

North American Equipment Dealers Association  
State Dealer Protection Law Compilation

# CONNECTICUT

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**Substitute Senate Bill No. 1148 Public Act No. 97-179**

**AN ACT concerning farm, forestry and garden equipment dealers and suppliers and “pick or cut your own” agricultural operations.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

**Section I.**

As used in this act, unless the context otherwise requires:

(1) “Current net price” means the price listed in a supplier’s price list, or catalog in effect at the time a dealer agreement is terminated, less any applicable discounts allowed.

(2) “Dealer” means a person, firm or corporation primarily engaged in the business of retail sales of farm and utility tractors, forestry equipment, light industrial or construction equipment, farm implements, farm machinery, yard and garden equipment, or attachments, accessories or repair parts for such items, but does not include a single line dealer primarily engaged in the retail sale and service of industrial, forestry and construction equipment. For purposes of this subdivision, “single line dealer” means a person, firm or corporation that: (A) Has purchased seventy-five per cent or more of such person’s, firm’s or corporation’s total new product inventory from a single supplier; and (B) has a total annual average sales volume for the previous three years in excess of twenty million dollars for the entire territory for which such person, firm or corporation is responsible.

(3) “Dealer agreement” means a written or oral contract between a dealer and a supplier entered into on or after January 1, 1998, by which the dealer is granted the right to sell or distribute goods or services or to use a trade name, trademark, service mark, logotype, or other advertising or commercial symbol.

(4) “Inventory” means farm and utility tractors, forestry equipment, light industrial or construction equipment, farm implements, farm machinery, yard and garden equipment, and attachments, accessories and repair parts for such items.

(5) “Net cost” means the price a dealer paid a supplier for inventory, less any applicable discounts allowed, plus any amount the dealer paid for freight costs from the supplier’s location to the dealer’s location. In the event of the termination of a dealer agreement by the supplier, “net cost” includes the reasonable cost of assembly or disassembly, or both, performed by the dealer.

(6) “Supplier” means a wholesaler, manufacturer or distributor of inventory who enters into a dealer agreement with a dealer.

(7) "Termination" or "terminate" means the cancellation, nonrenewal or discontinuance of a dealer agreement.

## Sec. 2.

(a) Notwithstanding any contrary provision of any agreement entered into on or after January 1, 1998, prior to the termination of a dealer agreement, a supplier shall notify the dealer of such termination not less than one hundred twenty days prior to the effective date of such termination. No supplier may terminate a dealer agreement without cause. For purposes of this subsection "cause" means the failure of a dealer to comply with any requirements imposed upon the dealer by a dealer agreement, provided such requirements are not substantially different from requirements imposed by agreement upon other similarly situated dealers in this state in the normal course of business.

(b) A supplier may immediately terminate a dealer agreement at any time upon the occurrence of any of the following events:

(1) The filing of a petition for bankruptcy or for receivership either by or against the dealer;

(2) The making by the dealer to the supplier of an intentional and material misrepresentation as to the dealer's financial status;

(3) Any default by the dealer under a chattel mortgage or other security agreement between the dealer and the supplier;

(4) The commencement of voluntary or involuntary dissolution or liquidation of the dealer if the dealer is a partnership or corporation;

(5) A change in the location of the dealer's principal place of business as set forth in the dealer agreement without the prior written approval of the supplier, if required by the dealer agreement; or

(6) Withdrawal of an individual proprietor, partner or major shareholder of the dealer, the involuntary termination of a key manager of the dealer, or a substantial reduction in the interest of a partner or major shareholder of the dealer without the prior written consent of the supplier, if required by the dealer agreement.

(c) Unless there is an agreement to the contrary, a dealer that intends to terminate a dealer agreement with a supplier shall notify the supplier of such intent not less than one hundred twenty days prior to the effective date of the termination.

(d) Any notice required to be given under this section by either party to a dealer agreement shall be in writing, shall be made by certified mail or by personal delivery and shall contain, at a minimum:

(1) A statement of intention to terminate the dealer agreement;

(2) A statement of the reasons for such termination; and

(3) The date on which such termination shall become effective.

