

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 905 Session of 2013

INTRODUCED BY WOZNIAK, VULAKOVICH, WAUGH, COSTA, GORDNER,
SCHWANK AND SOLOBAY, JUNE 28, 2013

REFERRED TO AGRICULTURE AND RURAL AFFAIRS, JUNE 28, 2013

AN ACT

1 Amending the act of December 18, 1987 (P.L.412, No.86), entitled
2 "An act providing for the repurchase by the wholesaler,
3 manufacturer or distributor, from dealers or heirs of
4 dealers, of certain equipment, certain attachments and parts
5 held for sale upon termination of agreement whereby the
6 dealer agrees to maintain a stock of such implements,
7 attachments and parts, and for the repurchase of certain
8 tools," further providing for definitions, for termination of
9 dealer agreement and for death or incapacitation of dealer;
10 repealing provisions relating to coercion; and providing for
11 unlawful acts by supplier, for remedies and enforcement and
12 for waiver.

13 The General Assembly of the Commonwealth of Pennsylvania
14 hereby enacts as follows:

15 Section 1. Section 2 of the act of December 18, 1987
16 (P.L.412, No.86), known as the Pennsylvania Fair Dealership Law,
17 is amended to read:

18 Section 2. Definitions.

19 The following words and phrases when used in this act shall
20 have the meanings given to them in this section unless the
21 context clearly indicates otherwise:

22 "Construction equipment manufacturer." A manufacturer of
23 construction, industrial, forestry, paving and mining equipment,

1 repair parts or specialized repair tools that does not
2 manufacture consumer or farming equipment either by itself or
3 through an affiliate.

4 "Consumer equipment." Machinery designed and manufactured
5 primarily for household use.

6 "Current net price." The price, applicable to an individual
7 dealer, listed in the printed price list or catalog or invoice
8 in use by the supplier on the date the dealer agreement is
9 terminated or canceled or has failed to be renewed.

10 "Dealer." Any person, firm or corporation engaged primarily
11 in the business of retail sale or repair of equipment. The term
12 includes the heir or authorized representative of a person or
13 majority stockholder of a corporation operating as a dealer in
14 the event such person or stockholder dies or becomes
15 incapacitated. The term does not include a person, firm or
16 corporation that complies with all of the following:

17 (1) Has purchased new equipment from a single
18 construction equipment manufacturer, constituting no less
19 than 75% of the person's, firm's or corporation's new
20 equipment, calculated on the basis of net cost.

21 (2) Has an annual average sales volume in excess of
22 \$100,000,000 over the seven-calendar-year period immediately
23 preceding the applicable determination date; provided,
24 however, the \$100,000,000 threshold shall be increased each
25 year by an amount equal to the then-current threshold
26 multiplied by the percentage increase in the index from
27 January of the immediately preceding calendar year to January
28 of the current year.

29 (3) Directly employs over 250 persons.

30 (4) Has a written agreement with a construction

1 equipment manufacturer that requires the construction
2 equipment manufacturer to compensate the person, firm or
3 corporation for warranty labor costs either as:

4 (i) a discount in the pricing of the equipment to
5 the person, firm or corporation; or

6 (ii) a lump sum payment to the person, firm or
7 corporation that is made within 90 days of the sale of
8 the construction equipment manufacturer's new equipment.

9 "Dealer agreement." An oral or written contract, franchise
10 agreement or security agreement between a dealer and supplier
11 whereby the dealer agrees to acquire from the supplier and to
12 maintain an inventory of equipment, repair parts or specialized
13 repair tools.

14 "Dual" or "dualing." A dealership having two or more line-
15 makes of equipment located in the same dealership facilities.

16 "Equipment." Machines, implements of husbandry, golf, turf
17 and grounds maintenance machines, outdoor power equipment,
18 utility vehicles and machine attachments, accessories,
19 completing packages and bundles designed for or adapted and used
20 for agriculture, horticulture, floriculture, construction,
21 livestock raising, silviculture, landscaping and grounds
22 maintenance, even though incidentally operated or used upon the
23 highways, including, but not limited to, tractors, farm
24 implements, loaders, backhoes, lawn mowers, rototillers, etc.,
25 and any business signs purchased by requirement of the supplier
26 which are less than five years old. The term shall not include[:

27 (1) equipment manufactured solely for the purpose of
28 industrial construction; or

29 (2)] all-terrain vehicles as defined in 75 Pa.C.S. §
30 7702 (relating to definitions).

