

# State of South Dakota

SEVENTY-NINTH SESSION  
LEGISLATIVE ASSEMBLY, 2004

680J0684

## SENATE ENGROSSED NO. **SB 135** - 01/28/2004

Introduced by: Senators McCracken, Abdallah, and Sutton (Dan) and Representatives  
Novstrup, Garnos, Konold, and Nesselhuf

1 FOR AN ACT ENTITLED, An Act to provide for reasonable compensation by manufacturers  
2 of outdoor power equipment for warranty work done by a retailer that sells outdoor power  
3 equipment.

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

5 Section 1. Terms used in this Act shall only be used for the purposes of this Act and mean:

- 6 (1) "Retailer of outdoor power equipment," a business that purchases outdoor power  
7 equipment for resale including: light industrial lawn and garden equipment, handheld  
8 lawn and garden equipment, snow removal equipment, and small engines and other  
9 power sources that operate such equipment;
- 10 (2) "Manufacturer," a person who manufactures or assembles outdoor power equipment  
11 and sells outdoor power equipment directly or through a distributor to a retailer of  
12 outdoor power equipment and provides a warranty;
- 13 (3) "Warranty," a commitment by a manufacturer to provide parts and labor for the  
14 outdoor power equipment they manufacture that is defective or needs adjustment or  
15 repair.



1       Section 2. Any manufacturer of outdoor power equipment that authorizes the retailer of  
2 outdoor power equipment selling such equipment to perform the warranty work shall include  
3 reasonable compensation for diagnostic work, as well as repair service, parts, and labor to the  
4 retailer. Time allowances for diagnostic and performance of warranty work and service shall be  
5 adequate for the work to be performed. The hourly labor rate paid to the retailer for warranty  
6 services may not be less than the rate charged by the retailer for like service to nonwarranty  
7 customers for nonwarranty service. Reimbursement for parts used in the performance of  
8 warranty repair may not be less than the amount paid by the retailer to acquire the parts plus a  
9 reasonable allowance for handling, which may not be less than thirty percent.

10       Section 3. The provisions of this Act do not apply if the manufacturer's only method of sales  
11 is a contract with the retailer that provides for an exclusive trade territory and requires the  
12 retailer to make warranty repairs on such equipment.