

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2019

H.B. 1102  
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HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH40568-MHa-156

Short Title: Defective Agricultural Equipment.

(Public)

Sponsors: Representative Hardister.

Referred to:

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  
35 sales tax, license fees, registration fees, and any similar governmental charges, less such a



1 reasonable allowance for prior use. Refunds shall be made to the consumer and lien holder or  
2 holder of a security interest, if any, as their interests may appear.

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

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

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

14 **"§ 106-92.35. Presumption.**

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

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

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

33 **"§ 106-92.40. Affirmative defense.**

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

38 **"§ 106-92.45. Civil action by the consumer.**

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

41 **"§ 106-92.50. Statute of limitation.**

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

45 **"§ 106-92.55. Preservation of other remedies.**

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

48 **SECTION 2.** The sum of one hundred thousand dollars (\$100,000) in funds is  
49 appropriated on a nonrecurring basis for the 2020-2021 fiscal year from the General Fund to the  
50 Department of Agriculture and Consumer Services for consumer education and enforcement of  
51 this act.

1                   **SECTION 3.** Section 1 of this act becomes effective January 1, 2021, and applies to  
2 agricultural equipment sold on or after that date. The remainder of this act is effective when it  
3 becomes law.