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3/5/02  
(P. 600)

2/13/02 Do Pass  
COMMERCE H-266/02 Commerce

FILED JAN 30 2002

SENATE FILE 2084  
BY JENSEN

(COMPANION TO LSB 5767HH  
BY JOHNSON)

Passed Senate, Date 2/25/02 (P. 387) Passed House, Date 3/5/02 (P. 601)  
Vote: Ayes 48 Nays 0 Vote: Ayes 96 Nays 0  
Approved March 14, 2002

A BILL FOR

1 An Act relating to business relationships between persons  
2 involved in the sale of certain vehicles, including suppliers  
3 and dealers of all-terrain vehicles.

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

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SF 2084  
COMMERCE

1 Section 1. Section 322D.1, Code 2001, is amended by adding  
2 the following new subsection:

3 NEW SUBSECTION. 01. "All-terrain vehicle" means the same  
4 as defined in section 321G.1.

5 Sec. 2. Section 322D.1, subsection 1, Code 2001, is  
6 amended to read as follows:

7 1. "Attachment" means a machine or part of a machine  
8 designed to be used on and in conjunction with a farm  
9 implement, ~~or a motorcycle,~~ or all-terrain vehicle.

10 Sec. 3. Section 322D.1, subsection 3, paragraphs b and e,  
11 Code 2001, are amended to read as follows:

12 b. The franchisee is granted the right to offer and sell  
13 farm implements, ~~or motorcycles,~~ all-terrain vehicles, or  
14 related parts or attachments manufactured or distributed by  
15 the franchiser.

16 e. The operation of the franchisee's business is  
17 substantially reliant on the franchiser for the continued  
18 supply of farm implements, motorcycles, all-terrain vehicles,  
19 or related parts, or attachments.

20 Sec. 4. Section 322D.1, subsections 4 through 6, Code  
21 2001, are amended to read as follows:

22 4. "Franchisee" means a person who receives farm  
23 implements, ~~or motorcycles,~~ all-terrain vehicles, or related  
24 parts for farm implements or motorcycles or attachments from  
25 the franchiser under a franchise and who offers and sells the  
26 farm implements, ~~or motorcycles,~~ all-terrain vehicles, or  
27 ~~their~~ related parts or attachments to the general public.

28 5. "Franchiser" means a person who manufactures,  
29 wholesales, or distributes farm implements, ~~or motorcycles,~~  
30 all-terrain vehicles, or related parts for farm implements or  
31 motorcycles or attachments, and who enters into a franchise.

32 6. "Motorcycle" ~~has the same meaning~~ means a motor vehicle  
33 as defined in section 321.17-subsection-407-paragraph-"a"  
34 other than an all-terrain vehicle, which has a saddle or seat  
35 for the use of a rider and that is designed to travel on not

1 more than two wheels in contact with the ground, but excluding  
2 a motorized bicycle as defined in section 321.1.

3 Sec. 5. Section 322D.2, Code 2001, is amended to read as  
4 follows:

5 322D.2 FRANCHISEE'S RIGHTS TO PAYMENT.

6 1. A franchisee who enters into a written franchise with a  
7 franchiser to maintain a stock of farm implements,  
8 motorcycles, all-terrain vehicles, or related parts, or  
9 attachments, farm implements, or motorcycles has the following  
10 rights to payment, at the option of the franchisee, if the  
11 franchise is terminated:

12 a. One hundred percent of the net cost of new unused  
13 complete farm implements, or motorcycles, including all-  
14 terrain vehicles, or related attachments, which were purchased  
15 from the franchiser, ~~and in.~~ In addition, the franchisee  
16 shall have a right of payment for transportation charges on  
17 the farm implements, or motorcycles, or all-terrain vehicles  
18 which have been paid by the franchisee.

19 b. Eighty-five percent of the net prices of any repair  
20 parts, including superseded parts, which were purchased from  
21 the franchiser and held by the franchisee on the date of that  
22 the termination-of-the franchise terminated.

23 c. Five percent of the net prices of the parts resold  
24 under paragraph "b" for handling, packing, and loading of the  
25 parts except-that. However, this payment shall not be due to  
26 the franchisee if the franchiser elects to perform the  
27 handling, packing, and loading.

28 2. Upon receipt of the payments due under subsection 1,  
29 the franchiser is entitled to possession of and title to the  
30 farm implements, motorcycles, all-terrain vehicles, or related  
31 parts or attachments, or parts.

