HOUSE BILL NO. 150

INTRODUCED BY JOHNSON, TVEIT, GILBERT, ABRAMS, BLAYLOCK, COHEN, WALLIN

IN THE HOUSE

JANUARY 13, 1989 INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & LABOR.

FIRST READING.

- JANUARY 19, 1989 COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
- JANUARY 20, 1989 PRINTING REPORT.
- JANUARY 21, 1989 SECOND READING, DO PASS.
- JANUARY 23, 1989 ENGROSSING REPORT.
- JANUARY 24, 1989 THIRD READING, PASSED. AYES, 97; NOES, 0.

TRANSMITTED TO SENATE.

IN THE SENATE

JANUARY 25, 1989 INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY.

FIRST READING.

FEBRUARY 6, 1989 COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.

FEBRUARY 9, 1989 PASS CONSIDERATION.

FEBRUARY 10, 1989 SECOND READING, CONCURRED IN AS AMENDED.

FEBRUARY 13, 1989 THIRD READING, CONCURRED IN. AYES, 50; NOES, 0.

RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

FEBRUARY 28, 1989

RECEIVED FROM SENATE.

SECOND READING, AMENDMENTS CONCURRED IN.

MARCH 1, 1989

-

-

THIRD READING, AMENDMENTS CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

LC 1241/01

INTRODUCED BY Johnson Triet Slagt Ibran 1 2 ٦ A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING REPURCHASE OF 4 THE INVENTORY OF CANCELED DEALERSHIPS IN MOTORCYCLES. 5 MOTOR-DRIVEN CYCLES, RECREATIONAL VEHICLES, OUADRICYCLES, 6 SNOWMOBILES, OFF-HIGHWAY VEHICLES, AND BOATS AND ENGINES; 7 AND AMENDING SECTION 30-11-701, MCA." 8

9

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

Section 1. Section 30-11-701, MCA, is amended to read:
 "30-11-701. Definitions. As used in this part, the
 following definitions apply:

14 (1) "Current net price" means:

15 (a) with respect to a dealership contract, the price 16 listed in the wholesaler's, manufacturer's, or distributor's 17 price list or catalog in effect at the time a dealership 18 contract is discontinued or, if none is then in effect, the 19 last available price so listed; and

20 (b) with respect to a distribution contract, the price 21 listed in the manufacturer's or distributor's price list or 22 catalog in effect at the time a distribution contract is 23 discontinued or, if none is then in effect, the last 24 available price so listed.

25 (2) "Dealership contract" means a written contract



1 between a retailer and a wholesaler, manufacturer, or 2 distributor in which the retailer becomes a dealer in goods 3 sold by the wholesaler, manufacturer, or distributor, evidenced by a franchise agreement, Δ sales agreement. security 5 agreement, or other similar agreement or 6 arrangement.

7 (3) "Distribution contract" means a written contract 8 between a wholesaler and a manufacturer or distributor in 9 which the wholesaler becomes a dealer in goods sold by the 10 manufacturer or distributor, evidenced by a franchise 11 agreement, sales agreement, security agreement, or other 12 similar agreement or arrangement.

13 (4) "Inventory" means:

14 (a) farm implements, machinery, attachments, and 15 repair parts;

16 (b) industrial and construction equipment and repair17 parts; and

18 (c) automobiles, trucks, and repair parts sold by an

19 automobile or truck dealer as defined in 61-1-314;

(d) motorcycles, motor-driven cycles, recreational

- 21 vehicles, and quadricycles, as those terms are defined in
- 22 Title 61, chapter 1, part 1, and repair parts;

23 (e) snowmobiles, as defined in 23-2-601, and repair

24 parts;

20

25 (f) off-highway vehicles, as defined in 23-2-801, and

-2- INTRODUCED BILL HBISO

LC 1241/01

1 repair parts; and

2 (g) vessels, as defined in 23-2-502, detachable motors

3 or engines used to propel vessels, and repair parts.

4 (5) "Net cost" means:

5 (a) with respect to a dealership contract, the price 6 actually paid for an inventory item by the retailer to the 7 wholesaler, manufacturer, or distributor, plus applicable 8 freight costs paid by or charged to the retailer; and

9 (b) with respect to a distribution contract, the price 10 actually paid for an inventory item by the wholesaler to a 11 manufacturer or distributor, plus applicable freight costs 12 paid by or charged to the wholesaler.

