

AN ACT

ENTITLED, An Act to revise certain provisions regarding franchise protection for certain types of merchandise.

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

Section 1. That § 37-5-8 be amended to read as follows:

37-5-8. If any manufacturer, wholesaler, or distributor of merchandise or repair parts for the merchandise, or their successors, upon cancellation of a contract by either a dealer or a manufacturer, wholesaler, or distributor, or their successor, fails or refuses to make payment to the dealer as is required by § 37-5-5, or refuses to supply merchandise or repair parts for the merchandise to a dealer, the manufacturer, wholesaler, or distributor, or their successor, is liable in a civil action to be brought by the dealer for one hundred percent of the net cost of the merchandise, plus transportation charges which have been paid by the dealer and ninety-five percent of the current net price of repair parts for the merchandise, plus five percent for handling and loading plus freight charges which have been paid by the dealer, and plus charges for any specialized computer hardware and software, specialized tool, and signage as specified in § 37-5-5.5.

This section applies to the following contracts:

- (1) In the case of any contract covering farm implements, machinery, and attachments or automobiles, trucks, motor homes, or travel trailers of the type and kind required to be titled and registered under chapters 32-3 and 32-5, any contract dated after July 1, 1969, and any contract with no expiration date or any continuing contract in effect on July 1, 1969;
- (2) In the case of any contract covering industrial and construction equipment and attachments, any contract dated after July 1, 1970, and any contract with no expiration date or any continuing contract in effect on July 1, 1970;

- (3) In the case of any contract covering motorcycles, any contract dated after July 1, 1973, and any contract with no expiration date or any continuing contract in effect on July 1, 1973;
- (4) In the case of contracts covering office furniture, equipment, and supplies, any contract dated after July 1, 1995, and any contract with no expiration date or any continuing contract in effect on July 1, 1995;
- (5) In the case of any contract covering boats, personal watercraft, all- terrain vehicles, or snowmobiles, any contract dated after July 1, 2000, and any contract with no expiration date or any continuing contract in effect on July 1, 2000;
- (6) In the case of any contract covering outdoor power equipment and attachments, any contract dated after July 1, 2001, and any contract with no expiration date or any continuing contract in effect on July 1, 2001; and
- (7) In the case of any contract covering temperature control units and hybrid auxiliary idle reduction and temperature management systems, any contract dated after July 1, 2008, and any contract with no expiration date or any continuing contract in effect on July 1, 2008.

Section 2. That § 37-5-12.2 be amended to read as follows:

37-5-12.2. For the purposes of §§ 37-5-1 to 37-5-12, inclusive, the term, merchandise, means:

- (1) Automobiles, trucks, motorcycles, motor homes or travel trailers of the type and kind required to be titled and registered pursuant to chapters 32-3 and 32-5, and accessories;
- (2) Farm tractors, farm implements, farm machinery, and attachments;
- (3) Industrial and construction equipment and attachments;
- (4) Boats and personal watercraft;
- (5) Snowmobiles and all-terrain vehicles;
- (6) Office furniture, equipment, supplies, and attachments;

- (7) Outdoor power equipment and attachments;
- (8) A temperature control unit; and
- (9) An auxiliary idle reduction and temperature management system or auxiliary power unit.

For the purposes of this section, the term, temperature control unit, means a piece of equipment that is mounted on a titled vehicle (trailer, rail car, or container) for the temperature management of temperature sensitive cargo.

For the purposes of this section, the term, auxiliary idle reduction and temperature management system, means a piece of equipment that is mounted on a titled vehicle, usually a semi-tractor, to enable the driver to turn off the engine yet have access to air conditioning, heat, and electric power inside the vehicle's cab.

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I certify that the attached Act
originated in the

HOUSE as Bill No. 1159

Chief Clerk

Speaker of the House

Attest:

Chief Clerk

President of the Senate

Attest:

Secretary of the Senate

House Bill No. 1159

File No. _____

Chapter No. _____

Received at this Executive Office
this ____ day of _____ ,

20__ at _____ M.

By _____
for the Governor

The attached Act is hereby
approved this _____ day of
_____, A.D., 20__

Governor

STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____, 20__
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State