

SUBJECT: Payment of warranty claims by farm equipment manufacturers

COMMITTEE: Business and Industry — favorable, with amendment

VOTE: 7 ayes — Brimer, Corte, Dukes, Elkins, Giddings, Solomons, Woolley
0 nays
2 absent— Rhodes, Janek

WITNESSES: For — Allen Murfin, Southwest Hardware & Implement Association
Against — Phil Cates, Equipment Manufacturers Institute; Jerry Parkin, John Deere & Company

DIGEST: HB 381 would amend the portion of the Business and Industry Code that regulates farm, industrial, and outdoor power equipment dealer agreements to add a new section on warranty claims.

Suppliers would have to accept or reject a warranty claim within 30 days of receiving the claim from a dealer. If the supplier rejected the claim, it would have to send the dealer a written notice of the grounds for rejection within 30 days of its decision. If the supplier did not reject the claim, it would be considered accepted. Within 30 days of accepting the claim, a supplier, including suppliers of electric engines or motors, would have to pay the claim, at an agreed-upon hourly labor rate the dealer regularly charged plus the costs of parts and other expenses.

After paying the claim, the supplier could not charge back, set off, or otherwise attempt to recover all or part of the claim unless the claim was fraudulent, the work was not properly performed or unnecessary to comply with the warranty, or the dealer did not substantiate the claim according to the supplier's written requirements in effect when the claim arose.

HB 381 would apply to warranty claims submitted while a dealer agreement was in effect and for claims submitted for work performed before an agreement was terminated. HB 381 would repeal the current section of the

code that provides for warranty claims submitted after termination of a dealership agreement.

HB 381 would take effect September 1, 1997, and apply to warranty claims received by a supplier on or after the effective date.

**SUPPORTERS
SAY:**

HB 381 would protect Texas farm equipment dealers from being short-changed on warranty work they do for out-of-state manufacturers of tractors and other expensive farm or industrial equipment. The bill would specifically apply to suppliers of electric engines or motors, because these may be covered by other warranties from different manufacturers, who supply these as components for a larger piece of equipment.

Although the largest and most reputable suppliers promptly pay for warranty repairs or service to their products, several smaller manufacturers are neglecting to pay for contracted service in a timely manner. When these scofflaws do pay, they make payment at a price substantially below the posted or prevailing labor and parts rates charged. In most cases, the local repair service has no other option but to take a monetary loss on the transaction, since they are contractually bound to service the customers covered by warranties and ethically obligated to honor their commitments. The suppliers use to their advantage the fact that the farm equipment dealers cannot afford to lose the business and good will of their neighbors by turning away warranty work they know they will have to cover at least in part from their own pockets.

HB 381 also would level the playing field for dealers and suppliers. Suppliers have the upper hand when it comes to warranty agreements since they are able to change an agreement at their will. With HB 381, suppliers would still be free to change these agreements, but dealers would be assured that a certain agreement would apply to certain claims.

On the other hand, HB 381 would offer protection to equipment manufacturers and suppliers as well to dealers. Suppliers could recover payment for claims submitted fraudulently, for improper work, or without required substantiation. Furthermore, dealers could not inflate their costs; HB 381 would clarify that dealers and suppliers would have to agree on an

hourly labor rate and would specify the rates at which other costs would be covered.

**OPPONENTS
SAY:**

HB 381 would be an unnecessary invasion by the state into a private contractual agreement between parties fully knowledgeable about the marketplace in which such transactions take place. The problems that would be addressed by this bill are confined to a few small companies with a limited presence or reputation in the marketplace. Their business practices in and of themselves will soon reduce their share of the Texas market. The Legislature should not change the law to cover isolated problems of this nature.

NOTES:

The committee amendment would specify that suppliers paying a claim would include suppliers of electric engines or motors, and require that the payment for labor costs be at an agreed-upon hourly rate regularly charged by the dealer.