

Introduced by

Representatives Aarsvold, DeKrey

Senators O'Connell, Wanzek

1 A BILL for an Act relating to farm equipment warranty compliance.

2 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

3 **SECTION 1. Definitions.** As used in this Act, unless the context otherwise requires:

- 4 1. "Consumer" means a purchaser of a new farm tractor for purposes other than
5 resale, a person to whom a new farm tractor is transferred for the same purposes
6 during the duration of an express written warranty applicable to the farm tractor,
7 and any other person entitled by the terms of the warranty to enforce the warranty.
- 8 2. "Farm tractor" means any self-propelled vehicle designed primarily for pulling or
9 propelling agricultural machinery and implements and used principally in the
10 occupation or business of farming. The term includes a self-propelled implement
11 of husbandry.
- 12 3. "Manufacturer" means a person engaged in the business of manufacturing,
13 assembling, or distributing farm tractors, and who under normal business
14 conditions during a year, manufactures, assembles, or distributes to dealers at
15 least ten new farm tractors.
- 16 4. "Nonconformity" means any condition of the farm tractor which makes it impossible
17 to use for the purpose for which it was intended.
- 18 5. "Reasonable allowance for prior use" means no less than the fair rental value of
19 the farm tractor and is the sum of:
- 20 a. The amount attributable to use by the consumer before the consumer's first
21 report of the nonconformity to the manufacturer or its authorized dealer;
- 22 b. The amount attributable to use by the consumer during any period
23 subsequent to the report of the nonconformity; and

- 1 c. The amount attributable to use by the consumer of the farm tractor provided
2 by the manufacturer or its authorized dealer while the farm tractor is out of
3 service by reason of repair of the reported nonconformity.

4 **SECTION 2. Notice to consumer.** At the time of purchase, the manufacturer shall
5 provide directly to the consumer the following written statement on a separate piece of paper, in
6 10-point capital type: "IMPORTANT: IF THIS FARM TRACTOR IS DEFECTIVE, YOU MAY
7 BE ENTITLED UNDER STATE LAW TO REPLACEMENT OF IT OR TO A REFUND OF THE
8 PURCHASE PRICE. TO BE ENTITLED TO A REFUND OR REPLACEMENT, YOU MUST
9 FIRST NOTIFY THE MANUFACTURER, ITS AGENT, OR ITS AUTHORIZED DEALER OF
10 THE PROBLEM IN WRITING AND GIVE THEM AN OPPORTUNITY TO REPAIR THE
11 DEFECT."

12 **SECTION 3. Manufacturer's duty to repair.** If a farm tractor does not conform to the
13 applicable express written warranty and the consumer reports the nonconformity to the
14 manufacturer and its authorized dealer during the term of the express written warranty or within
15 one year following the date of the original delivery of the farm tractor to the consumer,
16 whichever is earlier, the manufacturer or its authorized dealer shall make the repairs necessary
17 to make the farm tractor conform to the express written warranty, notwithstanding that the
18 repairs are made after the expiration of the warranty term or the one-year period.

19 **SECTION 4. Manufacturer's duty to refund or replace.**

- 20 1. If the manufacturer or its authorized dealer is unable to make the farm tractor
21 conform to any applicable express written warranty by repairing or correcting any
22 condition that substantially impairs the use or market value of the farm tractor to
23 the consumer within the time periods and after the number of attempts specified in
24 subsection 2, the manufacturer, through its authorized dealer who sold the farm
25 tractor, at the option of the consumer, shall replace the farm tractor with a
26 comparable one, charging the consumer only a reasonable allowance for the
27 consumer's use of the farm tractor, or accept the return of the farm tractor from the
28 consumer and refund to the consumer the cash purchase price, including sales or
29 use tax, license fees, registration fees, and any similar governmental charges, less
30 a reasonable allowance for prior use. Refunds must be made to the consumer and
31 lienholder, if any, as their interests may appear on the central notice system. If no

1 replacement or refund is made, the consumer may bring a civil action to enforce
2 the obligation. No action may be brought unless the manufacturer has received
3 prior written notice from or on behalf of the consumer and has been given at least
4 sixty days within which to cure the alleged nonconformity.

- 5 2. The replacement or refund obligation provided for in subsection 1 arises if the
6 manufacturer or its authorized dealer is unable to make the farm tractor conform to
7 applicable express written warranties within the express written term or during the
8 period of one year from the date of the original delivery of the farm tractor to the
9 consumer, whichever is earlier, and the same nonconformity has been subject to
10 repair four or more times by the manufacturer or its authorized dealer and the
11 nonconformity continues to exist or the farm tractor is out of service by reason of
12 repair of the same nonconformity for a cumulative total of sixty or more business
13 days when the service department of the authorized dealer in possession of the
14 farm tractor is open for purposes of repair, excluding days when the consumer has
15 been provided by the manufacturer or its authorized dealer with the use of another
16 farm tractor which performs the same function.

17 **SECTION 5. Extension of warranty.** The terms of an express written warranty and
18 any timelines provided for in this Act must be extended by any period of time during which
19 repair services or replacement parts are not available to the consumer because of a war,
20 invasion, strike, fire, flood, or other natural disaster.

21 **SECTION 6. Civil remedy.** Any consumer injured by a violation of this Act may bring a
22 claim for relief to enforce this Act and recover costs and disbursements, including reasonable
23 attorney's fees.

24 **SECTION 7. Affirmative defenses.** It is an affirmative defense under this Act that an
25 alleged nonconformity does not substantially impair the use and market value of the farm tractor
26 or that the nonconformity is the result of abuse, neglect, or of modifications or alterations of the
27 farm tractor which were not authorized by the manufacturer.

28 **SECTION 8. Limitations on actions - Remedy not exclusive.** Any claim for relief
29 brought under this Act must be commenced within six months following the expiration of the
30 express written warranty or within one year of the date of the original delivery of the farm tractor

- 1 to the consumer, whichever is later. This Act does not limit the rights or remedies that are
- 2 otherwise available to a consumer under any other law.