

SENATE BILL NO. 2290

Introduced by

Senators Klein, Schobinger

Representatives Hunskor, Severson, Weisz

1 A BILL for an Act to amend and reenact sections 51-20-01 and 51-20-02 of the North Dakota
2 Century Code, relating to recreation vehicle franchises.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. AMENDMENT.** Section 51-20-01 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **51-20-01. Definitions.** As used in this chapter, unless the context requires otherwise:

- 7 1. "Contractual arrangement" means a written franchise or other written agreement,
8 by whatever name such agreement may be called, between a distributor and a
9 dealer whereby the dealer agrees to sell at retail and service the distributor's
10 recreation vehicles in a given location or locations, whether or not exclusively with
11 respect to a given geographic area, and the distributor authorizes the dealer to sell,
12 or sell and service, and agrees to supply an inventory of recreation vehicles, and, if
13 the dealer is to perform service, an inventory of parts for those vehicles.
- 14 2. "Dealer" means a person, partnership, corporation, limited liability company, or
15 other business entity which sells at retail and services new recreation vehicles.
- 16 3. "Distributor" means any manufacturer, wholesaler, or distributor of recreation
17 vehicles who has a contractual arrangement with a dealer in such vehicles.
- 18 4. "Recreation vehicle" includes snowmobiles as defined in section 39-24-01, plus
19 trailers for transporting same when those trailers are furnished by the same
20 distributor who furnishes the snowmobiles; all-terrain vehicles as defined in section
21 39-29-01; motorcycles as defined in subsection 39 of section 39-01-01; travel
22 trailers, which term means vehicles without motive power designed for recreational
23 use as living or sleeping quarters for people and which do not exceed ~~thirty five~~
24 forty feet [10.67 12.19 meters] in length; and motorboats, whether propelled by an

1 inboard or outboard marine engine, plus any outboard marine engines and boat
2 trailers.

3 5. "Repair parts" includes accessories.

4 **SECTION 2. AMENDMENT.** Section 51-20-02 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **51-20-02. Recreation vehicle dealers may recover value of vehicles or parts from**
7 **distributor in certain cases.**

8 1. ~~Whenever:~~

9 a. ~~A distributor cancels or discontinues a contractual arrangement; or~~

10 b. ~~A dealer cancels or discontinues a contractual arrangement because the~~
11 ~~distributor entered into a contractual arrangement with another dealer to sell~~
12 ~~in the same geographical area for which the first dealer had an exclusive~~
13 ~~dealership;~~

14 ~~the dealer may recover from the distributor the net cost to the dealer of all new and~~
15 ~~unused recreation vehicles, and parts for such vehicles, held by the dealer at the~~
16 ~~time of cancellation or discontinuance of the contractual arrangement. The dealer~~
17 ~~may enforce the right given under this section by civil action commenced in the~~
18 ~~district court in the county where the dealer has the dealer's principal place of~~
19 ~~business in North Dakota. If a dealer has entered a written contract with a~~
20 ~~distributor wherein the dealer agrees to maintain a stock of recreation vehicles,~~
21 ~~repair parts, or both recreation vehicles and repair parts, and either the dealer or~~
22 ~~the distributor desires to cancel or discontinue the contract, the distributor shall pay~~
23 ~~to the dealer, unless the dealer desires to keep the recreation vehicles or repair~~
24 ~~parts, the following amounts:~~

25 a. A sum equal to one hundred percent of the net cost of all unused, complete
26 recreation vehicles;

27 b. Eighty-five percent of the current net prices on repair parts, including the
28 superseded parts listed in current price lists or catalogs, if the superseded
29 parts have previously been purchased from the distributor and were in the
30 dealer's inventory on the date of cancellation or discontinuance of the contract
31 or were thereafter received by the dealer from the distributor;

- 1 c. A sum equal to five percent of the current net price of all parts returned as
2 reimbursement for handling, packing, and loading of those parts; and
3 d. Any freight charges on the equipment or repair parts paid by the dealer.
- 4 2. When a distributor has made payment in accordance with this section, title to the
5 recreation vehicles and repair parts must pass to the distributor and the distributor
6 is entitled to possession of the recreation vehicles and repair parts. The provisions
7 of this section are supplemental to any contractual rights which the dealer may
8 have with respect to reimbursement for ~~equipment~~ recreation vehicles and parts
9 inventory held by the dealer at cancellation or discontinuance of a contractual
10 arrangement. The dealer may elect to pursue the dealer's rights under the
11 contractual arrangement and under this section, ~~but the dealer's total recovery may~~
12 ~~not exceed the net cost of the equipment and parts remaining in the dealer's hands~~
13 ~~at the time of cancellation or discontinuance, plus legal costs awarded by the court.~~
14 An election by a dealer to pursue a contractual remedy does not bar the dealer's
15 right to the remedy provided by this section with respect to those pieces of
16 recreation vehicles and repair parts not affected by the contract remedy.
- 17 3. This section applies to every contract now in effect which has no stated expiration
18 date and to all other contracts entered after July 31, 2001. Contracts in force and
19 effect on July 31, 2001, which by their terms will terminate on a date subsequent to
20 July 31, 2001, are governed by the law existing before August 1, 2001.