13 (6) "Retailer" or "retail dealer" means any
14 individual, partnership, association, or corporation engaged
15 in the business of selling inventory, as defined in this
16 section, to the general public.

17 (7) "Wholesaler" means any individual, partnership,
18 association, or corporation engaged in the business of
19 selling inventory, as defined in this section, to
20 retailers."

-End-

- 3 -

51st Legislature

HB 0150/02

HB 0150/02

APPROVED BY COMM. ON BUSINESS AND ECONOMIC DEVELOPMENT

1	HOUSE BILL NO. 150
2	INTRODUCED BY JOHNSON, TVEIT, GILBERT,
3	ABRAMS, BLAYLOCK, COHEN, WALLIN
4	
5	A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING REPURCHASE OF
6	THE INVENTORY OF CANCELED DEALERSHIPS IN MOTORCYCLES,
7	MOTOR-DRIVEN CYCLES, RECREATIONAL VEHICLES, QUADRICYCLES,
8	SNOWMOBILES, OFF-HIGHWAY VEHICLES, AND BOATS AND ENGINES;
9	AND AMENDING SECTION 30-11-701, MCA; AND PROVIDING AN
10	IMMEDIATE EFFECTIVE DATE."
11	

11

16

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

13 Section 1. Section 30-11-701, MCA, is amended to read: 14 "30-11-701. Definitions. As used in this part, the 15 following definitions apply:

(1) "Current net price" means:

17 (a) with respect to a dealership contract, the price 18 listed in the wholesaler's, manufacturer's, or distributor's 19 price list or catalog in effect at the time a dealership 20 contract is discontinued or, if none is then in effect, the 21 last available price so listed; and

22 (b) with respect to a distribution contract, the price 23 listed in the manufacturer's or distributor's price list or 24 catalog in effect at the time a distribution contract is 25 discontinued or, if none is then in effect, the last

Montana Legislative Council

1 available price so listed.

2 (2) "Dealership contract" means a written contract between a retailer and a wholesaler, manufacturer, or 3 distributor in which the retailer becomes a dealer in goods 4 sold by the wholesaler, manufacturer, or distributor, 5 6 evidenced by a franchise agreement, sales agreement, 7 security agreement, or other similar agreement or arrangement. 8

(3) "Distribution contract" means a written contract 9 between a wholesaler and a manufacturer or distributor in 10 11 which the wholesaler becomes a dealer in goods sold by the 12 manufacturer or distributor, evidenced by a franchise 13 agreement, sales agreement, security agreement, or other similar agreement or arrangement. 14

15 (4) "Inventory" means:

(a) farm implements, machinery, attachments, and 16 17 repair parts;

(b) industrial and construction equipment and repair 18

19 parts; and

(c) automobiles, trucks, and repair parts sold by an 20 21 automobile or truck dealer as defined in 61-1-314;

(d) motorcycles, motor-driven cycles, recreational 22

23 vehicles, and quadricycles, as those terms are defined in

24 Title 61, chapter 1, part 1, and repair parts;

25 (e) snowmobiles, as defined in 23-2-601, and repair

-2-

SECOND READING

1 parts; 2 (f) off-highway vehicles, as defined in 23-2-801, and 3 repair parts; and 4 (g) vessels, as defined in 23-2-502, detachable motors 5 or engines used to propel vessels, and repair parts. 6 (5) "Net cost" means: 7 (a) with respect to a dealership contract, the price 8 actually paid for an inventory item by the retailer to the 9 wholesaler, manufacturer, or distributor, plus applicable 10 freight costs paid by or charged to the retailer; and 11 (b) with respect to a distribution contract, the price 12 actually paid for an inventory item by the wholesaler to a 13 manufacturer or distributor, plus applicable freight costs 14 paid by or charged to the wholesaler. 15 (6) "Retailer" or "retail dealer" means any individual, partnership, association, or corporation engaged 16 17 in the business of selling inventory, as defined in this 18 section, to the general public. 19 (7) "Wholesaler" means any individual, partnership, 20 association, or corporation engaged in the business of 21 selling inventory, as defined in this section, to 22 retailers." 23 NEW SECTION. SECTION 2. EFFECTIVE DATE. [THIS ACT] 24 IS EFFECTIVE ON PASSAGE AND APPROVAL. -End-

-3-

•

.

