

Requested by Senator GIROD

**PROPOSED AMENDMENTS TO
SENATE BILL 982**

1 On page 1 of the printed bill, line 4, delete “prescribing an effective
2 date” and insert “declaring an emergency”.

3 On page 3, line 2, after “dealer” insert “in the ordinary course of
4 business”.

5 In line 7, after “pires” insert “under ORS 646A.310”.

6 Delete lines 9 through 24 and insert:

7 “(b) The price that is in effect, at the time the dealer agreement termi-
8 nates or expires under ORS 646A.310, for a part that performs the same
9 function as a superseded repair part but is listed in the supplier’s price list
10 or catalog under a different part number, if the supplier agrees to buy su-
11 perseded repair parts from the dealer.

12 “(3) ‘Dealer’ means a person that engages primarily in the business of:

13 “(a) Selling or leasing equipment or repair parts at retail; and

14 “(b) Servicing or repairing equipment at retail.

15 “(4) ‘Dealer agreement’ means an oral or written agreement that sets
16 forth the rights and obligations of a supplier and a dealer with respect to
17 selling and purchasing equipment and repair parts.

18 “(5) ‘Dealership’ means a retail business in which a dealer engages under
19 the terms of a dealer agreement.”.

20 Delete lines 31 through 35 and insert:

21 “(A) An all-terrain vehicle, utility task vehicle or recreational off-

1 highway vehicle and any attachments, accessories or hardware used in con-
2 nection with each vehicle, regardless of the type of use for each vehicle;

3 “(B) Machinery, an implement, an attachment, an accessory or other
4 hardware used for or in connection with:

5 “(i) Landscaping or maintaining laws, gardens, golf courses or other types
6 of grounds;”.

7 On page 4, line 6, after “if” insert “an invoice is not available or if”.

8 Delete lines 14 through 37 and insert:

9 “(12) ‘New equipment’ means equipment that a dealer can return to a
10 supplier at the time a dealer agreement terminates under ORS 646A.310.

11 “(13) ‘Repair parts’ means components, kits, replacement parts and similar
12 items, including superseded components, kits, replacement parts and similar
13 items, for repairing equipment.

14 “(14) ‘Single-line dealer’ means a dealer that:

15 “(a) Purchases equipment for construction, forestry or mining from a
16 single-line supplier in an amount that constitutes 75 percent or more of the
17 dealer’s new equipment for construction, forestry or mining, calculated on
18 the basis of net equipment cost; and

19 “(b) Has a total annual average sales volume of equipment that the dealer
20 purchased from a single-line supplier that exceeds \$25 million in the five
21 years before the date of a notice of termination under a single-line dealer
22 agreement or the date on which a family member submits a request under
23 ORS 646A.306 (1), whichever is appropriate, except that the figure for the
24 total annual average sales volume set forth in this paragraph will increase
25 each year by an amount that is equivalent to \$25 million multiplied by the
26 percentage of increase in the United States Bureau of Labor’s producer price
27 index for construction machinery, or a similar price index, in the period from
28 January of the preceding year to January of the current year.

29 “(15) ‘Single-line dealer agreement’ means an agreement that sets forth
30 the respective rights and obligations of a single-line supplier and a single-

1 line dealer with respect to purchasing and selling equipment for con-
2 struction, forestry and mining.

3 “(16) ‘Single-line supplier’ means a supplier that sells equipment for con-
4 struction, forestry and mining that constitutes 75 percent of the new equip-
5 ment for construction, forestry and mining that is in a single-line dealer’s
6 inventory.

7 “(17) ‘Supplier’ means:

8 “(a) A person that is engaged in the business of manufacturing or as-
9 sembling equipment or repair parts or distributing equipment or repair parts
10 at wholesale;”.

11 On page 5, delete lines 11 through 17 and insert:

12 “(2) If a dealer agreement applies to more than one of a dealer’s business
13 locations, the provisions of ORS 646A.300 to 646A.322 apply, as if the dealer
14 agreement had terminated, to a repurchase of equipment and repair parts
15 from a dealer that closes a business location.

16 “(3) A provision of ORS 646A.300 to 646A.322 that gives a supplier a right
17 to act or refrain from acting applies only if a dealer agreement gives the
18 supplier the same right to act or refrain from acting.”.

19 Delete lines 22 through 27 and insert:

20 “(6) If a person purchases or licenses all or substantially all of the in-
21 ventory, intellectual property or goodwill of a supplier or of a division or
22 product line of a supplier, for the purposes of ORS 646A.300 to 646A.322, the
23 person has purchased the supplier’s assets as described in ORS 646A.300
24 (17)(d).”.

25 On page 7, delete lines 30 and 31 and insert:

26 “(1) A dealer shall give a supplier written notice of the dealer’s intent
27 at least 30 days before terminating the dealer agreement.”.

