

SENATE BILL 708

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SB 589/01 - FIN

2002 Regular Session
2r1941

By: **Senator Colburn**
Introduced and read first time: February 1, 2002
Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

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

4 FOR the purpose of authorizing a personal power sports dealer or distributor to
5 request a right of succession for a family member for the dealership or
6 distributorship from a supplier; requiring that a personal power sports dealer or
7 distributor provide certain information to the supplier when submitting a
8 succession request; requiring a supplier to grant or refuse a succession request
9 within a certain amount of time; requiring that a supplier may deny a
10 succession request only for good cause; requiring a supplier that refuses a
11 succession request to provide the dealer or distributor with a written statement
12 containing the reasons for refusal; authorizing the heirs of a deceased dealer or
13 distributor to operate a dealership or distributorship for a certain amount of
14 time after the death of the dealer or distributor, subject to certain exceptions;
15 providing that the provisions of this Act do not preclude the enforceability of a
16 valid contract between a supplier and a dealer or distributor concerning
17 succession rights made before the death of a dealer or distributor; defining
18 certain terms; and generally relating to the operation of personal power sports
19 equipment dealerships and distributorships.

20 BY adding to
21 Article - Commercial Law
22 Section 19.5-101 through 19.5-104, inclusive, to be under the new title "Title
23 19.5. Personal Power Sports Dealers and Distributors"
24 Annotated Code of Maryland
25 (2000 Replacement Volume and 2001 Supplement)

26 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
27 MARYLAND, That the Laws of Maryland read as follows:

1 **Article - Commercial Law**

2 TITLE 19.5. PERSONAL POWER SPORTS DEALERS AND DISTRIBUTORS.

3 19.5-101.

4 (A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

5 (B) "CONTRACT" MEANS AN AGREEMENT BETWEEN A DEALER OR
6 DISTRIBUTOR AND A SUPPLIER BY WHICH:7 (1) THE DEALER OR DISTRIBUTOR IS GRANTED THE RIGHT TO SELL
8 PERSONAL POWER SPORTS EQUIPMENT PROVIDED BY THE SUPPLIER; AND9 (2) THE DEALER OR DISTRIBUTOR IS REQUIRED TO ORDER AND
10 MAINTAIN AN INVENTORY OF PERSONAL POWER SPORTS EQUIPMENT VALUED IN
11 EXCESS OF \$35,000 FROM THE SUPPLIER.

12 (C) "DEALER" MEANS A PERSON:

13 (1) ENGAGED IN THE BUSINESS OF SELLING, AT RETAIL, PERSONAL
14 POWER SPORTS EQUIPMENT;15 (2) MAINTAINING A TOTAL INVENTORY, VALUED IN EXCESS OF \$60,000,
16 OF PERSONAL POWER SPORTS EQUIPMENT; AND17 (3) PROVIDING REPAIR SERVICE FOR THE PERSONAL POWER SPORTS
18 EQUIPMENT SOLD.19 (D) "DISTRIBUTOR" MEANS A DISTRIBUTOR OF PERSONAL POWER SPORTS
20 EQUIPMENT WHO IS AUTHORIZED BY A PERSONAL POWER SPORTS MANUFACTURER
21 OR A PERSONAL POWER SPORTS MANUFACTURER'S AUTHORIZED IMPORTER TO
22 ENTER INTO FRANCHISE AGREEMENTS WITH DEALERS.

23 (E) "FAMILY MEMBER" MEANS A:

24 (1) SPOUSE;

25 (2) CHILD;

26 (3) SON-IN-LAW;

27 (4) DAUGHTER-IN-LAW; OR

28 (5) LINEAL DESCENDANT OF THE PRINCIPAL OWNER OF A PERSONAL
29 POWER SPORTS DEALERSHIP OR DISTRIBUTORSHIP.30 (F) "PERSONAL POWER SPORTS EQUIPMENT" INCLUDES PERSONAL POWER
31 SPORTS VEHICLES AND RELATED IMPLEMENTS, ATTACHMENTS, AND REPAIR PARTS
32 PURCHASED BY A DEALER OR DISTRIBUTOR FROM A SUPPLIER.

1 (G) (1) "PERSONAL POWER SPORTS VEHICLE" MEANS A MULTIWHEELED
2 ALL-TERRAIN VEHICLE THAT IS DESIGNED TO OPERATE EXCLUSIVELY ON LAND OR
3 ON BOTH LAND AND WATER.

