25.1438.02000

Sixty-ninth
Legislative Assembly
of North Dakota

BILL NO.

Introduced by

Senator Walen

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

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

1. An original equipment manufacturer of equipment sold or used in this state shall make available replacement parts and diagnostic and repair documentation to an owner or independent repair provider at the same cost available to an authorized repair provider.
2. With the exception of diagnostic and repair documentation related to an immobilizer system, an original equipment manufacturer may not exclude security-related functions from diagnostic and repair documentation provided to an owner or independent repair provider.
3. An original equipment manufacturer may not void a warranty on equipment due to repairs made to the equipment by an owner, independent repair provider, or authorized repair provider.
4. A contract provision that waives, restricts, or limits an original equipment manufacturer's compliance with this section is void and unenforceable.
5. The attorney general may enforce this section and may impose by order and collect a civil penalty of up to five hundred dollars for each violation of this section against an original equipment manufacturer found in an adjudicative proceeding to have violated

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

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

7. As used in this section:

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

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

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

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

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

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

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

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

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