

## **BILL ANALYSIS**

C.S.H.B. 2943  
By: McReynolds  
Agriculture & Livestock  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Chapter 19, of the Business & Commerce Code, addresses dealer agreements with suppliers (manufacturers, assemblers, or wholesalers) of farm, industrial, off-road construction, forestry harvesting equipment, and outdoor power equipment. Texas dealers frequently find themselves in contract arrangements which require that suits between suppliers and dealers be tried in a state other than Texas, most frequently in which the supplier resides. This often puts Texas dealers at a disadvantage.

C.S.H.B. 2943 requires that an action or proceeding brought by a supplier against a Texas dealer must be brought in an appropriate court in this state. By allowing the law of this state to apply, our Texas dealers will no longer be subject to the high costs and burdens of trying cases outside of this state.

Furthermore, suppliers frequently place Texas dealers at their mercy when contracts are terminated, canceled or are not to be renewed. This bill expands Chapter 19 to require sellers to reach a threshold of "good" cause when terminating dealer agreements. Texas automobile dealers already have these protections in place and this bill models their protections.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 2943 amends Chapter 19, Business & Commerce Code, to require actions or proceedings brought by the supplier against a dealer to be brought in an appropriate forum in this state and that the law of this state applies to the action or proceeding.

The bill amends the same Chapter requiring the supplier to show good cause before terminating the dealer's agreement. Good cause will be determined by: the dealer's sales in relation to the sales in the market, the dealer's investments and obligations, injury or benefit to the public, the dealer's service facilities, warranty compliance with dealer agreements, and the enforceability of the dealer's agreement from a public policy standpoint.

### **EFFECTIVE DATE**

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2003.

### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

The substitute is a Legislative Council draft whereas the original is not. The substitute also deletes language in the original which required each party to a dealer agreement to show a duty of good faith and fair dealing in court.

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