**HB 1333**

# Department of Legislative Services

Maryland General Assembly
2005 Session

## FISCAL AND POLICY NOTE

House Bill 1333 (Delegates Stull and Elliott)
Economic Matters Finance

### Commercial Law - Equipment Dealer Contract Act

This bill revises the Equipment Dealer Contract Act.

The bill takes effect July 1, 2005.

## Fiscal Summary

**State Effect:** The bill would not directly affect governmental operations or finances.

**Local Effect:** None.

**Small Business Effect:** Minimal.

## Analysis

**Bill Summary:** The bill governs the contracts between an equipment dealer and a supplier, which is a wholesaler, manufacturer, distributor, or successor in interest of one of these. The bill expands the definition of good cause under a contract between a dealer and a supplier.

A supplier may not terminate, cancel, fail to renew, or substantially change the competitive circumstances of a contract without good cause, as defined under the bill. Generally, a supplier who terminates, cancels, fails to renew, or substantially changes the competitive circumstances of a contract for good cause does not need to provide notice or the right to cure a deficiency to a dealer. However, if the change is based on the dealer's failure to capture sufficient market share under the contract's terms and the supplier has worked with the dealer for at least 12 months to gain the desired marked share, the supplier must provide 90 days' written notice of the termination and a 60 day right to cure. A dealer who terminates a contract with a supplier must notify the supplier within 90 days prior to the effective date.

Generally, when a contract is terminated, the supplier must repurchase the dealer's inventory on specified terms unless the dealer chooses to keep it. The bill provides for repurchase of inventory if the dealer (if the dealer is a corporation, the majority stockholder), dies or is adjudicated incompetent. Generally, the heir has the option to require the supplier to repurchase the inventory. If the dealer's heir and the supplier enter into a new contract to operate the dealership, the supplier is under no obligation to repurchase the inventory. If an agreement between a dealer and a supplier specifies succession rights, the agreement is enforceable.

The bill specifies amounts that the supplier must pay for returned equipment, implements, machinery, attachments, parts, and tools after termination of the contract. On payment of the repurchase amount to the dealer, the title and right of possession to the repurchased inventory transfers to the supplier. The bill also specifies items that the supplier is not required to repurchase upon termination.

The bill specifies the duties of the supplier and the dealer for warranty parts and services under a manufacturer's warranty.

The bill establishes civil liabilities for a supplier's violation of the bill. Potential remedies include monetary damages, an injunction, and attorney's fees and court costs.

**Current Law:** A supplier may not terminate, cancel, or fail to renew without good cause, as defined under the Act. Generally, the supplier may not unilaterally terminate a contract unless the supplier complies with specified notice provisions. Generally, when a contract is terminated, the supplier must repurchase the dealer's inventory on specified terms.

The Act provides for transfer of the dealer's interest in the dealership under specified circumstances. The Act also provides for the operation or winding down of the dealership upon the death of the dealer. The Act provides for liability for a violation, in addition to any other legal or equitable remedy available to a contract between a dealer and a supplier.

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## Additional Information

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** State Department of Assessments and Taxation, Office of the Attorney General (Consumer Protection Division), Department of Legislative Services

**Fiscal Note History:** First Reader - March 6, 2005
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