

ACT No. 359

2021 Regular Session

HOUSE BILL NO. 649

BY REPRESENTATIVES MCFARLAND AND THOMPSON

1 AN ACT

2 To amend and reenact R.S. 51:481 and 483(A)(1) and to enact R.S. 51:483(A)(5), relative
3 to the repurchase of certain mechanical equipment by a wholesaler, manufacturer,
4 or distributor; to provide for applicability; to include partnerships, limited liability
5 companies, and other business entities as pertinent parties; to provide for definitions;
6 to provide for violations; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 51:481 and 483(A)(1) are hereby amended and reenacted and R.S.
9 51:483(A)(5) is hereby enacted to read as follows:

10 §481. Applicability of Part

11 A. The provisions of this Part shall apply to written contracts or oral
12 agreements of definite or indefinite duration between any person, firm ~~or~~₂
13 ~~corporation, partnership, limited liability company, or other business entity~~ engaged
14 in the business of selling, distributing₂ or retailing farm, construction, forestry, heavy
15 industrial material handling, utility and lawn and garden equipment, engines,
16 implements, machinery, attachments₂ and repair parts for such equipment and any
17 wholesaler, manufacturer₂ or distributor of such equipment and repair parts, whereby
18 the retailer agrees with the wholesaler, manufacturer₂ or distributor to maintain a
19 stock of such parts, or complete equipment or machines, or attachments. Any

1 successor in interest of the manufacturer, wholesaler, or distributor shall include any
2 purchaser of assets or stock, any surviving corporation or other business entity
3 resulting from merger or liquidation, any receiver or assignee, or any trustee of the
4 original equipment manufacturer, wholesaler, or distributor.

5 B. For the purposes of this Part, the following words and phrases shall have
6 the following meanings:

7 (1) "Agent" ~~shall mean~~ means any manufacturer, wholesaler, or wholesale
8 distributor, any purchaser of assets or stock of any surviving corporation or other
9 business entity resulting from a merger or liquidation, any receiver or assignee, or
10 any trustee of the original equipment manufacturer, wholesaler, or distributor.

11 (2) "Burden of proof", in the context of an incentive agreement, means that,
12 if a dealer objects to the market statistics provided by the agent in support of a bonus
13 or penalty proposed by the agent pursuant to the agreement, the agent shall provide
14 all of the following information:

15 (a) The name of the entity or individual that purchased the contested
16 equipment upon which the amount of the incentive payment or penalty is based.

17 (b) Sufficient evidence of the first substantial use of the contested equipment
18 within the dealer's area of responsibility. Sufficient evidence shall consist of either:

19 (i) Geospatial telematic data from the reported equipment's hardware; or

20 (ii) All of the following:

21 (aa) Name of the entity or individual that purchased the equipment.

22 (bb) City and state to which the equipment was delivered, as indicated on the
23 manufacturer's delivery receipt provided by the dealer to the retail purchaser.

24 (cc) PIN, VIN, or serial number of the equipment.

25 (dd) Product segment (large ag, mid ag, or small ag) of the equipment.

26 (ee) Model class of the equipment.

27 (ff) Size class (horsepower) of the equipment.

