

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 280

BY WAYS AND MEANS COMMITTEE

AN ACT

1 RELATING TO FARM EQUIPMENT; AMENDING THE HEADING FOR CHAPTER 23, TITLE 28,  
2 IDAHO CODE, TO PROVIDE FOR THE REPURCHASE OF FARM EQUIPMENT UPON THE  
3 TERMINATION OF CONTRACTS; AMENDING SECTION 28-23-101, IDAHO CODE, TO  
4 PROVIDE FOR CERTAIN PAYMENT OR CREDIT TO A RETAILER RELATING TO EQUIP-  
5 MENT, TO PROVIDE FOR PAYMENT OF THE NET COST OF UNSOLD AND UNDAMAGED COM-  
6 PLETE FARM IMPLEMENTS AND EQUIPMENT, TO REMOVE A TIME CONDITION, TO PRO-  
7 VIDE THAT CERTAIN PROVISIONS SHALL APPLY TO PURCHASES BY RETAILERS FROM  
8 PERSONS, FIRMS OR CORPORATIONS IN THE BUSINESS OF SELLING OR RETAILING  
9 FARM EQUIPMENT, IMPLEMENTS AND PARTS, TO REVISE PROVISIONS RELATING  
10 TO THE AMOUNT OF THE PAYMENT OR CREDIT FOR DEMONSTRATION OR RENTAL  
11 EQUIPMENT, TO PROVIDE THAT THE SUPPLIER ASSUMES OWNERSHIP OF EQUIPMENT  
12 AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 28-23-102, IDAHO  
13 CODE, TO PROVIDE FOR CERTAIN PAYMENT OR CREDIT TO A RETAILER RELATING  
14 TO EQUIPMENT, TO REMOVE A TIME CONDITION, TO PROVIDE FOR THE PASSAGE OF  
15 TITLE RELATING TO EQUIPMENT, TO PROVIDE FOR POSSESSION OF EQUIPMENT,  
16 TO PROVIDE FOR PAYMENT WITHIN NINETY DAYS FROM THE TERMINATION DATE OF  
17 THE DEALER AGREEMENT AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SEC-  
18 TION 28-23-103, IDAHO CODE, TO PROVIDE THAT SPECIFIED PROVISIONS ARE  
19 SUPPLEMENTAL TO CERTAIN AGREEMENTS RELATING TO EQUIPMENT AND TO PROVIDE  
20 THAT DESIGNATED REMEDIES SHALL APPLY TO CERTAIN EQUIPMENT; AMENDING  
21 SECTION 28-23-104, IDAHO CODE, TO PROVIDE FOR THE REPURCHASE OF EQUIP-  
22 MENT FROM HEIRS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION  
23 28-23-105, IDAHO CODE, TO PROVIDE FOR CIVIL LIABILITY RELATING TO VIO-  
24 LATIONS OF SPECIFIED PROVISIONS, TO PROVIDE FOR LIABILITY UPON FAILURE  
25 TO PAY FOLLOWING CANCELLATION OF CONTRACTS RELATING TO EQUIPMENT, TO  
26 PROVIDE THAT JUDGMENTS MAY INCLUDE DAMAGES IN THE AMOUNT OF TWO TIMES  
27 THE COMPENSATORY DAMAGES AND TO MAKE A TECHNICAL CORRECTION; AMENDING  
28 SECTION 28-23-107, IDAHO CODE, TO REVISE A DEFINITION AND TO MAKE TECH-  
29 NICAL CORRECTIONS; AMENDING SECTION 28-23-108, IDAHO CODE, TO PROVIDE  
30 CERTAIN NOTICE REQUIREMENTS RELATING TO WHOLESALERS, MANUFACTURERS AND  
31 DISTRIBUTORS OF EQUIPMENT AND TO MAKE A TECHNICAL CORRECTION; AMENDING  
32 SECTION 28-23-110, IDAHO CODE, TO PROVIDE FOR PENALTIES FOR FAILURE  
33 TO GIVE CERTAIN NOTICE OR OBTAIN CONSENT RELATING TO MANUFACTURERS,  
34 WHOLESALERS AND DISTRIBUTORS OF FARM EQUIPMENT AND TO MAKE TECHNICAL  
35 CORRECTIONS; AMENDING CHAPTER 23, TITLE 28, IDAHO CODE, BY THE ADDITION  
36 OF A NEW SECTION 28-23-112, IDAHO CODE, TO PROVIDE FOR JURISDICTION AND  
37 VENUE; AMENDING CHAPTER 23, TITLE 28, IDAHO CODE, BY THE ADDITION OF A  
38 NEW SECTION 28-23-113, IDAHO CODE, TO PROVIDE THAT SPECIFIED DEFINI-  
39 TIONS SHALL APPLY; AMENDING THE HEADING FOR CHAPTER 24, TITLE 28, IDAHO  
40 CODE, TO PROVIDE FOR AGREEMENTS BETWEEN SUPPLIERS AND DEALERS OF FARM  
41 EQUIPMENT; AMENDING SECTION 28-24-101, IDAHO CODE, TO REVISE LEGISLA-  
42 TIVE FINDINGS AND INTENT; AMENDING SECTION 28-24-102, IDAHO CODE, TO  
43 REVISE DEFINITIONS AND TO DEFINE A TERM; AMENDING SECTION 28-24-104B,  
44 IDAHO CODE, TO REMOVE A PROVISION RELATING TO DEALER OPTIONS TO ACCEPT  
45