1 "Farming equipment." Machinery designed and used for
2 agricultural operations, including farm tractors, choppers,
3 balers, reapers, mowers, pickers, threshers, combines, plows,
4 harrows, planters and any other vehicles or machines primarily
5 designed for use as implements of husbandry or multipurpose
6 agricultural vehicles.

7 "Index." The producer price index prepared by the United
8 States Department of Labor, Bureau of Labor Statistics, as it
9 relates to construction, mining and forestry equipment.

10 "Line-make." Groups of equipment that are offered for sale,
11 lease or distribution under a common name, trademark, service
12 mark or brand name of the supplier of the same equipment.

13 "Mining equipment." Machinery designed and used in the
14 production process at a mine site, including off-highway mining
15 trucks, large-wheel loaders, large track-type tractors, large-
16 wheel dozers, mining motor graders, open bowl scrapers and
17 underground mining trucks.

18 "Net cost." The amount paid by the dealer to the supplier,
19 plus the cost of freight, if any, incurred by the dealer[.], as
20 long as the manufacturer initiates the termination or
21 nonrenewal. The term does not include the cost of freight if the
22 dealer initiates the termination or nonrenewal.

23 "Nonservicing dealer." A dealer that sells equipment but
24 does not provide parts and service.

25 "Paving equipment." Machinery designed and used for asphalt
26 paving, including asphalt pavers, cold planers, asphalt
27 compactors, pneumatic compactors and rotary mixers.

28 "Repair parts." All parts, component parts and superseded
29 parts related to a sale and related to repair of equipment. The
30 term includes bundled parts, which means several related parts,

1 components or accessories, bound together as one inclusive item
2 or priced as an inclusive item.

3 "Site-control agreement" or "exclusive use agreement." An
4 agreement that, regardless of its name, title, form or the
5 parties entering into it, has the effect of:

6 (1) controlling the use and development of the premises
7 of a dealer's facility;

8 (2) requiring a dealer to establish or maintain an
9 exclusive dealership facility on the premises of a dealer's
10 facility;

11 (3) restricting the power or authority of the dealer or
12 the lessor if the dealer leases the dealership premises to
13 transfer, sell, lease, develop, redevelop or change the use
14 of the dealership premises, whether by sublease, lease,
15 collateral pledge of lease, right of first refusal to
16 purchase or lease, option to purchase or lease or any similar
17 arrangement; or

18 (4) preventing the dealer from dualing a competitive
19 line-make of equipment at the same facility.

20 "Specialized repair tools." Tools and equipment, including
21 diagnostic equipment, designed to be used or useful only in the
22 maintenance and repair of equipment.

23 "Supplier." [A manufacturer of equipment or repair parts or
24 a wholesaler or distributor of equipment or repair parts who has
25 a valid existing contract with a manufacturer of equipment or
26 repair parts, including the successors or assigns of such
27 manufacturer, wholesaler or distributor.] A distributor,
28 manufacturer or wholesaler of equipment, repair parts or
29 specialized repair tools who enters into a dealer agreement with
30 a dealer.

1 Section 2. Section 3(a), (c) and (f) of the act are amended
2 and the section is amended by adding a subsection to read:

3 Section 3. Termination of dealer agreement.

4 (a) General provisions.--

5 (1) A dealer may terminate a dealer agreement with good
6 cause. A dealer shall give the supplier at least 30 days'
7 prior notice via registered letter mailed to the last known
8 address of the supplier.

9 (2) It shall be unlawful for a supplier to terminate,
10 cancel or fail to renew a dealer agreement or substantially
11 change the competitive circumstances of a dealer agreement
12 without good cause except as provided in subsection (b) or

13 (c).

14 * * *

15 (c) Other exceptions.--[Subject to the provisions of this
16 subsection, a supplier may terminate, cancel or fail to renew a
17 dealer agreement under such conditions as may be provided for in
18 the dealer agreement. When a dealer agreement is terminated or
19 canceled or has failed to be renewed by the supplier under a
20 condition provided for in the dealer agreement, other than a
21 condition set forth in subsection (b), the] The supplier, upon
22 written request of the dealer, shall pay to the dealer, or
23 credit to the dealer's account if the dealer has outstanding any
24 sums owing the supplier:

25 (1) A sum equal to 100% of the net cost of all equipment
26 that the dealer purchased from the supplier and not
27 previously sold and put into regular use or service preceding
28 notification by either party of intent to cancel, terminate
29 or fail to renew the dealer agreement.

