Hon Ag 2/22 Dr Pass 3/1

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SENATE FILE 2334

BY COMMITTEE ON AGRICULTURE

approved (p. 517)

(SUCCESSOR TO LSB 8066SC)

Passed Senate, Date 2/21/90 (p 653) Passed House, Date 3/13/90 (p 1046)

Vote: Ayes 47 Nays 0 Vote: Ayes 95 Nays 0

Approved March 27, 1990

A BILL FOR

An Act regulating business relationships between suppliers and dealers of certain equipment and providing dates of applicability.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 8066SV 73

da/mc/6

S.F. 2334 H.F. _____

1 Section 1. Section 322D.7, Code 1989, is amended to read
2 as follows:
3 322D.7 APPLICATION -- FARM IMPLEMENT FRANCHISE AGREEMENTS.
4 This chapter applies until July 1, 1990, to all farm
5 implement franchise agreements now in effect before July 1,
6 1990, which have no expiration date and to all other such
7 agreements entered into or renewed after April 12, 1985, but
8 before July 1, 1990, which will expire after April 12, 1985.
9 Any agreement in effect on April 12, 1985, which by its own
10 terms will terminate on a subsequent date shall be governed by
11 the law as it existed prior to April 12, 1985.
12 Sec. 2. NEW SECTION. 322F.1 DEFINITIONS.
13 As used in this chapter, unless the context otherwise
14 requires:
15 1. "Dealer" or "dealership" means a person engaged in the
16 retail sale of equipment, if the person sells equipment
17 designed to be principally used for agricultural or
18 horticultural operations, or raising livestock.
19 2. "Dealership agreement" means an oral or written
20 agreement, either express or implied, between a supplier and a
21 dealer which provides that the dealer is granted the right to
22 sell, distribute, or service the supplier's equipment,
23 regardless of whether the equipment carries a trade name,
24 trademark, service mark, logo type, advertisement, or other
25 commercial symbol, and which provides evidence of a continuing
26 commercial relationship between the supplier and the dealer.
27 3. "Equipment" means a device or part of a device designed
28 to be used for agriculture, horticulture, or livestock
29 raising. Equipment includes but is not limited to tractors,
30 trailers, combines, tillage, planting, and cultivating
31 implements, balers, and irrigation implements. Equipment also
32 includes attachments to equipment. Equipment does not include
33 self-propelled machines designed primarily for the
34 transportation of persons or property on a street or highway.
35 4. "Good cause" means a condition which occurs under any

1 of the following circumstances:
2 a. The dealer fails to substantially comply with an
3 essential and reasonable requirement imposed upon the dealer
4 by the dealership agreement, but only if that requirement is
5 also generally imposed upon similarly situated dealers.
6 b. The dealer has made a material misrepresentation or
7 falsification of any record, contract, report, or other
8 document which the dealer has submitted to the supplier.
9 c. The dealer transfers an interest in the dealership; a
10 person with a substantial interest in the ownership or control
11 of the dealership withdraws from the dealership, including an
12 individual proprietor, partner, major shareholder, or manager;
13 or a substantial reduction occurs in the interest of a partner
14 or major shareholder in the dealership. However, good cause
15 does not exist if the supplier consents to an action described
16 in this paragraph.
17 d. The dealer has filed a voluntary petition in
18 bankruptcy.
19 e. An involuntary petition in bankruptcy has been filed
20 against the dealership and has not been discharged within
21 thirty days after the filing.
22 f. The dealership is subject to a closeout or sale of a
23 substantial part of the dealership equipment or assets related
24 to the equipment.
25 g. A dissolution or liquidation of dealership assets has
26 commenced.
27 h. The dealer's principal place of business is relocated,
28 unless the supplier consents to the change in location.
29 i. The dealer has defaulted under a security agreement,
30 including but not limited to a chattel mortgage, between the
31 dealer and the supplier or any subsidiary or affiliate of the
32 supplier.
33 j. A guarantee of the dealer's present or future
34 obligations to the supplier is revoked or discontinued.
35 k. The dealer has failed to operate in the normal course

