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H.337

Introduced by Representatives Gage of Rutland City, Bancroft of Westford,
Batchelor of Derby, Branagan of Georgia, Graham of
Williamstown, Lewis of Berlin, Martel of Waterford, and Smith
of New Haven

Referred to Committee on

Date:

Subject: Commerce and trade

Statement of purpose of bill as introduced: This bill proposes to require a
supplier of a brand of snowmobiles and all-terrain vehicles to repurchase the
remaining inventory from a dealer if the dealer discontinues carrying the
brand.

An act relating to repurchasing inventory of snowmobiles and all-terrain
vehicles

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 9 V.S.A. § 4071 is amended to read:

§ 4071. DEFINITIONS

As used in this chapter:

* * *

1 supplier shall, at the option of the heir, personal representative, or guardian of
2 the dealer or the person who succeeds to the stock of the majority stockholder,
3 repurchase the inventory as if the agreement had been terminated. The heir,
4 personal representative, guardian, or succeeding stockholder has 180 days from
5 the date of the death of the dealer or majority stockholder to exercise the
6 option under this chapter.

7 § 4074. REPURCHASE TERMS

8 (a) Within 90 days from receipt of the written request of the dealer, a
9 supplier under the duty to repurchase inventory pursuant to section 4073 of this
10 title may examine any books or records of the dealer to verify the eligibility of
11 any item for repurchase. Except as otherwise provided in this chapter, the
12 supplier shall repurchase from the dealer all inventory previously purchased
13 from the supplier in possession of the dealer on the date of termination of the
14 dealer agreement and required signage, special tools, books, manuals, supplies,
15 data processing equipment, and software previously purchased from the
16 supplier or other qualified vendor approved by the supplier in the possession of
17 the dealer on the date of termination of the dealer agreement.

18 (b) The supplier shall pay the dealer:

19 (1) 100 percent of the net cost of all new and undamaged and complete
20 farm and utility tractors, utility equipment, forestry equipment, industrial
21 equipment, farm implements, farm machinery, yard and garden equipment,

1 attachments, and accessories purchased from the supplier within the 30-month
2 period preceding the date of termination, less a reasonable allowance for
3 deterioration attributable to weather conditions at the dealer's location.

4 (2) 90 percent of the current net prices of all new and undamaged repair
5 parts.

6 (3) 85 percent of the current net prices of all new and undamaged
7 superseded repair parts.

8 (4) 85 percent of the latest available published net price of all new and
9 undamaged noncurrent repair parts.

10 (5) Either the fair market value, or assume the lease responsibilities of
11 any specific data processing hardware that the supplier required the dealer to
12 purchase to satisfy the reasonable requirements of the dealer agreement,
13 including computer systems equipment and software required and approved by
14 the supplier to communicate with the supplier.

15 (6) Repurchase at 75 percent of the net cost of specialized repair tools,
16 signage, books and supplies previously purchased, pursuant to requirements of
17 the supplier and held by the dealer on the date of termination. Specialized
18 repair tools must be unique to the supplier's product line and must be complete
19 and in usable condition.

20 (7) Repurchase at average as-is value shown in current industry guides,
21 dealer-owned rental fleet financed by the supplier or its finance subsidiary,

1 provided the equipment was purchased from the supplier within 30 months of
2 the date of termination.

3 (c) The party that initiates the termination of the dealer agreement shall pay
4 the cost of the return, handling, packing, and loading of the inventory. If the
5 termination is initiated by the supplier, the supplier shall reimburse the dealer
6 five percent of the net parts return credited to the dealer as compensation for
7 picking, handling, packing, and shipping the parts returned to the supplier.

8 (d) Payment to the dealer required under this section shall be made by the
9 supplier not later than 45 days after receipt of the inventory by the supplier. A
10 penalty shall be assessed in the amount of daily interest at current New York
11 prime rate plus three percent of any outstanding balance over the required
12 45 days. The supplier shall be entitled to apply any payment required under
13 this section to be made to the dealer as a setoff against any amount owed by
14 the dealer to the supplier.

15 § 4075. EXCEPTIONS TO REPURCHASE REQUIREMENT

16 The provisions of this chapter shall not require the repurchase from a
17 dealer of:

18 (1) a repair part with a limited storage life or otherwise subject to
19 physical or structural deterioration, including gaskets or batteries;

20 (2) a single repair part normally priced and sold in a set of two or more
21 items;

1 (3) a repair part that, because of its condition, cannot be marketed as a
2 new part without repackaging or reconditioning by the supplier or
3 manufacturer;

4 (4) any inventory that the dealer elects to retain;

5 (5) any inventory ordered by the dealer after receipt of notice of
6 termination of the dealer agreement by either the dealer or supplier; or

7 (6) any inventory that was acquired by the dealer from a source other
8 than the supplier unless the source was approved by the supplier.

9 Sec. 2. EFFECTIVE DATE

10 This act shall take effect on July 1, 2015.