

Sixty-ninth
Legislative Assembly
of North Dakota

BILL NO.

Introduced by

Senator Walen

1 A BILL for an Act to create and enact a new section to chapter 51-07 of the North Dakota
2 Century Code, relating to the repair of equipment and motor vehicles by an owner or
3 independent repair provider; and to provide an effective date.

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

5 **SECTION 1.** A new section to chapter 51-07 of the North Dakota Century Code is created
6 and enacted as follows:

7 **Repair of equipment by an owner or independent repair provider - Replacement parts**
8 **- Diagnostic and repair documentation - Civil remedy.**

9 1. An original equipment manufacturer of equipment sold or used in this state shall make
10 available replacement parts and diagnostic and repair documentation to an owner or
11 independent repair provider at the same cost available to an authorized repair
12 provider.

13 2. With the exception of diagnostic and repair documentation related to an immobilizer
14 system, an original equipment manufacturer may not exclude security-related
15 functions from diagnostic and repair documentation provided to an owner or
16 independent repair provider.

17 3. An original equipment manufacturer may not void a warranty on equipment due to
18 repairs made to the equipment by an owner, independent repair provider, or
19 authorized repair provider.

20 4. A contract provision that waives, restricts, or limits an original equipment
21 manufacturer's compliance with this section is void and unenforceable.

22 5. The attorney general may enforce this section and may impose by order and collect a
23 civil penalty of up to five hundred dollars for each violation of this section against an
24 original equipment manufacturer found in an adjudicative proceeding to have violated

1 a provision of this section. The attorney general may bring an action in district court to
2 recover the amount of the civil penalty.

3 6. An owner or an independent repair provider adversely affected by a violation of this
4 section may bring a civil action in a court of competent jurisdiction against an original
5 equipment manufacturer for declaratory relief, injunctive relief, monetary damages, or
6 any other appropriate relief. A court may award a prevailing owner or independent
7 repair provider actual damages, a civil penalty of up to five hundred dollars for each
8 violation, reasonable attorney's fees, and any other appropriate relief for a violation of
9 this section.

10 7. As used in this section:

11 a. "Authorized repair provider" means a person affiliated with an original equipment
12 manufacturer and authorized to diagnose, service, maintain, or repair equipment
13 manufactured by an original equipment manufacturer.

14 b. "Equipment" means a motor vehicle, machinery, machine powered by a small
15 engine, farm tractor, or implement of husbandry, or related components.

16 c. "Farm tractor" has the same meaning as provided in section 39-01-01.

17 d. "Implement of husbandry" has the same meaning as provided in section
18 39-01-01.

19 e. "Independent repair provider" means a person who is not affiliated with an
20 original equipment manufacturer and is engaged in the diagnosis, service,
21 maintenance, or repair of equipment.

22 f. "Motor vehicle" has the same meaning as provided in section 39-01-01.

23 g. "Original equipment manufacturer" means a person engaged in the
24 manufacturing of new equipment or components of new equipment.

25 h. "Owner" means a person that owns or leases equipment purchased or used in
26 this state.

27 **SECTION 2. EFFECTIVE DATE.** This Act becomes effective upon its filing with the
28 secretary of state.