

**STORAGE NAME:** h3371s1.brc

**DATE:** March 22, 1998

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
BUSINESS REGULATION AND CONSUMER AFFAIRS  
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

**BILL #:** CS/HB 3371

**RELATING TO:** Sales Contracts for Motor Vehicle and Truck Repair Parts

**SPONSOR(S):** Committee on Business Regulation and Consumer Affairs and Representative Hill and others

**COMPANION BILL(S):** SB 280 (i)

**ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:**

- (1) BUSINESS REGULATION AND CONSUMER AFFAIRS YEAS 7 NAYS 0
- (2) CIVIL JUSTICE AND CLAIMS
- (3) AGRICULTURE
- (4)
- (5)

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**I. SUMMARY:**

This bill revises Chapter 686, Florida Statutes, to require that termination of contracts relating to the sale of repair parts for cars and trucks be made in good faith and with good cause. It provides for liability when there is no good cause for termination, and it prohibits certain acts by manufacturers of those repair parts. Franchise agreements are specifically exempt from the act.

The bill would take effect October 1 of the year in which enacted.

There is no fiscal impact on government. However, certain repair parts manufacturers could incur the added expense of honoring certain contracts.

*The committee substitute deletes references to farm machinery repair parts since they are currently regulated; removes references to franchise agreements and, specifically, exempts those agreements from this act; and, corrects the inconsistencies and technical deficiencies in the bill, as filed.*

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Large, national companies manufacture repair parts for motor vehicles and enter into written contracts with local, generally family-owned businesses to distribute those parts for them. The distributors buy the parts from the manufacturers, often carrying inventories worth thousands of dollars. Manufacturers agree, by contract, to assist distributors in selling the repair parts through direct advertising, co-operative advertising, and warranty support. The contracts are written by the manufacturers who offer them to the distributors without negotiation.

Some repair part distributors allege that, as repair part manufacturing entities merge or otherwise change ownership, they are left with fewer rights and remedies, particularly in the areas of warranty, parts return, and inventory repurchases.

Chapter 686, F. S., creates the Farm Equipment Manufacturers and Dealers Act and the Outdoor Power Equipment Manufacturers, Distributors, Wholesalers and Servicing Dealers Act. Both laws require manufacturers to repurchase inventory upon termination of their agreement (contract) with their dealers (distributors), ss. 686.407 and 686.607, F.S., respectively.

B. EFFECT OF PROPOSED CHANGES:

Chapter 686, F.S., is amended to create a new section requiring manufacturers and distributors of repair parts for motor vehicles and trucks to adhere to the conditions of their contract. Additionally, manufacturers may not terminate the contract without good cause. The phrase "good cause" is defined as failure of the distributor to comply with the conditions of the written contract, and any determination by the manufacturer that the distributor failed to comply must be made in good faith. "Good faith" is not defined. All existing contracts that have no effective date are subject to the provisions of the bill, as well as any entered into, amended, or renewed after the act takes effect.

In any action brought against a manufacturer for violation of the act, the manufacturer must prove the contract termination, cancellation, or non-renewal was made in good faith for good cause. If it cannot be shown, the distributor is entitled to reasonable attorney's fees, and, when appropriate, injunctive relief. These obligations extend to a purchaser of a manufacturing business.

A manufacturer of repair parts for motor vehicles or trucks that does not comply with the act is liable to the retail distributor for 100 percent of the net cost of the parts, plus 5 percent of the loading and handling, and the freight charges paid by the distributor.

Additionally, a manufacturer is prohibited from coercing a distributor into refusing to carry repair parts from another manufacturer. This bill does not apply to franchise agreements. The act takes effect October 1 of the year in which enacted.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

N/A

4. Individual Freedom:

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

Yes. Certain manufacturers of repair parts are prohibited from making contractual changes under specified circumstances.

5. Family Empowerment:

a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

N/A

(2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

(4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

b. Does the bill directly affect the legal rights and obligations between family members?

N/A

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

**D. STATUTE(S) AFFECTED:**

Section 686.30, Florida Statutes, is created.

**E. SECTION-BY-SECTION RESEARCH:**

Section 1. Creates s. 686.30, F.S., relating to termination of contracts between manufacturers of repair parts for motor vehicles and trucks and distributors of those parts; providing for liability; and prohibiting certain acts by those manufacturers.

Section 2. Provides that franchise agreements are not regulated by s. 686.30, F.S.

Section 3. Provides that the act takes effect October 1 of the year in which enacted.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

A parts manufacturing company that formed as a result of the merger of two companies could incur the cost of having to continue honoring contracts that have no expiration date.

2. Direct Private Sector Benefits:

Distributors of certain repair parts would benefit from the protections provided by the bill against unscrupulous business practices of certain manufacturing companies.

3. Effects on Competition, Private Enterprise and Employment Markets:

Distributors would be protected from unfair competition caused by certain manufacturers entering into a distribution relationship with another, nearby distributor while the first business is left with the inventory of that manufacturer's parts and cannot replenish those parts.

Manufacturers that merge and form another company would be prohibited from terminating existing distribution contracts.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or take any action requiring fund expenditure.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

In the aggregate, this bill does not reduce municipality or county authority to raise revenues.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The committee substitute:

1. Removes reference to farm machinery repair parts since they are currently regulated by ss. 686.40 - 686.418, F.S.
2. Removes the reference to franchise agreements and, specifically, exempts those agreements from regulation under this act.
3. Corrects the inconsistencies and technical deficiencies of the bill, as filed.

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VII. SIGNATURES:

COMMITTEE ON BUSINESS REGULATION AND CONSUMER AFFAIRS:

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