

ENGROSSED HOUSE
BILL NO. 1076

By: Leist of the House

and

Shurden, Long (Ed) and
Capps of the Senate

An Act relating to contracts; amending 15 O.S. 1991, Section 246, which relates to certain inventory procedures; modifying requirements imposed upon retailers; authorizing supplier certain period for review; providing for effect of failure to protest items; prescribing procedures for tender of payment; prescribing method for determination of certain transportation costs; modifying provision related to freight costs of returned merchandise; providing that certain procedures considered minimum standards; authorizing modification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 15 O.S. 1991, Section 246, is amended to read as follows:

Section 246. A. If any retailer enters into a dealer agreement with a supplier and subsequently the dealer agreement is terminated, the supplier shall repurchase the inventory as provided in this act. The retailer may keep the inventory if he desires and has a contractual right to do so. Upon such termination, the supplier

shall accept or reject all warranty claims made by the retailer within forty-five (45) days after receipt and shall pay accepted claims within sixty (60) days after receipt. All claims not specifically rejected within forty-five (45) days after receipt shall be deemed to have been accepted.

B. The supplier shall repurchase that inventory previously purchased from him and held by the retailer on the date of termination of the dealer agreement. The supplier shall pay to the retailer one hundred percent (100%) of the actual dealer cost of all new, unsold, undamaged and complete farm tractors, farm implements, utility and industrial tractors, and the attachments thereto or outdoor power equipment, lawn and garden equipment and attachments thereto, and eighty-five percent (85%) of the current net price on new, unused and undamaged repair parts. The retailer shall, within one hundred twenty (120) days after notice of termination by either party, provide to the supplier a detailed listing, including trade names, descriptions and serial numbers where applicable, of whole goods merchandise furnished by the supplier, and in possession of the retailer, of such merchandise which qualifies under this act for reimbursement or credit memorandum by the supplier. The supplier shall have sixty (60) days from the date shown on the retailer's listing of merchandise to question any item. Any item of merchandise not protested in writing and received by the retailer within the sixty-day period shall be deemed to have been accepted by the supplier as part of the inventory in question. After the expiration of sixty (60) days, the supplier shall have thirty (30) additional days to tender the amount due to the retailer or to the retailer's named financial institution. If the retailer has any outstanding debts to the supplier, then the repurchase amount may be credited to the account of the retailer. The supplier shall pay the retailer five percent (5%) of the current net price on all new, unused and undamaged repair parts returned to cover the cost of

handling, packing and loading. The supplier shall have the option of performing the handling, packing and loading in lieu of paying the five percent (5%) for these services. The retailer and the supplier shall share equally the freight costs for the return of the merchandise to such supplier or to such other retailers to whom the supplier wishes to send merchandise. The retailer's share of the cost of returning merchandise to other retailers shall be his share of the actual transportation costs, but not to exceed the retailer's share of the cost of returning the merchandise to the principal site of business of the supplier. Within sixty (60) days of the effective date of termination of a dealer agreement, a supplier shall advise the dealer in writing of the destination or destinations to which inventory items which qualify for reimbursement or credit memoranda are to be sent.

C. The supplier shall repurchase at its fair market value or assume the lease responsibilities of any specific data processing hardware and software that the supplier required the retailer to purchase or lease, including computers, related software and peripheral equipment required and approved by the supplier to communicate with the supplier, to satisfy the minimum requirements of the dealership, and further that the supplier shall repurchase at seventy-five percent (75%) of the net retailer cost of specialized repair tools previously purchased in the previous three (3) years pursuant to requirements of the supplier and held by the retailer on the date of termination. Such specialized repair tools must be unique to the supplier product line and must be complete and in salable condition.

D. Upon payment of the repurchase amount to the retailer, the ownership and right of possession to the repurchased inventory shall transfer to the supplier who repurchases the inventory.

E. The time periods allowed in this section for action by any parties involved in the termination process of a retailer shall be

considered as minimum standards which may be exceeded in a written agreement signed by both the supplier and the retailer executed after the effective date of the termination agreement.

SECTION 2. This act shall become effective November 1, 1995.

Passed the House of Representatives the 28th day of February, 1995.

Speaker of the House of Representatives

Passed the Senate the ____ day of _____, 1995.

President of the Senate