1 THE SUPPLIERS' REIMBURSEMENT TERMS AND CONDITIONS IN LIEU OF THE TERMS  
 2 AND CONDITIONS SET FORTH IN SPECIFIED LAW; AMENDING SECTION 28-24-105,  
 3 IDAHO CODE, TO PROVIDE THAT JUDGMENTS MAY INCLUDE DAMAGES IN THE AMOUNT  
 4 OF TWO TIMES THE COMPENSATORY DAMAGES; AND AMENDING CHAPTER 24, TITLE  
 5 28, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 28-24-108, IDAHO CODE,  
 6 TO PROVIDE FOR JURISDICTION AND VENUE.

7 Be It Enacted by the Legislature of the State of Idaho:

8 SECTION 1. That the Heading for Chapter 23, Title 28, Idaho Code, be,  
 9 and the same is hereby amended to read as follows:

10 CHAPTER 23  
 11 REPURCHASE OF FARM MACHINERY AND EQUIPMENT UPON TERMINATION OF CONTRACT

12 SECTION 2. That Section 28-23-101, Idaho Code, be, and the same is  
 13 hereby amended to read as follows:

14 28-23-101. REPURCHASE OF FARM MACHINERY, EQUIPMENT, CONSTRUCTION  
 15 EQUIPMENT, IMPLEMENTS, ATTACHMENTS, ACCESSORIES AND PARTS UPON TERMINATION  
 16 OF CONTRACT AND OBLIGATION TO REPURCHASE. Whenever any person, firm, or  
 17 corporation engaged in the business of selling and retailing farm implements  
 18 and or equipment, or repair parts for farm implements or equipment, enters  
 19 into a written or parol contract, sales agreement or security agreement  
 20 whereby the retailer agrees with any wholesaler, manufacturer, or distrib-  
 21 utor of farm implements or equipment, machinery, attachments, accessories  
 22 or repair parts to maintain a stock of parts which may include, but is not  
 23 limited to, complete or whole machines, attachments, or demonstration and  
 24 rental equipment and thereafter the written or parol contract, sales agree-  
 25 ment or security agreement is terminated, canceled or discontinued, then the  
 26 wholesaler, manufacturer, or distributor shall pay to the retailer or credit  
 27 to the retailer's account, if the retailer has outstanding any sums owing  
 28 the wholesaler, manufacturer, or distributor, unless the retailer should  
 29 desire and has a contractual right to keep such merchandise, a sum equal to  
 30 one hundred percent (100%) of the net cost of all unused, unsold and undam-  
 31 aged complete farm implements or equipment, machinery and or repair parts  
 32 and stock of parts, attachments in new condition which have been purchased  
 33 by the retailer from the wholesaler, manufacturer or distributor within the  
 34 thirty-six (36) months immediately preceding notification by either party  
 35 of intent to cancel or discontinue the contract, including the transporta-  
 36 tion charges to the retailer. The payment or credit for demonstration or  
 37 rental equipment that has not been retailed to an end user is a sum equal to  
 38 the depreciated value of the equipment ~~to which the supplier and the retailer~~  
 39 ~~have agreed.~~ The wholesaler, manufacturer, or distributor shall pay to the  
 40 retailer a reasonable reimbursement for services performed in connection  
 41 with the assembly and predelivery inspections of the farm equipment and at-  
 42 tachments. The supplier assumes ownership of farm implements or equipment,  
 43 machinery and or repair parts and stock FOB the dealer location.