1 of business for seven consecutive business days or has
2 otherwise abandoned business operations.
3 l. The dealer has pleaded guilty to or has been convicted
4 of a felony.
5 m. The dealer has engaged in conduct which is injurious or
6 detrimental to the dealer's customers or to the public
7 welfare, including but not limited to, misleading advertising,
8 failing to provide reasonable service or replacement parts, or
9 failing to honor warranty obligations.
10 n. The dealer consistently fails to comply with applicable
11 state licensing requirements relating to the products and
12 services represented on behalf of the supplier.
13 o. The dealer has inadequately represented the
14 manufacturer's product relating to sales when compared to
15 similarly situated dealers.
16 5. "Net cost" means the price the dealer paid to the
17 supplier for the equipment, less applicable discounts.
18 6. "Net price" means the current price listed in the
19 supplier's effective price list or catalog, less any
20 applicable trade or cash discount.
21 7. "Supplier" means the manufacturer, wholesaler, or
22 distributor of equipment sold by a dealer.
23 Sec. 3. NEW SECTION. 322F.2 NOTICE OF TERMINATION.
24 1. A supplier shall terminate a dealership agreement by
25 cancellation, nonrenewal, or a substantial change in
26 competitive circumstances only upon good cause and upon at
27 least ninety days' prior written notice delivered to the
28 dealer by certified or registered mail. The notice must
29 specify each deficiency constituting good cause for the
30 action. The notice must also state that the dealer has sixty
31 days to cure a specified deficiency. If the deficiency is
32 cured within sixty days from the date that the notice is
33 delivered, the notice is void. However, if the deficiency is
34 based on a dealer's inadequate representation of a
35 manufacturer's product relating to sales, as provided in

1 section 322F.1, the notice must state that the dealer has
2 eighteen months to cure the deficiency. If the deficiency
3 based on inadequate representation of a manufacturer's product
4 relating to sales is cured within eighteen months from the
5 date that notice is delivered, the notice is void.
6 2. The supplier shall have the right to terminate
7 immediately without notice in the event the action is for good
8 cause as defined in section 322F.1, subsection 4, paragraphs
9 "b" through "m".
10 Sec. 4. NEW SECTION. 322F.3 TERMINATION OF AGREEMENT --
11 REPURCHASE OF EQUIPMENT.
12 1. If a dealership agreement is terminated by cancellation
13 or nonrenewal, the supplier must repurchase equipment and
14 parts in the dealer's inventory. The repurchase is subject to
15 the following conditions:
16 a. The supplier must pay to the dealer or credit the
17 dealer's account with one hundred percent of the net cost of
18 all unused complete equipment including attachments. The
19 equipment must be in new condition and purchased by the
20 dealership from the supplier within twenty-four months
21 preceding notification by either party of an intent to
22 terminate the contract.
23 b. The supplier must pay to the dealer or credit the
24 dealer's account with ninety percent of the net price for
25 repair parts, including superseded parts listed in the price
26 lists or catalogs in use by the supplier on the date of
27 termination. The supplier shall also pay the dealer or credit
28 the dealer's account with five percent of the net price on the
29 date of termination on all parts returned for the dealer's
30 handling, packing, and loading of the parts to be returned to
31 the supplier. However, the supplier is not required to pay or
32 credit the five percent if the supplier elects to perform the
33 handling, packing, and loading.
34 2. Upon payment or allowance of a credit to the dealer's
35 account as required in this section, the title to the

1 repurchased equipment is transferred to the supplier making
2 the repurchase, and the supplier may take immediate possession
3 of the repurchased equipment.
4 3. The supplier must make payment or allowance of a credit
5 as required under this section not later than ninety days from
6 the date that the supplier takes possession of the repurchased
7 equipment.
8 4. This section does not require repurchase from the
9 dealer of repair parts which have a limited storage life or
10 are otherwise subject to deterioration, including but not
11 limited to rubber items, gaskets, and batteries. This section
12 also does not require repurchase from the dealer of parts in
13 broken or damaged packages, single repair parts priced as a
14 set of two or more items, or repair parts which because of
15 their condition are not resalable as new parts without new
16 packaging or reconditioning.
17 Sec. 5. NEW SECTION. 322F.4 SECURITY INTERESTS NOT
18 AFFECTED.
19 This chapter shall not be construed to affect the existence
20 or enforcement of a security interest which any person,
21 including a supplier or financial institution, may have in the
22 inventory of the dealer. The repurchase of inventory which is
23 made under this chapter shall not be subject to the bulk sales
24 provision of chapter 554, article 6 of the uniform commercial
25 code.
26 Sec. 6. NEW SECTION. 322F.5 DEATH OR INCAPACITY OF
27 DEALER.
28 If a dealer or a majority shareholder of a corporation
29 operating a dealership dies or is incapacitated, the rights
30 under this chapter may be exercised as an option by the heirs
31 at law if the dealer or shareholder died intestate, or by the
32 executor under the terms of the dealer's or shareholder's
33 will. If the heirs or the executor do not exercise this
34 option within twelve months from the date of death of the
35 dealer or shareholder, the supplier must repurchase the

