

By: McReynolds

H.B. No. 2943

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to agreements between suppliers of and dealers in forestry  
3 harvesting and certain other equipment.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Subchapter A, Chapter 19, Business & Commerce  
6 Code, is amended by adding Section 19.025 to read as follows:

7 Sec. 19.025. ACTIONS AGAINST DEALERS. (a) Notwithstanding  
8 the terms of any dealer agreement or any other law, an action or  
9 proceeding brought by a supplier against a dealer must be brought in  
10 an appropriate forum in this state only, and the law of this state  
11 applies to the action or proceeding.

12 (b) Each party to a dealer agreement owes to the other party  
13 a duty of good faith and fair dealing that is actionable in court.

14 SECTION 2. Section 19.41, Business & Commerce Code, is  
15 amended to read as follows:

16 Sec. 19.41. GOOD CAUSE REQUIRED. (a) Notwithstanding the  
17 terms of the dealer agreement, a [A] supplier may not terminate,  
18 cancel, or fail to renew a dealer agreement without good cause.  
19 Whether good cause has been established is determined considering  
20 all existing circumstances, including:

21 (1) the dealer's sales in relation to the sales in the  
22 market;

23 (2) the dealer's investment and obligations;

24 (3) injury or benefit to the public;

1           (4) the adequacy of the dealer's service facilities,  
2 equipment, parts, and personnel in relation to those of other  
3 dealers of equipment of the same line;

4           (5) whether warranties are being honored by the  
5 dealer;

6           (6) the parties' compliance with the dealer agreement,  
7 except to the extent that the dealer agreement conflicts with this  
8 chapter; and

9           (7) the enforceability of the dealer agreement from a  
10 public policy standpoint, including issues of the reasonableness of  
11 the dealer agreement's terms, oppression, adhesion, and the  
12 parties' relative bargaining power.

13           (b) The desire of a supplier for market penetration does not  
14 by itself constitute good cause.

15           SECTION 3. (a) This Act takes effect immediately if it  
16 receives a vote of two-thirds of all the members elected to each  
17 house, as provided by Section 39, Article III, Texas Constitution.  
18 If this Act does not receive the vote necessary for immediate  
19 effect, this Act takes effect September 1, 2003.

20           (b) This Act applies to a dealer agreement entered into  
21 before, on, or after the effective date of this Act.