

JAN 22 2004
COMMERCE, REGULATION & LABOR

HOUSE FILE 2060
BY CARROLL

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 personal mobile vehicles, including
3 motorcycles, all-terrain vehicles, snowmobiles, and personal
4 watercraft, and providing for applicability.

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

HF 2060

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1 Section 1. Section 322D.1, subsections 2, 5, 6, and 10,
2 Code Supplement 2003, are amended to read as follows:

3 2. "Attachment" means a machine or part of a machine
4 designed to be used on and in conjunction with a farm
5 implement~~7-motorcycle7-all-terrain-vehicle7-or-snowmobile~~ or
6 personal mobile vehicle.

7 2A. "Equipment" means a farm implement, personal mobile
8 vehicle, or a related part or attachment.

9 5. "Franchisee" means a person who receives farm
10 ~~implements7-motorcycles7-all-terrain-vehicles7-snowmobiles7-or~~
11 ~~related-parts-or-attachments~~ equipment from the a franchiser
12 under a franchise and who offers and sells the farm
13 ~~implements7-motorcycles7-all-terrain-vehicles7-snowmobiles7-or~~
14 ~~related-parts-or-attachments~~ equipment to the general public.

15 6. "Franchiser" means a person who manufactures,
16 wholesales, or distributes ~~farm-implements7-motorcycles7-all-~~
17 ~~terrain-vehicles7-snowmobiles7-or-related-parts-or~~
18 ~~attachments7~~ equipment and who enters into a franchise.

19 10. "Person" means ~~a-sole-proprietor7-partnership7~~
20 ~~corporation7-or-any-other-form-of-business-organization~~ an
21 individual or business association as defined in section
22 202B.102.

23 10A. "Personal mobile vehicle" means an all-terrain
24 vehicle, motorcycle, personal watercraft, or snowmobile.

25 10B. "Personal watercraft" means the same as defined in
26 section 462A.2.

27 Sec. 2. Section 322D.1, subsection 4, paragraphs b and e,
28 Code Supplement 2003, are amended to read as follows:

29 b. The franchisee is granted the right to offer and sell
30 ~~farm-implements7-motorcycles7-all-terrain-vehicles7~~
31 ~~snowmobiles7-or-related-parts-or-attachments~~ equipment
32 manufactured or distributed by the franchiser.

33 e. The operation of the franchisee's business is
34 substantially reliant on the franchiser for the continued
35 supply of ~~farm-implements7-motorcycles7-all-terrain-vehicles7~~

1 ~~snowmobiles, or related parts or attachments~~ equipment.

2 Sec. 3. Section 322D.2, subsection 1, unnumbered paragraph
3 1, Code Supplement 2003, is amended to read as follows:

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

10 Sec. 4. Section 322D.2, subsection 1, paragraph a, Code
11 Supplement 2003, is amended to read as follows:

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

19 Sec. 5. Section 322D.2, subsections 2 and 3, Code
20 Supplement 2003, are amended to read as follows:

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

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

30 Sec. 6. NEW SECTION. 322D.2A WARRANTIES -- PERSONAL
31 MOBILE VEHICLES.

32 This section applies to a franchise of personal mobile
33 vehicles, or related parts or attachments.

34 1. The franchiser shall satisfy its warranty obligations
35 within a reasonable time.

1 2. If the franchisee performs labor or provides parts in
2 satisfaction of a warranty required to be honored by the
3 franchiser, all of the following shall apply:

4 a. The franchiser shall reimburse the franchisee for parts
5 supplied by the franchisee and for labor performed by the
6 franchisee under the warranty.

7 (1) The franchiser shall reimburse the franchisee for
8 parts at the published manufacturer's suggested retail price
9 at the time of retail sale.

10 (2) The franchiser shall reimburse the franchisee for
11 labor at the retail rate customarily charged by the franchisee
12 for performing the same labor not performed to honor a
13 warranty. The franchisee shall post the rates for performing
14 labor not performed to honor a warranty in a conspicuous place
15 on the franchisee's premises in a manner to reasonably notify
16 its customers.

17 b. A franchisee may make a claim to a franchiser to be
18 reimbursed for parts provided or labor performed in honoring
19 the franchiser's warranty obligation. The franchiser must
20 approve or disapprove the claim within thirty days from the
21 date that the franchiser receives the claim.

