

Northeast Equipment Dealers Association (NEDA)
Proposed Amendments to S.224, Equipment dealers and suppliers
House Commerce and Economic Development Committee
April 6, 2016

NEDA respectfully requests that the committee consider the following proposed amendments to the Senate-passed version of S.224, which are bold-faced and italicized:

1. Definition of Inventory - §4071(4)(A) (page 5)

(A)“Inventory” means:

(i) farm, utility, forestry, yard and garden, or industrial:

- (I) tractors;
- (II) equipment
- (III) implements;
- (IV) machinery;
- (V) attachments
- (VI) accessories; and
- (VII) repair parts;

(ii) snowmobiles, as defined in 23 V.S.A. § 3201(5), ***and snowmobile implements, attachments, garments, accessories and repair parts;*** and

(iii) all-terrain vehicles, as defined in 23 V.S.A. § 3801(1), ***and all-terrain vehicle implements, attachments, garments, accessories and repair parts.***

2. Termination of Dealer Agreement - §4072(d)(5)(c) (page 10)

(d) Termination by a supplier upon a specified event. A supplier may terminate a dealer agreement if one of the following events occurs:

(5) Without the prior written consent of the supplier:

~~***(C) The dealer terminates a manager of the dealer.***~~

3. Repurchase Obligations for Repair Parts - § 4074(b)(2)(3)&(4) (page 11)

Sec. 5. 9 V.S.A. § 4074, Repurchase Terms

* * *

(b) The supplier shall pay the dealer:

(1) 100 percent of the net cost of all new and undamaged and ~~complete farm and utility tractors, utility equipment, forestry equipment, industrial equipment, farm implements, farm~~

~~machinery, yard and garden equipment, attachments, and accessories~~ inventory, other than repair parts, purchased from the supplier within the 30-month period preceding the date of termination, less a reasonable allowance for deterioration attributable to weather conditions at the dealer's location.

(2) ~~100 90~~-percent of the current net prices of all new and undamaged repair parts.

(3) ~~95 85~~ percent of the current net prices of all new and undamaged superseded repair parts.

(4) ~~95 85~~ percent of the latest available published net price of all new and undamaged noncurrent repair parts.

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4. Warranty Obligations - §4078(d) & (g)(2) (pages 16-17)

(d) (1) A supplier shall compensate a dealer for parts used to fulfill warranty and recall obligations of warranty service at a rate not less than the price the dealer actually paid the supplier for the parts plus 20 percent, plus freight and handling if charged by the supplier.

(2) The wholesale price on which a dealer's markup reimbursement is based for any parts used in a recall, service campaign, or other similar program, shall not be less than the highest wholesale price listed in the supplier's wholesale price catalogue within six months prior to the start of the recall, service campaign, or other similar program.

(g) A supplier shall not:

(2) impose a surcharge or fee or otherwise ~~increase the prices or charges to a dealer~~, recover the additional costs the supplier incurs from complying with the provisions of this section.

5. Applicability to Existing Dealer Agreements (Sec. 3) (page 18)

Notwithstanding 1 V.S.A. § 214, the provisions of this act shall apply to all ~~for a~~ dealer agreements, as defined in 9 V.S.A. § 4071, that ~~are is~~ in effect on or before July 1, 2016, and to all amendments, renewals or extensions of dealer agreements, and to all dealer agreements entered into thereafter. the provisions of this act shall apply on July 1, 2017.

Please contact Clare Buckley, KSE Partners, LLP, with questions. 802-777-2064 or cbuckley@ksepartners.com. Thank you.