

1 H.102

2 Introduced by Representative Heath of Westford

3 Referred to Committee on

4 Date:

5 Subject: Commerce and trade; machinery dealerships; warranty and  
6 predelivery obligations

7 Statement of purpose: This bill proposes to clarify the section on warranty  
8 obligations of manufacturers, suppliers, and dealers in the chapter on  
9 equipment and machinery dealerships.

10 An act relating to the warranty obligations of suppliers and machinery  
11 dealerships

12 It is hereby enacted by the General Assembly of the State of Vermont:

13 Sec. 1. 9 V.S.A. chapter 107 is amended to read:

14 CHAPTER 107. EQUIPMENT AND MACHINERY DEALERSHIPS

15 \* \* \*

16 Sec. 2. 9 V.S.A. § 4071 is amended to read:

17 § 4071. DEFINITIONS

18 As used in this chapter:

19 \* \* \*

1           (2) “Dealer” means a person, corporation or partnership primarily  
2 engaged in the business of retail, wholesale, and commercial sales of farm and  
3 utility tractors, farm implements, farm machinery, forestry equipment,  
4 industrial equipment, utility equipment, yard and garden equipment,  
5 attachments, commercial equipment, construction equipment, power tools,  
6 accessories, and repair parts. Provided, however, “dealer” shall not include a  
7 “single line dealer” primarily engaged in the retail sale and service of  
8 industrial, forestry, and construction equipment. “Single line dealer” means a  
9 person, partnership or corporation who:

10           (A) has purchased 75 percent or more of the dealer’s total new  
11 product inventory from a single supplier; and

12           (B) has a total annual average sales volume for the previous three  
13 years in excess of \$15 million for the entire territory for which the dealer is  
14 responsible.

15 Sec. 2. 9 V.S.A. § 4078 is amended to read:

16 § 4078. WARRANTY AND PREDELIVERY OBLIGATIONS

17           (a) Each supplier shall specify in writing to each of the dealers in this state  
18 the reasonable obligations of the dealer for predelivery preparation and  
19 warranty service on its products, shall compensate the dealer for such service  
20 required of the dealer by the supplier, and shall provide the dealer the schedule  
21 of compensation to be paid the dealer for parts, work, and service in

1 connection with them, and the time allowance for the performance of the work  
2 and service. If the dealer does not comply with excessive obligations placed  
3 upon the dealer by the supplier pursuant to this section, the supplier is not  
4 relieved from compliance with the requirements of this chapter.

5 (b) A schedule of compensation shall include reasonable compensation for  
6 diagnostic work, as well as for repair service, parts, and labor. Time  
7 allowances for the diagnosis and performance of predelivery and warranty  
8 service shall be reasonable and adequate for the work to be performed. The  
9 hourly rate paid to a dealer shall not be less than the rate charged by the dealer  
10 to customers for nonwarranty service and repairs. Each supplier shall  
11 compensate each of its dealers for parts used to fulfill warranty, predelivery,  
12 and recall obligations of repair and servicing at rates not less than the rates  
13 charged by the dealer to its retail, wholesale, or commercial customers for like  
14 parts for nonwarranty work and, at a minimum, the manufacturer's suggested  
15 list price (MSLP).

16 (c) It is a violation of this section for any supplier to fail to perform any  
17 warranty obligations or to fail to include in written notices of factory recalls to  
18 machinery owners and dealers the expected date by which necessary parts and  
19 equipment will be available to dealers for the correction of such defects, or to  
20 fail to compensate any of the dealers in this state for repairs required by a  
21 recall.

1        (d) Whenever a supplier and a dealer enter into an agreement providing  
2        consumer warranties, the supplier shall pay any warranty claim made for  
3        warranty parts and service within 30 days after its receipt and approval. The  
4        supplier shall approve or disapprove a warranty claim within 30 days after its  
5        receipt. If a claim is not specifically disapproved in writing within 30 days  
6        after its receipt, it shall be deemed to be approved and payment shall be made  
7        by the supplier within 30 days after its receipt.