22 (1) If any part of the claim is approved, the franchiser
23 must reimburse the franchisee the amount of the approved claim
24 within the thirty-day period.

25 (2) If any part of the claim is disapproved, the
26 franchisee must receive a notice of the disapproval within
27 that thirty-day period. The notice must be in writing and
28 state each reason for the disapproval. If the franchisee is
29 the prevailing party in an action to recover the amount
30 disputed in a claim, the franchisee shall be awarded
31 reasonable attorney fees plus court costs, which shall be
32 taxed as part of the costs of the action.

33 3. An agreement executed between the franchiser and
34 franchisee is void if it does any of the following:

35 a. Provides for a rate of reimbursement that is less than

1 provided in this section.

2 b. Restricts or impairs the ability of a franchisee to
3 provide parts or perform labor necessary to honor a warranty
4 obligation according to generally accepted standards for the
5 business.

6 Sec. 7. Section 322D.3, subsections 7 and 9, Code
7 Supplement 2003, are amended to read as follows:

8 7. A farm implement, ~~motorcycle, all-terrain vehicle, or~~
9 snowmobile or personal mobile vehicle which is not in new,
10 unused, undamaged, or complete condition.

11 9. A farm implement, ~~motorcycle, all-terrain vehicle, or~~
12 snowmobile or personal mobile vehicle which was purchased
13 twenty-four months or more prior to the termination of the
14 franchise.

15 Sec. 8. Section 322D.9, subsection 1, Code 2003, is
16 amended to read as follows:

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

22 Sec. 9. NEW SECTION. 322D.11 APPLICATION -- PERSONAL
23 WATERCRAFT.

24 The rights under section 322D.2, subsection 1, apply to
25 personal watercraft franchise agreements in effect on July 1,
26 2004, which have no expiration date and are continuing
27 franchises, and to franchises executed or renewed on or after
28 July 1, 2004, but only to personal watercraft and related
29 parts or attachments purchased on or after July 1, 2004.

30 Sec. 10. NEW SECTION. 322D.12 APPLICATION -- PERSONAL
31 MOBILE VEHICLES.

32 The rights under section 322D.2A shall apply to franchise
33 agreements for personal mobile vehicles as follows:

34 1. All franchises in effect on July 1, 2004, that have no
35 expiration date and are continuing franchises.

1 2. Franchises that have been executed or renewed on or
2 after July 1, 2004, but only for personal mobile vehicles and
3 related parts or attachments purchased on or after July 1,
4 2004.

5 Sec. 11. NEW SECTION. 322F.3A WARRANTIES -- ALL-TERRAIN
6 VEHICLES.

7 This section applies to a dealership agreement which
8 provides that the dealer is granted the right to sell,
9 distribute, or service all-terrain vehicles as provided in
10 this chapter.

11 1. The supplier shall satisfy its warranty obligations
12 within a reasonable time.

13 2. If the dealer performs labor or provides parts in
14 satisfaction of a warranty required to be honored by the
15 supplier, all of the following shall apply:

16 a. The supplier shall reimburse the dealer for parts
17 supplied by the dealer and for labor performed by the dealer
18 under the warranty.

19 (1) The supplier shall reimburse the dealer for parts at
20 the published manufacturer's suggested retail price at the
21 time of retail sale.

22 (2) The supplier shall reimburse the dealer for labor at
23 the retail rate customarily charged by the dealer for
24 performing the same labor not performed to honor a warranty.
25 The dealer shall post the rates for performing labor not
26 performed to honor a warranty in a conspicuous place on the
27 dealer's premises in a manner to reasonably notify its
28 customers.

29 b. A dealer may make a claim to a supplier to be
30 reimbursed for parts provided or labor performed in honoring
31 the supplier's warranty obligation. The supplier must approve
32 or disapprove the claim within thirty days from the date that
33 the supplier receives the claim.

34 (1) If any part of the claim is approved, the supplier
35 must reimburse the dealer the amount of the approved claim

1 within the thirty-day period.

2 (2) If any part of the claim is disapproved, the dealer
3 must receive a notice of the disapproval within that thirty-
4 day period. The notice must be in writing and state each
5 reason for the disapproval.

6 3. An agreement executed between the supplier and dealer
7 is void if it does any of the following:

8 a. Provides for a rate of reimbursement that is less than
9 provided in this section.