32 3. The cost of farm implements, motorcycles, all-terrain  
33 vehicles, or related attachments and the price of repair parts  
34 shall be determined by reference to the franchiser's price  
35 list or catalog in effect at the time of the franchise

1 termination.

2 Sec. 6. Section 322D.3, subsections 7 and 9, Code 2001,  
3 are amended to read as follows:

4 7. A farm implement, ~~or motorcycle, or all-terrain vehicle~~  
5 which is not in new, unused, undamaged, or complete condition.

6 9. A farm implement, ~~or motorcycle, or all-terrain vehicle~~  
7 which was purchased twenty-four months or more prior to the  
8 termination of the franchise.

9 Sec. 7. NEW SECTION. 322D.9 APPLICATION -- ALL-TERRAIN  
10 VEHICLES.

11 1. This chapter applies to a franchise for all-terrain  
12 vehicles only if chapter 322F does not apply to a dealership  
13 engaged in the retail sale of equipment designed to be  
14 principally used for agricultural operations under chapter  
15 322F.

16 2. The rights under section 322D.2, subsection 1, shall  
17 apply to a franchise for all-terrain vehicles as follows:

18 a. All franchises in effect on the effective date of this  
19 Act that have no expiration date and are continuing  
20 franchises.

21 b. Franchises that have been executed or renewed on or  
22 after the effective date of this Act, but only for all-terrain  
23 vehicles and related parts or attachments purchased on or  
24 after the effective date of this Act.

25 Sec. 8. Section 322F.1, Code 2001, is amended by adding  
26 the following new subsection:

27 NEW SUBSECTION. 01. "All-terrain vehicle" means the same  
28 as defined in section 321G.1.

29 Sec. 9. Section 322F.1, subsections 1 and 3, Code 2001,  
30 are amended to read as follows:

31 1. "Dealer" or "dealership" means a person engaged in the  
32 retail sale of equipment, if the person sells equipment  
33 designed to be principally used for agricultural ~~or~~  
34 ~~horticultural~~ operations, ~~or-raising-livestock including but~~  
35 not limited to livestock or crop production or horticulture.

1 3. a. "Equipment" means a any of the following:

2 (1) A device or part of a device designed to be used for  
3 any purpose related to agriculture, including but not limited  
4 to livestock or crop production or horticulture, or livestock  
5 raising. Equipment "Equipment" includes but is not limited to  
6 tractors, trailers, combines, tillage, planting, and  
7 cultivating implements, balers, and irrigation implements.

8 (2) All-terrain vehicles, as defined in section 321G.1.

9 ~~b. Equipment also includes attachments to~~ For purposes of  
10 this chapter, attachments to equipment shall be deemed  
11 equipment.

12 c. Equipment does not include self-propelled machines  
13 designed primarily for the transportation of persons or  
14 property on a street or highway.

15 Sec. 10. Section 322F.9, Code 2001, is amended to read as  
16 follows:

17 322F.9 APPLICABILITY.

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

22 2. a. ~~This~~ For all dealership agreements other than those  
23 for all-terrain vehicles, this chapter applies to all those  
24 dealership agreements in effect which that have no expiration  
25 date and all other agreements entered into or renewed on or  
26 after July 1, 1990. Any such dealership agreement in effect  
27 on June 30, 1990, which by its own terms will terminate on a  
28 subsequent date, shall be governed by the law as it existed  
29 prior to July 1, 1990.

30 b. For all dealership agreements for all-terrain vehicles,  
31 this chapter applies to those dealership agreements in effect  
32 that have no expiration date and all other such dealership  
33 agreements entered into or renewed on or after the effective  
34 date of this Act. Any such dealership agreement in effect on  
35 the effective date of this Act, which by its own terms will

1 terminate on a subsequent date, shall be governed by the law  
2 as it existed prior to the effective date of this Act.

3 EXPLANATION

4 This bill provides for agreements for persons merchandising  
5 all-terrain vehicles. Code chapter 322D governs agricultural  
6 equipment and motorcycle franchises. According to Code  
7 section 322D.7, for agricultural equipment franchises, the  
8 provisions are transitional. Code chapter 322F replaces Code  
9 chapter 322D's authority over franchise relationships based on  
10 agreements executed or renewed on or after July 1, 1990, or  
11 agreements without any expiration date. Code chapter 322D  
12 still governs motorcycle dealerships and agricultural  
13 dealership agreements executed prior to July 1, 1990, that  
14 expire on a certain date.