28 Delete lines 37 through 40 and insert:

29 “(b) A notice under paragraph (a) of this subsection must specify all of
30 the reasons for the supplier’s belief that the supplier has good cause for the

1 termination, the withdrawal or the change, along with supporting evidence
2 for the supplier's belief. The notice must state that the dealer has not less
3 than 60 days in which to cure any deficiency that constitutes good cause.”.

4 On page 8, line 3, after “nation” insert “and intentions”.

5 In line 12, delete “act on” and insert “approve or disapprove”.

6 In line 19, after “period” insert “and the period provided under paragraph
7 (a) of this subsection”.

8 Delete lines 24 through 33 and insert:

9 “(5) If a supplier disapproves a request from a dealer under subsection (4)
10 of this section, the supplier shall provide the dealer with a written notice
11 that states the reasons for the disapproval. The supplier may disapprove the
12 request only if the persons to which the dealer proposes to sell or transfer
13 the dealership or an equity interest in the dealer do not meet the supplier's
14 reasonable criteria for approving a sale or transfer of the dealership or an
15 equity interest in the dealer. The dealer must apply the criteria consistently
16 and without favor to other prospective dealers.

17 “(6)(a) The duties set forth in subsections (2) to (5) of this section do not
18 apply to a supplier or dealer under the circumstances described in this sec-
19 tion if the supplier's authority to approve the sale or transfer of a dealership
20 or a change in the equity ownership of a dealer arises under a single-line
21 dealer agreement with the dealer.”.

22 Delete lines 37 through 42 and insert:

23 “(c) A notice under paragraph (b) of this subsection must specify all of
24 the reasons for the supplier's belief that the supplier has good cause for the
25 termination or the change, along with supporting evidence for the supplier's
26 belief. The notice must state that the dealer has not less than 60 days in
27 which to cure any deficiency that constitutes good cause. If a single-line
28 dealer cures the deficiency described in a notice under paragraph (b) of this
29 subsection, the single-line supplier may not proceed with the termination or
30 change.”.

1 On page 9, delete lines 28 through 31 and insert:

2 “(3) This section does not authorize the personal representative, heir or
3 family member of an individual with a controlling interest in a single-line
4 dealer to operate a dealership without specific written authorization from
5 the single-line supplier.”.

6 On page 10, delete lines 8 and 9 and insert:

7 “(d) Adds, removes or otherwise changes business locations without the
8 supplier’s prior written approval, unless the supplier may not prohibit the
9 dealer from adding, removing or changing business locations.”.

10 On page 13, line 1, delete “any” and insert “some or all”.

11 Delete lines 6 through 9 and insert:

12 “(B) One hundred percent of the net equipment cost for all demonstrators
13 that the dealer did not sell and that are undamaged, less a reasonable
14 amount for depreciation attributable to demonstrations or rentals.

15 “(C) Ninety-five percent of the current net parts cost for new repair
16 parts.”.

17 In line 19, after “cost” insert “, including shipping, handling and set up
18 fees,”.

19 Delete lines 30 through 35 and insert:

20 “(2) A supplier and a dealer shall each pay 50 percent of the cost of
21 freight, at truckload rates, that is necessary to return inventory to the sup-
22 plier under this section.

23 “(3)(a) A supplier shall pay a dealer for inventory within 90 days after the
24 supplier receives the inventory from the dealer.”.

25 On page 14, delete lines 7 through 10 and insert:

26 “(a) A repair part that is typically sold at retail and that is in a broken
27 or damaged package, except that the supplier shall repurchase a repair part
28 in a broken or damaged package at 85 percent of the current net parts cost
29 for the repair part if the aggregated current net parts cost for all of the re-
30 pair parts the dealer holds is \$75 or more.”.

1 In line 12, after “supplier’s” insert “reasonable”.

2 On page 16, line 19, after “of” insert “purchasing or”.

3 On page 17, line 16, after “imposes” insert “consistently”.

4 In line 21, delete “sells” and insert “is authorized to sell”.

5 Delete lines 26 through 28 and insert:

6 “(9) Amend a dealer agreement without the dealer’s prior written consent
7 or include in the dealer agreement a provision under which the supplier may
8 deem a dealer to have consented to a particular circumstance or action.”.

9 On page 19, delete lines 15 and 16 and insert:

10 “(B) A lump sum payment of not less than five percent of the retail price
11 of the equipment the supplier sells to the dealer, if the supplier pays the
12 dealer within 90 days after selling new equipment to the dealer.”.

13 In line 34, after “provision” insert “or application”.

14 On page 20, delete lines 42 and 43 and insert:

15 **“SECTION 13. This 2017 Act being necessary for the immediate
16 preservation of the public peace, health and safety, an emergency is
17 declared to exist, and this 2017 Act takes effect on its passage.”.**

18