1	HOUSE BILL NO. 150	1	available price so listed.
2	INTRODUCED BY JOHNSON, TVEIT, GILBERT,	2	(2) "Dealership contract" means a written contract
3	ABRAMS, BLAYLOCK, COHEN, WALLIN	3	between a retailer and a wholesaler, manufacturer, or
4		4	distributor in which the retailer becomes a dealer in goods
5	A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING REPURCHASE OF	5	sold by the wholesaler, manufacturer, or distributor,
6	THE INVENTORY OF CANCELED DEALERSHIPS IN MOTORCYCLES,	6	evidenced by a franchise agreement, sales agreement,
7	MOTOR-DRIVEN CYCLES, RECREATIONAL VEHICLES, QUADRICYCLES,	7	security agreement, or other similar agreement or
8	SNOWMOBILES, OFF-HIGHWAY VEHICLES, AND BOATS AND ENGINES;	8	arrangement.
9	AND AMENDING SECTION 30-11-701, MCA; AND PROVIDING AN	9	(3) "Distribution contract" means a written contract
10	IMMEDIATE EFFECTIVE DATE."	10	between a wholesaler and a manufacturer or distributor in
11		11	which the wholesaler becomes a dealer in goods sold by the
12	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:	12	manufacturer or distributor, evidenced by a franchise
13	Section 1. Section 30-11-701, MCA, is amended to read:	13	agreement, sales agreement, security agreement, or other
14	"30-11-701. Definitions. As used in this part, the	14	similar agreement or arrangement.
15	following definitions apply:	15	(4) "Inventory" means:
16	(1) "Current net price" means:	16	(a) farm implements, machinery, attachments, and
17	(a) with respect to a dealership contract, the price	17	repair parts;
18	listed in the wholesaler's, manufacturer's, or distributor's	18	(b) industrial and construction equipment and repair
19	price list or catalog in effect at the time a dealership	19	parts; and
20	contract is discontinued or, if none is then in effect, the	20	(c) automobiles, trucks, and repair parts sold by an
21	last available price so listed; and	21	automobile or truck dealer as defined in 61-1-314;
22	(b) with respect to a distribution contract, the price	22	(d) motorcycles, motor-driven cycles, recreational
23	listed in the manufacturer's or distributor's price list or	23	vehicles, and quadricycles, as those terms are defined in
24	catalog in effect at the time a distribution contract is	24	Title 61, chapter 1, part 1, and repair parts;
25	discontinued or, if none is then in effect, the last	25	(e) snowmobiles, as defined in 23-2-601, and repair
			-2- HB 150



THIRD READING

parts; 1 (f) off-highway vehicles, as defined in 23-2-801, and 2 repair parts; and 3 4 (g) vessels, as defined in 23-2-502, detachable motors 5 or engines used to propel vessels, and repair parts. 6 (5) "Net cost" means: 7 (a) with respect to a dealership contract, the price actually paid for an inventory item by the retailer to the 8 9 wholesaler, manufacturer, or distributor, plus applicable 10 freight costs paid by or charged to the retailer; and (b) with respect to a distribution contract, the price 11 actually paid for an inventory item by the wholesaler to a 12 13 manufacturer or distributor, plus applicable freight costs paid by or charged to the wholesaler. 14 (6) "Retailer" or "retail dealer" means 15 any individual, partnership, association, or corporation engaged 16 in the business of selling inventory, as defined in this 17 18 section, to the general public. (7) "Wholesaler" means any individual, partnership, 19 20 association, or corporation engaged in the business of 21 selling inventory, as defined in this section, to 22 retailers."

