

SENATE APPROPRIATIONS COMMITTEE

FISCAL NOTE

BILL NO. Senate Bill 1169

PRINTER'S NO. 2038

AMOUNT

No Fiscal Impact

FUND

General

DATE INTRODUCED

June 23, 2011

PRIME SPONSOR

Senator Waugh

HISTORY OF BILL

Referred to AGRICULTURE AND RURAL AFFAIRS, June 23, 2011

Reported as amended, Dec. 14, 2011

First consideration, Dec. 14, 2011

Re-referred to APPROPRIATIONS, Jan. 25, 2012

Re-reported as amended, March 26, 2012

DESCRIPTION AND PURPOSE OF BILL

Senate Bill 1169 amends the Pennsylvania Fair Dealership Law (Act 86 of 1987), which regulates agreements between dealers and suppliers of agriculture equipment, by making the following changes:

- Adds several new definitions and makes clarifying changes to several existing definitions.
- Allows a dealer to terminate a dealer agreement for good cause after providing the supplier with 30 days notice via registered mail.
- Prohibits a supplier from substantially changing the competitive circumstances of a dealer agreement without good cause.
- Requires a supplier to repurchase unused equipment, repair parts and specialty tools when it terminates a dealer agreement under any circumstance.
- Increases the period of time a dealer has to cure deficiencies before a supplier may terminate a dealer agreement from 60 to 90 days.
- Increases the period of time an heir of a deceased or incapacitated dealer has to require a supplier to repurchase equipment, repair parts and tools from 120 days to one year.
- Makes it unlawful for a supplier to require, coerce or attempt to coerce a dealer to do the following:
 - Order or accept delivery of equipment, parts or accessories not voluntarily ordered, except in agreements requiring dealers to market representative lines.
 - Order or accept delivery of equipment with special features not included in the list price as advertised.
 - Participate monetarily in advertising or contests, or require the purchase of unnecessary or unreasonable quantities of promotional materials.

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- Enter into an agreement or do anything prejudicial by threatening termination or nonrenewal of a dealer agreement.
- Change the capital structure of the dealer.
- Refrain from participation in the management of, investment in or the acquisition of any other line-make of equipment or related products.
- Prospectively assent to a release, assignment, waiver or estoppels relieving any person from liability.
- Expand, construct or modify facilities without an assurance it will provide for a reasonable supply of equipment in a reasonable time to justify the expansion.
- Provides that it is a violation of the act for a supplier to do any of the following:
 - Delay, refuse or fail to deliver equipment, parts or accessories in a reasonable time or a reasonable quantity.
 - Unfairly discriminate among dealers with respect to labor and parts reimbursement for warranty, recall or service contract work.
 - Unreasonably withhold consent to the sale of a dealership.
 - Arbitrarily and capriciously withhold consent for an existing dealer to relocate.
 - Not respond to a written request to consent to a sale or relocate a dealership.
 - Prevent or attempt to prevent a dealership from changing management.
 - Offer discounts to a government entity without making the same offer to a dealer.
 - Fail to indemnify a dealer against any judgment for damages or a settlement approved by the supplier.
 - Sell or exchange through a second or final stage supplier or consumer except through a dealer.
 - Modify a dealer agreement during the term of the agreement or upon its renewal, if the modification substantially and adversely affects the dealer without giving 60 days written notice which includes the good cause and relevant factors.
 - Fail or refuse to offer all new model equipment manufactured for a line-make, require unreasonable fees, require unreasonable construction or renovation or remodeling of facilities, require unreasonable purchase of parts, supplies, tools or equipment.
 - Operate an unfair system of allocation of equipment.
 - Own operate or control, directly or indirectly any warranty facility.
 - Compel a dealer through a finance subsidiary to to agree to unreasonable operating requirements.
 - Use a subsidiary to accomplish what would otherwise be illegal under this act.
 - Vary the price charged to dealers, in a manner which causes a difference in price.
 - Prohibits certain site-control and exclusive use agreements.
- Stipulates that the provisions in the law are supplementary to any dealer agreement which provides the dealer with greater protection.
- Allows a dealer to pursue other contract remedies under the law.
- Prohibits waiver of any provision of the act and voids any provisions in a dealer agreement that propose to elect application to another state's law or require a dealer to pay attorneys fees incurred by a supplier.
- Prohibits a supplier from requiring a dealer to waive the right to a trial by jury as a remedy to a dispute.

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The legislation is scheduled to take effect immediately.

FISCAL IMPACT

The enactment of Senate Bill 1169 will have no adverse fiscal impact on Commonwealth funds.