15 Code chapter 322D refers to the merchandisers as  
16 franchisees and their agreements with franchisers as franchise  
17 agreements while Code chapter 322F refers to the merchandisers  
18 as dealerships and their agreements with suppliers as  
19 dealership agreements. For purposes of simplicity, this  
20 explanation uses the terms contained in Code chapter 322F when  
21 describing both chapters. The bill provides that the term  
22 "all-terrain vehicle" means the same as defined in Code  
23 section 321G.1. That provision states that an all-terrain  
24 vehicle is a motorized flotation-tire vehicle with not less  
25 than three low-pressure tires, but not more than six low-  
26 pressure tires, or a two-wheeled off-road motorcycle, that is  
27 limited in engine displacement to less than 800 cubic  
28 centimeters and in total dry weight to less than 750 pounds  
29 and that has a seat or saddle designed to be straddled by the  
30 operator and handlebars for steering control.

31 The bill provides that for any remaining dealerships of  
32 agricultural equipment and for all dealerships of motorcycles  
33 governed under Code chapter 322D, those provisions apply to  
34 govern all-terrain vehicles. For agricultural equipment  
35 dealers governed under Code chapter 322F, the same provisions

1 that apply to agricultural equipment apply to all-terrain  
2 vehicles.

3 Generally, Code chapters 322D and 322F regulate business  
4 relationships between dealers and suppliers by providing for  
5 the terms and conditions of dealership agreements. These  
6 terms and conditions relate to causes for termination of a  
7 dealership agreement, including requiring that good cause  
8 exist for the termination. The two Code chapters provide  
9 requirements relating to the repurchase and repossession of  
10 equipment following termination of a dealership agreement.  
11 The Code chapters specify rights and obligations for dealers  
12 and suppliers. They place restrictions on supplier practices,  
13 and provide for supplier liability, and remedies available to  
14 the dealer.

15 Under both Code chapters, the provisions applying to all  
16 all-terrain vehicles apply to those dealership agreements in  
17 effect that have no expiration date and all other agreements  
18 entered into or renewed on or after the effective date of the  
19 bill. Any such dealership agreement in effect on the  
20 effective date of the bill, which by its own terms will  
21 terminate on a subsequent date, is governed by the law as it  
22 existed prior to the effective date of the bill.

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SENATE FILE 2084

AN ACT

RELATING TO BUSINESS RELATIONSHIPS BETWEEN PERSONS INVOLVED IN THE SALE OF CERTAIN VEHICLES, INCLUDING SUPPLIERS AND DEALERS OF ALL-TERRAIN VEHICLES.

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

Section 1. Section 322D.1, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 01. "All-terrain vehicle" means the same as defined in section 321G.1.

Sec. 2. Section 322D.1, subsection 1, Code 2001, is amended to read as follows:

1. "Attachment" means a machine or part of a machine designed to be used on and in conjunction with a farm implement, ~~or a motorcycle, or all-terrain vehicle.~~

Sec. 3. Section 322D.1, subsection 3, paragraphs b and e, Code 2001, are amended to read as follows:

b. The franchisee is granted the right to offer and sell farm implements, ~~or motorcycles,~~ all-terrain vehicles, or related parts or attachments manufactured or distributed by the franchiser.

e. The operation of the franchisee's business is substantially reliant on the franchiser for the continued supply of farm implements, motorcycles, all-terrain vehicles, or related parts, or attachments.

Sec. 4. Section 322D.1, subsections 4 through 6, Code 2001, are amended to read as follows:

4. "Franchisee" means a person who receives farm implements, ~~or motorcycles,~~ all-terrain vehicles, or related parts for farm implements or motorcycles or attachments from the franchiser under a franchise and who offers and sells the farm implements, ~~or motorcycles,~~ all-terrain vehicles, or

their related parts or attachments to the general public.

5. "Franchiser" means a person who manufactures, wholesales, or distributes farm implements, ~~or motorcycles,~~ all-terrain vehicles, or related parts for farm implements or motorcycles or attachments, and who enters into a franchise.

6. "Motorcycle" ~~has the same meaning~~ means a motor vehicle as defined in section 321.17-subsection-407-paragraph-"a" other than an all-terrain vehicle, which has a saddle or seat for the use of a rider and that is designed to travel on not more than two wheels in contact with the ground, but excluding a motorized bicycle as defined in section 321.1.

