

All-Terrain Vehicles Given Dealer Buyback Provisions in Iowa Legislative Session

By Tom Junge, Iowa Field Director

At this year's Iowa legislative session, all-terrain vehicles were given provisions similar to farm implements regarding the buyback of equipment and parts in the event of a dealership termination.

In section 321G.1, "*All-terrain vehicle*" is defined as a motorized flotation-tire vehicle with not less than three low-pressure tires, but not more than six low-pressure tires.

Two Iowa Codes that deal with this matter. Chapter 322D pertains to dealers not engaged in the retail sale of equipment designed for primary use in agricultural operations. All-terrain vehicles sold by any business type except an ag equipment dealer falls under this chapter.

Chapter 322F pertains to farm implement franchise agreements and covers a farm implement dealer that sells all-terrain vehicles.

Both chapters address the repurchase of all unused equipment and attachments purchased from the supplier within 24 months preceding notification of intent to terminate.

The main differences between the two chapters are:

Chapter 322D of the Iowa Code states that, upon termination, a dealer has a right to the following payment:

b. Eighty-five percent of the net prices of any repair parts, including superseded parts, which were purchased from the franchiser and held by the franchisee on the date that the franchise terminated.

c. Five percent of the net prices of parts resold under paragraph "*b*" for handling, packing, and loading of the parts. However, this payment shall not be due to the franchisee if the franchiser elects to perform the handling, packing, and loading.

Chapter 322F of the Iowa Code states that if a dealership agreement is terminated by cancellation or nonrenewal, the supplier must repurchase equipment and parts in the dealer's inventory and must repurchase special tools and computer hardware or software required for the dealership.

The supplier must pay the dealer or credit the dealer's account with 90 percent of the net price for repair parts, including superseded parts listed in the price lists or catalogs in use by the supplier on the date of termination. The supplier shall also pay the dealer or credit the dealer's account (on the date of termination) with five percent of the net price on all parts returned for the dealer's handling, packing, and loading of the parts to be returned to the supplier.

More importantly, Chapter 322F provides dealership termination protection that Chapter 322D does not include.

Section 322F.2 states that a supplier shall terminate a dealership agreement by cancellation, nonrenewal, or a substantial change in competitive circumstances only upon good cause and upon at least ninety days' prior written notice delivered to the dealer by certified or registered mail. The notice must specify each deficiency constituting good cause for the action. The notice must also state that the dealer has sixty days to cure a specified deficiency. If the deficiency is cured within sixty days from the date that the notice is delivered, the notice is void. However, if the deficiency is based on a dealer's inadequate representation of a manufacturer's product relating to sales, as provided in section 322F.1, the notice must state that the dealer has eighteen months

to cure the deficiency. If the deficiency based on inadequate representation of a manufacturer's product relating to sales is cured within eighteen months from the date the notice is delivered, it is void.

As you can see, Chapter 322F offers not only repurchase rights but dealer termination protection. This remains important at a time when manufacturers increase pressure on market share and sales quotas.