

## LEGISLATIVE BILL 118

Approved by the Governor March 9, 2005

Introduced by Cunningham, 40; Baker, 44; Combs, 32; Connealy, 16;  
Heidemann, 1; Kremer, 34; Smith, 48

AN ACT relating to the Equipment Business Regulation Act; to amend section 87-705, Reissue Revised Statutes of Nebraska; to provide requirements relating to approval of sales and transfers of dealerships; and to repeal the original section.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 87-705, Reissue Revised Statutes of Nebraska, is amended to read:

87-705. (1) A supplier shall be deemed to have good cause to terminate, cancel, or not renew a dealer agreement when a dealer:

(a) Has transferred a controlling interest in the dealership without the supplier's consent;

(b) Has made a material misrepresentation to the supplier;

(c) Has filed a voluntary petition in bankruptcy or has had an involuntary petition in bankruptcy filed against it which has not been discharged within sixty days after the filing, is in default under a security agreement in effect with the supplier, or is insolvent or in receivership;

(d) Has been convicted of a crime punishable by a term of imprisonment for one year or more;

(e) Has failed to operate in the normal course of business for seven consecutive business days or has terminated business;

(f) Has relocated its place of business without the supplier's consent;

(g) Has consistently engaged in business practices which are detrimental to the consumer or supplier by way of excessive pricing, misleading advertising, or failure to provide service and replacement parts or perform warranty obligations;

(h) Has inadequately represented the supplier over a measured period causing lack of performance in sales or service or warranty areas and has failed to achieve market penetration at levels consistent with similarly situated dealerships based on available record information;

(i) Has consistently failed to meet building and housekeeping requirements or has failed to provide adequate sales, service, or parts personnel commensurate with the dealer agreement;

(j) Has consistently failed to comply with the applicable licensing laws pertaining to the products and services being represented for the supplier and on the supplier's behalf; or

(k) Has consistently failed to substantially comply with essential and reasonable requirements imposed by the dealer agreement, but only if that requirement is also generally imposed upon similarly situated dealers in Nebraska.

(2) Except when good cause exists as provided in subdivisions (1)(a) through (f) of this section, a supplier shall give a dealer ninety days' written notice of the supplier's intent to terminate, cancel, or not renew a dealer agreement. The notice shall state all reasons constituting good cause for termination, cancellation, or nonrenewal and shall provide that the dealer has sixty days from receipt of the notice in which to cure any claimed deficiency, except that the dealer shall have one year from receipt of the notice to cure a deficiency described in subdivision (1)(h) of this section.

(3) If a supplier has contractual authority to approve or deny a request for a sale or transfer of a dealership or an equity ownership interest in a dealership, the supplier shall not unreasonably deny such request. The dealer's request shall be sent by certified mail and shall include reasonable financial information, personal background information, character references, and work histories for each acquiring person. The approval or denial of a request made pursuant to this subsection shall be made in writing and sent by certified mail within sixty days after receipt of the request. If the supplier has not approved or denied the request within the sixty-day period, the request is deemed approved. If a supplier denies a request made pursuant to this subsection, the supplier shall provide the dealer with a written notice of such denial that states the reasons for denial.

Sec. 2. Original section 87-705, Reissue Revised Statutes of Nebraska, is repealed.