23 <u>NEW SECTION, SECTION 2. EFFECTIVE DATE. [THIS ACT]</u>
24 <u>IS EFFECTIVE ON PASSAGE AND APPROVAL.</u>

-End-

-3-

Page 1 of 2

SENATE STANDING COMMITTEE REPORT

February 6, 1989

MR. PRESIDENT:

We, your committee on Business and Industry, having had under consideration HB 150 (third reading copy -- blue), respectfully report that HB 150 be amended and as so amended be concurred in:

Sponsor: Johnson (Tveit)

1. Page 3, following line 22. Insert:

"Section 2. Section 30-11-703, MCA, is amended to read: "30-11-703. Excepted inventory. The following inventory is not subject to the repurchase requirements of 30-11-702:

(1) any repair part that has a limited storage life or is otherwise subject to deterioration, such as rubber items, gaskets, or wet-charge batteries;

(2) any repair part that is in a broken or damaged package;

(3) any single repair part that is priced as a set of two or more items;

(4) any repair part that because of its condition is not resaleable resalable as a new part without repackaging or reconditioning;

(5) any inventory for which the retailer is unable to furnish evidence satisfactory to the wholesaler, manufacturer, or distributor of title, free and clear of all claims, liens, and encumbrances;

(6) any inventory the retailer desires to keep, if he has a contractual right to do so;

(7) any inventory item other than a repair part that is not in essentially new, unused, undamaged, and complete condition;

(8) any repair part that is not in new, unused, or undamaged condition;

(9) any inventory item, other than a repair part, that has been stocked for 36 months or more prior to notice of termination of the contract, if the inventory relates to goods under 30-11-701(4)(a) through 30-11-701(4)(c);

(10) any inventory item, other than a repair part, that has been stocked for 24 months or more prior to notice of termination of the contract if the inventory relates to goods under 30-11-701(4)(d) through 30-11-701(4)(g);

(10) (11) any inventory that was ordered by the retailer after the date of notification of termination of the contract; and

(11) (12) any inventory that was acquired from any source other than the wholesaler, manufacturer, or distributor."

scrhb150.206

<u>NEW SECTION.</u> Section 3. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act]."

Renumber: subsequent section

AND AS AMENDED BE CONCURRED IN

Signed W. Gene Thayer Chairman

scrhb150.206

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15 16

17

18

19

20

21

22

23

24

25

HB 0150/03

HOUSE BILL NO. 150 1 INTRODUCED BY JOHNSON, TVEIT, GILBERT, 2 ABRAMS, BLAYLOCK, COHEN, WALLIN 3 4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING REPURCHASE OF 5 THE INVENTORY OF CANCELED DEALERSHIPS IN MOTORCYCLES. 6 MOTOR-DRIVEN CYCLES, RECREATIONAL VEHICLES, OUADRICYCLES, 7 SNOWMOBILES, OFF-HIGHWAY VEHICLES, AND BOATS AND ENGINES; 8 AND AMENDING SECTION 30-11-701, MCA; AND PROVIDING AN 9 IMMEDIATE EFFECTIVE DATE." 10 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 12 Section 1. Section 30-11-701, MCA, is amended to read: 13 "30-11-701. Definitions. As used in this part, the 14 following definitions apply: 15 "Current net price" means: 16 (a) with respect to a dealership contract, the price 17 listed in the wholesaler's, manufacturer's, or distributor's 18 price list or catalog in effect at the time a dealership 19 20 contract is discontinued or, if none is then in effect, the 21 last available price so listed; and 22 (b) with respect to a distribution contract, the price listed in the manufacturer's or distributor's price list or 23 catalog in effect at the time a distribution contract is 24 discontinued or, if none is then in effect, the last 25

available price so listed.

(2) "Dealership contract" means a written contract between a retailer and a wholesaler, manufacturer, or distributor in which the retailer becomes a dealer in goods sold by the wholesaler, manufacturer, or distributor, evidenced by a franchise agreement, sales agreement, security agreement, or other similar agreement or arrangement.

9 (3) "Distribution contract" means a written contract 10 between a wholesaler and a manufacturer or distributor in 11 which the wholesaler becomes a dealer in goods sold by the 12 manufacturer or distributor, evidenced by a franchise 13 agreement, sales agreement, security agreement, or other 14 similar agreement or arrangement.

