

BILL ANALYSIS

Senate Research Center

C.S.H.B. 381
By: Swinford (Madla)
Economic Development
5-14-97
Committee Report (Substituted)

DIGEST

Currently, farm, industrial and outdoor power equipment is sold by a dealer but the manufacturer warranties the product for a period of time. After using the product for a period of time under the warranty, if the buyer has a problem the manufacturer is contacted, who, in turn, sends the buyer to an authorized service center. These service centers often send the product right back to a dealer who offers the repairs. These repair centers have published hourly rates for repair usually posted within the store which are included in the final cost to the customer for the repair as "labor plus parts." The repair center fixes the equipment under warranty and bills the manufacturer for the repair. The manufacturer, usually located in another state, oftentimes will not pay the published labor rate yet requires the store to repair the product. C.S.H.B. 381 amends Chapter 19B, Business & Commerce Code, by requiring a manufacturer to pay the entire cost associated with fixing a warranty claim.

PURPOSE

As proposed, C.S.H.B. 381 amends Chapter 19B, Business & Commerce Code, by requiring a manufacturer to pay the entire cost associated with fixing a warranty claim.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 19, Business & Commerce Code, to set forth a new heading, as follows:

CHAPTER 19. New heading: FARM, INDUSTRIAL, OFF-ROAD CONSTRUCTION,
AND OUTDOOR POWER EQUIPMENT DEALER AGREEMENTS

SECTION 2. Amends Sections 19.01(5) and (8), Business & Commerce Code, to redefine "dealer" and "equipment."

SECTION 3. Amends Chapter 19B, Business & Commerce Code, by adding Section 19.28, as follows:

Sec. 19.28. WARRANTY CLAIM. Provides that this section applies to a warranty claim submitted by a dealer while the dealer agreement is in effect, or after termination of the agreement. Sets forth requirements and procedures for accepting or rejecting a warranty claim. Sets forth requirements for charging back, setting off, or attempting to recover a warranty claim. Sets forth requirements for giving a written warranty agreement to a purchaser.

SECTION 4. Amends Section 19.43(a), Business & Commerce Code, to make a conforming change.

SECTION 5. Repealer: Section 19.46, Business & Commerce Code (Warranty claim).

SECTION 6. Makes application of this Act prospective.

SECTION 7. Effective date: September 1, 1997.

SECTION 8. Emergency clause.

SUMMARY OF COMMITTEE CHANGES

SECTION 1.

Redesignated to SECTION 3. Amends Chapter 19, Business & Commerce Code, to set forth a new heading.

SECTION 2.

Redesignated to SECTION 5. Amends Sections 19.01(5) and (8), Business & Commerce Code, to redefine "dealer" and "equipment."

SECTION 3.

Redesignates Section 19.28, Business & Commerce Code, from SECTION 1, to require the supplier to accept or reject a claim by the 30th, rather than the 45th day. Prohibits a supplier that pays a claim from paying less than the hourly labor rate and other expenses involved in the work the dealer regularly charges to a retail customer who does not assert a warranty and the dealer's net price plus 15 percent for parts. Prohibits the number of hours of labor claimed from exceeding 1-1/2 times the supplier's recommended hours for the repair involved. Deletes a provision prohibiting a supplier from paying less than the agreed hourly labor rate the dealer regularly charges for labor and the list price the dealer pays for parts, and other expenses involved in the work to a retail customer who does not assert a warranty.

SECTION 4.

Sets forth new SECTION 4. Amends Section 19.43(a), Business & Commerce Code, to make a conforming change.

SECTIONS 5-8.

Redesignated from SECTIONS 2-5.