10 b. Restricts or impairs the ability of a dealer to provide
11 parts or perform labor necessary to honor a warranty
12 obligation according to generally accepted standards for the
13 business.

14 Sec. 12. Section 322F.9, subsection 2, Code Supplement
15 2003, is amended by adding the following new paragraph:

16 NEW PARAGRAPH. d. For provisions in dealership agreements
17 governing warranties for all-terrain vehicles, section 322F.3A
18 applies to those provisions in effect that have no expiration
19 date and all other such provisions in dealership agreements
20 entered into or renewed on or after July 1, 2004. For any
21 such provision in a dealership agreement in effect on July 1,
22 2004, which by its own terms will terminate on a subsequent
23 date, the dealership agreement shall be governed by the law as
24 it existed prior to July 1, 2004.

25 EXPLANATION

26 This bill regulates franchise agreements between persons
27 merchandising certain equipment referred to as personal mobile
28 vehicles. It amends two related Code chapters: 322D and
29 322F. Historically, Code chapter 322D governed agricultural
30 equipment and motorcycle franchises. Generally, Code chapter
31 322D's regulation of agricultural equipment franchises was
32 supplanted by Code chapter 322F in 1990. The new Code chapter
33 covers franchise relationships based on agreements executed or
34 renewed on or after July 1, 1990, or agreements without any
35 expiration date. Code chapter 322D continues to govern

1 motorcycle dealerships and other agricultural franchise
2 agreements. While Code chapter 322F refers to the
3 merchandisers as dealerships and their agreements with
4 suppliers as dealership agreements, Code chapter 322D refers
5 to merchandisers as franchisees and their agreements with
6 franchisers as franchise agreements. Both Code chapters
7 regulate these business relationships by specifying rights and
8 obligations for both parties. They also place restrictions on
9 franchiser practices, provide for their liability, and make
10 remedies available to the franchisee.

11 In 2002, the general assembly enacted legislation which
12 provides that Code chapter 322D covers franchise agreements
13 for the merchandising of all-terrain vehicles. It also
14 provided that for franchisers of agricultural equipment
15 governed under new Code chapter 322F who also merchandised
16 all-terrain vehicles, the provisions of the new Code chapter
17 would apply to them. In 2003, the franchise law was amended
18 again. In part, Code chapter 322D's provisions were extended
19 to cover franchise agreements for the merchandising of
20 snowmobiles.

21 The bill amends both Code chapters 322D and 322F. It
22 amends the definitions in Code chapter 322D in order to
23 enhance the Code chapter's readability. For purposes of
24 reference, the bill refers to motorcycles, all-terrain
25 vehicles, snowmobiles, and personal watercraft as "personal
26 mobile vehicles". It refers to farm implements as well as
27 personal mobile vehicles and associated attachments as
28 "equipment".

29 Substantively, the bill requires that the provisions of
30 Code chapter 322D apply to cover personal watercraft (a vessel
31 less than 16 feet in length, propelled by a water jet pump or
32 similar machinery, and designed to be operated by a person
33 sitting, standing, or kneeling on the vessel), such as a "jet
34 ski".

35 In addition, the bill provides additional restrictions upon

1 franchise agreements involving personal mobile vehicles under
2 Code chapter 322D and all-terrain vehicles under Code chapter
3 322F. The new provisions concern warranties. Under the bill,
4 a franchiser must satisfy its warranty obligations within a
5 reasonable time. If a franchisee honors a warranty by
6 providing parts or performing labor, the franchiser must
7 reimburse the franchisee. The bill regulates the amount of
8 the reimbursement based on parts and labor ordinarily charged
9 absent a warranty. It also provides for the submission of
10 claims by the franchisee and the approval or disapproval of
11 those claims by the franchiser. The bill amends Code chapter
12 322D to provide that if the franchisee prevails in a legal
13 action based on a disapproved claim, the franchiser is
14 obligated to pay the franchisee reasonable attorney fees plus
15 court costs. A similar provision already exists under Code
16 chapter 322F. The bill also provides that any agreement which
17 provides terms contrary to those in the bill are void.

18 The bill provides special applicability provisions for
19 franchise agreements involving personal mobile vehicles under
20 Code chapter 322D and for all-terrain vehicles under Code
21 chapter 322F which are based on those provisions enacted in
22 prior years. Generally, the provisions of the bill do not
23 apply to a franchise agreement which is effective on July 1,
24 2004, and which is to expire.

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