

1 H.719

2 Introduced by Representatives Yantachka of Charlotte, French of Shrewsbury,

3 McCullough of Williston, Russell of Rutland City and Till of

4 Jericho

5 Referred to Committee on

6 Date:

7 Subject: Commerce and trade; machinery dealerships; warranty and

8 predelivery obligations

9 Statement of purpose: This bill proposes to clarify the section of Vermont law

10 on warranty obligations of manufacturers, suppliers, and dealers with respect

11 to equipment and machinery dealerships.

12 An act relating to the warranty obligations of suppliers and machinery  
13 dealerships

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

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

16 CHAPTER 107. EQUIPMENT AND MACHINERY DEALERSHIPS

17 \* \* \*

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

19 § 4071. DEFINITIONS

20 As used in this chapter:

1 \* \* \*

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

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

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

16 \* \* \*

17 Sec. 3. 9 V.S.A. § 4078 is amended to read:

18 § 4078. WARRANTY AND PREDELIVERY OBLIGATIONS

19 (a) Each supplier shall specify in writing to each of its dealers in this state  
20 the reasonable obligations of the dealer for predelivery preparation and  
21 warranty service on its products, shall compensate the dealer for such service

1 required of the dealer by the supplier, and shall provide the dealer the schedule  
2 of compensation to be paid the dealer for parts, work, and service in  
3 connection with them, and the time allowance for the performance of the work  
4 and service. If the dealer does not comply with excessive obligations placed  
5 upon the dealer by the supplier pursuant to this section, the supplier is not  
6 relieved from compliance with the requirements of this chapter.

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

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

1 fail to compensate any of its dealers in this state for repairs required by a  
2 recall.

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

10 Sec. 4. EFFECTIVE DATE

11 This act shall take effect on July 1, 2012.