HOUSE BILL NO. 649



BY REPRESENTATIVES MCFARLAND AND THOMPSON

1	AN ACT
2	To amend and reenact R.S. 51:481 and 483(A)(1) and to enact R.S. 51:483(A)(5), relative
3	to the repurchase of certain mechanical equipment by a wholesaler, manufacturer,
4	or distributor; to provide for applicability; to include partnerships, limited liability
5	companies, and other business entities as pertinent parties; to provide for definitions;
6	to provide for violations; and to provide for related matters.
7	Be it enacted by the Legislature of Louisiana:
8	Section 1. R.S. 51:481 and 483(A)(1) are hereby amended and reenacted and R.S.
9	51:483(A)(5) is hereby enacted to read as follows:
10	§481. Applicability of Part
11	A. The provisions of this Part shall apply to written contracts or oral
12	agreements of definite or indefinite duration between any person, firm or,
13	corporation, partnership, limited liability company, or other business entity engaged
14	in the business of selling, distributing, or retailing farm, construction, forestry, heavy
15	industrial material handling, utility and lawn and garden equipment, engines,
16	implements, machinery, attachments, and repair parts for such equipment and any
17	wholesaler, manufacturer, or distributor of such equipment and repair parts, whereby
18	the retailer agrees with the wholesaler, manufacturer, or distributor to maintain a
19	stock of such parts, or complete equipment or machines, or attachments. Any

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CODING: Words in struck through type are deletions from existing law; words <u>underscored</u> are additions.

1	successor in interest of the manufacturer, wholesaler, or distributor shall include any
2	purchaser of assets or stock, any surviving corporation or other business entity
3	resulting from merger or liquidation, any receiver or assignee, or any trustee of the
4	original equipment manufacturer, wholesaler, or distributor.
5	B. For the purposes of this Part, the following words and phrases shall have
6	the following meanings:
7	(1) "Agent" shall mean means any manufacturer, wholesaler, or wholesale
8	distributor, any purchaser of assets or stock of any surviving corporation or other
9	business entity resulting from a merger or liquidation, any receiver or assignee, or
10	any trustee of the original equipment manufacturer, wholesaler, or distributor.
11	(2) "Burden of proof", in the context of an incentive agreement, means that,
12	if a dealer objects to the market statistics provided by the agent in support of a bonus
13	or penalty proposed by the agent pursuant to the agreement, the agent shall provide
14	all of the following information:
15	(a) The name of the entity or individual that purchased the contested
16	equipment upon which the amount of the incentive payment or penalty is based.
17	(b) Sufficient evidence of the first substantial use of the contested equipment
18	within the dealer's area of responsibility. Sufficient evidence shall consist of either:
19	(i) Geospatial telematic data from the reported equipment's hardware; or
20	(ii) All of the following:
21	(aa) Name of the entity or individual that purchased the equipment.
22	(bb) City and state to which the equipment was delivered, as indicated on the
23	manufacturer's delivery receipt provided by the dealer to the retail purchaser.
24	(cc) PIN, VIN, or serial number of the equipment.
25	(dd) Product segment (large ag, mid ag, or small ag) of the equipment.
26	(ee) Model class of the equipment.
27	(ff) Size class (horsepower) of the equipment.

ENROLLED

1	(2)(3) "Dealer" shall mean means any farm dealer, heavy industrial
2	equipment dealer, construction equipment dealer, forestry equipment dealer, material
3	handling equipment dealer, utility equipment dealer, engines equipment dealer, lawn
4	and garden equipment dealer or retail equipment distributor dealer.
5	(3)(4) "Dealer agreement" shall mean means a written or oral agreement
6	between a dealer and an agent that provides for the rights and obligations of the
7	parties with respect to the sale or purchase of equipment or repair parts.
8	(4)(5) "Farm equipment", "construction equipment", "forestry equipment",
9	"heavy industrial equipment", "material handling equipment", "utility equipment"
10	and "lawn and garden equipment" shall include includes every vehicle designed or
11	adapted and used exclusively for agricultural, construction, forestry, industrial
12	material handling, utility or lawn and garden operations, although incidentally
13	operated or used upon the highways.
14	(6) "Incentive agreement" means any agreement between the agent and
15	dealer involving the payment of a bonus or incentive payment by the agent to the
16	dealer, or the imposition of a penalty by the agent on the dealer, based upon the
17	dealer's sales within its area of responsibility.
18	(5)(7) "Superseded parts" shall include includes any part that will provide
19	the same function as a previously available part and can be purchased from the
20	manufacturer, wholesaler, or distributor on the date of cancellation.
21	* * *
22	§483. Violations; civil remedies
23	A. It shall be a violation of this Part for an agent to:
24	(1) Coerce any dealers to accept delivery of equipment parts or accessories
25	which the dealer has not ordered voluntarily, or to seek payment for any such
26	equipment parts or accessories, or their return.
27	* * *
28	(5) In connection with an incentive agreement, impose on the dealer:

1	(a) The burden of proof regarding the terms of the agreement, including the
2	establishment of the location of a piece of equipment's first substantial use.
3	(b) A penalty for the sale of equipment if the first substantial use is in a
4	location outside the dealer's area of responsibility for agricultural sales, regardless
5	of the location of the seller, or of the customer's residence, office, or operating base.
6	* * *

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

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