

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

734P0419

HOUSE BILL NO. 1159

Introduced by: Representatives Wick, Engels, Peters, and Putnam and Senators McCracken,
Bartling, Dempster, and Garnos

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding franchise protection
2 for certain types of merchandise.

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

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

5 37-5-8. If any manufacturer, wholesaler, or distributor of merchandise or repair parts for the
6 merchandise, or their successors, upon cancellation of a contract by either a dealer or a
7 manufacturer, wholesaler, or distributor, or their successor, fails or refuses to make payment to
8 the dealer as is required by § 37-5-5, or refuses to supply merchandise or repair parts for the
9 merchandise to a dealer, the manufacturer, wholesaler, or distributor, or their successor, is liable
10 in a civil action to be brought by the dealer for one hundred percent of the net cost of the
11 merchandise, plus transportation charges which have been paid by the dealer and ninety-five
12 percent of the current net price of repair parts for the merchandise, plus five percent for handling
13 and loading plus freight charges which have been paid by the dealer, and plus charges for any
14 specialized computer hardware and software, specialized tool, and signage as specified in § 37-
15 5-5.5.



1 This section applies to the following contracts:

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

7 (2) In the case of any contract covering industrial and construction equipment and
8 attachments, any contract dated after July 1, 1970, and any contract with no
9 expiration date or any continuing contract in effect on July 1, 1970;

10 (3) In the case of any contract covering motorcycles, any contract dated after July 1,
11 1973, and any contract with no expiration date or any continuing contract in effect
12 on July 1, 1973;

13 (4) In the case of contracts covering office furniture, equipment, and supplies, any
14 contract dated after July 1, 1995, and any contract with no expiration date or any
15 continuing contract in effect on July 1, 1995;

16 (5) In the case of any contract covering boats, personal watercraft, all- terrain vehicles,
17 or snowmobiles, any contract dated after July 1, 2000, and any contract with no
18 expiration date or any continuing contract in effect on July 1, 2000; ~~and~~

19 (6) In the case of any contract covering outdoor power equipment and attachments, any
20 contract dated after July 1, 2001, and any contract with no expiration date or any
21 continuing contract in effect on July 1, 2001; and

22 (7) In the case of any contract covering temperature control units and hybrid auxiliary
23 idle reduction and temperature management systems, any contract dated after July 1,
24 2008, and any contract with no expiration date or any continuing contract in effect

1 on July 1, 2008.

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

3 37-5-12.2. For the purposes of §§ 37-5-1 to 37-5-12, inclusive, the term, merchandise,
4 means:

5 (1) Automobiles, trucks, motorcycles, and accessories;

6 (2) Farm tractors, farm implements, farm machinery, and attachments;

7 (3) Industrial and construction equipment and attachments;

8 (4) Boats and personal watercraft;

9 (5) Snowmobiles and all-terrain vehicles;

10 (6) Office furniture, equipment, supplies, and attachments; ~~and~~

11 (7) Outdoor power equipment and attachments;

12 (8) A temperature control unit; and

13 (9) An auxiliary idle reduction and temperature management system or auxiliary power
14 unit;

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

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