CHAPTER 322D

FARM IMPLEMENT, MOTORCYCLE, SNOWMOBILE, AND ALL-TERRAIN VEHICLE FRANCHISES

Referred to in §322.36, §523H.1, §537A.10

For provisions applicable to certain agricultural equipment dealership agreements, see chapter 322F, §322F.9

322D.1 Definitions.
322D.2 Franchisee's rights to payment.
322D.3 Exceptions.
322D.4 Franchiser failure to comply — civil penalty.
322D.5 Death of a franchisee or majority stockholder.
322D.6 Security interests not affected.
322D.7 Application — farm implement franchise agreements.
322D.8 Application — motorcycle franchise agreements.
322D.9 Application — all-terrain vehicles.
322D.10 Application — snowmobile franchise agreements.

322D.1 Definitions.

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

1. *"All-terrain vehicle"* means a motor vehicle designed to travel on three or more wheels and designed primarily for off-road recreational use but not including farm tractors or equipment, construction equipment, forestry vehicles, or lawn and grounds maintenance vehicles.

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

3. *"Farm implement"* means a machine designed or adapted and used exclusively for agricultural or horticultural operations or livestock raising.

4. *"Franchise"* means a contract between two or more persons when all of the following conditions are included:

a. A commercial relationship of definite duration or continuing indefinite duration is involved.

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

c. The franchisee, as an independent business, constitutes a component of the franchiser's distribution system.

d. The operation of the franchisee's business is substantially associated with the franchiser's trademark, service mark, trade name, advertising, or other commercial symbol designating 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, snowmobiles, or related parts or attachments.

5. *"Franchisee"* means a person who receives farm implements, motorcycles, all-terrain vehicles, snowmobiles, or related parts or attachments from the franchiser under a franchise and who offers and sells the farm implements, motorcycles, all-terrain vehicles, snowmobiles, or related parts or attachments to the general public.

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

7. *"Motorcycle"* means a motor vehicle as defined in section 321.1 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.

8. *"Net cost"* means the price the franchisee actually paid for the merchandise to the franchiser less any applicable trade, volume, cash or bonus discounts.

9. *"Net price"* means the price listed in the franchiser's price list in effect at the time the franchise is canceled, less any applicable trade, volume or cash discounts.

10. *"Person"* means a sole proprietor, partnership, corporation, or any other form of business organization.

11. *"Snowmobile"* means the same as defined in **section 321G.1**.

84 Acts, ch 1087, §1; 85 Acts, ch 47, §1 – 4; 2002 Acts, ch 1011, §1 – 4; 2003 Acts, ch 28, §1 – 4, 8; 2004 Acts, ch 1132, §82; 2010 Acts, ch 1186, §11

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, snowmobiles, or related parts or attachments 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, motorcycles, all-terrain vehicles, snowmobiles, or related attachments, which were purchased from the franchiser. In addition, the franchisee shall have a right of payment for transportation charges on the farm implements, motorcycles, all-terrain vehicles, or snowmobiles, 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 that the franchise terminated.

c. Five percent of the net prices of parts resold under paragraph *"b"* for handling, packing, and loading of the parts. 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, snowmobiles, or related parts or attachments.

3. The cost of farm implements, motorcycles, all-terrain vehicles, snowmobiles, 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.

84 Acts, ch 1087, §2; 85 Acts, ch 26, §1; 85 Acts, ch 47, §5 – 7; 2002 Acts, ch 1011, §5; 2003 Acts, ch 28, §5, 8

Referred to in **§322D.8**, **§322D.9**, **§322D.10**

322D.3 Exceptions.

This chapter does not require repurchase from a franchisee of:

1. A repair part which has a limited storage life or is otherwise subject to deterioration, such as rubber items, gaskets or batteries.

2. A repair part which is in a broken or damaged package.

3. A single repair part which is priced as a set of two or more items.

4. A repair part which because of its condition is not resalable as a new part without repackaging or reconditioning.

5. Any inventory for which the franchisee is unable to furnish evidence of title and ownership in the franchisee that is free and clear of all claims, liens and encumbrances to the satisfaction of the franchiser.

6. Any inventory which a franchisee desires to keep, provided the franchisee has a contractual right in the franchise agreement to do so.

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

8. A repair part which is not in new, unused, or undamaged condition.

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

10. Any inventory which was ordered by the franchisee on or after the date of notification of termination of the franchise.

11. Any inventory which was acquired by the franchisee from a source other than the franchiser with whom the franchise is being terminated.

12. A repair part not listed in the franchiser's current price list in effect on the date of notice of termination or classified as nonreturnable or obsolete by the franchiser as of the date of termination. However, this exception to the repurchase requirement applies only if the franchiser provided the franchisee with an opportunity to return the exempted part prior to notice of termination of the franchise.

84 Acts, ch 1087, §3; 85 Acts, ch 47, §8; 85 Acts, ch 67, §39; 2002 Acts, ch 1011, §6; 2003 Acts, ch 28, §6, 8

322D.4 Franchiser failure to comply — civil penalty.

In the event that any franchiser fails to make payment to the franchisee or the franchisee's heir or heirs as required by **this chapter** within sixty days after the inventory has been received by the franchiser, the franchiser is civilly liable for one hundred percent of the current net price of the inventory; transportation charges which have been paid by the franchisee; eighty-five percent of the current net price of repair parts; five percent of the current net price of repair parts to cover handling, packing and loading, if applicable; and attorney fees incurred by the franchisee or the franchisee's heir or heirs.

84 Acts, ch 1087, §4; 85 Acts, ch 47, §9

322D.5 Death of a franchisee or majority stockholder.

If the franchisee is a natural person, the rights under **this chapter** may be exercised by the heirs of the franchisee upon the death of the franchisee. If the franchisee is a business organization, the rights may be exercised by the heirs of a majority stockholder of the franchisee upon the death of the majority stockholder.

84 Acts, ch 1087, §5

322D.6 Security interests not affected.

The provisions of **this chapter** shall not be construed to affect, in any way, the existence or enforcement of any security interest which a supplier, any financial institution or any other person may have in the inventory of the retailer.

84 Acts, ch 1087, §6; 94 Acts, ch 1121, §1

322D.7 Application — farm implement franchise agreements.

This chapter applies until July 1, 1990, to all farm implement franchise agreements 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.

85 Acts, ch 26, §2; 90 Acts, ch 1077, §1

For provisions applicable on and after July 1, 1990, to agricultural equipment dealership agreements having no expiration date or entered into or renewed on or after July 1, 1990, see **chapter 322F**; **§322F.9**

322D.8 Application — motorcycle franchise agreements.

The rights under **section 322D.2, subsection 1**, apply to motorcycle franchise agreements in effect on July 1, 1985, which have no expiration date and are continuing agreements, and to those entered into or renewed after July 1, 1985, but only to motorcycles and motorcycle attachments and parts purchased after July 1, 1985.

85 Acts, ch 47, §10

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 July 1, 2002, that have no expiration date and are continuing franchises.

b. Franchises that have been executed or renewed on or after July 1, 2002, but only for all-terrain vehicles and related parts or attachments purchased on or after July 1, 2002.

2002 Acts, ch 1011, §7

322D.10 Application — snowmobile franchise agreements.

The rights under **section 322D.2, subsection 1**, apply to snowmobile franchises in effect on January 1, 2003, which have no expiration date and are continuing franchises, and to franchises executed or renewed on or after January 1, 2003, but only to snowmobiles and related parts or attachments purchased on or after January 1, 2003.

2003 Acts, ch 28, §7, 8