

2015 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2235

2015 SENATE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee Roosevelt Park Room, State Capitol

SB 2235
1/27/2015
Job Number 22597

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature

Eva Lubelt

Explanation or reason for introduction of bill/resolution:

Relating to warranty work compensation for outdoor power equipment

Minutes:

No Attachment

Chairman Klein: Opened the hearing.

Senator Judy Lee: Introducing a bill for a constituent. This situation is when a person is working in a shop repairing equipment, the people who are doing the work on warranty and parts also, are not reimbursed at the same rate as non-warranty work. (:30-2:45)

Chairman Klein: Is this a draft from language from another state because we have language for auto dealers?

Senator Lee: Said that is what she just heard but she just asked legislative council to draft it based on what her constituent was discussing.

Senator Burckhard: Asked if she thought this had any oil impact references. A friend of his is a ford dealer west of Minot and he said his manufacturer was having issues with him too because the labor rate was so high in Williston that his warranty work was not covered very well by the manufacturer because their labor rate established at a much lower rate.

Senator Lee: Said she didn't think about that but it does make sense.

Matthew Larsgaard, President/CEO of the North Dakota Automobile and Implement Dealers Association: They do not have a position on the bill it would be neutral.

Chairman Klein: In reference to Senator Burckhard's question is there an established warranty rate between the manufacturer and the dealership?

Matthew Larsgaard: Yes the challenge or dilemma that Senator Burckhard explained is indeed accurate and that is one of the reasons the auto dealers association introduced the bill the last session. The problem is as we look at auto dealers and manufacturers contracts, these dealer agreements are called contracts of adhesion, which means that the

dealer has zero ability to negotiate the terms of the contract. What the manufacturer does is slide the dealer agreement across the desk and says you sign this agreement or you are no longer a dealer. (7:00-9:00)

Chairman Klein: Most likely he signs a contract so whatever we do here may not help, have you read through the bill?

Matthew Larsgaard: Yes I have read through the bill and I had some questions myself. As I read the bill this bill would supersede the contract. The manufacturer would have to reimburse said dealer according to this language.

Chairman Klein: Do you see this as being careful what you wish for? I know you are not for or against but I know that there has been concerns that if we go too far the manufacturer will just say okay we aren't going to do that.

Matthew Larsgaard: Said that was a great question and he has contemplated this bill and bounced it off some of their dealers. They don't see any unattended consequences that would be detrimental to the dealers.

Senator Sinner: Asked if there have been any consequences to the bill passed two years ago.

Matthew Larsgaard: No, none. (10:38-11:10)

Senator Miller: Asked in regard to the implement dealers do they have any issues regarding this.

Matthew Larsgaard: No affect. He just visited with several John Deere dealerships and they have not had issues. John Deere already pays the dealers full labor at their door rate. (11:30-12: He did have a question about page two lines 3 & 4, which states "the reimbursement must include a reasonable allowance for handling which may not be less than 30%" and the question would be of what, list, MSRP or what the dealer paid for the part?

Chairman Klein: What would you suggest it be?

Matthew Larsgaard: My suggestion would be 30% of what the dealer paid for the part.

Chairman Klein: Closed the hearing. Said that they would run this up to the council to see if that is the language they should actually use or take from some other portion of the code. He suggested that everyone go back to their local guys and ask if they have any concerns.

2015 SENATE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee Roosevelt Park Room, State Capitol

SB 2235
January 28, 2015
Job Number 23002

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature

Eva Liebelt

Explanation or reason for introduction of bill/resolution:

Relating to warranty work compensation for outdoor power equipment

Minutes:

Attachment

Chairman Klein: Senators Lee's bill yesterday that dealt with the warranty work, Senate bill 2235. I believe we have an amendment. Mr. Larsgaard was here dealing with the warranty work. The amendment would go on the second page after 30% and it would say, "of the amount by the retailer to acquire the parts". Attachment (1)

Senator Murphy: Moved the amendment.

Senator Poolman: Seconded the motion.

Chairman Klein: Called for discussion and for the clerk to take the roll.

Roll Call Vote: Yes-7 No-0 Absent-0

Senator Campbell: Said he isn't going to support it because it isn't their position to get between the manufacturer and the shops.

Chairman Klein: Said we as a legislative group if we don't provide some clout for are small downtown businesses who do this we are going to continue to lose them because these big companies from out of state are going to come in and squeeze these guys and they won't have an opportunity to survive in today's environment.

Senator Campbell: In my opinion the retailers could choose not to renegotiate they control in the end what their product and their dealerships want to do.

Senator Miller: Said he would like to know more about the agreements that the dealers have with their company and compare that to an auto dealer or a farm implement dealer. How much warranty work is even done?

