

HOUSE SUMMARY OF SENATE AMENDMENTS

HB 649

2021 Regular Session

McFarland

AGRICULTURE: Provides relative to the repurchase of certain mechanical equipment by a wholesaler

Synopsis of Senate Amendments

1. Adds definitions of "burden of proof" and "incentive agreement".
2. Provides for violations of present law provisions relative to the repurchase of farm, industrial, and lawn and garden equipment by a wholesaler.
3. Makes technical changes.

Digest of Bill as Finally Passed by Senate

Present law provides that present law applies to contracts or oral agreements between any person, firm or corporation engaged in the business of selling, distributing, or retailing farm, construction, forestry, heavy industrial material handling and other such equipment and a wholesaler of such equipment, where the retailer agrees with the wholesaler to maintain a stock of such parts.

Present law includes any purchaser of stocks, any surviving corporation resulting from merger, any receiver or assignee, or any trustee of the original equipment manufacturer, wholesaler, or distributor as a successor of the manufacturer, wholesaler, or distributor.

Proposed law retains present law and adds partnership, limited liability company, or other business entity to the list of parties to the contract and successors to the manufacturer, wholesaler, or distributor.

Present law defines "agent" as any manufacturer, wholesaler or wholesale distributor, any purchaser of assets or stock of any surviving corporation resulting from a merger or liquidation, any receiver or assignee, or any trustee of the original equipment manufacturer, wholesaler or distributor.

Proposed law retains present law and adds other business entity as a successor.

Proposed law defines "burden of proof" in the context of an incentive agreement, to mean that, if a dealer objects to the market statistics provided by the agent in support of a bonus or penalty proposed by the agent pursuant to the agreement, the agent must provide all of the following information:

- (1) The name of the entity or individual that purchased the contested equipment upon which the amount of the incentive payment or penalty is based.
- (2) Sufficient evidence of the first substantial use of the contested equipment within the dealer's area of responsibility.

Proposed law defines "incentive agreement" as any agreement between the agent and dealer involving the payment of a bonus or incentive payment by the agent to the dealer, or the imposition of a penalty by the agent on the dealer, based upon the dealer's sales within its area of responsibility.

Present law provides that it is a violation of present law to coerce a dealer to accept delivery of equipment parts or accessories which the dealer has not voluntarily ordered.

Proposed law retains present law and adds that it is also a violation to seek payment for any such equipment parts or accessories, or their return.

Proposed law also provides that it is a violation to impose on a dealer:

- (1) The burden of proof regarding the terms of the incentive agreement, including the establishment of the location of a piece of equipment's first substantial use.
- (2) A penalty for the sale of equipment if the first substantial use is in a location outside the dealer's area of responsibility for agricultural sales, regardless of the location of the seller, or of the customer's residence, office, or operating base.

(Amends R.S. 51:481 and 483(A)(1); Adds R.S. 51:483(A)(5))