.5 (4) "Inventory" means:

16 (a) farm implements, machinery, attachments, and 17 repair parts;

18 (b) industrial and construction equipment and repair 19 parts; and

(c) automobiles, trucks, and repair parts sold by an
 automobile or truck dealer as defined in 61-1-314;

22 (d) motorcycles, motor-driven cycles, recreational

- 23 vehicles, and quadricycles, as those terms are defined in
- 24 <u>Title 61, chapter 1, part 1, and repair parts;</u>
- 25 (e) snowmobiles, as defined in 23-2-601, and repair

-2-

REFERENCE BILL AS AMENDED

HB 0150/03

1	parts;	1	30-1
2	(f) off-highway vehicles, as defined in 23-2-801, and	2	
3	repair parts; and	3	ts-o
4	(g) vessels, as defined in 23-2-502, detachable motors	4	gask
5	or engines used to propel vessels, and repair parts.	5	
6	(5) "Net cost" means:	6	pack
7	(a) with respect to a dealership contract, the price	7	
8	actually paid for an inventory item by the retailer to the	8	two-
9	wholesaler, manufacturer, or distributor, plus applicable	9	
10	freight costs paid by or charged to the retailer; and	10	not-
11	(b) with respect to a distribution contract, the price	11	or-r
12	actually paid for an inventory item by the wholesaler to a	12	
13	manufacturer or distributor, plus applicable freight costs	13	furn
14	paid by or charged to the wholesaler.	14	manu
15	(6) "Retailer" or "retail dealer" means any	15	clai
16	individual, partnership, association, or corporation engaged	16	
17	in the business of selling inventory, as defined in this	17	has-
18	section, to the general public.	18	
19	(7) "Wholesaler" means any individual, partnership,	19	is-
20	association, or corporation engaged in the business of	20	cone
21	selling inventory, as defined in this section, to	21	
22	retailers."	22	undi
23	SECTION 2SECTION-30-11-7037-MEA7-IS-AMENDED-PO-READ:	23	
24	#30-11-703ExceptedinventoryThefollowing	24	has
25	inventory-is-not-subject-to-the-repurchaserequirementsof	25	ter
	-3- HB 150		
	-3- 68 150		

1	30-11-702:
2	(l)any-repair-part-that-has-a-limited-storage-life-or
3	is-otherwise-subject-to-deterioration;-such-as-rubber-items;
4	gaskets;-or-wet-charge-batteries;
5	{2}anyrepairpartthatis-in-a-broken-or-damaged
6	package;
7	(3) any-single-repair-part-that-is-priced-as-a-setof
8	two-or-more-items;
9	(4)anyrepairpart-that-because-of-its-condition-is
10	not-resaleable- <u>resalable</u> -as-a-new-partwithoutrepackaging
11	or-reconditioning;
12	<pre>(5)anyinventory-for-which-the-retailer-is-unable-to</pre>
13	furnishevidencesatisfactorytothewholesaler;
14	manufacturer,-or-distributor-of-title,-free-and-clear-of-all
15	claims;-liens;-and-encumbrances;
16	(6) anyinventory-the-retailer-desires-to-keep;-if-he
17	has-a-contractual-right-to-do-so;
18	t7) any-inventory-item-other-than-a-repairpartthat
19	isnotin-essentially-new;-unused;-undamaged;-and-complete
20	condition;
21	(8) any-repair-part-that-is-notinnew,unused,or
22	undamaged-condition;
23	(9)any-inventory-item,-other-than-a-repair-part,-that
24	hasbeenstockedfor-36-months-or-more-prior-to-notice-of
25	termination-of-the-contractiftheinventoryrelatesto

-4-

1	<u>goods-under-30-11-701(4)(a)-through-30-11-701(4)(c);</u>
2	(10)-any-inventory-item7-other-than-a-repair-part7-that
3	hasbeenstockedfor-24-months-or-more-prior-to-notice-of
4	termination-of-the-contractiftheinventoryrelatesto
5	goods-under-30-11-701(4)(d)-through-30-11-701(4)(g);
6	{10}<u>{11</u>} -any-inventory-that-was-ordered-by-the-retailer
7	afterthedateofnotificationofterminationofthe
8	contract;-and
9	(11) <u>(12)</u> -anyinventorythatwasacquiredfromany
10	sourceotherthanthewholesaler;manufacturer;or
11	distributor-"
12	NEW SECTION. SECTION 2. SAVING CLAUSE. [THIS ACT]
13	DOES NOT AFFECT RIGHTS AND DUTIES THAT MATURED, PENALTIES
14	THAT WERE INCURRED, OR PROCEEDINGS THAT WERE BEGUN BEFORE
15	[THE EFFECTIVE DATE OF THIS ACT].
16	NEW SECTION. SECTION 3. EFFECTIVE DATE. [THIS ACT]
17	IS EFFECTIVE ON PASSAGE AND APPROVAL.

-End-

-5-