

HOUSE BILL 1068

I4

9lr2459
CF SB 896

By: **Delegate Davis**

Introduced and read first time: February 13, 2009

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Commercial Law – Equipment Dealer Contract Act – Scope**

3 FOR the purpose of altering the definitions of “dealer” and “inventory” for purposes of
4 the Equipment Dealer Contract Act to clarify that it applies to persons engaged
5 in the business of selling, on commission or at retail, commercial heating,
6 ventilation, and air-conditioning equipment or repair parts; and generally
7 relating to the scope of the Equipment Dealer Contract Act.

8 BY repealing and reenacting, with amendments,
9 Article – Commercial Law
10 Section 19–101
11 Annotated Code of Maryland
12 (2005 Replacement Volume and 2008 Supplement)

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

15 **Article – Commercial Law**

16 19–101.

17 (a) In this title, unless the context requires otherwise, the following words
18 have the meanings indicated.

19 (b) “Contract” means a written or oral contract or agreement between a
20 dealer and a wholesaler, manufacturer, or distributor by which:

21 (1) The dealer is granted the right to sell or distribute goods or
22 services; or

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2) The dealer is granted the right to use a trade name, trademark,
2 service mark, logo type, or advertising or other commercial symbol.

3 (c) "Current model" means a model listed in a wholesaler's, manufacturer's,
4 or distributor's current sales manual or a supplement to the current sales manual.

5 (d) "Current net price" means the price listed in the supplier's price list or
6 catalog in effect at the time the contract agreement is terminated, less any applicable
7 discount allowed.

8 (e) (1) "Dealer" means a person engaged in the business of selling at retail
9 construction, farm, utility, or industrial equipment, implements, machinery,
10 attachments, outdoor power equipment, or repair parts.

11 (2) **"DEALER" INCLUDES A PERSON ENGAGED IN THE BUSINESS**
12 **OF SELLING, ON COMMISSION OR AT RETAIL, COMMERCIAL HEATING,**
13 **VENTILATION, AND AIR-CONDITIONING EQUIPMENT OR REPAIR PARTS.**

14 (f) "Family member" means a spouse, sibling, parent, grandparent, child,
15 grandchild, mother-in-law, father-in-law, daughter-in-law, son-in-law, stepparent,
16 or stepchild, or a lineal descendant of the dealer or principal owner of the dealership.

17 (g) "Good cause" means failure by a dealer to comply with requirements
18 imposed on the dealer by a contract if the requirements are not different from
19 requirements imposed on other dealers similarly situated in the State.

20 (h) (1) "Inventory" means farm implements or machinery, construction,
21 utility, and industrial equipment, consumer products, outdoor power equipment,
22 attachments, or repair parts.

23 (2) **"INVENTORY" INCLUDES COMMERCIAL HEATING,**
24 **VENTILATION, AND AIR-CONDITIONING EQUIPMENT OR REPAIR PARTS.**

25 (i) "Net cost" means the price the dealer paid the supplier for the inventory,
26 less all applicable discounts allowed, plus the amount the dealer paid for freight costs
27 from the supplier's location to the dealer's location, plus the reasonable cost of
28 assembly or disassembly performed by the dealer.

29 (j) "Superseded part" means a part that will provide the same function as a
30 currently available part as of the date of cancellation of a contract.

31 (k) "Supplier" means:

32 (1) A wholesaler, manufacturer, or distributor who enters into a
33 contract with a dealer; or

1 (2) A purchaser of assets or stock of a surviving corporation resulting
2 from a merger or liquidation, a receiver or assignee, or a trustee of the original
3 manufacturer, wholesaler, or distributor who enters into a contract with a dealer.

4 (1) “Termination” means the termination, cancellation, nonrenewal, or
5 noncontinuation of a contract.

6 (m) “Utility” and “industrial”, when used to refer to equipment, implements,
7 machinery, attachments, or repair parts, have the meanings commonly used and
8 understood among dealers and suppliers of farm equipment as a usage of trade.

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
10 June 1, 2009.