30 (2) A sum equal to 100% of the current net price of

1 repair parts, including superseded repair parts, previously
2 purchased from the supplier and 75% of the current net price
3 of specialized repair tools previously purchased pursuant to
4 the requirements of the supplier and held by the dealer on
5 the date of termination, cancellation or failure to renew the
6 dealer agreement. In addition, the supplier shall pay the
7 dealer, or credit to the dealer's account if the dealer has
8 outstanding any sums owing the supplier, a sum equal to 5% of
9 the current net price of all repair parts, excluding incoming
10 freight cost, and specialized repair tools returned to the
11 supplier to compensate the dealer for the inventory, packing
12 and loading of the same to the supplier, provided that the
13 supplier may perform such inventory, packing and loading in
14 lieu of paying 5% to the dealer. Upon the payment or
15 allowance of credit to the dealer's account, as applicable,
16 in the sum required by this section, all of the dealer's
17 title and interest in and to the equipment, repair parts and
18 specialized repair tools shall pass to the supplier, and the
19 supplier shall be entitled to the possession of the same.
20 Payments or allowance of credit to the dealer, as applicable,
21 required by this section shall be made no later than 90 days
22 after such termination, cancellation or discontinuance or 60
23 days after the supplier's receipt of the equipment, repair
24 parts or specialized repair tools.

25 (3) In the event a dealer terminates a dealer agreement,
26 the obligation of the supplier to repurchase equipment,
27 repair parts and specialized repair tools shall be governed
28 by the terms and conditions then in effect in the dealer
29 agreement between the supplier and the dealer and not by the
30 provisions of this act.

1 * * *

2 (f) Deficiencies may be cured.--Except for termination,
3 cancellation or discontinuance for reasons set forth in
4 subsection (b)(3) through (7), the supplier shall allow the
5 dealer no less than [60] 90 days to cure the deficiencies set
6 forth in the notice required under subsection (e). Any such time
7 provided to the dealer to cure deficiencies shall be calculated
8 from the date of receipt of notice.

9 (g) Definition.--As used in this section, the term "good
10 cause" means the failure by a dealer to substantially comply
11 with the requirements imposed upon the dealer by the dealer
12 agreement, as long as the requirements are not different from
13 requirements imposed on other dealers of the same size,
14 geographic region and market demographics, either by their terms
15 or in the manner of their enforcement.

16 Section 3. Section 5 of the act is amended to read:

17 Section 5. Death or incapacitation of dealer.

18 In the event of the death or incapacity of a dealer, the
19 supplier shall repurchase, at the option of the heir or
20 authorized representative of such person or stockholder, the
21 equipment, repair parts and specialized repair tools of the
22 dealer as if the supplier had terminated, canceled or failed to
23 renew the contract. The heir or authorized representative shall
24 have [120 days] one year from the date of the death of such
25 dealer or from the date such dealer is determined to be
26 incapacitated or becomes totally disabled, as applicable, to
27 exercise the option under this section. Nothing in this act
28 requires the repurchase of any equipment, repair parts and
29 specialized repair tools if the heir and supplier enter into a
30 new contract to operate the retail dealership.

1 Section 4. Section 9 of the act is repealed:

2 [Section 9. No coercion.

3 It shall be a violation for any supplier to require, attempt
4 to require, coerce or attempt to coerce any dealer in this
5 Commonwealth to order or accept delivery of any equipment or
6 repair parts not required by law which shall not have been
7 voluntarily ordered by the dealer.]

8 Section 5. The act is amended by adding sections to read:

9 Section 9.1. Unlawful acts by supplier.

10 (a) Unlawful coercive acts.--It shall be a violation for any
11 supplier, or any representative, officer or agent whatsoever of
12 such supplier to require, attempt to require, coerce or attempt
13 to coerce any dealer in this Commonwealth to:

14 (1) Order or accept delivery of any equipment, part or
15 accessory thereof, equipment or any other commodity not
16 required by law which shall not have been voluntarily ordered
17 by the dealer, except that this paragraph is not intended to
18 modify or supersede any terms or provisions of the dealer
19 agreement requiring dealers to market a representative line
20 of equipment which the supplier is publicly advertising.

21 (2) Order or accept delivery of any equipment with
22 special features, accessories or equipment not included in
23 the list price of such equipment as publicly advertised by
24 the supplier.