44 A supplier must repurchase any specific data processing hardware, soft-  
 45 ware, telecommunications equipment and computer communications hardware  
 46 specifically required by the supplier to meet the supplier's minimum re-

1     quirements and purchased by the dealer in the prior five (5) years and held by  
2     the dealer on the date of termination. The purchase price is the original net  
3     cost to the dealer, less twenty percent (20%) per year.

4             SECTION 3. That Section 28-23-102, Idaho Code, be, and the same is  
5     hereby amended to read as follows:

6             28-23-102. REPURCHASE OF REPAIR PARTS. Whenever any person, firm, or  
7     corporation engaged in the business of selling and retailing farm implements  
8     and or equipment, or repair parts for farm implements or equipment, enters  
9     into a written or parol contract, sales agreement or security agreement  
10    whereby the retailer agrees with any wholesaler, manufacturer<sub>7</sub> or distribu-  
11    tor of farm implements or equipment, machinery, attachments, accessories or  
12    repair parts to maintain a stock of parts or complete or whole machines, or  
13    attachments, manuals and repair manuals and thereafter the written or parol  
14    contract, sales agreement or security agreement is terminated, canceled  
15    or discontinued, then the wholesaler, manufacturer<sub>7</sub> or distributor shall  
16    pay to the retailer or credit to the retailer's account, if the retailer has  
17    outstanding any sums owing the wholesaler, manufacturer<sub>7</sub> or distributor,  
18    unless the retailer should desire and has a contractual right to keep such  
19    merchandise, a sum equal to one hundred percent (100%) of the current net  
20    prices, including the transportation charges from the retailer to the whole-  
21    saler, manufacturer or distributor which have been paid by the retailer, or  
22    invoiced to a retailer's account by the wholesaler, manufacturer or dis-  
23    tributor, on manuals and repair manuals, repair parts, including superseded  
24    or previously included parts listed in current price lists or catalogs or  
25    electronic catalogs in use, or previously used within thirty-six (36) months  
26    prior to the latest parts price list issue date by the wholesaler, manufac-  
27    turer or distributor on the date of cancellation or discontinuance of the  
28    contract, which parts had previously been purchased by the retailer from the  
29    wholesaler, manufacturer<sub>7</sub> or distributor and are held by the retailer on the  
30    date of the cancellation or discontinuance of the contract or thereafter  
31    received by the retailer from the wholesaler, manufacturer or distributor.

32             The wholesaler, manufacturer<sub>7</sub> or distributor shall also pay the re-  
33    tailer or credit to his account a sum equal to five percent (5%) of the  
34    current net price of all parts returned for the handling, packing<sub>7</sub> and load-  
35    ing of the parts back to the wholesaler, manufacturer<sub>7</sub> or distributor unless  
36    the wholesaler, manufacturer or distributor elects to perform inventorying,  
37    packing and loading of the parts themselves.

