
Commerce & Labor Committee

HB 2893

Brief Description: Relating to the farm equipment dealers act of 2002.

Sponsors: Representatives Clements and Conway.

Brief Summary of Bill

- Makes state law regulating certain aspects of the relationship between dealers and suppliers of farm equipment applicable to dealers and suppliers of outdoor power equipment.
- Modifies provisions regulating repurchase payments, prohibiting certain acts, and establishing processes for termination of dealerships.
- Adds provisions governing warranty claims, safety work, product improvement work, and remedies.

Hearing Date:

Staff: Jill Reinmuth (786-7134).

Background:

State law governs certain aspects of the relationship between retail sellers and manufacturers, wholesalers, and distributors of agricultural equipment. For example, state law regulates repurchase payments for unsold merchandise, prohibits suppliers from committing certain acts, and establishes processes for termination and nonrenewal of dealer agreements. State law does not regulate warranty claims, safety work, or product improvement work.

Repurchase Payments: When either a retail seller or a manufacturer, wholesaler, or distributor wants to cancel or discontinue a contract, the manufacturer, wholesaler, or distributor must pay the retail seller for unsold merchandise. The manufacturer, wholesaler, or distributor must repurchase equipment from the retail seller at a price equal to 100 percent of the net cost for unused equipment, including transportation costs, and repurchase repair parts at a price equal to 85 percent of net prices for repair parts shown in the current price list or catalog. The manufacturer, wholesaler, or distributor also must pay the retailer a handling fee equal to 5 percent of the current net price of repair parts. Upon payment, the

title to the merchandise passes to the manufacturer, wholesaler, or distributor, and the manufacturer, wholesaler, or distributor is entitled to possess the merchandise.

Violations: A dealer may bring an action against a supplier if the supplier commits a specified violation. Among the prohibited acts are several dealing with succession and termination. They include:

- Terminating, canceling, or failing to renew a dealer agreement or substantially changing the dealer's competitive circumstances or attempting or threatening these actions without good cause;
- Unreasonably withholding consent from a dealership to change its capital structure or means of financing; and
- Preventing a dealer from selling or transferring a dealership so long as the dealer has the written consent of the supplier and the supplier does not unreasonably withhold consent.

Succession: A supplier must not unreasonably withhold consent to the sale or transfer of a dealership if the buyer meets the supplier's financial, business experience, and character standards.

Termination: In certain circumstances, a supplier may terminate a dealer agreement or substantially change a dealer's competitive circumstances with good cause. In some circumstances, the supplier must give the dealer 90 days' written notice of its intent to terminate the agreement or substantially change the competitive circumstances. The notice must state reasons constituting good cause for termination, and must give the dealer 60 days to cure any claimed deficiency. In other circumstances, notice and an opportunity to cure are not required.

Remedies: If a manufacturer, wholesaler, or distributor fails to pay repurchase payments to a dealer, the retailer may bring a civil action against the manufacturer, wholesaler, or distributor for the payments. If a manufacturer, wholesaler, or distributor commits a specified violation, the dealer may bring an action against the supplier for damages sustained as a consequence of the supplier's violation, together with costs and reasonable attorneys' fees, and injunctive relief.

Summary of Bill:

The Farm Equipment Dealers act of 2002 is enacted.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.