

# State of South Dakota

SEVENTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 1998

345B0366

## HOUSE ENGROSSED NO. **HB1175** - 2/13/98

Introduced by: Representatives McNenny, Cerny, Chicoine, Cutler, Gabriel, Jaspers,  
Kazmerzak, Koskan, and Pummel and Senators Benson, Flowers, Frederick,  
Kleven, Kloucek, and Lange

1 FOR AN ACT ENTITLED, An Act to provide for the reasonable compensation for warranty  
2 services performed by dealers selling certain equipment.

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

4 Section 1. Every manufacturer of agricultural equipment, as exempted from registration and  
5 licensing by §§ 32-5-1.3 and 32-5-1.4, shall properly fulfill any warranty agreement and fairly  
6 compensate, as provided in section 2 of this Act, each of its dealers for labor, parts, and  
7 transportation of equipment. The manufacturer shall pay all claims made by a dealer for such  
8 labor, parts, and transportation of equipment within thirty days following their approval. The  
9 manufacturer shall either approve or disapprove the claim within thirty days after its receipt. If  
10 a claim is disapproved, the dealer who submitted it shall be notified in writing of its disapproval  
11 within the thirty-day period. Any claim rejected for technical reasons may be put into proper  
12 form by the dealer and resubmitted by the dealer within thirty days. Any claim not specifically  
13 disapproved in writing within thirty days after the receipt of the claim is deemed to be approved  
14 and payment shall be made within thirty days. The manufacturer may audit the claims for one

1 year after payment and may charge back to the dealer the amount of any false or fraudulent  
2 claim.

3 Section 2. The schedule of compensation for warranty work governed by section 1 of this  
4 Act shall include reasonable compensation for diagnostic work, as well as repair service, parts,  
5 labor, and transportation of equipment for warranty repairs. Reimbursement for transportation  
6 of equipment to the dealership for needed warranty repairs and the return of the equipment is at  
7 the dealership's retail rate if the customer is within the dealer's designated area of responsibility.  
8 Time allowances for diagnosis and performance of warranty work and service shall be adequate  
9 for the work to be performed. The hourly labor rate paid the dealer for warranty services may  
10 not be less than the rate charged by the dealer for like services to nonwarranty customers for  
11 nonwarranty service. Reimbursement for parts used in the performance of warranty repair may  
12 not be less than the amount paid by the dealer to acquire the parts plus a reasonable allowance  
13 for handling, which may not be less than thirty percent.

14 Section 3. For the purposes of this Act, a dealer is any person whose sales of the  
15 manufacturer's equipment is equal to or exceeds thirty percent of the dealer's gross agricultural  
16 equipment sales during the preceding calendar year. The term, dealer, does not include a dealer  
17 whose principal business is the sale of off-road construction equipment.

18 Section 4. The provisions of this Act do not apply to any warranty agreements between  
19 manufacturers.

1    **BILL HISTORY**

- 2    1/21/98 First read in House and referred to Commerce. H.J. 146
- 3    2/3/98 Scheduled for Committee hearing on this date.
- 4    2/5/98 Scheduled for Committee hearing on this date.
- 5    2/10/98 Scheduled for Committee hearing on this date.
- 6    2/10/98 Commerce Do Pass Amended, Failed, AYES 4, NAYS 9.
- 7    2/10/98 Deferred to 36th legislative day, AYES 10, NAYS 3. H.J. 505
- 8    2/10/98 Recalled from committee (Rule 7-7). H.J. 510
- 9    2/10/98 Commerce Removed from Table.
- 10   2/10/98 Commerce Do Pass, Failed, AYES 5, NAYS 8.
- 11   2/10/98 Commerce Do not Pass, AYES 9, NAYS 4. H.J. 541
- 12   2/11/98 Motion to strike the "not" Passed, AYES 49, NAYS 18. H.J. 561
- 13   2/12/98 Motion to Amend, Passed. H.J. 613
- 14   2/12/98 Motion to Amend, Passed. H.J. 613
- 15   2/12/98 House of Representatives Do Pass Amended, Passed, AYES 49, NAYS 19. H.J. 613
- 16   2/12/98 House of Representatives Title Amended Passed. H.J. 614