

HOUSE AMENDMENTS TO HOUSE BILL 3164

By COMMITTEE ON BUSINESS AND LABOR

April 21

- 1 On page 1 of the printed bill, line 2, delete “and”.
- 2 In line 3, after “646A.322” insert “; and declaring an emergency”.
- 3 In line 9, delete “a retailer’s”.
- 4 In line 19, delete “of superseded parts that are” and after “listed” insert “for superseded
- 5 parts”.
- 6 On page 2, line 15, delete “pays” and insert “paid”.
- 7 In line 24, delete “used exclusively to diagnose or repair” and insert “uniquely suited for the
- 8 purpose of diagnosing or repairing”.
- 9 Delete lines 41 through 43 and insert:
- 10 “(A) Failing to comply with a term in a retailer agreement that also appears in a retailer
- 11 agreement that similarly situated retailers have with the same supplier, including a term that re-
- 12 quires the retailer to meet marketing criteria;”.
- 13 On page 3, line 2, restore the bracketed material and delete the boldfaced material.
- 14 In line 11, restore “the” and delete the second “a”.
- 15 In line 14, restore “the” and delete “a”.
- 16 In line 15, restore the first “the” and delete “a”.
- 17 In line 17, restore “the” and delete “a”.
- 18 In line 20, restore the bracketed material and delete the boldfaced material.
- 19 Delete lines 30 through 45.
- 20 On page 4, delete lines 1 through 30 and insert:
- 21 “(2) A supplier that has a basis for asserting good cause may, directly or through an officer,
- 22 agent or employee, terminate, cancel or not renew a retailer agreement or may cause a change in
- 23 competitive circumstances for a retailer. Except as provided in subsections (3) and (4) of this section,
- 24 a termination, cancellation, nonrenewal or change in competitive circumstances becomes effective
- 25 upon notice to the retailer. The notice must state the reasons that constitute good cause for the
- 26 termination, cancellation, nonrenewal or change in competitive circumstances.
- 27 “(3)(a) If a supplier’s basis for asserting good cause is a retailer’s failure under subsection
- 28 (1)(a)(A) of this section, other than a failure to meet marketing criteria, the supplier shall give the
- 29 retailer 90 calendar days’ written notice of the supplier’s intent to terminate, cancel or not renew
- 30 the retailer agreement or to cause a change in competitive circumstances for the retailer.
- 31 “(b) The notice described in paragraph (a) of this subsection must:
- 32 “(A) State the supplier’s reasons for terminating, canceling or not renewing the retailer agree-
- 33 ment or for causing a change in competitive circumstances for the retailer; and
- 34 “(B) Provide that the retailer has 60 calendar days in which to cure a claimed deficiency.
- 35 “(c) If the retailer cures the deficiency within 60 calendar days, the notice is void.

1 “(d) If the retailer fails to cure the deficiency within 60 calendar days, the termination, cancel-
2 lation, nonrenewal or change in competitive circumstances becomes effective on the date specified
3 in the notice.

4 “(4)(a) If a supplier’s basis for asserting good cause is a retailer’s failure to meet marketing
5 criteria under subsection (1)(a)(A) of this section or a provision of subsection (1)(a)(N) of this sec-
6 tion, the supplier shall give the retailer 18 months’ written notice of the supplier’s intent to termi-
7 nate, cancel or not renew the retailer agreement or to cause a change in competitive circumstances
8 for the retailer.

9 “(b) The notice described in paragraph (a) of this subsection must:

10 “(A) State the supplier’s reasons for terminating, canceling or not renewing the retailer agree-
11 ment or for causing a change in competitive circumstances for the retailer; and

12 “(B) Provide that the retailer has one year in which to cure a claimed deficiency.

13 “(c) If the retailer cures the claimed deficiency within one year, the notice is void.

14 “(d) If the retailer fails to cure the claimed deficiency within one year, the termination, can-
15 cellation, nonrenewal or change in competitive circumstances becomes effective on the date speci-
16 fied in the notice.”.

17 In lines 42 and 43, delete the boldfaced material.

18 On page 5, lines 5 and 6, delete the boldfaced material.

19 After line 15, insert:

20 “**SECTION 5. This 2015 Act being necessary for the immediate preservation of the public**
21 **peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect**
22 **on its passage.”.**