38             Upon the payment or allowance of credit to the retailer's account of the  
39    sum required by this section and section 28-23-101, Idaho Code, the title to  
40    the farm implements, ~~farm~~ equipment, machinery, attachments, accessories  
41    or repair parts shall pass to the manufacturer, wholesaler or distributor  
42    making the payment or allowing the credit and the manufacturer, wholesaler  
43    or distributor shall be entitled to the possession of the farm implements,  
44    equipment, machinery, attachments, accessories or repair parts. Title to  
45    farm implements, equipment, attachments, accessories and repair parts is  
46    transferred to the supplier FOB the dealer location. The provisions of this  
47    section shall apply to any part return adjustment agreement made between a  
48    dealer and a supplier. All payments or allowances of credit due retailers  
49    under this section shall be paid or credited by the manufacturer, whole-

1 saler, or distributor within ninety (90) days ~~after the return of the farm~~  
2 ~~implements, farm machinery, attachments, accessories or repair parts from~~  
3 ~~the termination date of the dealer agreement.~~ After the ninety (90) days all  
4 sums of credits due shall include interest at the rate specified in section  
5 28-22-104(1), Idaho Code. However, this section and section 28-23-101,  
6 Idaho Code, shall not in any way affect any security interest which the  
7 wholesaler, manufacturer or distributor may have in the inventory of the  
8 retailer.

9 A supplier shall repurchase at one hundred percent (100%) of net dealer  
10 cost, manuals and repair manuals purchased in the previous six (6) years and  
11 at fifty percent (50%) for manuals and repair manuals purchased in the previ-  
12 ous seven (7) through twelve (12) years as required by the supplier and held  
13 by the dealer on the date of termination. Manuals and repair manuals must be  
14 unique to the supplier's product line and must be in complete and in readable  
15 condition.

16 A supplier must repurchase, and the dealer must sell to the supplier,  
17 specialized repair tools. As applied in this section, "specialized repair  
18 tools" is defined as those tools required by the supplier and unique to the  
19 diagnosis or repair of the supplier's products. For specialized repair  
20 tools that are in new, unused condition and are applicable to the supplier's  
21 current products, the purchase price is one hundred percent (100%) of the  
22 original net cost to the dealer. For all other specialized repair tools,  
23 in complete and resalable condition, the purchase price is the original net  
24 cost to the dealer less twenty percent (20%) per year depreciation, but not  
25 less than fifty percent (50%) of the original purchase price.

26 A supplier must repurchase, and the dealer must sell to the supplier,  
27 current signage. As used in this section, "current signage" means the prin-  
28 cipal outdoor signage required by the supplier that displays the supplier's  
29 current logo or similar exclusive identifier, and that identifies the dealer  
30 as representing either the supplier or the supplier's products, or both. The  
31 purchase price shall be the original net cost to the dealer less twenty per-  
32 cent (20%) per year, but may in no case be less than fifty percent (50%) of the  
33 original cost to the dealer.

34 SECTION 4. That Section 28-23-103, Idaho Code, be, and the same is  
35 hereby amended to read as follows:

36 28-23-103. PROVISIONS OF CONTRACT SUPPLEMENTED. The provisions of  
37 this section shall be supplemental to any agreement between the retailer  
38 and the manufacturer, wholesaler or distributor covering the return of farm  
39 implements, equipment, machinery, attachments ~~and or~~ repair parts. The re-  
40 tailer can elect to pursue either his contract remedy or the remedy provided  
41 herein, and an election by the retailer to pursue his contract remedy shall  
42 not bar his right to the remedy provided herein as to those farm implements,  
43 equipment, machinery, attachments ~~and or~~ repair parts not affected by the  
44 contract remedy. Notwithstanding anything contained herein, the rights of  
45 a manufacturer, wholesaler or distributor to charge back to the retailer's  
46 account amounts previously paid or credited as a discount incident to the  
47 retailer's purchase of goods shall not be affected. Further, any repurchase  
48 hereunder shall not be subject to the provisions of the bulk sales law.