Sec. 5. Section 322D.2, Code 2001, is amended to read as follows:

322D.2 FRANCHISEE'S RIGHTS TO PAYMENT.

1. A franchisee who enters into a written franchise with a franchiser to maintain a stock of farm implements, motorcycles, all-terrain vehicles, or related parts, or attachments, ~~farm implements, or motorcycles~~ has the following rights to payment, at the option of the franchisee, if the franchise is terminated:

a. One hundred percent of the net cost of new unused complete farm implements, ~~or motorcycles,~~ including all-terrain vehicles, or related attachments, which were purchased from the franchiser, ~~and in.~~ In addition, the franchisee shall have a right of payment for transportation charges on the farm implements, or motorcycles, or all-terrain vehicles which have been paid by the franchisee.

b. Eighty-five percent of the net prices of any repair parts, including superseded parts, which were purchased from the franchiser and held by the franchisee on the date of that the termination of the franchise terminated.

c. Five percent of the net prices of the parts resold under paragraph "b" for handling, packing, and loading of the parts ~~except that.~~ However, this payment shall not be due to the franchisee if the franchiser elects to perform the

handling, packing, and loading.

2. Upon receipt of the payments due under subsection 1, the franchiser is entitled to possession of and title to the farm implements, motorcycles, all-terrain vehicles, or related parts or attachments, or parts.

3. The cost of farm implements, motorcycles, all-terrain vehicles, or related attachments and the price of repair parts shall be determined by reference to the franchiser's price list or catalog in effect at the time of the franchise termination.

Sec. 6. Section 322D.3, subsections 7 and 9, Code 2001, are amended to read as follows:

7. A farm implement, or motorcycle, or all-terrain vehicle which is not in new, unused, undamaged, or complete condition.

9. A farm implement, or motorcycle, or all-terrain vehicle which was purchased twenty-four months or more prior to the termination of the franchise.

Sec. 7. NEW SECTION. 322D.9 APPLICATION -- ALL-TERRAIN VEHICLES.

1. This chapter applies to a franchise for all-terrain vehicles only if chapter 322F does not apply to a dealership engaged in the retail sale of equipment designed to be principally used for agricultural operations under chapter 322F.

2. The rights under section 322D.2, subsection 1, shall apply to a franchise for all-terrain vehicles as follows:

a. All franchises in effect on the effective date of this Act that have no expiration date and are continuing franchises.

b. Franchises that have been executed or renewed on or after the effective date of this Act, but only for all-terrain vehicles and related parts or attachments purchased on or after the effective date of this Act.

Sec. 8. Section 322F.1, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 01. "All-terrain vehicle" means the same as defined in section 321G.1.

Sec. 9. Section 322F.1, subsections 1 and 3, Code 2001, are amended to read as follows:

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 including but not limited to livestock or crop production or horticulture.

3. a. "Equipment" means a any of the following:

(1) A device or part of a device designed to be used for any purpose related to agriculture, including but not limited to livestock or crop production or horticulture, or-livestock raising. Equipment "Equipment" includes but is not limited to tractors, trailers, combines, tillage, planting, and cultivating implements, balers, and irrigation implements.

(2) All-terrain vehicles, as defined in section 321G.1.

b. Equipment-also-includes-attachments-to For purposes of this chapter, attachments to equipment shall be deemed equipment.

c. Equipment does not include self-propelled machines designed primarily for the transportation of persons or property on a street or highway.

Sec. 10. Section 322F.9, Code 2001, is amended to read as follows:

322F.9 APPLICABILITY.

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

2. a. This For all dealership agreements other than those for all-terrain vehicles, this chapter applies to all those dealership agreements in effect which that have no expiration date and all other agreements entered into or renewed on or after July 1, 1990. Any such dealership 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.

b. For all dealership agreements for all-terrain vehicles, this chapter applies to those dealership agreements in effect that have no expiration date and all other such dealership agreements entered into or renewed on or after the effective date of this Act. Any such dealership agreement in effect on the effective date of this Act, which by its own terms will terminate on a subsequent date, shall be governed by the law as it existed prior to the effective date of this Act.

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MARY E. KRAMER

President of the Senate

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BRENT SIEGRIST

Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2084, Seventy-ninth General Assembly.

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MICHAEL E. MARSHALL

Secretary of the Senate

Approved March 14, 2002

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THOMAS J. VILSACK

Governor