

succeeding franchise that would adversely alter the rights or obligations of a new motor vehicle dealer under an existing franchise or that substantially impairs the sales or service obligations or investments of the motor vehicle dealer;

(l) To unreasonably deny the right to acquire factory program vehicles to any dealer holding a valid franchise from the manufacturer to sell the same line make of vehicles, provided that the manufacturer may impose reasonable restrictions and limitations on the purchase or resale of program vehicles to be applied equitably to all of its franchised dealers. For the purposes of this paragraph, "factory program vehicle" has the meaning given the term in section 4.

Presented to the governor May 7, 1991

Signed by the governor May 10, 1991, 9:13 a.m.

CHAPTER 70—H.F.No. 415

An act relating to commerce; regulating farm equipment dealerships; amending Minnesota Statutes 1990, sections 325E.061, subdivisions 2, 4, and 5; 325E.063; 325E.064; 325E.068, subdivisions 2, 4, and 5; 325E.0682; and 325E.0683.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1990, section 325E.061, subdivision 2, is amended to read:

Subd. 2. **FARM EQUIPMENT.** "Farm equipment" means equipment and parts for equipment including, but not limited to, tractors, trailers, combines, tillage implements, balers, skid steer loaders, attachments and repair parts for them, and other equipment, including attachments and repair parts, used in the planting, cultivating, irrigation, harvesting, and marketing of agricultural products, excluding self-propelled machines designed primarily for the transportation of persons or property on a street or highway.

Sec. 2. Minnesota Statutes 1990, section 325E.061, subdivision 4, is amended to read:

Subd. 4. **FARM EQUIPMENT DEALER OR DEALERSHIP.** "Farm equipment dealer" or "farm equipment dealership" means a person, partnership, corporation, association, or other form of business enterprise engaged in acquiring farm equipment from a manufacturer and reselling the ~~retail~~ sale of farm equipment at wholesale or retail.

Sec. 3. Minnesota Statutes 1990, section 325E.061, subdivision 5, is amended to read:

Subd. 5. **DEALERSHIP AGREEMENT.** "Dealership agreement" means

New language is indicated by underline, deletions by ~~strikeout~~.

an oral or written agreement of definite or indefinite duration between a farm equipment manufacturer and a farm equipment dealer which enables the dealer to purchase equipment from the manufacturer and provides for the rights and obligations of the parties with respect to the purchase or sale of farm equipment.

Sec. 4. Minnesota Statutes 1990, section 325E.063, is amended to read:

325E.063 VIOLATIONS.

(a) It is a violation of sections 325E.061 to 325E.065 for a farm equipment manufacturer to coerce a farm equipment dealer to accept delivery of farm equipment; ~~parts; or accessories~~ which the farm equipment dealer has not voluntarily ordered.

(b) It is a violation of sections 325E.061 to 325E.065 for a farm equipment manufacturer to:

(1) condition or attempt to condition the sale of farm equipment on a requirement that the farm equipment dealer also purchase other goods or services; except that a farm equipment manufacturer may require the dealer to purchase all parts reasonably necessary to maintain the quality of operation in the field of any farm equipment used in the trade area and telecommunication necessary to communicate with the farm equipment manufacturer;

(2) ~~coerce or attempt to coerce~~ a farm equipment dealer into a refusal to purchase the farm equipment manufactured by another farm equipment manufacturer;

(3) discriminate in the prices charged for farm equipment of like grade and quality sold by the farm equipment manufacturer to similarly-situated farm equipment dealers. The clause does not prevent the use of differentials which make only due allowance for difference in the cost of manufacture, sale, or delivery or for the differing methods or quantities in which the farm equipment is sold or delivered, by the farm equipment manufacturer; or

(4) attempt or threaten to terminate, cancel, fail to renew, or substantially change the competitive circumstances of the dealership agreement if the attempt or threat is based on the results of a natural disaster, including a sustained drought in the dealership market area, a labor dispute, or other circumstance beyond the dealer's control.

Sec. 5. Minnesota Statutes 1990, section 325E.064, is amended to read:

325E.064 STATUS OF INCONSISTENT AGREEMENTS.

