

Department of Legislative Services
Maryland General Assembly
2001 Session

FISCAL NOTE

Senate Bill 589 (Senator Colburn)
Finance

Commercial Law - Personal Power Sports Dealers and Distributors - Right of Succession

This bill authorizes a “personal power sports vehicle” dealer or distributor to request that a supplier grant a right of succession to the dealer or distributor. The request must be in writing and must contain specified information.

Fiscal Summary

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

Local Effect: None.

Small Business Effect: Meaningful.

Analysis

Bill Summary: A “personal power sports vehicle” is a multi-wheeled, all-terrain vehicle that: (1) is designated to operate exclusively on land or on both land and water; and (2) does not require the driver to be licensed by the Motor Vehicle Administration. A supplier must grant or deny a succession request within 90 days and may only deny a request for good cause. 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, or a new agreement with, the supplier.

The bill provides that it does not preclude the enforcement of a valid contract between a supplier and a dealer or distributor concerning succession rights made before the death of

the dealer or distributor, even if the contract designates someone other than a family member or heir as successor.

Current Law: Contracts between personal power sports vehicle suppliers and personal power sports vehicle dealers or distributors are governed by the general law of contracts, including Article 2 of the Maryland Uniform Commercial Code, which does not provide for succession.

Background: Dealers of farm, industrial, or outdoor power equipment may make a written request, containing specified information, to their suppliers to sell or transfer the dealer's business, or enter into an agreement to operate the dealership with another person before executing the sale, transfer, or agreement. A supplier must determine whether the request is acceptable within 90 days of receipt. If the supplier determines that the request is unacceptable, the supplier must provide the dealer with a written notice stating the reasons for nonacceptance.

The heirs of a deceased farm, industrial, or outdoor power equipment dealer have 180 days after the death of the dealer during which to operate the business without the express written consent of the supplier. A valid, enforceable contract between a seller and dealer concerning a right of succession is not precluded by this provision.

Small business owners frequently devise their businesses to family members while failing to provide for a succession right in their contracts with suppliers. These contracts are not affected by testamentary provisions.

Small Business Effect: Small business personal power sports vehicle dealers will be affected to the extent that the bill affects terms permissible in their agreements with suppliers and how they may treat their businesses in their estate plans.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Office of the Attorney General, Department of Legislative Services

Fiscal Note History: First Reader – February 22, 2001
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