

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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HOUSE BILL 1102

Short Title: Defective Agricultural Equipment. (Public)

Sponsors: Representatives Hardister and Corbin (Primary Sponsors).

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Agriculture, if favorable, Appropriations, if favorable, Rules, Calendar, and Operations of the House

May 14, 2020

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE REMEDIES FOR CONSUMERS OF AGRICULTURAL
3 EQUIPMENT THAT DOES NOT CONFORM TO EXPRESS WARRANTIES.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Chapter 106 of the General Statutes is amended by adding a new
6 Article to read:

7 "Article 6.

8 "New Farm Equipment Warranties.

9 "**§ 106-92.20. Purpose.**

10 This Article shall provide State and private remedies against farm equipment manufacturers
11 for persons injured by new farm equipment failing to conform to express warranties.

12 "**§ 106-92.25. Definitions.**

13 The following definitions apply in this Article:

14 (1) Agricultural equipment. – Any self-propelled vehicle designed primarily for
15 and used in the occupation or business of farming.

16 (2) Consumer. – A purchaser, other than for purposes of resale, of new
17 agricultural equipment or any subsequent purchaser, other than for purpose of
18 resale, to whom such equipment is transferred during the duration of a
19 manufacturer's express written warranty applicable to such equipment.

20 "**§ 106-92.30. Protection against defective agricultural equipment; applicability of Article.**

21 (a) If agricultural equipment does not conform to all applicable express written
22 warranties, and the consumer reports the nonconformity to the manufacturer, its agent, or its
23 authorized dealer during the later of (i) the term of such express written warranties or (ii) the
24 period of one year following the date of original delivery of the equipment to the first consumer,
25 the manufacturer, its agent, or its authorized dealers shall make, or arrange to have made, repairs
26 necessary to conform the equipment to the express written warranties, whether or not these
27 repairs are made after the expiration of such term or such one-year period.

28 (b) If the manufacturer or its authorized dealers do not conform the equipment to any
29 applicable express written warranty by repairing or correcting any defect or condition which
30 substantially impairs the use and market value of the equipment to the consumer after a
31 reasonable number of attempts, the manufacturer or its authorized dealer shall replace the
32 equipment with comparable equipment acceptable to the consumer, charging the consumer only
33 a reasonable allowance for prior use of the equipment by the consumer, or accept the return of
34 the equipment from the consumer and refund to the consumer the cash purchase price, including



1 sales tax, license fees, registration fees, and any similar governmental charges, less such a
2 reasonable allowance for prior use. Refunds shall be made to the consumer and lien holder or
3 holder of a security interest, if any, as their interests may appear.

4 (c) For purposes of this section, a reasonable allowance for prior use shall be the greater
5 of the following:

6 (1) The fair rental value of the equipment.

7 (2) The sum of (i) an amount attributable to use by the consumer or others prior
8 to the consumer's first report of the nonconformity to the manufacturer or its
9 authorized dealers, (ii) an amount attributable to use by the consumer or others
10 during any period subsequent to such report when the vehicle is not out of
11 service by reason of repair of the reported nonconformity, and (iii) an amount
12 attributable to use by the consumer of equipment provided by the
13 manufacturer or its authorized dealers while the equipment is out of service
14 by reason of repair of the reported nonconformity.

15 **"§ 106-92.35. Presumption.**

16 (a) It is presumed that a reasonable number of attempts have been undertaken to conform
17 equipment to the applicable express written warranties if, within the express written warranty
18 term or during the period of one year following the date of the original delivery of the equipment
19 to the first consumer, whichever is later, (i) the same nonconformity has been subject to repair
20 four or more times by the manufacturer or its authorized dealers, but such nonconformity
21 continues to exist or (ii) the equipment is out of service by reason of repair for a cumulative total
22 of 30 or more calendar days. However, those days shall not be counted when the consumer has
23 been provided by the manufacturer or its authorized dealers with the use of other equipment
24 which performs the same function or has been offered the use of such equipment.

25 (b) The term of an express written warranty, the one-year period, and the 30-day period
26 shall be extended by any period of time during which repair services are not available to the
27 consumer because of war, invasion, strike, fire, flood, or other natural disasters.

28 (c) The presumption provided in this section shall not apply against a manufacturer
29 unless the manufacturer has received prior direct written notification from or on behalf of the
30 consumer and been offered an opportunity to cure the alleged defect. If the address of the
31 manufacturer is not readily available to the consumer, the written notification shall be mailed to
32 an authorized dealer. The authorized dealer shall upon receipt forward such notification to the
33 manufacturer.

34 **"§ 106-92.40. Affirmative defense.**

35 It is an affirmative defense to any claim under this Article that (i) an alleged nonconformity
36 does not substantially impair the use and market value or (ii) a nonconformity is the result of
37 abuse or neglect, or of modifications or alterations of the equipment not authorized by the
38 manufacturer.

39 **"§ 106-92.45. Civil action by the consumer.**

40 A consumer injured by reason of any violation of the provisions of this Article may bring a
41 civil action against the manufacturer.

42 **"§ 106-92.50. Statute of limitation.**

43 An action brought under this Article shall be commenced within the later of (i) six months
44 following expiration of the express written warranty term or (ii) 24 months following the date of
45 the original delivery of the equipment to the consumer.

46 **"§ 106-92.55. Preservation of other remedies.**

47 Nothing in this Chapter shall in any way limit or impair the rights or remedies which are
48 otherwise available to a consumer under any other law."

49 **SECTION 2.** The sum of one hundred thousand dollars (\$100,000) in funds is
50 appropriated on a nonrecurring basis for the 2020-2021 fiscal year from the General Fund to the

1 Department of Agriculture and Consumer Services for consumer education and enforcement of
2 this act.
3 **SECTION 3.** Section 1 of this act becomes effective January 1, 2021, and applies to
4 agricultural equipment sold on or after that date. The remainder of this act is effective when it
5 becomes law.