1 equipment as if the supplier had terminated the dealership
2 agreement pursuant to section 322F.3. However, this section
3 does not entitle an heir, executor, administrator, legatee, or
4 devisee of a deceased dealer or majority shareholder to
5 continue to operate the dealership without the consent of the
6 supplier.
7 Sec. 7. NEW SECTION. 322F.6 ASSIGNEES AND SUCCESSORS IN
8 INTEREST.
9 The obligations under this chapter apply to the supplier's
10 assignee or successor in interest. A successor in interest
11 includes, but is not limited to, a purchaser of assets or
12 stock, a surviving corporation resulting from a merger or
13 liquidation, a receiver, or a trustee of the supplier.
14 Sec. 8. NEW SECTION. 322F.7 VIOLATIONS.
15 A supplier violates this chapter if the supplier does any
16 of the following:
17 1. Requires a dealer to accept delivery of equipment that
18 the dealer has not ordered.
19 2. Requires a dealer to order or accept delivery of
20 equipment with special features or accessories not included in
21 the base price list of equipment as publicly advertised by the
22 supplier.
23 3. Requires a dealer to enter into any agreement, whether
24 written or oral, which amends or supplements an existing
25 dealership agreement with the supplier, unless the
26 supplementary or amendatory agreement is imposed on other
27 similarly situated dealers.
28 4. Requires as a condition of renewal or extension of a
29 dealership agreement that the dealer complete substantial
30 renovation of the dealer's place of business, or acquire new
31 or additional space to serve as the dealer's place of
32 business, unless the supplier provides at least one year's
33 written notice of the condition which states all grounds
34 supporting the condition. The supplier must provide a
35 reasonable time for the dealer to complete the renovation or

1 acquisition.
2 5. Requires a dealer to refuse to purchase equipment
3 distributed by another supplier.
4 6. Discriminates in the prices charged for equipment of
5 like grade and quality sold by the supplier to similarly
6 situated dealers. This subsection does not prevent the use of
7 differentials which make only due allowance for costs related
8 to the manufacture, sale, or delivery of equipment, or to
9 methods or quantities of equipment sold or delivered.
10 7. Takes action terminating, canceling, failing to renew,
11 or substantially changing the competitive circumstances
12 intended by the dealership agreement due to the results of
13 conditions beyond the dealer's control, including drought,
14 flood, labor disputes, or economic recession. This subsection
15 shall not apply if the dealer is in default of a security
16 agreement in effect with the supplier.
17 Sec. 9. NEW SECTION. 322F.8 SUPPLIER LIABILITY.
18 1. A dealer may bring a legal action against a supplier
19 for damages sustained by the dealer as a consequence of the
20 supplier's violation of this chapter. A supplier violating
21 this chapter shall compensate the dealer for damages sustained
22 by the dealer as a consequence of the supplier's violation,
23 together with the actual costs of the action, including
24 reasonable attorneys' fees. The dealer may be granted
25 injunctive relief against unlawful termination, cancellation,
26 nonrenewal, or a substantial change of competitive
27 circumstances. The remedies in this section are in addition
28 to any other remedies permitted by law.
29 2. a. If the payment or allowance of equipment
30 repurchased pursuant to section 322F.3 is not made as
31 required, the amount due bears interest at the rate of one and
32 one-half percent per month calculated from the date that the
33 dealership agreement was terminated.
34 b. If upon termination of a dealership agreement by
35 nonrenewal or cancellation, by a dealer or supplier, the

