

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Enrolled

Senate Bill 802

BY SENATORS HAMILTON, CAPUTO, DEEDS, HUNT,
KARNES, MARTIN, PLYMALE, STOVER, SWOPE, WOELFEL,
AND TAYLOR

[Passed March 4, 2024; in effect 90 days from
passage (June 2, 2024)]

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

2024 MAR 27 P 5:41

FILED

SB 802

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1 AN ACT to amend and reenact §46A-6A-2 of the Code of West Virginia, 1931, as amended; and
2 to amend and reenact §47-11F-8 of said code, all relating to Consumer Protection—New
3 Motor Vehicle Warranties and the Farm Equipment Dealer Contract Act; including in the
4 definition of "motor vehicle" a self-propelled vehicle designed primarily for, and used in,
5 the occupation or business of farming, with a horsepower unit of 20 or greater; and the
6 right to bring an action for breach of warranty involving a self-propelled vehicle designed
7 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.

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

3 (1) "Consumer" means:

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

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

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

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

19 (4) "Motor vehicle" means:

20 (A) Any passenger automobile purchased in this state or registered and titled in this state,
21 including any pickup truck or van registered as a Class A motor vehicle under the provisions of
22 §17A-10-1 *et seq.* of this code, and any self-propelled motor vehicle chassis of a motor home
23 registered as a Class A or Class B motor vehicle under the provisions of §17A-10-1 *et seq.* of this
24 code; or

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

CHAPTER 47. REGULATION OF TRADE.

ARTICLE 11F. FARM EQUIPMENT DEALER CONTRACT ACT.

§47-11F-8. Civil remedies applicable.

1 (a) The provisions of any agreement to the contrary notwithstanding, if a supplier fails or
2 refuses without just cause to repurchase any inventory or portion thereof when required to do so
3 under the provisions of this article within the time periods prescribed thereby, such supplier shall
4 be civilly liable for: (1) 100 percent of the current net price of the inventory or portion thereof not
5 repurchased; (2) the amount the dealer paid for freight costs from the supplier's location to the
6 dealer's location; (3) the reasonable cost of assembly performed by the dealer; (4) reasonable
7 attorney's fees and court costs incurred by the dealer in requiring the supplier to comply with this
8 article of the code; and (5) interest on the current net price of the inventory or portion thereof not

9 repurchased, computed at the prime rate of interest commencing the 91st day after termination
10 of the contract agreement, and recomputed quarterly thereafter.

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

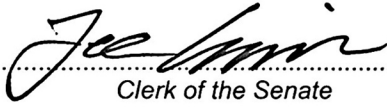
15 (c) If there is a failure to provide the required notice of termination or otherwise comply
16 with provisions of this article, the supplier shall be civilly liable for the dealer's loss of business for
17 the time period the supplier is in violation of the notice of termination provisions of the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

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

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

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

The Clerk of the Senate and the Clerk of the House of Delegates hereby certify that the foregoing bill is correctly enrolled.


Clerk of the Senate



Clerk of the House of Delegates

2024 MAR 27 P 5:41
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

FILED

Originated in the Senate.

In effect 90 days from passage.


President of the Senate


Speaker of the House of Delegates

The within is approved this the 27th
Day of March 2024.


Governor

MAR 11 2024

Time 2:09 pm