

AN ACT

ENTITLED, An Act to provide for the reasonable compensation for warranty services performed by dealers selling certain equipment.

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

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

Section 2. The schedule of compensation for warranty work governed by section 1 of this Act shall include reasonable compensation for diagnostic work, as well as repair service, parts, labor, and transportation of equipment for warranty repairs. Reimbursement for transportation of equipment to the dealership for needed warranty repairs and the return of the equipment is at the dealership's retail rate if the customer is within the dealer's designated area of responsibility. Time allowances for diagnosis and performance of warranty work and service shall be adequate for the work to be performed. The hourly labor rate paid the dealer for warranty services may not be less than the rate charged by the dealer for like services to nonwarranty customers for nonwarranty service. Reimbursement for parts used in the performance of warranty repair may not be less than the amount

paid by the dealer to acquire the parts plus a reasonable allowance for handling, which may not be less than thirty percent.

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

Section 4. The provisions of this Act do not apply to any warranty agreements between manufacturers. The provisions of this Act do not apply to any oral agreements between a dealer and a manufacturer to provide warranty service.

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I certify that the attached Act originated in the

HOUSE as Bill No. 1175

Chief Clerk

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Speaker of the House

Attest:

Chief Clerk

President of the Senate

Attest:

Secretary of the Senate

House Bill No. 1175
File No. _____
Chapter No. _____

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Received at this Executive Office this ____ day of _____ ,

19__ at ____ M.

By _____
for the Governor

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The attached Act is hereby approved this _____ day of _____ , A.D., 19__

Governor

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STATE OF SOUTH DAKOTA,
ss.

Office of the Secretary of State

Filed _____ , 19__
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State