1 supplier fails to make payment or credit the account of the
2 dealer as provided in this chapter, the supplier is liable in
3 a civil action brought by the dealer for one hundred percent
4 of the net costs of the equipment, plus interest as calculated
5 pursuant to paragraph "a", and ninety percent of the net price
6 of repair parts, plus interest as calculated pursuant to
7 paragraph "a".
8 3. The requirements of this chapter supplement any
9 agreement between a dealer and a supplier. The dealer may
10 elect either to pursue contractual remedies under the
11 dealership agreement or remedies provided under this chapter.
12 An election by the dealer to pursue a remedy provided under
13 this chapter does not bar the dealer from pursuing any other
14 remedy under law or equity, including contractual remedies.
15 This chapter does not affect rights of the supplier to charge
16 back to the dealer's accounts amounts previously paid or
17 credited as a discount to the dealer's purchase of goods,
18 including equipment.
19 Sec. 10. NEW SECTION. 322F.9 APPLICABILITY.
20 A term of a dealership agreement which is inconsistent with
21 the terms of this chapter is void and unenforceable and does
22 not waive any rights which are provided to a person provided
23 by this chapter.
24 This chapter applies to all dealership agreements in effect
25 which have no expiration date and all other agreements entered
26 into or renewed on or after July 1, 1990. Any agreement in
27 effect on June 30, 1990, which by its own terms will terminate
28 on a subsequent date, shall be governed by the law as it
29 existed prior to July 1, 1990.
30 EXPLANATION
31 This bill, based in part on Minnesota law, regulates the
32 business relationship between suppliers and dealers of
33 agricultural equipment. It provides that chapter 322D no
34 longer regulates business relationships based on agreements
35 entered into or renewed on or after July 1, 1990. Business

1 relationships based on agreements without expiration dates are
2 also subject to new provisions. This bill creates the
3 provisions in a new chapter. The bill's new chapter restricts
4 the termination by a supplier of a dealership agreement, by
5 requiring that good cause exist for the termination. The bill
6 provides notice requirements for termination. It also
7 provides requirements relating to the repurchase and
8 repossession of equipment by suppliers following termination
9 of the dealership agreement. The bill specifies rights and
10 obligations for dealers and suppliers. It places restrictions
11 on supplier practices, and provides for supplier liability,
12 and remedies available to the dealer.
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SENATE FILE 2334

AN ACT

REGULATING BUSINESS RELATIONSHIPS BETWEEN SUPPLIERS AND DEALERS OF CERTAIN EQUIPMENT AND PROVIDING DATES OF APPLICABILITY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 322D.7, Code 1989, is amended to read as follows:

322D.7 APPLICATION -- FARM IMPLEMENT FRANCHISE AGREEMENTS.

This chapter applies until July 1, 1990, to all farm implement franchise agreements now in effect before July 1, 1990, which have no expiration date and to all other such agreements entered into or renewed after April 12, 1985, but before July 1, 1990, which will expire after April 12, 1985. Any agreement in effect on April 12, 1985, which by its own terms will terminate on a subsequent date shall be governed by the law as it existed prior to April 12, 1985.

Sec. 2. NEW SECTION. 322F.1 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Dealer" or "dealership" means a person engaged in the retail sale of equipment, if the person sells equipment designed to be principally used for agricultural or horticultural operations, or raising livestock.

2. "Dealership agreement" means an oral or written agreement, either express or implied, between a supplier and a dealer which provides that the dealer is granted the right to sell, distribute, or service the supplier's equipment, regardless of whether the equipment carries a trade name, trademark, service mark, logo type, advertisement, or other commercial symbol, and which provides evidence of a continuing commercial relationship between the supplier and the dealer.

3. "Equipment" means a device or part of a device designed to be used for agriculture, horticulture, or livestock raising. Equipment includes but is not limited to tractors, trailers, combines, tillage, planting, and cultivating implements, balers, and irrigation implements. Equipment also includes attachments to equipment. Equipment does not include self-propelled machines designed primarily for the transportation of persons or property on a street or highway.

4. "Good cause" means a condition which occurs under any of the following circumstances:

a. The dealer fails to substantially comply with an essential and reasonable requirement imposed upon the dealer by the dealership agreement, but only if that requirement is also generally imposed upon similarly situated dealers.

b. The dealer has made a material misrepresentation or falsification of any record, contract, report, or other document which the dealer has submitted to the supplier.

c. The dealer transfers an interest in the dealership; a person with a substantial interest in the ownership or control of the dealership withdraws from the dealership, including an individual proprietor, partner, major shareholder, or manager; or a substantial reduction occurs in the interest of a partner or major shareholder in the dealership. However, good cause does not exist if the supplier consents to an action described in this paragraph.

d. The dealer has filed a voluntary petition in bankruptcy.

e. An involuntary petition in bankruptcy has been filed against the dealership and has not been discharged within thirty days after the filing.

f. The dealership is subject to a closeout or sale of a substantial part of the dealership equipment or assets related to the equipment.

g. A dissolution or liquidation of dealership assets has commenced.

h. The dealer's principal place of business is relocated, unless the supplier consents to the change in location.

i. The dealer has defaulted under a security agreement, including but not limited to a chattel mortgage, between the dealer and the supplier or any subsidiary or affiliate of the supplier.

j. A guarantee of the dealer's present or future obligations to the supplier is revoked or discontinued.

k. The dealer has failed to operate in the normal course of business for seven consecutive business days or has otherwise abandoned business operations.

l. The dealer has pleaded guilty to or has been convicted of a felony.

m. The dealer has engaged in conduct which is injurious or detrimental to the dealer's customers or to the public welfare, including but not limited to, misleading advertising, failing to provide reasonable service or replacement parts, or failing to honor warranty obligations.

n. The dealer consistently fails to comply with applicable state licensing requirements relating to the products and services represented on behalf of the supplier.

o. The dealer has inadequately represented the manufacturer's product relating to sales when compared to similarly situated dealers.

