

HOUSE BILL No. 2660

AN ACT concerning dealership franchise agreements; relating to repurchase of machinery, equipment and parts upon termination; amending K.S.A. 16-1003 and 16-1304 and K.S.A. 2001 Supp. 16-1404 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 16-1003 is hereby amended to read as follows: 16-1003. (a) The provisions of this act shall not require the repurchase from a retailer of:

- (1) Any repair part which is in a broken or damaged package;
- (2) any single repair part which is priced as a set of two or more items;
- (3) any repair part which because of its condition is not resalable as a new part without repackaging or reconditioning;
- (4) any farm implements, machinery, attachments or repair parts for which the retailer is unable to furnish evidence, satisfactory to the wholesaler, manufacturer or distributor, of clear title, free and clear of all claims, liens and encumbrances;
- (5) any farm implements, machinery, attachments or repair parts which the retailer desires to keep, provided the retailer has a contractual right to do so;
- (6) any farm implements, machinery and attachments which are not current models or which are not in new, unused, undamaged, complete condition;
- (7) any repair parts which are not in new, unused, undamaged condition;
- (8) any farm implements, machinery or attachments which were purchased prior to the beginning of the 24-month period immediately preceding the date of notification of termination;
- (9) any farm implements, machinery, attachments or repair parts which were ordered by retailer on or after the date of notification of termination; or
- (10) any farm implements, machinery, attachments or repair parts which were acquired by the retailer from any source other than the wholesaler, manufacturer, distributor or transferee of such wholesaler, manufacturer or distributor, *unless such farm implements, machinery, attachments or repair parts were ordered from, invoiced to the retailer by or financed to the retailer by the wholesaler, manufacturer or distributor or transferee of such wholesaler, manufacturer or distributor.*

(b) Any repair part which is not excluded from the repurchase obligations established under K.S.A. 16-1002 and 16-1005, and amendments thereto, by this section, as amended by this act, and the repurchase of which is in dispute on the effective date of this act shall be subject to the repurchase obligations established under K.S.A. 16-1002 and 16-1005, and amendments thereto.

Sec. 2. K.S.A. 16-1304 is hereby amended to read as follows: 16-1304. The provisions of K.S.A. 16-1303, *and amendments thereto*, shall not require the repurchase from a retailer of any:

- (a) Repair part which is in a broken or damaged package;
- (b) single repair part which is priced as a set of two or more items;
- (c) repair part which, because of its condition, is not resalable as a new part;
- (d) inventory for which the retailer is unable to furnish evidence, satisfactory to the supplier, of title, free and clear of all claims, liens and encumbrances;
- (e) inventory which the retailer desires to keep, and for which the retailer has a contractual right to do so;
- (f) machines, equipment, and attachments which are not in new, unused, undamaged, or complete condition;
- (g) repair parts which are not in new, unused, or undamaged condition;
- (h) machines, equipment or attachments which were purchased 24 months or more prior to notice of termination of the contract;
- (i) inventory which was ordered by the retailer on or after the date of notification of termination of the contract;
- (j) inventory which was acquired by the retailer from any source other than the supplier or transferee of such supplier, *unless such inventory was ordered from, invoiced to the retailer by or financed to the retailer by the supplier or transferee of such supplier;* or
- (k) part that has been removed from an engine or short block or piece

of equipment or any part purchased separately that has been mounted or installed by the retailer on an engine or on equipment.

Sec. 3. K.S.A. 2001 Supp. 16-1404 is hereby amended to read as follows: 16-1404. The provisions of K.S.A. 16-1403, and amendments thereto, shall not require the repurchase from a retailer of any:

- (a) Repair part which is in a broken or damaged package;
- (b) single repair part which is priced as a set of two or more items;
- (c) repair part which, because of its condition, is not resalable as a new part;
- (d) inventory for which the retailer is unable to furnish evidence, satisfactory to the supplier, of title, free and clear of all claims, liens and encumbrances;
- (e) inventory which the retailer desires to keep, and for which the retailer has a contractual right to do so;
- (f) machines, equipment, and attachments which are not in new, unused, undamaged, or complete condition;
- (g) repair parts which are not in new, unused, or undamaged condition;
- (h) machines, equipment or attachments which were purchased 24 months or more prior to notice of termination of the contract;
- (i) inventory which was ordered by the retailer on or after the date of notification of termination of the contract;
- (j) inventory which was acquired by the retailer from any source other than the supplier or transferee of such supplier, *unless such inventory was ordered from, invoiced to the retailer by or financed to the retailer by the supplier or transferee of such supplier*; or
- (k) part that has been removed from an engine or short block or piece of equipment or any part purchased separately that has been mounted or installed by the retailer on an engine or on equipment.

Sec. 4. K.S.A. 16-1003 and 16-1304 and K.S.A. 2001 Supp. 16-1404 are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the HOUSE, and passed that body

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.