25 (3) Participate monetarily in an advertising campaign or
26 contest or to purchase unnecessary or unreasonable quantities
27 of any promotional materials, training materials, showroom or
28 other display decorations or materials at the expense of the
29 dealer.

30 (4) Enter into any agreement with the supplier or to do

1 any other act prejudicial to the dealer by threatening to
2 terminate or not renew a dealer agreement or any other
3 contractual agreement existing between the dealer and the
4 supplier, except that this paragraph is not intended to
5 preclude the supplier from insisting on compliance with the
6 reasonable terms or provisions of the dealer agreement or any
7 other contractual agreement and notice in good faith to any
8 dealer of the dealer's violation of such terms or provisions
9 shall not constitute a violation of this act.

10 (5) Change the capital structure of the dealer or the
11 means by or through which the dealer finances the operation
12 of the dealership, provided that the dealer at all times
13 meets any reasonable capital standards determined by the
14 supplier in accordance with uniformly applied criteria, and
15 also provided that no change in the capital structure shall
16 cause a change in the principal management or have the effect
17 of a sale of the dealership without the consent of the
18 supplier. The consent shall be granted or denied within 60
19 days of receipt of a written request from the dealer.

20 (6) Refrain from participation in the management of,
21 investment in or the acquisition of any other line-make of
22 equipment or related products. This paragraph does not apply
23 unless the dealer maintains a reasonable line of credit for
24 each line-make of equipment, the dealer remains in compliance
25 with the reasonable terms of the dealer agreement and any
26 reasonable facilities requirements of the supplier, and no
27 change is made in the principal management of the dealer. The
28 reasonable facilities requirements shall not include any
29 requirement that a dealer establish or maintain exclusive
30 facilities, personnel or display space when such requirements

1 or any of them would be unreasonable in light of economic
2 conditions and would not otherwise be justified by reasonable
3 business considerations. Before the addition of a line-make
4 to the dealership facilities, the dealer shall first request
5 the consent of supplier if required by the dealer agreement.
6 Any decision of the supplier with regard to dualing of two or
7 more line-makes shall be rendered within 60 days of receipt
8 of a written request from the dealer. Failure on the part of
9 the supplier to timely respond to a dualing request shall be
10 deemed an approval of the dealer's request. No supplier shall
11 limit or restrict the addition of a line-make to the
12 dealership facilities where the dealer maintains a reasonable
13 line of credit for that supplier's like-make of equipment and
14 the dealer remains in compliance with the reasonable terms of
15 the dealer agreement and any reasonable facilities
16 requirements of a supplier.

17 (7) Prospectively assent to a release, assignment,
18 novation, waiver or estoppel which would relieve any person
19 from liability to be imposed by this act or to require any
20 controversy between a dealer and a supplier to be referred to
21 any person other than the duly constituted courts of this
22 Commonwealth or the United States, if such referral would be
23 binding upon the dealer. A dealer and the supplier, by
24 themselves or through their respective counsel, are permitted
25 to agree to execute a written agreement or to arbitrate in a
26 binding or nonbinding manner after a controversy arises.

27 (8) Expand, construct or significantly modify facilities
28 without assurances that the supplier will provide a
29 reasonable supply of equipment within a reasonable time so as
30 to justify such an expansion in light of the market and

1 economic conditions or require a separate facility for the
2 sale or service of a line-make of equipment if the market and
3 economic conditions do not clearly justify the separate
4 facility.

5 (b) Violations.--It shall be a violation for any supplier,
6 or any representative, officer or agent whatsoever of such
7 supplier under the act to:

8 (1) Delay, refuse or fail to deliver equipment or parts
9 or accessories in a reasonable time and in reasonable
10 quantity relative to the dealer's facilities and sales
11 potential after acceptance of an order from a dealer having a
12 dealer agreement for the retail sale of any equipment sold or
13 distributed of an order from a dealer having a dealer
14 agreement for the retail sale of any equipment sold or
15 distributed by the supplier as are covered by such dealer
16 agreement, if such equipment, parts or accessories are
17 publicly advertised as being available for immediate
18 delivery. There is no violation if the failure is caused by
19 acts or causes beyond the control of the supplier.

20 (2) Unfairly discriminate among its dealers with respect
21 to warranty, recall, service contract or any other service
22 required by the supplier with regard to labor or parts
23 reimbursement.

24 (3) Unreasonably withhold consent to the sale, transfer
25 or exchange of the dealership to a qualified buyer capable of
26 being a dealer in this Commonwealth who meets the supplier's
27 reasonable requirements for appointment as a dealer.

