WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

Senate Bill 802

By Senators Hamilton, Caputo, Deeds, Hunt, Karnes, Martin, Plymale, Stover, Swope, Woelfel, and Taylor

[Introduced February 15, 2024; referred
to the Committee on Agriculture and Natural Resources]

A BILL to amend and reenact §46A-6A-2 of the Code of West Virginia, 1931, as amended; and to amend and reenact §47-11F-8 of said code, all relating to Consumer Protection—New Motor Vehicle Warranties and the Farm Equipment Dealer Contract Act; including in the definition of "motor vehicle" a self-propelled vehicle designed primarily for, and used in, the occupation or business of farming, with a horsepower unit of 20 or greater; and the right to bring an action for breach of warranty involving a self-propelled vehicle designed primarily for, and used in, farming.

Be it enacted by the Legislature of West Virginia:

CHAPTER 46A. WEST VIRGINIA CONSUMER CREDIT AND PROTECTION ACT.

ARTICLE 6A. CONSUMER PROTECTION--NEW MOTOR VEHICLE WARRANTIES.

**§46A-6A-2. Definitions.**

When used in this article, the following words, terms, and phrases shall have the meaning ascribed to them, except where the context indicates a different meaning:

(1) "Consumer" means:

(A) The purchaser, other than for purposes of resale, of a new motor vehicle used primarily for personal, family, or household purposes, a person to whom the new motor vehicle is transferred for the same purposes during the duration of an express warranty applicable to the motor vehicle, and any other person entitled by the terms of the warranty to enforce the obligations of the warranty; or

(B) The purchaser, other than for purposes of resale, of a new vehicle described in paragraph (B), subdivision (4) of this section a person to whom the new vehicle is transferred during the duration of an express warranty applicable to the vehicle, and any other person entitled by the terms of the warranty to enforce the obligations of the warranty;

(2) "Manufacturer" means a person engaged in the business of manufacturing, assembling, or distributing motor vehicles, who will, under normal business conditions during the year, manufacture, assemble, or distribute to dealers at least 10 new motor vehicles;

(3) "Manufacturer's express warranty" and "warranty" mean the written warranty of the manufacturer of a new motor vehicle of its condition and fitness for use, including any terms or conditions precedent to the enforcement of obligations under that warranty; and

(4) "Motor vehicle" means:

(A) Any passenger automobile purchased in this state or registered and titled in this state, including any pickup truck or van registered as a Class A motor vehicle under the provisions of §17A-10-1 *et seq*. of this code, and any self-propelled motor vehicle chassis of a motor home registered as a Class A or Class B motor vehicle under the provisions of §17A-10-1 *et seq*. of this code; or

(B) Any self-propelled vehicle designed primarily for, and used in, the occupation or business of farming, with a horsepower unit of ~~35~~ 20 or greater.

CHAPTER 47. REGULATION OF TRADE.

ARTICLE 11F. FARM EQUIPMENT DEALER CONTRACT ACT.

§47-11F-8. Civil remedies applicable.

(a) The provisions of any agreement to the contrary notwithstanding, if a supplier fails or refuses without just cause to repurchase any inventory or portion thereof when required to do so under the provisions of this article within the time periods prescribed thereby, such supplier shall be civilly liable for: ~~(i)~~ (1) 100 percent of the current net price of the inventory or portion thereof not repurchased; ~~(ii)~~ (2) the amount the dealer paid for freight costs from the supplier's location to the dealer's location; ~~(iii)~~ (3) the reasonable cost of assembly performed by the dealer; ~~(iv)~~ (4) reasonable attorney's fees and court costs incurred by the dealer in requiring the supplier to comply with this article of the code; and ~~(v)~~ (5) interest on the current net price of the inventory or portion thereof not repurchased, computed at the prime rate of interest commencing the 91st day after termination of the contract agreement, and recomputed quarterly thereafter.

(b) Any person who suffers monetary loss due to a violation of this article or because he or she refuses to accede to a proposal for an arrangement that, if consummated, is in violation of this article, may bring civil action to enjoin further violation and to recover damages sustained by him or her together with the costs of the suit, including reasonable attorney's fees and court costs.

(c) ~~In the event of~~ If there is a failure to provide the required notice of termination or otherwise comply with provisions of this article, the supplier shall be civilly liable for the dealer's loss of business for the time period the supplier is in violation of the notice of termination provisions of the article, plus reasonable attorney's fees and court costs.

(d) The provisions of this section are in addition to all legal or equitable remedies available at law, as well as any remedies available pursuant to any agreement between the supplier and dealer.

(e) A civil action commenced under the provisions of this article may be brought until the expiration of five years after the violation complained of is or reasonably should have been discovered, whichever occurs first.

(f) Subsection (e) of this section applies if a supplier fails or refuses to repurchase a self-propelled vehicle designed for farm use, which is the subject of the contract, with a horse power unit of 20 or greater, and which vehicle is defined in §46A-6A-2 of this code as a "motor vehicle" for purposes the Consumer Protection – New Motor Vehicle Warranties, that has an issue which is not corrected after being returned to the supplier three times.