5. "Net cost" means the price the dealer paid to the supplier for the equipment, less applicable discounts.

6. "Net price" means the current price listed in the supplier's effective price list or catalog, less any applicable trade or cash discount.

7. "Supplier" means the manufacturer, wholesaler, or distributor of equipment sold by a dealer.

Sec. 3. NEW SECTION. 322F.2 NOTICE OF TERMINATION.

1. A supplier shall terminate a dealership agreement by cancellation, nonrenewal, or a substantial change in competitive circumstances only upon good cause and upon at

least ninety days' prior written notice delivered to the dealer by certified or registered mail. The notice must specify each deficiency constituting good cause for the action. The notice must also state that the dealer has sixty days to cure a specified deficiency. If the deficiency is cured within sixty days from the date that the notice is delivered, the notice is void. However, if the deficiency is based on a dealer's inadequate representation of a manufacturer's product relating to sales, as provided in section 322F.1, the notice must state that the dealer has eighteen months to cure the deficiency. If the deficiency based on inadequate representation of a manufacturer's product relating to sales is cured within eighteen months from the date that notice is delivered, the notice is void.

2. The supplier shall have the right to terminate immediately without notice in the event the action is for good cause as defined in section 322F.1, subsection 4, paragraphs "b" through "m".

Sec. 4. NEW SECTION. 322F.3 TERMINATION OF AGREEMENT -- REPURCHASE OF EQUIPMENT.

1. If a dealership agreement is terminated by cancellation or nonrenewal, the supplier must repurchase equipment and parts in the dealer's inventory. The repurchase is subject to the following conditions:

a. The supplier must pay to the dealer or credit the dealer's account with one hundred percent of the net cost of all unused complete equipment including attachments. The equipment must be in new condition and purchased by the dealership from the supplier within twenty-four months preceding notification by either party of an intent to terminate the contract.

b. The supplier must pay to the dealer or credit the dealer's account with ninety percent of the net price for repair parts, including superseded parts listed in the price lists or catalogs in use by the supplier on the date of

termination. The supplier shall also pay the dealer or credit the dealer's account with five percent of the net price on the date of termination on all parts returned for the dealer's handling, packing, and loading of the parts to be returned to the supplier. However, the supplier is not required to pay or credit the five percent if the supplier elects to perform the handling, packing, and loading.

2. Upon payment or allowance of a credit to the dealer's account as required in this section, the title to the repurchased equipment is transferred to the supplier making the repurchase, and the supplier may take immediate possession of the repurchased equipment.

3. The supplier must make payment or allowance of a credit as required under this section not later than ninety days from the date that the supplier takes possession of the repurchased equipment.

4. This section does not require repurchase from the dealer of repair parts which have a limited storage life or are otherwise subject to deterioration, including but not limited to rubber items, gaskets, and batteries. This section also does not require repurchase from the dealer of parts in broken or damaged packages, single repair parts priced as a set of two or more items, or repair parts which because of their condition are not resalable as new parts without new packaging or reconditioning.

Sec. 5. NEW SECTION. 322F.4 SECURITY INTERESTS NOT AFFECTED.

This chapter shall not be construed to affect the existence or enforcement of a security interest which any person, including a supplier or financial institution, may have in the inventory of the dealer. The repurchase of inventory which is made under this chapter shall not be subject to the bulk sales provision of chapter 554, article 6 of the uniform commercial code.

Sec. 6. NEW SECTION. 322F.5 DEATH OR INCAPACITY OF DEALER.

If a dealer or a majority shareholder of a corporation operating a dealership dies or is incapacitated, the rights under this chapter may be exercised as an option by the heirs at law if the dealer or shareholder died intestate, or by the executor under the terms of the dealer's or shareholder's will. If the heirs or the executor do not exercise this option within twelve months from the date of death of the dealer or shareholder, the supplier must repurchase the equipment as if the supplier had terminated the dealership agreement pursuant to section 322F.3. However, this section does not entitle an heir, executor, administrator, legatee, or devisee of a deceased dealer or majority shareholder to continue to operate the dealership without the consent of the supplier.