### **Sec. 3.**

(a) Whenever a dealer enters into a dealer agreement under which the dealer agrees to maintain an inventory and such dealer agreement is terminated by either party as provided in section 2 of this act, the supplier, upon written request of the dealer filed not later than thirty days after the effective date of such termination, shall repurchase the dealer's inventory as provided in this section and section 4 of this act, except, there shall be no requirement for the supplier to repurchase inventory pursuant to this section and section 4 of this act if:

(1) The dealer has made to the supplier an intentional and material misrepresentation as to the dealer's financial status;

(2) The dealer has defaulted under a chattel mortgage or other security agreement between the dealer and the supplier; or

(3) The dealer has filed a voluntary petition in bankruptcy.

(b) Whenever a dealer enters into a dealer agreement under which the dealer agrees to maintain an inventory and the dealer or the majority stockholder of the dealer, if the dealer is a corporation, dies or becomes incompetent, the supplier, at the option of the heir, personal representative or guardian of the dealer, or, if the dealer is a corporation, at the option of the person who succeeds to the stock of such majority stockholder, shall repurchase the dealer's inventory as if the agreement had been terminated. Any option to repurchase under this subsection shall be exercised not later than six months from the date of death of the dealer or majority stockholder or the date on which the dealer or majority stockholder is lawfully determined to be incompetent, whichever is applicable.

### **Sec. 4.**

(a) Not later than ninety days after receipt of a dealer's written request, a supplier under a duty to repurchase inventory pursuant to section 3 of this act and this section may examine any books or records of the dealer to verify the eligibility of any inventory item for repurchase. Except as otherwise provided in this section and section 5 of this act, the supplier shall repurchase from the dealer all inventory, required signage, special tools, books, supplies, data processing equipment and software previously purchased from the supplier or other qualified vendor under the dealer agreement and in the possession of the dealer, on the date of termination of the dealer agreement.

(b) The supplier shall pay the dealer, for any repurchase of inventory under section 3 of this act and this section, as follows:

(1) One hundred per cent of the net cost of all new, undamaged and complete farm and utility tractors, forestry equipment, light industrial or construction equipment, farm implements, farm machinery and yard and garden equipment purchased from the supplier or other qualified vendor under the dealer agreement within the past thirty-six months, less a reasonable allowance for deterioration attributable to weather conditions at the dealer's location;

(2) Ninety per cent of the current net prices of all new and undamaged repair parts;

(3) Eighty-five per cent of the current net price of all new and undamaged superseded repair parts;

(4) Eighty-five per cent of the latest available published net price of all new and undamaged noncurrent repair parts;

(5) The fair market value of any specific data processing hardware that the supplier required the dealer to acquire in order to satisfy the reasonable requirements of the dealer agreement, including computer systems equipment required and approved by the supplier to communicate with the supplier, provided, the supplier may assume the dealer's responsibilities under any lease of such hardware or equipment in lieu of such payment;

(6) Seventy-five per cent of the net cost of specialized repair tools, signage, books and supplies purchased pursuant to the requirements of the supplier under the dealer agreement and held by the dealer on the date of termination, provided any such specialized repair tools shall be unique to the supplier's product line and shall be complete and in usable condition; and

(7) The average as is value shown in current industry guides for any dealer-owned rental fleet financed by the supplier or any finance subsidiary of the supplier.

(c) The party that initiates the termination of a dealer agreement under section 2 of this act shall pay the cost of the return, handling, packing and loading of all inventory repurchased under section 3 of this act and this section.

(d) Payment required to be made to the dealer under this section shall be made by the supplier not later than forty-five days after receipt of the inventory by the supplier. A penalty may be assessed by the dealer against the supplier in the amount of two per cent per day on any outstanding balance existing after such forty-five-day period. The supplier may apply any payment required to be made to the dealer under this section as a set-off against any amount owed by the dealer to the supplier.

## **Sec. 5.**

The provisions of sections 3 and 4 of this act shall not require the repurchase from a dealer of:

(1) A repair part with a limited storage life or otherwise subject to physical or structural deterioration including, but not limited to, gaskets or batteries;

(2) A single repair part normally priced and sold in a set of two or more items;

(3) A repair part that, because of its condition, cannot be marketed as a new part without repackaging or reconditioning by the supplier or a manufacturer;

(4) Any inventory that the dealer elects to retain;

(5) Any inventory ordered by the dealer after receipt of notice of termination of the dealer agreement by either the dealer or the supplier; or

(6) Any inventory that was acquired by the dealer from a source other than the supplier or other qualified vendor under the dealer agreement.