Chairman Klein: There are those times when something goes wrong when you have a new piece of equipment within that warranty period. We can hold this open until you get ahold of your local dealers. We will hold this open, committee is adjourned.

2015 SENATE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee

Roosevelt Park Room, State Capitol

SB 2235

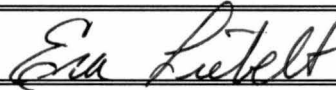
2/3/2015

Job Number 23069

☐ Subcommittee

☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to warranty work compensation for outdoor power equipment

Minutes:

Attachment

Chairman Klein: I had the pleasure yesterday meeting with the John Deere lobbyist from D.C. who had a problem with page two and the thirty percent. He thought thirty was a little high and twenty would be more reasonable. He also called his local guy back in Harvey and they don't have any issues with the companies they work with on warranty issues. John Deere felt reimbursing to the level of thirty percent they were more comfortable at twenty percent. Senator Lee went back to her constituent and he agreed it was okay. Those are the amendments and I had it crafted yesterday and I added the amendment we had talked about to make it more clear on the amount paid by the retailer.

Senator Poolman: Moved the amendments.

Senator Burckhard: Seconded the motion.

Chairman Klein: Said did we already vote on this?

Senator Poolman: We passed the amendment but not the bill.

Chairman Klein: So that will be okay. We have a motion from Poolman with a second from Burckhard.

Roll Call Vote: Yes-6 No-0 Absent-1

Chairman Klein: Any discussion.

Senator Burckhard: Moved a do pass as amended.

Senator Poolman: Seconded the motion.

Roll Call Vote: Yes-5 No-1 Absent-1

Senator Burckhard will carry the bill.

Chairman Klein: Adjourned the meeting.

PROPOSED AMENDMENTS TO SENATE BILL NO. 2235

Page 2, line 4, after "percent" insert "of the amount paid by the retailer to acquire the parts"

Renumber accordingly

February 3, 2015

TN
2/3/15

PROPOSED AMENDMENTS TO SENATE BILL NO. 2235

Page 2, line 4, replace "thirty" with "twenty"

Page 2, line 4, after "percent" insert "of the amount paid by the retailer to acquire the parts"

Renumber accordingly

2015 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2235

Senate Industry, Business and Labor Committee

☐ Subcommittee

Amendment LC# or Description: proposed- insert "of the amount paid by the retailer to acquire the parts"

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Senator Murphy Seconded By Senator Poolman

Senators	Yes	No	Senators	Yes	No
Chairman Klein	x		Senator Murphy	x	
Vice Chairman Campbell	x		Senator Sinner	x	
Senator Burckhard	x				
Senator Miller	x				
Senator Poolman	x				

Total (Yes) 7 No 0

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

**2015 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2235**

Senate Industry, Business and Labor Committee

☐ Subcommittee

Amendment LC# or Description: 15.0360.01001

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Senator Poolman Seconded By Senator Burckhard

Senators	Yes	No	Senators	Yes	No
Chairman Klein	x		Senator Murphy	x	
Vice Chairman Campbell	x		Senator Sinner	x	
Senator Burckhard	x				
Senator Miller	-				
Senator Poolman	x				

Total (Yes) 6 No 0

Absent 1

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

**2015 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2235**

Senate Industry, Business and Labor Committee

☐ Subcommittee

Amendment LC# or Description: 15.0360.01001

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☒ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Senator Burckhard Seconded By Senator Poolman

Senators	Yes	No	Senators	Yes	No
Chairman Klein	x		Senator Murphy	x	
Vice Chairman Campbell		x	Senator Sinner	x	
Senator Burckhard	x				
Senator Miller	-				
Senator Poolman	x				

Total (Yes) 5 No 1

Absent 1

Floor Assignment Senator Burckhard

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2235: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 1 NAYS, 1 ABSENT AND NOT VOTING). SB 2235 was placed on the Sixth order on the calendar.

Page 2, line 4, replace "thirty" with "twenty"

Page 2, line 4, after "percent" insert "of the amount paid by the retailer to acquire the parts"

Renumber accordingly

2015 HOUSE INDUSTRY, BUSINESS AND LABOR

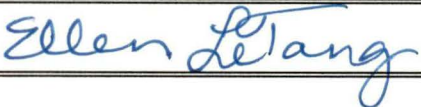
SB 2235

2015 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee Peace Garden Room, State Capitol

SB 2235
3/11/2015
24690

- ☐ Subcommittee
☐ Conference Committee



Explanation or reason for introduction of bill/resolution:

Warranty work compensation for outdoor power equipment.

Minutes:

Chairman Keiser: Opens the hearing on SB 2235.

Senator Judy Lee~District 13: Introduces the SB 2235. These individuals would like the same reimbursement for warranty and standard work projects. The Senate IBL was comfortable with the 20% handling allowance rather than the 30%.