1 SECTION 5. That Section 28-23-104, Idaho Code, be, and the same is  
2 hereby amended to read as follows:

3 28-23-104. DEATH OF DEALER -- REPURCHASE FROM HEIRS. In the event of  
4 the death of the retail dealer or a stockholder in a corporation operating a  
5 retail dealership in the business of selling and retailing farm implements,  
6 equipment, machinery, attachments or repair parts therefor, at the election  
7 of the dealer or corporation, the manufacturer, wholesaler or distributor  
8 shall, unless the heir or heirs of the deceased elect to continue to oper-  
9 ate the dealership, repurchase the merchandise from the heir or heirs upon  
10 the same terms and conditions as are otherwise provided in this ~~act~~ chapter.  
11 In the event the heir or heirs do not agree to continue to operate the retail  
12 dealership, it shall be deemed a cancellation or discontinuance of the con-  
13 tract by the retailer under the provisions of sections 28-23-101 and 28-23-  
14 102, Idaho Code.

15 SECTION 6. That Section 28-23-105, Idaho Code, be, and the same is  
16 hereby amended to read as follows:

17 28-23-105. FAILURE TO PAY SUMS SPECIFIED ON CANCELLATION OF CONTRACTS  
18 -- LIABILITY. In the event that any manufacturer, wholesaler, or distribu-  
19 tor of farm implements, equipment, machinery, attachments, accessories and  
20 or repair parts, upon the cancellation of a contract by either a retailer or  
21 such manufacturer, wholesaler or distributor, fails or refuses to make pay-  
22 ment to the dealer or his heir or heirs as required by ~~this section~~ the pro-  
23 visions of this chapter, or any other violations of the provisions of this  
24 chapter, the manufacturer, wholesaler or distributor shall be liable in a  
25 civil action to be brought by the retailer or his heir or heirs for (a) one  
26 hundred percent (100%) of the net cost of the farm implements, equipment, ma-  
27 chinery, attachments and accessories, (b) transportation charges required  
28 in section 28-23-102, Idaho Code, which have been paid by the retailer, or  
29 invoiced to the retailer's account, (c) one hundred percent (100%) of the  
30 current net price of repair parts, (d) five percent (5%) for handling, pack-  
31 ing and loading, if applicable, (e) one hundred percent (100%) of the current  
32 net price for manuals and repair manuals, ~~and~~ (f) reasonable reimbursement  
33 for services performed in connection with assembly and predelivery inspec-  
34 tions of the equipment and (g) additionally, any judgment rendered by a court  
35 of competent jurisdiction for the plaintiff in a suit filed pursuant to this  
36 section may include damages in the amount of two (2) times the compensatory  
37 damages found due and owing. A person, firm or corporation which brings an  
38 action under this section must commence the action in the county in which the  
39 principal place of business of the retailer is located.

40 SECTION 7. That Section 28-23-107, Idaho Code, be, and the same is  
41 hereby amended to read as follows:

42 28-23-107. DEFINITION. For the purposes of this ~~act~~ chapter, "farm  
43 implements" means every vehicle designed or adapted and used exclusively  
44 for agricultural operations and only incidentally operated or used upon  
45 the highways and all other consumer products supplied by the wholesaler,  
46 manufacturer or distributor of farm implements, equipment, machinery,

1 attachments or repair parts to the retailer pursuant to a written or oral  
2 contract, sales agreement or security agreement.

3 SECTION 8. That Section 28-23-108, Idaho Code, be, and the same is  
4 hereby amended to read as follows:

5 28-23-108. GUARANTY AND SECURITY AGREEMENT NOTICE REQUIREMENTS. All  
6 wholesalers, manufacturers, or distributors of farm implements, equipment,  
7 machinery, attachments, accessories or repair parts shall give the retailer  
8 a minimum of ninety (90) days' notice in writing and obtain consent from the  
9 dealer before changing the time and manner of payment of any indebtedness  
10 owed by retailer to manufacturer, distributor or wholesaler, and before tak-  
11 ing and making any changes in notes or security for any indebtedness, and  
12 before releasing or adding additional guarantors, and before granting re-  
13 newals or extensions of such indebtedness.

