that constitutes a major manufacturing alteration and who may issue
4 a supplemental or secondary statement of origin;
- 5 (8) "Demonstration," the noncommercial use of a dealer owned vehicle by any
6 employee of the dealership for any purpose in the ordinary course of business
7 relating to the sale of the vehicle within the trade or market area of the dealership
8 or demonstration by any prospective buyer for a period of three days. The term
9 includes vehicles donated by a dealership to a community or organization and used
10 for a one-day parade or event;
- 11 (9) "Department," the Department of Revenue;
- 12 (10) "Emergency vehicle dealer," any person who converts or manufacturers authorized
13 emergency vehicles and who, for commission or with intent to make a profit or
14 gain, sells, exchanges, rents with option to purchase, offers, or attempts to
15 negotiate a sale or exchange of new, or new and used authorized emergency
16 vehicles, or who is engaged wholly or in part in the business of selling new, or new
17 and used authorized emergency vehicles;
- 18 (11) "Event," a fair, exposition, vehicle show, vehicle rally, or fishing tournament that
19 is held once each year and lasts at least three days including any setup time but
20 does not exceed fifteen days;
- 21 (12) "Final stage manufacturer dealer," any person who assembles or installs on a
22 previously assembled new motor vehicle chassis cab any special body or equipment
23 that forms an integral part of the motor vehicle, constitutes a major manufacturing
24 alteration, and completes the vehicle;
- 25 (13) "Franchise," a written or oral agreement or contract between a franchisor and
26 franchisee that fixes the legal rights and liabilities of the parties to the agreement
27 or contract;
- 28 (14) "Franchisee," person who receives vehicles from a franchisor under a franchise and
29 who offers and sells the vehicles to the general public;
- 30 (15) "Franchisor," any person engaged in the manufacturing or distribution of vehicles
31 including any person who acts for the franchisor;
- 32 (16) "Good faith," honesty in fact and the observance of reasonable, nondiscriminatory
33 commercial standards of fair dealing in the trade;
- 34 (17) "In-transit," the noncommercial use of a dealer owned vehicle by any employee of
35 the dealership for travel to and from any service facility, detail shop, repair shop,

- 1 gas station, car wash, dealer auction, another lot owned by the dealer, a
2 supplemental lot, temporary special events lot, temporary supplemental lot, or any
3 other location to facilitate a dealer trade;
- 4 (18) "Manufacturer," a person who manufactures or assembles vehicles, including motor
5 homes, or any parts, components, complete assemblies, or sub-assemblies of
6 vehicles~~and who issues the original or first manufacturer's statement of origin~~. The
7 term includes a central or principal sales corporation through which it distributes
8 its products to franchised dealers;
- 9 (19) "Off-road vehicle," any self-propelled, two or more wheeled vehicle designed
10 primarily to be operated on land other than a highway and includes any all terrain
11 vehicle, dune buggy, and vehicle whose manufacturer's statement of origin or
12 manufacturer's certificate of origin states that the vehicle is not for highway use;
- 13 (20) "Public auction," a business that is open to the public where South Dakota titled
14 motor vehicles are consigned, displayed, and auctioned to the highest bidder by
15 an auctioneer;
- 16 (21) "Sell-it-yourself lot," any space provided to a person for a fee to display that
17 person's boat or vehicle for sale;
- 18 (22) "Semitrailer," any vehicle of the trailer type, equipped with a kingpin assembly,
19 designed and used in conjunction with a fifth wheel connecting device on a motor
20 vehicle and constructed so that some part of its weight and that of its load rests
21 upon or is carried by another vehicle;
- 22 (23) "Supplemental lot," a physically separate location owned and maintained by a
23 licensed dealer within the same county as the principal place of business;
- 24 (24) "Trailer," any vehicle without motive power designed to be coupled to or drawn by
25 a motor vehicle and constructed so that no part of its weight or that of its load
26 rests upon the towing vehicle;
- 27 (25) "Trailer dealer," any person who, for commission or with intent to make a profit or
28 gain, sells, exchanges, rents with option to purchase, offers or attempts to
29 negotiate a sale or exchange of new or used trailers, semitrailers or travel trailers
30 or who is engaged in the business of selling new or used trailers, semitrailers or
31 travel trailers whether or not the vehicles are owned by the person;
- 32 (26) "Travel trailer," any trailer or semitrailer that provides as its primary purpose
33 adequate, comfortable, temporary living quarters while on pleasure excursions or
34 while touring for business, professional, educational or recreational purposes;

- 1 (27) "Used vehicle dealer," any person who, for commission or with intent to make a
2 profit or gain sells, exchanges, rents with option to purchase, offers or attempts to
3 negotiate a sale or exchange of used vehicles or who is engaged in the business of
4 selling used vehicles;
- 5 (28) "Vehicle," any new or used automobile, truck, truck tractor, motorcycle, off-road
6 vehicle, motor home, trailer, semitrailer or travel trailer of the type and kind
7 required to be titled and registered under chapters 32-3 and 32-5, or required to
8 be titled under chapter 32-20 except any manufactured home, used mobile home,
9 moped, or snowmobile; and
- 10 (29) "Vehicle dealer," any person who, for commission or with intent to make a profit
11 or gain, sells, exchanges, rents with option to purchase, offers or attempts to
12 negotiate a sale or exchange of new, or new and used vehicles, or who is engaged
13 wholly or in part in the business of selling new, or new and used vehicles.

14 **Section 2. That chapter 32-6B be amended with a NEW SECTION:**

15 Except as provided in section 3 of this Act, a manufacturer may not charge back
16 to a dealer any warranty claim that has been paid and approved if:

- 17 (1) The repair work was covered under the manufacturer's warranty;
18 (2) The repair work corrected the defective condition that needed to be repaired; and
19 (3) The dealer provided documentation of the parts repaired and the process used to
20 make the repairs.

21 **Section 3. That chapter 32-6B be amended with a NEW SECTION:**

22 A manufacturer may charge back a warranty claim if:

- 23 (1) The claim was false or fraudulent; or
24 (2) The repairs were not necessary to correct the defective condition under accepted
25 standards of workmanship.