

## LEGISLATIVE BILL 699

Approved by the Governor May 19, 1971

Introduced by Jerome Warner, 25th District; Rudolf C. Kokes, 41st District; Calvin F. Carsten, 2nd District

AN ACT relating to personal property; to provide that a retail implement dealer may recover a specified percentage of the price of articles plus certain transportation costs upon discontinuance of contract by wholesaler, manufacturer, distributor, or retail dealer as prescribed; and to provide severability.

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

Section 1. Whenever any person, firm, or corporation engaged in the business of selling and retailing farm implements and repair parts for farm implements, enters into a written contract evidenced by franchised agreement whereby such retailer agrees to maintain a stock of parts or complete or whole machines or attachments with any wholesaler, manufacturer, or distributor of farm implements or machinery or repair parts therefor, and either such wholesaler, manufacturer, or distributor or the retailer desires to cancel or discontinue the contract, such wholesaler, manufacturer, or distributor shall pay to such retailer, unless the retailer should desire to keep such merchandise, a sum equal to one hundred per cent of the net cost of all new unused complete farm implements, machinery and attachments, including transportation charges which have been paid by such retailer, and eighty-five per cent of the current net prices on repair parts, including superseded parts, listed in a current price list or catalogue which parts had previously been purchased from such wholesaler, manufacturer, or distributor, and held by such retailer on the date of the cancellation or discontinuance of such contract. The wholesaler, manufacturer, or distributor shall also pay such retailer a sum equal to five per cent of the current net price of all parts returned for the handling, packing and loading of such parts for return to the wholesaler, manufacturer or distributor. Upon the payment of the sum equal to one hundred per cent of the net cost of such farm implements, machinery, and attachments, plus transportation charges and eighty-five per cent of the current net prices on repair parts, plus five per cent handling, packing, and loading costs on repair parts only, plus freight charges which have been

paid by the retailer, the title to such farm implements, farm machinery, and repair parts, or parts therefor, shall pass to the manufacturer, wholesaler, or distributor making such payment, and such manufacturer, wholesaler, or distributor shall be entitled to the possession of such farm implements or repair parts therefor.

The provisions of this section relating to a retailer's right to cancel or discontinue a contract and receive payment for machines, attachments, and parts returned shall apply to all contracts now in effect which have no expiration date and are a continuing contract, and all other contracts entered into or renewed after July 1, 1971; Provided, that the provisions for a retailer to receive payment for machines, attachments and parts returned shall apply only to machines, attachments, and parts purchased after the effective date of this act. Any contract in force and effect on July 1, 1971, which by its own terms will terminate on a date subsequent thereto shall be governed by the law as it existed prior to this act.

Sec. 2. The prices of farm implements, machinery, and repair parts therefor, required to be paid to any retail dealer as provided in section 1 of this act, shall be determined by taking one hundred per cent of the net cost on farm implements, machinery, and attachments, and eighty-five per cent of the current net price of repair parts therefor as shown upon the manufacturer's, wholesaler's or distributor's price lists or catalogues in effect at the time such contract is canceled or discontinued.

Sec. 3. In the event that any manufacturer, wholesaler, or distributor of farm machinery, farm implements, and repair parts for farm machinery, and farm implements, or of repair parts therefor, upon cancellation of a contract by either a retailer or a manufacturer, wholesaler or distributor, fails or refuses to make payment to such dealer as required by section 1 of this act, or refuses to supply farm machinery, farm implements, and repair parts for farm machinery and farm implements, or repair parts therefor, to any retailer of such products, who may have a retail sales contract dated after July 1, 1971, or a contract with no expiration date or a continuing contract in force or effect on the effective date of this act, with such manufacturer, wholesaler, or distributor, such manufacturer, wholesaler or distributor shall be liable in a civil action to be brought by such retailer for one hundred per cent of the net cost of such farm

implements, machinery and attachments, plus transportation charges which have been paid by the retailer and eighty-five per cent of the current net price of repair parts, plus five per cent for handling, packing, and loading plus freight charges which have been paid by the retailer.

Sec. 4. In the event of the death of the retail dealer or majority stockholder in a corporation operating a retail dealership in the business of selling and retailing farm implements or repair parts for farm implements, the wholesaler, distributor, or manufacturer who supplied such merchandise shall repurchase from the heir or heirs of such retail dealer or majority stockholder such merchandise at a sum equal to one hundred per cent of the net cost of all current unused complete farm implements including transportation charges which have been paid by such retailer, and eighty-five per cent of the current net prices on repair parts, including superseded parts, listed in current price lists or catalogues, plus a sum equal to five per cent of the current net price of all parts returned for handling, packing, and loading of such parts, unless such heir or heirs agree to continue to operate such retail dealership. In the event such heir or heirs do not agree to continue to operate such retail dealership, it shall be deemed a cancellation or discontinuance of contract by the retailer under the provisions of section 1 of this act, and as such the heir or heirs may exercise any rights and privileges under the provisions of this act.

Sec. 5. If any section in this act or any part of any section shall be declared invalid or unconstitutional, such declaration of invalidity shall not affect the validity of the remaining portions thereof.