14 SECTION 9. That Section 28-23-110, Idaho Code, be, and the same is  
15 hereby amended to read as follows:

16 28-23-110. PENALTY FOR FAILURE TO GIVE NOTICE OR OBTAIN CONSENT. In  
17 the event that any manufacturer, wholesaler or distributor of farm imple-  
18 ments, equipment, machinery, attachments and repair parts fails to give no-  
19 tice or obtain consent pursuant to section 28-23-108, Idaho Code, or fails or  
20 refuses to comply with section 28-23-109, Idaho Code, the guaranty or secu-  
21 rity agreement thereby affected will be deemed canceled and terminated.

22 SECTION 10. That Chapter 23, Title 28, Idaho Code, be, and the same is  
23 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
24 ignated as Section 28-23-112, Idaho Code, and to read as follows:

25 28-23-112. JURISDICTION -- VENUE. (1) The courts of this state shall  
26 have jurisdiction over any legal dispute between a wholesaler, manufacturer  
27 or distributor of farm implements or equipment, machinery, repair parts,  
28 stock parts and attachments located in or outside this state and an equipment  
29 dealer located in this state. The laws of the state of Idaho shall exclu-  
30 sively apply to such disputes.

31 (2) Venue for a dispute as provided in subsection (1) of this section  
32 shall be in the judicial district wherein the dealer's principal place of  
33 business is located.

34 SECTION 11. That Chapter 23, Title 28, Idaho Code, be, and the same is  
35 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
36 ignated as Section 28-23-113, Idaho Code, and to read as follows:

37 28-23-113. DEFINITIONS. The definitions set forth in section 28-24-  
38 102, Idaho Code, shall apply to the provisions of this chapter.

39 SECTION 12. That the Heading for Chapter 24, Title 28, Idaho Code, be,  
40 and the same is hereby amended to read as follows:

41 CHAPTER 24  
42 AGREEMENTS BETWEEN SUPPLIERS AND DEALERS IN AGRICULTURE OF FARM EQUIPMENT

1 SECTION 13. That Section 28-24-101, Idaho Code, be, and the same is  
2 hereby amended to read as follows:

3 28-24-101. LEGISLATIVE FINDINGS AND INTENT. The legislature of this  
4 state finds that the retail distribution and sale of agricultural equipment,  
5 outdoor power equipment, industrial equipment and construction equip-  
6 ment utilizing independent retail businesses operating under agreements  
7 with the manufacturers and distributors thereof, vitally affects the gen-  
8 eral economy of the state, public interests and public welfare and that it  
9 is necessary to regulate the business relations between independent dealers  
10 and the equipment manufacturers, wholesalers and distributors.

11 SECTION 14. That Section 28-24-102, Idaho Code, be, and the same is  
12 hereby amended to read as follows:

13 28-24-102. DEFINITIONS. As used in this chapter:

14 (1) "Assigned area of responsibility" means the geographic region for  
15 which a particular dealer is responsible for the marketing, selling, leasing  
16 or servicing of equipment pursuant to a dealer agreement as assigned by the  
17 supplier.

18 (2) "Continuing commercial relationship" means any relationship in  
19 which the equipment dealer has been granted the right to sell or service  
20 equipment manufactured by supplier.

21 (3) "Dealer agreement" means a contract or agreement, either expressed  
22 or implied, whether oral or written, between a supplier and an equipment  
23 dealer, by which the equipment dealer is granted the right to sell, dis-  
24 tribute or service the supplier's equipment, where there is a continuing  
25 commercial relationship between the supplier and the equipment dealer.

26 (4) "Demonstration and/or rental equipment" is equipment that has been  
27 used but has not been sold to an end user.

28 (5) "Equipment" means machines designed for or adapted and used for  
29 agriculture, horticulture, livestock and grazing and related industries but  
30 not exclusive to agricultural use. Equipment also includes:

31 (a) "All-terrain vehicles" or "ATVs," including three-wheeled and  
32 four-wheeled motorized vehicles, generally characterized by large,  
33 low-pressure tires, a seat designed to be straddled by the operator,  
34 and handlebars for steering. All-terrain vehicles are intended for  
35 off-road use.

