

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.

HOUSE BILL NO. **150**

INTRODUCED BY

Blaylock Johnson Treut Gilbert

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING REPURCHASE OF THE INVENTORY OF CANCELED DEALERSHIPS IN MOTORCYCLES, MOTOR-DRIVEN CYCLES, RECREATIONAL VEHICLES, QUADRICYCLES, SNOWMOBILES, OFF-HIGHWAY VEHICLES, AND BOATS AND ENGINES; AND AMENDING SECTION 30-11-701, MCA."

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:

(1) "Current net price" means:

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

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

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

(4) "Inventory" means:

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

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

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

(d) motorcycles, motor-driven cycles, recreational vehicles, and quadricycles, as those terms are defined in Title 61, chapter 1, part 1, and repair parts;

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

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

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-

APPROVED BY COMM. ON BUSINESS
AND ECONOMIC DEVELOPMENT

HOUSE BILL NO. 150

INTRODUCED BY JOHNSON, TVEIT, GILBERT,

ABRAMS, BLAYLOCK, COHEN, WALLIN

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING REPURCHASE OF
THE INVENTORY OF CANCELED DEALERSHIPS IN MOTORCYCLES,
MOTOR-DRIVEN CYCLES, RECREATIONAL VEHICLES, QUADRICYCLES,
SNOWMOBILES, OFF-HIGHWAY VEHICLES, AND BOATS AND ENGINES;
AND AMENDING SECTION 30-11-701, MCA; AND PROVIDING AN
IMMEDIATE EFFECTIVE DATE."

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:

(1) "Current net price" means:

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

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

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.

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

(4) "Inventory" means:

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

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

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

(d) motorcycles, motor-driven cycles, recreational
vehicles, and quadricycles, as those terms are defined in
Title 61, chapter 1, part 1, and repair parts;

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

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
16 individual, partnership, association, or corporation engaged
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-

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
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:

16 (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

1 available price so listed.

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

15 (4) "Inventory" means:

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

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

20 (c) automobiles, trucks, and repair parts sold by an
21 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 Title 61, chapter 1, part 1, and repair parts;

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

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
16 individual, partnership, association, or corporation engaged
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-

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."

SENATE

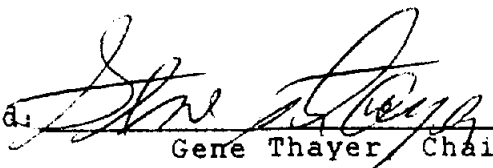
continued

scrhb150.206

NEW SECTION. 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: 

Gene Thayer Chairman

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
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:

16 (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

1 available price so listed.

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

15 (4) "Inventory" means:

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

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

20 (c) automobiles, trucks, and repair parts sold by an
21 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 Title 61, chapter 1, part 1, and repair parts;

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

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
16 individual, partnership, association, or corporation engaged
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 **SECTION 2. SECTION 30-11-703, MCA, IS AMENDED TO READ:**

24 **"30-11-703. Excepted inventory. The following**
25 **inventory is not subject to the repurchase requirements of**

1 **30-11-702:**

2 **{1} 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} any repair part that is in a broken or damaged**
6 **package;**

7 **{3} any single repair part that is priced as a set of**
8 **two or more items;**

9 **{4} any repair part that because of its condition is**
10 **not resalable, resalable as a new part without repackaging**
11 **or reconditioning;**

12 **{5} any inventory for which the retailer is unable to**
13 **furnish evidence satisfactory to the wholesaler,**
14 **manufacturer, or distributor of title, free and clear of all**
15 **claims, liens, and encumbrances;**

16 **{6} any inventory the retailer desires to keep, if he**
17 **has a contractual right to do so;**

18 **{7} any inventory item other than a repair part that**
19 **is not in essentially new, unused, undamaged, and complete**
20 **condition;**

21 **{8} any repair part that is not in new, unused, or**
22 **undamaged condition;**

23 **{9} any inventory item, other than a repair part, that**
24 **has been stocked for 36 months or more prior to notice of**
25 **termination of the contract, if the inventory relates to**

1 goods-under-30-11-701(4)(a)-through-30-11-701(4)(c);
2 {10}-any-inventory-item, other than a repair part, that
3 has--been--stocked--for-24-months-or-more-prior-to-notice-of
4 termination-of-the-contract--if--the--inventory--relates--to
5 goods-under-30-11-701(4)(d)-through-30-11-701(4)(g);

6 {10}{11}-any-inventory-that-was-ordered-by-the-retailer
7 after--the--date--of--notification--of--termination--of--the
8 contract; and

9 {11}{12}-any--inventory--that--was--acquired--from--any
10 source---other---than---the---wholesaler, 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-