

Department of Legislative Services
Maryland General Assembly
2000 Session

FISCAL NOTE

Senate Bill 482 (Senator Colburn)

Finance

Commercial Law - Personal Sportsmobile Equipment Dealers and Distributors

This bill alters the definition of “dealer” in Title 19 of the Commercial Law Article, which relates to equipment dealer contracts, to include dealers of “personal sportsmobiles.” A personal sportsmobile is an all-terrain vehicle, a motorcycle, a snowmobile, or a personal watercraft. The bill provides that a personal sportsmobile distributor may transfer ownership of the distributorship in the same manner as equipment dealers. The heirs of a deceased dealer or distributor have 180 days after the death of the dealer or distributor during which to operate the business without the express written consent of the supplier.

The bill specifies that the bill’s protections for personal sportsmobile dealers and distributors are not intended to supercede the protections under Title 15, Subtitle 2 of the Transportation Article, relating to motor vehicle distributors. In any conflict, the provisions of Title 15, Subtitle 2 of the Transportation Article prevail over the bill’s provisions.

Fiscal Summary

State Effect: The bill would not directly affect State finances.

Local Effect: None.

Small Business Effect: Meaningful.

Analysis

Current Law: Where agreements between a personal sportsmobile dealer and a

manufacturer are not governed by Title 15, Subtitle 2 of the Transportation Article, they are governed by the general law of contracts, including Article 2 of the Uniform Commercial Code.

Title 15, Subtitle 2 of the Transportation Article contains provisions of law relating to contracts between motor vehicle manufacturers and dealers. A manufacturer may not coerce a dealer to make an agreement with the manufacturer. A franchise agreement offered by a manufacturer to a dealer may not require the dealer to pay the manufacturer's attorney's fees in a dispute. Title 15 prohibits a manufacturer from wrongfully terminating a dealer's franchise and refusing to deliver new vehicles within a reasonable time after receipt of a written order. Title 15 also specifies the rights of a dealer's decedents to continue the business. A dealer or manufacturer may request an administrative hearing to resolve a dispute under Title 15. If a person suffers financial injury as a result of a violation of Title 15, the person may recover damages and reasonable attorneys' fees in a civil action.

Title 19 of the Commercial Law Article, the Equipment Dealer Contract Act, contains provisions of law relating to contracts between suppliers and equipment dealers. A dealer is a person who: (1) is engaged in the business of selling, at retail, construction, farm, industrial, or outdoor power equipment; (2) maintains a total inventory, of new equipment and repair parts, valued at over \$50,000; and (3) provides repair service for the equipment sold. A supplier is a wholesaler, manufacturer, or distributor who enters into a contract with a dealer. With certain exceptions, a supplier must repurchase the dealer's inventory on specified terms within 90 days after the termination of the contract between a supplier and a dealer. Title 19 also specifies conditions under which a supplier or a dealer may terminate a contract and the rights of a dealer's decedents to continue the business. Suppliers are civilly liable for refusal to repurchase. Damages include 100% of the current net price of the inventory, the dealer's freight costs, the dealer's reasonable cost of assembly, the dealer's reasonable attorneys' fees and court costs, and interest at the legal rate, up to 18%.

Small Business Effect: Small business personal sportsmobile dealers will be affected to the extent that the bill affects terms permissible in their agreements with suppliers and how disputes under those agreements are resolved. For example, attorneys' fees, which are allowed under the bill, are generally not recoverable in a breach of contract action.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of Transportation (Motor Vehicle Administration), Office of the Attorney General (Consumer Protection Division), Department of Legislative Services

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