36 (b) "Outdoor power equipment" means equipment powered by a two-cycle  
37 or four-cycle gas or diesel engine, or electric motor, which is used to  
38 maintain commercial, public or residential lawns and gardens or used in  
39 landscape, turf, golf course or plant nursery maintenance.

40 (c) "Industrial and construction equipment" means equipment used in  
41 building and maintaining structures and roads including, but not lim-  
42 ited to, loaders, loader backhoes, wheel loaders, crawlers, graders and  
43 excavators.

44 (6) "Equipment dealer," "dealer" or "equipment dealership" means any  
45 person, partnership, corporation, association or other form of business en-  
46 terprise, primarily engaged in the retail sale and/or service of equipment  
47 in this state, pursuant to any oral or written agreement for a definite or  
48 indefinite period of time in which there is a continuing commercial rela-

1 tionship in the marketing of the equipment or related services. "Equipment  
 2 dealer," "dealer" or "equipment dealership" does not include an individual,  
 3 partnership or corporation that:

4 (a) Is primarily engaged in the retail sale and service of industrial  
 5 and construction equipment;

6 (b) Has purchased seventy-five percent (75%) or more of the dealer's  
 7 total new product inventory from a single supplier under all agreements  
 8 with that supplier; and

9 (c) Has a total annual average sales volume in excess of twenty million  
 10 dollars (\$20,000,000) for the preceding three (3) years with that sin-  
 11 gle supplier for the territory for which the dealer is responsible.

12 (7) "Good cause" means failure by an equipment dealer to substan-  
 13 tially comply with essential and reasonable requirements imposed upon the  
 14 equipment dealer by the dealer agreement, provided, such requirements are  
 15 not different from those requirements imposed on other similarly situated  
 16 equipment dealers in the state either by their terms or in the manner of their  
 17 enforcement.

18 (8) "Supplier" means the manufacturer, wholesaler or distributor of  
 19 the equipment to be sold by the equipment dealer, or any successor in in-  
 20 terest to or assignee of the supplier. A successor in interest includes  
 21 any purchaser of assets or stock, any surviving corporation resulting from  
 22 merger or liquidation, any receiver or any trustee of the original supplier.

23 (9) "Used equipment" means equipment that has been sold or retailed to  
 24 an end user and money has been exchanged between the end user and the equip-  
 25 ment dealer.

26 (10) "Warranty claim" means a claim for payment submitted by an equip-  
 27 ment dealer to a supplier for service, ~~or~~ parts or complete components, or  
 28 both any or all of the three (3), provided to a customer under a:

29 (a) Warranty issued by the supplier; or

30 (b) Recall or modification order issued by the supplier.

31 SECTION 15. That Section 28-24-104B, Idaho Code, be, and the same is  
 32 hereby amended to read as follows:

33 28-24-104B. WARRANTY CLAIMS. (1) An equipment dealer may submit a war-  
 34 ranty claim to a supplier if a warranty defect is identified and documented  
 35 prior to the expiration of a supplier's warranty:

36 (a) While a dealer agreement is in effect; or

37 (b) After the termination of a dealer agreement if the claim is for work  
 38 performed while the dealer agreement was in effect.

39 (2) A supplier shall accept or reject a warranty claim submitted under  
 40 subsection (1) of this section, within thirty (30) days of the date the sup-  
 41 plier received the claim. A warranty claim not rejected within thirty (30)  
 42 days of the date the supplier received the claim is considered to be accepted  
 43 by the supplier.

44 (3) No later than thirty (30) days after the date a warranty claim is ac-  
 45 cepted or rejected under subsection (2) of this section, the supplier shall:

46 (a) Pay an accepted warranty claim; or

47 (b) Send the dealer written notice of the reason the warranty claim was  
 48 rejected.



