



638 West 39th Street • P.O. Box 419264 • Kansas City, MO 64141-6264 • 816-561-5323 • FAX 816-561-1249 • www.westerneda.com

SB 982 Summary

Western Equipment Dealers Association is an international trade association that represents approximately 2,200 farm, industrial and outdoor power equipment dealers in North America.

In Oregon, Western represents 62 dealer locations. Those locations account for over \$500 million in annual revenue and 850 employees. Through the sale of equipment, parts, and service, our dealer members work in partnership with farmers and ranchers across Oregon to make them the most productive and competitive food producers in the world.

SB 982 is a much needed revamp of Oregon's Dealer Protection Statutes. The statutes covering agreements between equipment dealers and manufacturers were modified in 2003, and have not been substantially updated since 1989. Since that time, the industry has significantly changed.

In today's equipment environment there is consistent pressure from original equipment manufacturers (OEMs) to consolidate. Third and fourth generation equipment dealers are faced with the choice of whether to grow or sell-out. While the Association does not take a position on whether consolidation is good or bad, we do believe that dealers should have more influence and control over decision-making that involves the transition of their independent businesses.

Another trend occurring since the last revision of the dealer protection statute is the ever increasing influence of the OEM in the dealer's day to day operations, as well as business planning. Because of the OEMs disproportionate bargaining strength, dealers are forced to incorporate terms into their dealer agreements that lead to OEMs having an outsized role in approving or disapproving business decisions.

For these reasons, Oregon's dealer protection statute requires substantial updates to ensure that dealers are on a level playing field with OEMs and that Oregon dealers have the ability to make business decisions that affect their and their employees' livelihoods. These changes are ultimately pro-competitive and create a stronger dealership network here in Oregon that can continue to serve the needs of Oregon Ag producers. Because of the amount of changes required to update Oregon's statute, we have suggested a repeal and replace approach that carries over the core provisions of Oregon's current law. Attached we have provided a summary of the major changes to each section of law SB 982 proposes.

Western believes that with the adoption of these changes, Oregon equipment dealers will have a more transparent and fair process when dealing with OEMs. Western and its members urge you to support SB 982 with a do-pass recommendation from committee.

Eric Wareham
Director of Government Affairs
Western Equipment Dealers Association



638 West 39th Street • P.O. Box 419264 • Kansas City, MO 64141-6264 • 816-561-5323 • FAX 816-561-1249 • www.westerneda.com

Section 1: Definitions

Major Changes:

- Adding more specificity and clarity to the definitions contained in statute
- Defines Dealer, demonstrator, repair parts, terminate which were not previously defined
- Updates definition of equipment, current net parts cost, dealer agreement, single line dealer, net equipment cost to provide clarity in construing statutory meaning
- Expands definition of equipment to cover ATVs/UTVs and construction, industrial and mining equipment

Section 2: Application to Successor in Interest; Interpretation of Statute

Major Changes:

- Updates definition of a successor in interest to a supplier to better reflect the types of transaction that might result in successor supplier that will be subject to the law
- Confirms that the statute is there to protect dealers and does not expand the rights of suppliers beyond their contract rights
- Supplier inventory repurchase obligations to the closure of a single store without requiring the termination of a dealer agreement that covers multiple stores

Sections 3 and 4: Termination Notice and Procedure; Transfers

Major Changes:

- Improves Notice and Process requirements
- Clarifies that a dealer may terminate a dealer agreement on 30 days notice
- Requires consistent failure to meet performance requirements before termination can be initiated
- Extends the cure period for failure to meet market share standards to 2 years instead of one year to give the dealer a more realistic time frame to address sales issues
- Requires a supplier to have good cause and provide notice and a cure period before the supplier can take away a product line or remove a dealer's authorization to sell the supplier's product from a particular location
- Requires Supplier to approve or disapprove of ownership change within 60 days (or 90 days for single-line dealers)
- Provides for and clarifies process and timeline in the event of an owners death

Section 5: Establishing Good Cause for Termination

- Substantially similar to existing legislation

Section 6: Repurchase of Inventory by Supplier

Major Changes:

- Price of manufacturer-required software and computers reduced using straight line depreciation over three years instead of 20% each year for preceding five years



638 West 39th Street • P.O. Box 419264 • Kansas City, MO 64141-6264 • 816-561-5323 • FAX 816-561-1249 • www.westerneda.com

Supplier shall reimburse 75% of net cost for special tools purchased in past 15 years instead of using straight line depreciation of 20% each year for special tools purchased in past 5 years (100% of cost if the tool is new and not used)

Section 7: Supplier Conduct Prohibited

Major Changes:

- Supplier prohibited from coercing a dealer into refusing to purchase equipment from another supplier
- Supplier prohibited from conditioning development or acquisition of another location on dealer's agreement to refuse to purchase from another supplier
- Supplier prohibited from requiring separate facilities and personnel for different lines
- Improved notice and process requirements when supplier objects to change in capital structure or ownership
- Supplier prohibited from preventing closure/relocation of dealership under certain circumstances
- Supplier prohibited from amending a dealer agreement without the dealer's written consent or state in an agreement that a dealer is deemed to have consented to a specific action
- Supplier prohibited from terminating a dealer agreement, removing authorization to sell a product line or the supplier's equipment or substantially change the dealer's competitive circumstances because a dealer refuses to accept a new or amended dealer agreement

Section 8: Warranty Claims

Major Changes:

- Supplier must compensate a dealer for parts used in warranty repairs at current cost plus a 15% markup and freight instead of reimbursement at cost plus a reasonable shipping and handling allowance

Section 9: Choice of Law and Waiver

Major Changes:

- Requires legal action or arbitration to be brought in state where dealer is located

Section 10: Cause of Action and Remedies

Major Changes:

- Provides for statutory damages in the event Supplier does not repurchase equipment or parts upon termination

Section 11: Repeal of Existing Law (still applicable for existing contracts)

Section 12: Applicability of New Law

Section 13: Emergency Clause