

*Substituted for
by SF 2084
3/5/02
(P. 600)*

FEB 21 2002

Place On Calendar

HOUSE FILE 2489

BY COMMITTEE ON COMMERCE
AND REGULATION

(SUCCESSOR TO HF 2251)

WITHDRAWN
3/5/02

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to business relationships between persons
2 involved in the sale of certain vehicles, including
3 franchisers and franchisees of all-terrain vehicles.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2489

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

13 1. All franchises in effect on the effective date of this
14 Act that have no expiration date and are continuing
15 franchises.

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

20 EXPLANATION

21 This bill provides for agreements for persons merchandising
22 all-terrain vehicles. Code chapter 322D governs agricultural
23 equipment and motorcycle franchises. According to Code
24 section 322D.7, for agricultural equipment franchises, the
25 provisions are transitional. Code chapter 322F replaces Code
26 chapter 322D's authority over franchise relationships based on
27 agreements executed or renewed on or after July 1, 1990, or
28 agreements without any expiration date. Code chapter 322D
29 still governs motorcycle dealerships and agricultural
30 dealership agreements executed prior to July 1, 1990, that
31 expire on a certain date.

32 Code chapter 322D refers to the merchandisers as
33 franchisees and their agreements with franchisers as franchise
34 agreements. The bill provides that the term "all-terrain
35 vehicle" means the same as defined in Code section 321G.1.

1 That provision states that an all-terrain vehicle is a
2 motorized flotation-tire vehicle with not less than three low-
3 pressure tires, but not more than six low-pressure tires, or a
4 two-wheeled off-road motorcycle, that is limited in engine
5 displacement to less than 800 cubic centimeters and in total
6 dry weight to less than 750 pounds and that has a seat or
7 saddle designed to be straddled by the operator and handlebars
8 for steering control.

9 The bill provides that for any remaining franchises of
10 agricultural equipment and for all franchises of motorcycles
11 governed under Code chapter 322D, those provisions apply to
12 govern all-terrain vehicles.

13 Generally, Code chapter 322D regulates business
14 relationships between franchisees and franchisors by providing
15 for the terms and conditions of franchise agreements. These
16 terms and conditions relate to causes for termination of a
17 franchise agreement. The Code chapter provides requirements
18 relating to the repurchase and repossession of equipment
19 following termination of a franchise agreement. The Code
20 chapter specifies rights and obligations for franchisees and
21 franchisers. The Code chapter places restrictions on
22 franchiser practices, and provides for liability and remedies
23 available to the franchisee.

24 Under Code chapter 322D, the provisions applying to all
25 all-terrain vehicles apply to those agreements in effect that
26 have no expiration date and all other agreements entered into
27 or renewed on or after the effective date of the bill.

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HOUSE FILE 2489

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1 Amend House File 2489 as follows:

2 1. By striking everything after the enacting
3 clause and inserting the following:

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

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

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

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

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

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

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

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

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

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

38 6. "Motorcycle" ~~has the same meaning~~ means a motor
39 vehicle as defined in section 321.1, subsection 40,
40 paragraph "a" other than an all-terrain vehicle, which
41 has a saddle or seat for the use of a rider and that
42 is designed to travel on not more than two wheels in
43 contact with the ground, but excluding a motorized
44 bicycle as defined in section 321.1.

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

47 322D.2 FRANCHISEE'S RIGHTS TO PAYMENT.

48 1. A franchisee who enters into a written
49 franchise with a franchiser to maintain a stock of
50 farm implements, motorcycles, all-terrain vehicles, or

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1 ~~related parts, or attachments, farm implements, or~~
2 ~~motorcycles~~ has the following rights to payment, at
3 the option of the franchisee, if the franchise is
4 terminated:

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

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

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

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

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

34 Sec. 6. Section 322D.3, subsections 7 and 9, Code
35 2001, are amended to read as follows:

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

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

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

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

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

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1 follows:

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

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

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

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

14 Sec. 9. Section 322F.1, subsections 1 and 3, Code
15 2001, are amended to read as follows:

16 1. "Dealer" or "dealership" means a person engaged
17 in the retail sale of equipment, if the person sells
18 equipment designed to be principally used for
19 ~~agricultural or horticultural~~ operations, ~~or raising~~
20 ~~livestock~~ including but not limited to livestock or
21 crop production or horticulture.

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

23 (1) A device or part of a device designed to be
24 used for any purpose related to agriculture, including
25 but not limited to livestock or crop production or
26 horticulture, or livestock raising. Equipment

27 "Equipment" includes but is not limited to tractors,
28 trailers, combines, tillage, planting, and cultivating
29 implements, balers, and irrigation implements.

30 (2) All-terrain vehicles, as defined in section
31 321G.1.

32 ~~b. Equipment also includes attachments to~~ For
33 purposes of this chapter, attachments to equipment
34 shall be deemed equipment.

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

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

40 322F.9 APPLICABILITY.

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

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

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1 1990. Any such dealership agreement in effect on June
2 30, 1990, which by its own terms will terminate on a
3 subsequent date, shall be governed by the law as it
4 existed prior to July 1, 1990.

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

15 2. Title page, line 3, by striking the words
16 "franchisers and franchisees" and inserting the
17 following: "suppliers and dealers".

By JOHNSON of Osceola

H-8116 FILED FEBRUARY 27, 2002

*Adopted
3/5/02*