

SENATE BILL NO. 407

INTRODUCED BY B. WILLIAMS, KOLSTAD, BOYLAN, FULLER,
GAGE, CHRISTIAENS, NEUMAN, THAYER, HALLIGAN,
WEEDING, GOODOVER

BY REQUEST OF THE SENATE COMMITTEE ON BUSINESS
AND INDUSTRY

IN THE SENATE

February 13, 1985	Introduced and referred to Committee on Agriculture, Livestock and Irrigation.
February 19, 1985	Committee recommend bill do pass. Report adopted.
February 20, 1985	Bill printed and placed on members' desks. On motion, placed on second reading this day. Motion adopted. Second reading, do pass.
February 21, 1985	Considered correctly engrossed.
February 22, 1985	Third reading, passed. Ayes, 48; Noes, 0. Transmitted to House.

IN THE HOUSE

February 25, 1985	Introduced and referred to Committee on Business and Labor.
February 26, 1985	Committee recommend bill be concurrent in. Report adopted.

February 27, 1985

Second reading, concurred in.

On motion, rules suspended and bill placed on third reading this day.

Third reading, concurred in.
Returned to Senate.

IN THE SENATE

February 27, 1985

Received from House.

Sent to enrolling.

Reported correctly enrolled.

1 *Senate* BILL NO. *407*
 2 INTRODUCED BY *Bill W. Kalstad, Douglas, Fuller, Jiff*
 3 *Christians* BY REQUEST OF THE SENATE COMMITTEE ON BUSINESS/
 4 *Neuman* AND INDUSTRY *W. J. Kelly, W. J. Kelly, W. J. Kelly*

6 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT
 7 TERMINATION, CANCELLATION, NONRENEWAL, OR SUBSTANTIAL
 8 ALTERATION OF A FARM IMPLEMENTS DEALERSHIP AGREEMENT BY THE
 9 GRANTOR MUST BE FOR GOOD CAUSE AND UPON ADEQUATE NOTICE;
 10 DEFINING "GOOD CAUSE"; AND PROVIDING AN IMMEDIATE EFFECTIVE
 11 DATE."

13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14 Section 1. Definitions. As used in [this act], the
 15 following definitions apply:

16 (1) "Community of interest" means a continuing
 17 financial interest that the grantor and grantee have in
 18 common.

19 (2) "Dealer" means a person who is a grantee of a farm
 20 implements dealership situated in this state.

21 (3) "Dealership" means a contract or agreement,
 22 expressed or implied, whether oral or written, including a
 23 franchise as defined in 61-4-201, by which a person is
 24 granted the right to sell or distribute farm implements, in
 25 which there is a community of interest in the business of

1 offering, selling, or distributing farm implements.

2 (4) "Farm implement" means any vehicle, machine, or
 3 attachment designed or adapted and used exclusively for
 4 agricultural operations and only incidentally operated or
 5 used on the highways.

6 (5) "Good cause" means:

7 (a) failure by a dealer to comply substantially with
 8 essential and reasonable requirements imposed upon him by
 9 the grantor or sought to be imposed by the grantor, which
 10 requirements are not discriminatory as compared with
 11 requirements imposed on other similarly situated dealers
 12 either by the terms of the requirements or in the manner of
 13 their enforcement; or

14 (b) bad faith by the dealer in carrying out the terms
 15 of the dealership.

16 (6) "Grantor" means a person who grants a dealership.

17 (7) "Person" means any individual, partnership,
 18 association, corporation, or other entity.

19 Section 2. Cancellation and alteration of dealerships.
 20 No grantor may, directly or indirectly, terminate, cancel,
 21 fail to renew, or substantially change the competitive
 22 circumstances of a dealership agreement without good cause.
 23 The burden of proving good cause is on the grantor.

24 Section 3. Notice of termination or change in
 25 dealership. (1) Except as provided in subsections (2) and



1 (3), a grantor shall provide a dealer at least 90 days'
 2 prior written notice by certified mail of termination,
 3 cancellation, nonrenewal, or substantial change in
 4 competitive circumstances. The notice must state all the
 5 reasons for termination, cancellation, nonrenewal, or
 6 substantial change in competitive circumstances and must
 7 provide that the dealer has 60 days from receipt of the
 8 notice in which to rectify any claimed deficiency. If the
 9 deficiency is rectified within 60 days, the notice is void.

10 (2) If the reason for termination, cancellation,
 11 nonrenewal, or substantial change in competitive
 12 circumstances is nonpayment of sums due under the
 13 dealership, the dealer is entitled to 10 days' prior written
 14 notice by certified mail. If the dealer does not remedy such
 15 default within 10 days after receipt of the notice, the
 16 notice is effective according to its terms.

17 (3) The notice provisions of this section do not apply
 18 if the reason for termination, cancellation, or nonrenewal
 19 is insolvency, the occurrence of an assignment for the
 20 benefit of creditors, or bankruptcy.

21 Section 4. Action for damages and injunctive relief.
 22 If any grantor violates [this act], a dealer may bring an
 23 action against such grantor in any court of competent
 24 jurisdiction for damages sustained as a consequence of the
 25 grantor's violation, together with the actual costs of the

1 action, including reasonable attorney fees, and the dealer
 2 also may be granted injunctive relief against unlawful
 3 termination, cancellation, nonrenewal, or substantial change
 4 of competitive circumstances.

5 Section 5. Effective date. This act is effective on
 6 passage and approval.

-End-

APPROVED BY COMMITTEE ON AGRICULTURE LIVESTOCK AND IRRIGATION

1 Senate BILL NO. 407
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3 *Christians* BY REQUEST OF THE SENATE COMMITTEE ON BUSINESS
4 *Neuman* AND INDUSTRY *Wendy, Holligan, Ueding, Goodwin*

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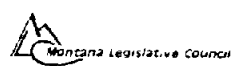
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