

A person may not possess more than ~~ten~~ three snapping turtles of the species *Chelydra serpentina* without a turtle seller's license. The size of the turtles must have a dorsal surface of the shell that measures at least ten inches long. A person may not take snapping turtles of a size less than ten inches wide including curvature, measured from side to side across the shell at midpoint.

Sec. 5. REPEALER.

Minnesota Statutes 1988, section 97C.615, is repealed.

Presented to the governor May 23, 1989

Signed by the governor May 25, 1989, 6:35 p.m.

CHAPTER 267—H.F.No. 1530

*An act relating to commerce; regulating business relations between manufacturers of heavy and utility equipment and independent retail dealers of those products; proposing coding for new law in Minnesota Statutes, chapter 325E.*

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. [325E.068] DEFINITIONS.

Subdivision 1. SCOPE. For the purposes of sections 1 to 5, the terms defined in this section have the meanings given them.

Subd. 2. HEAVY AND UTILITY EQUIPMENT. "Heavy and utility equipment," "heavy equipment," or "equipment" means equipment including but not limited to excavators, crawler tractors, wheel loaders, compactors, pavers, backhoes, hydraulic hammers, cranes, fork lifts, compressors, generators, and other equipment including attachments and repair parts used in all types of construction of buildings, highways, airports, dams, or other earthen structures or in moving, stock piling, or distribution of materials used in such construction excluding self-propelled machines designed primarily for the transportation of persons or property on a street or highway.

Subd. 3. HEAVY AND UTILITY MANUFACTURER. "Heavy and utility equipment manufacturer," "heavy equipment manufacturer," or "equipment manufacturer" means a person, partnership, corporation, association, or other form of business enterprise engaged in the manufacturing, assembly, or wholesale distribution of heavy and utility equipment as defined in subdivision 2. The term also includes a successor in interest of the heavy and utility equipment manufacturer, including a purchaser of assets or stock, a surviving corporation resulting from a merger or liquidation, a receiver or assignee, or a trustee of the original equipment manufacturer.

New language is indicated by underline, deletions by strikeout.

Subd. 4. HEAVY AND UTILITY DEALER OR DEALERSHIP. "Heavy and utility equipment dealer" or "heavy and utility equipment dealership" means a person, partnership, corporation, association, or other form of business enterprise engaged in the retail sale of heavy and utility equipment.

Subd. 5. DEALERSHIP AGREEMENT. "Dealership agreement" means an oral or written agreement of definite or indefinite duration between an equipment manufacturer and an equipment dealer that provides for the rights and obligations of the parties with respect to the purchase or sale of heavy and utility equipment.

**Sec. 2. [325E.0681] TERMINATIONS OR CANCELLATIONS.**

Subdivision 1. GOOD CAUSE REQUIRED. No equipment manufacturer, directly or through an officer, agent, or employee may terminate, cancel, fail to renew, or substantially change the competitive circumstances of a dealership agreement without good cause. "Good cause" means failure by an equipment dealer to substantially comply with essential and reasonable requirements imposed upon the dealer by the dealership agreement, if the requirements are not different from those requirements imposed on other similarly situated dealers by their terms. In addition, good cause exists whenever:

(a) Without the consent of the equipment manufacturer who shall not withhold consent unreasonably, (1) the equipment dealer has transferred an interest in the equipment dealership, (2) there has been a withdrawal from the dealership of an individual proprietor, partner, major shareholder, or the manager of the dealership, or (3) there has been a substantial reduction in interest of a partner or major stockholder.

(b) The equipment dealer has filed a voluntary petition in bankruptcy or has had an involuntary petition in bankruptcy filed against it that has not been discharged within 30 days after the filing, or there has been a closeout or sale of a substantial part of the dealer's assets related to the equipment business, or there has been a commencement of dissolution or liquidation of the dealer.

(c) There has been a change, without the prior written approval of the manufacturer, in the location of the dealer's principal place of business under the dealership agreement.

(d) The equipment dealer has defaulted under a security agreement between the dealer and the equipment manufacturer, or there has been a revocation or discontinuance of a guarantee of the dealer's present or future obligations to the equipment manufacturer.

(e) The equipment dealer has failed to operate in the normal course of business for seven consecutive days or has otherwise abandoned the business.

(f) The equipment dealer has pleaded guilty to or has been convicted of a felony affecting the relationship between the dealer and manufacturer.