28 (4) Arbitrarily and capriciously withhold consent to the
29 relocation of an existing dealership.

30 (5) Fail to respond in writing to a request for consent

1 as specified in paragraphs (3) and (4) within 60 days of
2 receipt of a written request on the forms, if any, generally
3 utilized by a supplier for such purposes and containing the
4 information required. The failure to respond shall be deemed
5 to be approval of the request. A supplier shall acknowledge
6 in writing to the applicant the receipt of the forms, and, if
7 the supplier requires additional information to complete its
8 review, the supplier shall notify the applicant within 15
9 days of the receipt of the forms. If the supplier fails to
10 request additional information from the applicant within 15
11 days after receipt of the initial forms, the 60-day time
12 period for approval shall be deemed to run from the initial
13 receipt date, otherwise, the 60-day time period for approval
14 shall run from receipt of the supplemental requested
15 information. In no event shall the total time period for
16 approval exceed 75 days from the date of the receipt of the
17 initial forms.

18 (6) Prevent or attempt to prevent by contract or
19 otherwise any dealer from changing the executive management
20 control of the dealer unless the supplier, having the burden
21 of proof, can show that such change of executive management
22 will result in executive management or control by a person or
23 persons who are not of good moral character or who do not
24 meet reasonable, preexisting, and, with consideration given
25 to the volume of sales and service of the dealership,
26 uniformly applied minimum business experience standards.
27 Where the supplier rejects a proposed change in executive
28 management control, the supplier shall give written notice of
29 its reasons to the dealer within 60 days of notice to the
30 supplier by the dealer of the proposed change, otherwise, the

1 change in the executive management of the dealer shall be
2 presumptively deemed approved.

3 (7) Offer in connection with a sale of equipment to the
4 Federal Government, the Commonwealth or any political
5 subdivision thereof any discounts, refunds or any other type
6 of inducement to any dealer without making the same offer or
7 offers available to all other of its dealers within this
8 Commonwealth. This paragraph shall not be construed to
9 prevent the offering of incentive programs or other discounts
10 if the discounts are equally available to all dealers in this
11 Commonwealth on a proportionally equal basis.

12 (8) Fail to indemnify its dealers, notwithstanding the
13 terms of any dealer agreement, against any judgment for
14 damages or settlement approved in writing by the supplier,
15 including, but not limited to, court costs and reasonable
16 attorney fees of the dealer, arising out of complaints,
17 claims or lawsuits, including, but not limited to, strict
18 liability, negligence, misrepresentation, express or implied
19 warranty or rescission of the sale as defined in 13 Pa.C.S. §
20 2608 (relating to revocation of acceptance in whole or in
21 part) to the extent that the judgment or settlement relates
22 solely to the alleged defective or negligent functions by the
23 supplier beyond the control of the dealer.

24 (9) Sell or exchange with a second or final stage
25 supplier, retail consumer or end user except through a
26 licensed dealer. This paragraph shall not apply to supplier
27 sales of equipment to the Federal Government, charitable
28 organizations and employees of the supplier.

29 (10) Modify a dealer agreement during the term of the
30 dealer agreement or upon its renewal if the modification

1 substantially and adversely affects the dealer's rights,
2 obligations, investment or return on investment without
3 giving 60 days' written notice of the proposed modification
4 to the dealer unless the modification is required by law or
5 court order. The supplier shall provide in the written notice
6 the good cause and relevant factors of the proposed dealer
7 agreement modification, including, but not limited to:

8 (i) The reasons for the proposed modification.

9 (ii) Whether the proposed modification is applied to
10 or affects all dealers in a nondiscriminatory manner.

11 (iii) Whether the proposed modification will have a
12 substantial and adverse effect upon the dealer's
13 investment or return on investment.

14 (iv) Whether the proposed modification is in the
15 public interest.

16 (v) Whether the proposed modification is necessary
17 to the orderly and profitable distribution of products by
18 the supplier.

19 (vi) Whether the proposed modification is offset by
20 other modifications beneficial to the dealer.

21 (11) Fail or refuse to offer to its dealers all new
22 model equipment manufactured for that line-make or require
23 any of its dealers to pay an unreasonable fee, unreasonably
24 remodel or renovate the dealer's existing facilities,
25 unreasonably purchase or construct a new facility,
26 unreasonably purchase parts, supplies, tools, equipment,
27 operational services, other merchandise or unreasonably
28 participate in training programs in order to receive any
29 equipment, parts or accessories. It shall not be a violation
30 of this paragraph if the supplier fails to supply dealers

1 with equipment, parts or accessories due to circumstances
2 beyond the control of the supplier, including, but not
3 limited to, strike or labor difficulty, shortage of
4 materials, freight embargo or temporary lack of capacity.