Sec. 7. NEW SECTION. 322F.6 ASSIGNEES AND SUCCESSORS IN INTEREST.

The obligations under this chapter apply to the supplier's assignee or successor in interest. A successor in interest includes, but is not limited to, a purchaser of assets or stock, a surviving corporation resulting from a merger or liquidation, a receiver, or a trustee of the supplier.

Sec. 8. NEW SECTION. 322F.7 VIOLATIONS.

A supplier violates this chapter if the supplier does any of the following:

1. Requires a dealer to accept delivery of equipment that the dealer has not ordered.

2. Requires a dealer to order or accept delivery of equipment with special features or accessories not included in the base price list of equipment as publicly advertised by the supplier.

3. Requires a dealer to enter into any agreement, whether written or oral, which amends or supplements an existing dealership agreement with the supplier, unless the

supplementary or amendatory agreement is imposed on other similarly situated dealers.

4. Requires as a condition of renewal or extension of a dealership agreement that the dealer complete substantial renovation of the dealer's place of business, or acquire new or additional space to serve as the dealer's place of business, unless the supplier provides at least one year's written notice of the condition which states all grounds supporting the condition. The supplier must provide a reasonable time for the dealer to complete the renovation or acquisition.

5. Requires a dealer to refuse to purchase equipment distributed by another supplier.

6. Discriminates in the prices charged for equipment of like grade and quality sold by the supplier to similarly situated dealers. This subsection does not prevent the use of differentials which make only due allowance for costs related to the manufacture, sale, or delivery of equipment, or to methods or quantities of equipment sold or delivered.

7. Takes action terminating, canceling, failing to renew, or substantially changing the competitive circumstances intended by the dealership agreement due to the results of conditions beyond the dealer's control, including drought, flood, labor disputes, or economic recession. This subsection shall not apply if the dealer is in default of a security agreement in effect with the supplier.

Sec. 9. NEW SECTION. 322F.8 SUPPLIER LIABILITY.

1. A dealer may bring a legal action against a supplier for damages sustained by the dealer as a consequence of the supplier's violation of this chapter. A supplier violating this chapter shall compensate the dealer for damages sustained by the dealer as a consequence of the supplier's violation, together with the actual costs of the action, including reasonable attorneys' fees. The dealer may be granted injunctive relief against unlawful termination, cancellation,

nonrenewal, or a substantial change of competitive circumstances. The remedies in this section are in addition to any other remedies permitted by law.

2. a. If the payment or allowance of equipment repurchased pursuant to section 322F.3 is not made as required, the amount due bears interest at the rate of one and one-half percent per month calculated from the date that the dealership agreement was terminated.

b. If upon termination of a dealership agreement by nonrenewal or cancellation, by a dealer or supplier, the supplier fails to make payment or credit the account of the dealer as provided in this chapter, the supplier is liable in a civil action brought by the dealer for one hundred percent of the net costs of the equipment, plus interest as calculated pursuant to paragraph "a", and ninety percent of the net price of repair parts, plus interest as calculated pursuant to paragraph "a".

3. The requirements of this chapter supplement any agreement between a dealer and a supplier. The dealer may elect either to pursue contractual remedies under the dealership agreement or remedies provided under this chapter. An election by the dealer to pursue a remedy provided under this chapter does not bar the dealer from pursuing any other remedy under law or equity, including contractual remedies. This chapter does not affect rights of the supplier to charge back to the dealer's accounts amounts previously paid or credited as a discount to the dealer's purchase of goods, including equipment.

Sec. 10. NEW SECTION. 322F.9 APPLICABILITY.

A term of a dealership agreement which is inconsistent with the terms of this chapter is void and unenforceable and does not waive any rights which are provided to a person provided by this chapter.

This chapter applies to all dealership agreements in effect which have no expiration date and all other agreements entered

into or renewed on or after July 1, 1990. Any agreement in effect on June 30, 1990, which by its own terms will terminate on a subsequent date, shall be governed by the law as it existed prior to July 1, 1990.

JO ANN ZIMMERMAN
President of the Senate

DONALD D. AVENSON
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2334, Seventy-third General Assembly.

JOHN F. DWYER
Secretary of the Senate

Approved March 27, 1990

TERRY E. BRANSTAD
Governor

SF 2334