New language is indicated by underline, deletions by ~~strikeout~~.

(g) The dealer has engaged in conduct that is injurious or detrimental to the dealer's customers or to the public welfare.

(h) The equipment dealer, after receiving notice from the manufacturer of its requirements for reasonable market penetration based on the manufacturer's experience in other comparable marketing areas, consistently fails to meet the manufacturer's market penetration requirements.

Subd. 2. NOTICE. Except as otherwise provided in this subdivision, an equipment manufacturer shall provide an equipment dealer at least 90 days' prior written notice of termination, cancellation, or nonrenewal of the dealership agreement. The notice must state all reasons constituting good cause for the action and must provide that the dealer has until expiration of the notice period in which to cure a claimed deficiency. If the deficiency is rectified within the notice period, the notice is void. The notice and right to cure provisions under this section do not apply if the reason for termination, cancellation, or nonrenewal is for any reason set forth in subdivision 1, clauses (a) to (g).

### Sec. 3, [325E.0682] VIOLATIONS.

(a) It is a violation of sections 1 to 5 for an equipment manufacturer to coerce an equipment dealer to accept delivery of heavy and utility equipment, parts, or accessories that the equipment dealer has not voluntarily ordered.

(b) It is a violation of sections 1 to 5 for an equipment manufacturer to:

(1) condition or attempt to condition the sale of equipment on a requirement that the equipment dealer also purchase other goods or services; except that an equipment manufacturer may require the dealer to purchase all parts reasonably necessary to maintain the quality of operation in the field of any equipment used in the trade area and telecommunications necessary to communicate with the equipment manufacturer;

(2) coerce an equipment dealer into a refusal to purchase the equipment manufactured by another equipment manufacturer;

(3) discriminate in the prices charged for equipment of like grade and quality sold by the equipment manufacturer to similarly situated equipment dealers. This clause does not prevent the use of differentials that make only due allowance for difference in the cost of manufacture, sale, or delivery or for the differing methods or quantities in which the equipment is sold or delivered, by the equipment manufacturer; or

(4) attempt or threaten to terminate, cancel, fail to renew, or substantially change the competitive circumstances of the dealership agreement if the attempt or threat is based on the results of a natural disaster, a labor dispute, or other circumstance beyond the dealer's control.

### Sec. 4, [325E.0683] STATUS OF INCONSISTENT AGREEMENTS.

New language is indicated by underline, deletions by ~~strikeout~~.

A term of a dealership agreement either expressed or implied that is inconsistent with the terms of sections 1 to 5 is void and unenforceable and does not waive any rights that are provided to a person by sections 1 to 5.

Sec. 5. [325E.0684] REMEDIES.

If an equipment manufacturer violates sections 1 to 5, an equipment dealer may bring an action against the manufacturer in a court of competent jurisdiction for damages sustained by the dealer as a consequence of the manufacturer's violation, together with the actual costs of the action, including reasonable attorney's fees. The dealer also may be granted injunctive relief against unlawful termination, cancellation, nonrenewal, or substantial change of competitive circumstances. The remedies in this section are in addition to any other remedies permitted by law.

Sec. 6. EFFECTIVE DATE; APPLICABILITY.

Sections 1 to 5 are effective the day after final enactment and apply to all dealership agreements now in effect that have no expiration date and that are continuing contracts and all other contracts entered into, amended, or renewed on or after that date. A contract in effect on the day of final enactment, which by its terms will terminate on a date after that date and which is not renewed, is governed by the law as it existed before the day of final enactment.

Presented to the governor May 23, 1989

Signed by the governor May 26, 1989, 4:56 p.m.

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CHAPTER 268—H.F.No. 1764

*An act relating to transportation; changing distribution of highway user taxes; authorizing use of state park road account to improve and maintain city streets and town roads that provide immediate access to state parks and campgrounds; increasing motor vehicle license tax on older vehicles; appropriating money; amending Minnesota Statutes 1988, sections 161.081; 161.082, subdivision 2a; 162.06, subdivision 5; 162.081, subdivision 1; 168.013, subdivision 1a; and 297B.09, subdivision 1.*

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1988, section 161.081, is amended to read:

**161.081 HIGHWAY USER TAX, DISTRIBUTION OF PORTION OF PROCEEDS.**

Pursuant to article 14, section 5, of the constitution, five percent of the net highway user tax distribution fund is set aside, and apportioned as follows:

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