4 (2) "PERSONAL POWER SPORTS VEHICLE" DOES NOT INCLUDE:

5 (I) MOTORCYCLES;

6 (II) SNOWMOBILES;

7 (III) WATERCRAFT NOT CAPABLE OF OPERATING ON BOTH WATER
8 AND LAND; AND

9 (IV) MOTOR VEHICLES THAT REQUIRE THE DRIVER TO BE
10 LICENSED BY THE MOTOR VEHICLE ADMINISTRATION.

11 (H) "SUPPLIER" MEANS A WHOLESALER, MANUFACTURER, OR DISTRIBUTOR
12 OF PERSONAL POWER SPORTS EQUIPMENT.

13 19.5-102.

14 (A) A DEALER OR DISTRIBUTOR MAY REQUEST A RIGHT OF SUCCESSION FOR A
15 FAMILY MEMBER FOR A DEALERSHIP OR DISTRIBUTORSHIP BY SUBMITTING A
16 WRITTEN REQUEST TO THE SUPPLIER THAT CONTAINS THE FOLLOWING
17 INFORMATION ABOUT THE POTENTIAL SUCCESSOR:

18 (1) RELEVANT FINANCIAL INFORMATION;

19 (2) PERSONAL BACKGROUND;

20 (3) CHARACTER REFERENCES;

21 (4) WORK HISTORY; AND

22 (5) ANY OTHER INFORMATION REASONABLY REQUIRED BY THE
23 SUPPLIER IN ORDER TO DECIDE WHETHER TO GRANT OR DENY THE REQUEST.

24 (B) (1) A SUPPLIER SHALL GRANT OR DENY A SUCCESSION REQUEST
25 SUBMITTED BY A DEALER OR DISTRIBUTOR UNDER SUBSECTION (A) OF THIS
26 SECTION WITHIN 90 DAYS OF RECEIPT OF THE REQUEST.

27 (2) A SUPPLIER MAY DENY A REQUEST FOR A RIGHT OF SUCCESSION
28 ONLY FOR GOOD CAUSE.

29 (3) IF THE SUPPLIER DENIES A SUCCESSION REQUEST, THE SUPPLIER
30 SHALL PROVIDE THE DEALER OR DISTRIBUTOR WITH A WRITTEN STATEMENT THAT
31 CONTAINS THE REASONS FOR DENIAL.

1 19.5-103.

2 (A) THE HEIRS OF A DECEASED DEALER OR DISTRIBUTOR MAY OPERATE A
3 DEALERSHIP OR DISTRIBUTORSHIP FOR UP TO 180 DAYS AFTER:

4 (1) THE DENIAL OF A SUCCESSION REQUEST MADE BY THE HEIRS
5 UNDER THIS TITLE; OR

6 (2) THE CONCLUSION OF ANY LEGAL PROCEEDINGS BETWEEN THE
7 HEIRS AND THE SUPPLIERS.

8 (B) THE HEIRS OF A DECEASED DEALER OR DISTRIBUTOR MAY NOT OPERATE
9 A DEALERSHIP OR DISTRIBUTORSHIP FOR MORE THAN THE 180 DAYS PROVIDED
10 UNDER THIS SECTION UNLESS:

11 (1) THE HEIRS HAVE ENTERED INTO A NEW CONTRACT WITH THE
12 SUPPLIER TO OPERATE THE DEALERSHIP OR DISTRIBUTORSHIP; OR

13 (2) THE SUPPLIER GIVES EXPRESS WRITTEN CONSENT.

14 19.5-104.

15 NOTHING IN THIS TITLE PRECLUDES THE ENFORCEABILITY OF A VALID
16 CONTRACT BETWEEN A SUPPLIER AND A DEALER OR DISTRIBUTOR CONCERNING
17 SUCCESSION RIGHTS MADE BEFORE THE DEATH OF THE DEALER OR DISTRIBUTOR,
18 EVEN IF THE CONTRACT DESIGNATES A PERSON OTHER THAN A FAMILY MEMBER OR
19 AN HEIR OF THE DEALER OR DISTRIBUTOR AS THE SUCCESSOR TO THE DEALER OR
20 DISTRIBUTOR.

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
22 October 1, 2002.