A term of a dealership agreement either expressed or implied, including a choice of law provision, which is inconsistent with the terms of sections 325E.061 to 325E.065 or that purports to waive a farm equipment manufacturer's compliance with sections 325E.061 to 325E.065 is void and unenforceable and does not waive any rights which are provided to a person by sections 325E.061 to 325E.065.

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Sec. 6. Minnesota Statutes 1990, section 325E.068, subdivision 2, is amended to read:

Subd. 2. **HEAVY AND UTILITY EQUIPMENT.** "Heavy and utility equipment," "heavy equipment," or "equipment" means equipment and parts for equipment including but not limited to excavators, crawler tractors, wheel loaders, compactors, pavers, backhoes, hydraulic hammers, cranes, fork lifts, compressors, generators, attachments and repair parts for them, and other equipment, including attachments and repair parts, used in all types of construction of buildings, highways, airports, dams, or other earthen structures or in moving, stock piling, or distribution of materials used in such construction, excluding self-propelled machines designed primarily for the transportation of persons or property on a street or highway.

Sec. 7. Minnesota Statutes 1990, section 325E.068, subdivision 4, is amended to read:

Subd. 4. **HEAVY AND UTILITY EQUIPMENT DEALER OR DEALERSHIP.** "Heavy and utility equipment dealer" or "heavy and utility equipment dealership" means a person, partnership, corporation, association, or other form of business enterprise engaged in the ~~retail sale of business of~~ acquiring heavy and utility equipment from a manufacturer and reselling the heavy and utility equipment at wholesale or retail.

Sec. 8. Minnesota Statutes 1990, section 325E.068, subdivision 5, is amended to read:

Subd. 5. **DEALERSHIP AGREEMENT.** "Dealership agreement" means an oral or written agreement of definite or indefinite duration between an equipment manufacturer and an equipment dealer that enables the dealer to purchase heavy and utility equipment from the manufacturer and provides for the rights and obligations of the parties with respect to the purchase or sale of heavy and utility equipment.

Sec. 9. Minnesota Statutes 1990, section 325E.0682, is amended to read:

325E.0682 VIOLATIONS.

(a) It is a violation of sections 325E.068 to 325E.0684 for an equipment manufacturer to coerce an equipment dealer to accept delivery of heavy and utility equipment; ~~parts; or accessories~~ that the equipment dealer has not voluntarily ordered.

(b) It is a violation of sections 325E.068 to 325E.0684 for an equipment manufacturer to:

(1) condition or attempt to condition the sale of equipment on a requirement that the equipment dealer also purchase other goods or services; except that an equipment manufacturer may require the dealer to purchase all parts reasonably necessary to maintain the quality of operation in the field of any

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equipment used in the trade area and telecommunications necessary to communicate with the equipment manufacturer;

(2) coerce an equipment dealer into a refusal to purchase the equipment manufactured by another equipment manufacturer;

(3) discriminate in the prices charged for equipment of like grade and quality sold by the equipment manufacturer to similarly situated equipment dealers. This clause does not prevent the use of differentials that make only due allowance for difference in the cost of manufacture, sale, or delivery or for the differing methods or quantities in which the equipment is sold or delivered, by the equipment manufacturer; or

(4) attempt or threaten to terminate, cancel, fail to renew, or substantially change the competitive circumstances of the dealership agreement if the attempt or threat is based on the results of a natural disaster, a labor dispute, or other circumstance beyond the dealer's control.

Sec. 10. Minnesota Statutes 1990, section 325E.0683, is amended to read:

325E.0683 STATUS OF INCONSISTENT AGREEMENTS.

A term of a dealership agreement either expressed or implied, including a choice of law provision, that is inconsistent with the terms of sections 325E.068 to 325E.0684 or that purports to waive an equipment manufacturer's compliance with sections 325E.068 to 325E.0684 is void and unenforceable and does not waive any rights that are provided to a person by sections 325E.068 to 325E.0684.

Sec. 11. INTENT.

The amendments by sections 1 to 10 are restatements and clarifications of the sections they amend and must not be construed as modifications of existing law.

Sec. 12. EFFECTIVE DATE.

Sections 1 to 11 are effective the day after final enactment. The sections apply to all dealership agreements now in effect that have no expiration date and to all other contracts entered into, amended, or renewed after the day of enactment.

Presented to the governor May 7, 1991

Signed by the governor May 10, 1991, 9:15 a.m.

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