5 (12) Operate a system for the allocation of equipment
6 which is not reasonable or fair to a dealer. Upon the written
7 request of any of its dealers, a supplier shall disclose to
8 the dealer the method on which the equipment is allocated
9 among the dealers of the same line-make. The supplier has the
10 burden of establishing the fairness of its allocation.

11 (13) Own, operate or control, either directly or
12 indirectly, any equipment warranty facility. Nothing in this
13 subsection shall prohibit any supplier from owning, operating
14 or controlling any warranty facility for warranty repairs on
15 equipment owned or operated by the supplier.

16 (14) Compel a dealer through a finance subsidiary of the
17 supplier to agree to unreasonable operating requirements or
18 to directly or indirectly terminate a dealer through the
19 actions of a finance subsidiary of the supplier. This
20 paragraph shall not limit the right of a financing entity to
21 engage in business practices in accordance with the trade of
22 retail or wholesale equipment financing.

23 (15) Use any subsidiary corporation, affiliated
24 corporation or any other controlled corporation, partnership,
25 association, entity or person to accomplish what would
26 otherwise be illegal conduct under this act on the part of
27 the supplier.

28 (16) Vary the price charged to any of its dealers, which
29 has the effect of causing a difference in the price of any
30 similarly equipped equipment to its dealers or to the

1 ultimate purchaser. This paragraph shall not be construed to
2 prevent the offering of incentive programs or other discounts
3 if the incentive or discounts are available to all competing
4 dealers of the same line-make in this Commonwealth on a
5 proportionately equal basis.

6 (17) (i) Directly or indirectly condition any of the
7 following actions on a dealer, prospective dealer or
8 owner of an interest in a dealership or facility to enter
9 into a site-control agreement or exclusive use agreement:

10 (A) awarding of a dealership to a prospective
11 dealer;

12 (B) adding of a line-make or dealership to an
13 existing dealer's facility;

14 (C) renewal of an existing dealer's dealer
15 agreement;

16 (D) approving of the relocation of an existing
17 dealer's facility; or

18 (E) approving of the sale or transfer of a
19 dealer's ownership of a dealership or facility.

20 (ii) Nothing in this paragraph prohibits a dealer,
21 prospective dealer or owner of an interest in a
22 dealership or facility from voluntarily entering into
23 such an agreement for other consideration. However, a
24 provision contained in an agreement which is not
25 voluntarily entered into by a dealer, prospective dealer
26 or owner of an interest in a dealership or facility on or
27 after the effective date of this paragraph that is
28 inconsistent with the provisions of this section shall be
29 a violation of this act.

30 Section 9.2. Remedies and enforcement.

1 The provisions of this act shall be supplemental to any
2 dealer agreement between the dealer and the supplier which
3 provides the dealer with greater protection. The dealer may
4 elect to pursue its contract remedy or the remedy provided by
5 State law, or both; and an election by the dealer to pursue such
6 remedies shall not bar its right to exercise any other remedies
7 that may be granted at law or in equity. If a supplier violates
8 this act, a dealer may bring an action against the supplier in a
9 court of competent jurisdiction for damages sustained by the
10 dealer as a consequence of the supplier's violation, including
11 consequential damages and incidental damages, court costs,
12 attorney fees and costs of arbitrators. The dealer also may be
13 granted injunctive relief against unlawful termination,
14 cancellation, nonrenewal or substantial change of competitive
15 circumstances. The remedies set forth in this section shall not
16 be deemed exclusive and shall be in addition to any other
17 remedies permitted by law.

18 Section 9.3. Waiver.

19 (a) Waiver of act void.--An attempted waiver of a provision
20 of this act shall be void. Any provision in a dealer agreement
21 that purports to elect the application of the law of a state
22 other than Pennsylvania shall be void. Any provision in a dealer
23 agreement that requires a dealer to pay attorney fees incurred
24 by a supplier shall be void.

25 (b) Waiver of right to trial by jury.--No supplier may
26 require a dealer to waive the right to a trial by jury as a
27 remedy to a supplier and dealer contract or agreement dispute.

28 Section 6. This act shall take effect immediately.