1 (4) A supplier shall compensate the dealer for the warranty claim as  
2 follows:

3 (a) The dealer's established customer hourly retail labor rate mul-  
4 tiplied by the reasonable and customary amount of time required to  
5 complete such work by similarly situated dealers, including diagnostic  
6 time, and cleanup time, expressed in hours and fractions of an hour;

7 (b) The dealer's current net price on repair parts reimbursed at not  
8 less than net plus twenty percent (20%) of the cost for warranty service  
9 performed on behalf of the supplier to compensate for reasonable costs  
10 of doing business; and

11 (c) Extraordinary freight and handling costs. For purposes of this  
12 subsection (4) (c), "extraordinary freight and handling costs" means  
13 costs that are above and beyond the normal reimbursement policy of the  
14 supplier for warranty repair work;

15 (d) When the repair work is for safety or mandatory modifications  
16 ordered by the supplier, the supplier shall reimburse the dealer for  
17 transportation costs incurred by the dealer.

18 (5) After payment of a warranty claim, a supplier may not charge back,  
19 off-set or otherwise attempt to recover from the dealer all or part of the  
20 amount of the claim unless:

21 (a) The warranty claim was submitted in error;

22 (b) The services for which the warranty claim was made were not properly  
23 performed or were unnecessary to comply with the warranty; or

24 (c) The dealer did not substantiate the warranty claim according to the  
25 written requirements of the supplier that were in effect when the equip-  
26 ment was delivered to the dealer by the customer for warranty repairs.

27 (6) If a supplier denies a warranty claim due to a particular item or  
28 part of the claim, the denial shall only affect the items or parts in question  
29 and not the complete warranty claim.

30 (7) A supplier may not pass the cost of covering warranty claims under  
31 this chapter on to a dealer through any means including:

32 (a) Surcharges;

33 (b) Reduction of discounts; or

34 (c) Certification standards.

35 ~~(8) Notwithstanding the provisions of subsection (4) of this section, a~~  
36 ~~dealer may accept the supplier's reimbursement terms and conditions in lieu~~  
37 ~~of the terms and conditions set forth in subsection (4) of this section.~~

38 SECTION 16. That Section 28-24-105, Idaho Code, be, and the same is  
39 hereby amended to read as follows:

40 28-24-105. REMEDIES AND ENFORCEMENT. Monetary damages may be recov-  
41 ered for losses sustained as a consequence of any violation of the provisions  
42 of this chapter. Such recovery may also include a requirement that the sup-  
43 plier repurchase at fair market value any data processing hardware, software  
44 and specialized repair tools and equipment previously purchased from the  
45 supplier or approved vendor of the supplier pursuant to requirements of  
46 the supplier. Additionally, any judgment rendered by a court of competent  
47 jurisdiction for the plaintiff in a suit filed pursuant to this section may  
48 include damages in the amount of two (2) times the compensatory damages found  
49 due and owing. Injunctive relief may also be granted against any actual

1 or threatened violation of the provisions of this chapter. In any action  
2 brought under this chapter the prevailing party shall be entitled to recover  
3 reasonable attorney's fees and costs. The remedies set forth in this section  
4 shall not be deemed exclusive and shall be in addition to any other remedies  
5 permitted by law. A person, firm or corporation which brings an action under  
6 this section must commence the action in the county in which the principal  
7 place of business of the retailer is located.

8 SECTION 17. That Chapter 24, Title 28, Idaho Code, be, and the same is  
9 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
10 ignated as Section 28-24-108, Idaho Code, and to read as follows:

11 28-24-108. JURISDICTION -- VENUE. (1) The courts of this state shall  
12 have jurisdiction over any legal dispute between a wholesaler, manufacturer  
13 or distributor of farm implements or equipment, machinery, repair parts,  
14 stock parts and attachments located in or outside this state and an equipment  
15 dealer located in this state. The laws of the state of Idaho shall exclu-  
16 sively apply to such disputes.

17 (2) Venue for a dispute as provided in subsection (1) of this section  
18 shall be in the judicial district wherein the dealer's principal place of  
19 business is located.