## **Sec. 6.**

(a) Except as provided in subsection (b) of this section, no supplier shall unreasonably withhold or delay consent to any transfer of a dealer's business or transfer of the stock or other interest in a dealer whenever such consent is required pursuant to a dealer agreement and the proposed transferee meets the material and reasonable business and financial requirements of the supplier. If the supplier determines that a proposed transferee does not meet such requirements, the supplier shall give the dealer written notice stating the specific reasons for withholding consent not later than ninety days after the date of the dealer's request for consent. No such proposed transferee may be disqualified by the supplier from being a dealer solely because the proposed transferee is a publicly held corporation.

(b) No supplier shall unreasonably withhold or delay consent to any transfer of a dealer's business to a member or members of the family of the dealer or the principal owner of the dealer if (1) such consent is required pursuant to a dealer agreement, (2) such family member meets the reasonable business qualifications, experience and character standards of the supplier, and (3) such family member demonstrates to the supplier that such business will be or will continue to be adequately capitalized. If the supplier determines that any such family member does not meet such requirements, the supplier shall give the dealer written notice stating the specific reasons for withholding consent not later than ninety days after the date of the dealer's request for consent. As used in this subsection, "family" means the spouse, parent, siblings, children, stepchildren and lineal descendants, including those by adoption, of the dealer or principal owner of the dealer.

(c) In any dispute as to whether a supplier has unreasonably withheld consent under this section, the supplier shall have the burden of proving a substantial and reasonable justification for such withholding of consent.

## **Sec. 7.**

Whenever a supplier and a dealer enter into a dealer agreement that provides for consumer warranties, the supplier shall pay any warranty claim made for parts and service not later than thirty days after receipt and approval of such claim by the supplier. The supplier shall approve or disapprove a warranty claim not later than thirty days after receipt of such claim by the supplier. If a warranty claim is not disapproved in writing by the thirtieth day after receipt of such claim by the supplier, it shall be deemed to be approved and payment shall be made by the supplier not later than thirty days thereafter.

## **Sec. 8.**

The obligation of any supplier or dealer under this act shall be applied to and made an obligation of any successor in interest or assignee of the supplier or dealer. For purposes of this section, a successor in interest includes, but is not limited to, any purchaser of the assets or stock, any surviving entity resulting from a merger or liquidation, any receiver or any trustee of the original supplier or dealer.

## **Sec. 9.**

(a) Nothing in this act shall be construed to release or terminate a perfected security interest of a supplier in the inventory of a dealer.

(b) Nothing in this act shall be construed to limit the right of a dealer and a supplier to enter into a dealer agreement providing for the arbitration of disputes arising under such agreement. Any such arbitration shall be consistent with the provisions of this act and other applicable law. Any such arbitration shall be conducted in the city or town in which the dealer maintains the dealer's principal place of business in this state.

(c) Any provision contained in a dealer agreement or other contract purporting to waive compliance with any requirement of this act is void and unenforceable to the extent of such purported waiver.

(d) Nothing in this act shall be construed to limit or prohibit good-faith settlements of disputes voluntarily entered into between the parties to a dealer agreement.

#### **Sec. 10.**

Any supplier or dealer may bring an action in the Superior Court to recover damages sustained by reason of a violation of any provision of sections 1 to 9, inclusive, of this act and, if appropriate, may apply for injunctive relief as provided in chapter 916 of the general statutes. Any such action shall be privileged with respect to its assignment for trial. Such supplier or dealer, if successful in such action, shall be entitled to costs and reasonable attorneys' fees.

#### **Sec. 11**

Any person or any attorney who represents such person, who commences any civil action or complaint, in his own name or the name of others, against the owner or operator of a "pick or cut your own agricultural operation" (1) without probable cause, shall pay such owner or operator double damages, including, in the discretion of the court, costs and attorney's fees, or (2) without probable cause, and with a malicious intent unjustly to vex and trouble such owner or operator, shall pay such owner or operator treble damages including, in the discretion of the court, costs and attorney's fees. As used in this section, "pick or cut your own agricultural operation" means a farm to whom the Department of Revenue Services has issued a farmer tax exemption permit under subdivision (63) of section 12-412 of the general statutes, that allows any person to enter such farm for the purpose of agricultural harvesting, including the cutting of Christmas trees. Nothing in this section shall be construed to affect or abrogate the provisions of section 52-568 of the general statutes.

Approved June 24, 1997. Effective October 1, 1997.