Representative Becker: The warranty work being done, is that an option to take on the work?

Senator Lee: I would have to check on that. The owner of the businesses can but not the worker for the business if they are assigned to do the job.

Representative Ruby: Is this just setting up a base percent for parts and I don't see something requiring some kind of regional average rate.

Senator Lee: This was a small local business we are talking about, not a large chain company.

Representative Ruby: If the employer is designating one employee to work on the warranty and he's not getting reimbursed, are you saying he's not reimbursing that employees as somebody who's doing similar work that is not on warranty? If that's the case, that is an issue with the employer and not the manufacturer.

Senator Lee: I expect that there may be differences among businesses. This is an issue brought up and it seemed to make sense to talk about it if it should be the same pay for the work.

Vice Chairman Sukut: How far reaching is this? Are we talking about every manufacturer that manufactures small equipment, it's so general?

Senator Lee: It's limited to small items.

Vice Chairman Sukut: There are many large manufacturers making small equipment.

Representative Ruby: With this bill, would it be that more equipment would be sent back to the manufacturer?

Senator Lee: I can't possible determine what they would do.

Matthew Larsgaard-North Dakota Implement Dealers Association: We are truly neutral on this bill. It does affect some of our members as you have seen. Typically we see the reimbursement rates at that 20 to 30 percent, so we don't see this as being an issue for our dealers at all.

Representative Laning: I'm aware of some authorized dealers of brand equipment are paid less from the manufacturer on warranty, I think they justified it by the distributor having a guarantee in getting that work on a more regular basis. I do know if they intentionally pay less and they negotiate that with their dealers.

Representative Beadle: The manufacturer will typically enter the contractual agreement with the servicers to obtain the warranty work?

Larsgaard: That is correct and these are called contracts of adhesion, which means that there is no opportunity for the dealer to negotiate any onerous terms out of that contract.

Chairman Keiser: I don't get this bill, it's all contract, its warranty work and it isn't open work. If it's under warranty, I can't take it just anywhere because is under a contract. If there is a warranty and there isn't a contract, how am I going to get it paid for without going to the company to find out who's is going to pay for it? If we pass a law that says the company has to pay the new rate if its warranty work, we are interfering with contracts. This opens up a situation that you do not want to get into. Why would we not have adhesion in all of them for warranty work, even if they are small?

Larsgaard: I would expect that many of these retailers have similar type of arrangement the ability to negotiate or lack thereof with the manufacturers as the implement dealers do. As far as the need for legislation, the auto warranty reimbursement bill that was passed last session, was absolutely critical to help insure that those dealers were reimbursed that was reasonable and fair. In some cases we certainly need the state to intervene on behalf of its citizens to insure that there is a level playing field between some of these out of state entities that have the power to dictate what terms they want within their contracts.

Chairman Keiser: Anyone else here to testify in support of SB 2235, opposition, neutral?
Closes the hearing on SB 2235, what are the wishes of the committee?

Representative Becker: Moves a Do Not Pass.

Representative Ruby: Seconded.

Representative Ruby: This bill is so much different than the other issue we have last session. This is way too broad.

Roll call was taken on SB 2235, for a Do Not Pass with 12 yes, 2 no, 1 absent and Representative Louser will carry the bill.

Date: Mar 11, 2015Roll Call Vote: 1

**2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2235**

House Industry, Business & Labor Committee
☐ Subcommittee

 ☐ Conference Committee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
 ☐ Do Pass ☒ Do Not Pass ☐ Without Committee Recommendation
 ☐ As Amended ☐ Rerefer to Appropriations

Other Actions: ☐ Reconsider ☐ _____Motion Made By Rep Becker Seconded By Rep Ruby

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	X		Representative Lefor	X	
Vice Chairman Sukut	X		Representative Louser	X	
Representative Beadle	X		Representative Ruby	X	
Representative Becker	X		Representative Amerman	X	
Representative Devlin	X		Representative Boschee		X
Representative Frantsvog	<u>Ab</u>		Representative Hanson	X	
Representative Kasper	X		Representative M Nelson		X
Representative Laning	X				

Total (Yes) 12 No 2Absent 1Floor Assignment Rep Louser

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2235, as engrossed: Industry, Business and Labor Committee (Rep. Keiser, Chairman) recommends DO NOT PASS (12 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2235 was placed on the Fourteenth order on the calendar.

2015 TESTIMONY

SB 2235

1/28/15

#1

PROPOSED AMENDMENTS TO SENATE BILL NO. 2235

Page 2, line 4, after "percent" insert "of the amount paid by the retailer to acquire the parts"

Renumber accordingly

15.0360.01001
Title.

Prepared by the Legislative Council staff for
Senator Klein

February 3, 2015

PROPOSED AMENDMENTS TO SENATE BILL NO. 2235

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