



2021 South Dakota Legislature

Senate Bill 101

SENATE COMMERCE AND ENERGY ENGROSSED

Introduced by: **Senator Tobin**

1 **An Act to revise provisions regarding warranty agreements with certain repair**
 2 **facilities.**

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 **Section 1.** That a NEW SECTION be added:

5 **32-6B-58.1. Franchisor or manufacturer--Duties--Separate warranty for an**
 6 **engine, transmission, or rear axle--Disposition of dealer and customer claims.**

7 A franchisor or manufacturer that provides a separate warranty for an engine,
 8 transmission, or rear axle installed in a commercial medium- and heavy-duty on-highway
 9 vehicle, as defined in 49 U.S.C. § 32901(a)(7) as of January 1, 2021, shall compensate
 10 any authorized repair facility that performs warranty work to repair or replace the engine,
 11 transmission or rear axle upon the same terms and conditions as provided in § 32-6B-61
 12 for compensation of warranty work performed by a vehicle dealer. The franchisor or
 13 manufacturer shall pay all claims made by the facility for the labor and parts within thirty
 14 days following approval. The franchisor or manufacturer shall either approve or disapprove
 15 the claim within thirty days after receiving the claim. If a claim is disapproved, the facility
 16 that submitted the claim shall be notified in writing of the claim's disapproval within the
 17 thirty-day period. Any claim rejected for technical reasons may be put into proper form
 18 by the facility. Any claim resubmitted by the facility within thirty days after the receipt of
 19 the claim shall be considered to be approved and payment shall be made within thirty
 20 days. The franchisor or manufacturer has the right to audit any facility's claim for a period
 21 of one year after the claim is paid to the facility and to charge back to the facility the
 22 amount of any unsubstantiated claim. If there is evidence of fraud by the facility, the audit
 23 period is two years from the actual or constructive notice of facts constituting the alleged
 24 fraud.