

TITLE 28
COMMERCIAL TRANSACTIONS

CHAPTER 23

REPURCHASE OF FARM MACHINERY AND EQUIPMENT UPON TERMINATION OF CONTRACT

28-23-101. REPURCHASE OF FARM MACHINERY, EQUIPMENT, CONSTRUCTION EQUIPMENT, IMPLEMENTS, ATTACHMENTS, ACCESSORIES AND PARTS UPON TERMINATION OF CONTRACT AND OBLIGATION TO REPURCHASE. Whenever any person, firm, or corporation engaged in the business of selling and retailing farm implements or equipment, or repair parts for farm implements or equipment, enters into a written or parol contract, sales agreement or security agreement whereby the retailer agrees with any wholesaler, manufacturer or distributor of farm implements or equipment, machinery, attachments, accessories or repair parts to maintain a stock of parts, complete or whole machines, attachments, or demonstration and rental equipment and thereafter the written or parol contract, sales agreement or security agreement is terminated, canceled or discontinued, then the wholesaler, manufacturer or distributor shall pay to the retailer or credit to the retailer's account, if the retailer has outstanding any sums owing the wholesaler, manufacturer or distributor, unless the retailer should desire and has a contractual right to keep such merchandise, a sum equal to (a) one hundred percent (100%) of the net cost of all unused, unsold and undamaged complete farm implements or equipment, machinery or attachments in new condition that have been purchased by the retailer from the wholesaler, manufacturer or distributor within the thirty-six (36) months immediately preceding notification by either party of intent to cancel or discontinue the contract plus (b) one hundred percent (100%) of the net cost of all demonstration or rental equipment that has not been retailed to an end user less a reasonable downward adjustment to reflect depreciation relating to such demonstration or rental activity. All such payments shall also include transportation charges paid to deliver such farm implements or equipment, machinery or attachments from the wholesaler, manufacturer or distributor to the retailer. In addition, the wholesaler, manufacturer or distributor shall pay to the retailer a reasonable reimbursement for services performed in connection with the assembly and predelivery inspections of the farm implements or equipment and machinery and attachments subject to repurchase herein. The supplier assumes ownership of farm implements or equipment, machinery or attachments FOB the dealer location.

If a wholesaler, manufacturer or distributor is required to purchase farm implements or equipment and machinery and attachments in accordance with this section, such wholesaler, manufacturer or distributor must repurchase any specific data processing hardware, software, telecommunications equipment and computer communications hardware specifically required by the wholesaler, manufacturer or distributor to meet its minimum requirements and purchased by the retailer in the prior five (5) years and held by the retailer on the date of termination. The purchase price to be paid by the wholesaler, manufacturer or distributor to the retailer for such items is the original net cost to the retailer, less twenty percent (20%) per year.

[28-23-101, added 1975, ch. 97, sec. 1, p. 197; am. 1986, ch. 248, sec. 1, p. 668; am. 2005, ch. 238, sec. 1, p. 730; am. 2011, ch. 270, sec. 2, p. 730; am. 2016, ch. 213, sec. 1, p. 597.]

28-23-102. REPURCHASE OF REPAIR PARTS. Whenever any person, firm, or corporation engaged in the business of selling and retailing farm implements or equipment, or repair parts for farm implements or equipment, enters into a written or parol contract, sales agreement or security agreement whereby the retailer agrees with any wholesaler, manufacturer or distributor of farm implements or equipment, machinery, attachments, accessories or repair parts to maintain a stock of parts or complete or whole machines, or attachments, manuals and repair manuals and thereafter the written or parol contract, sales agreement or security agreement is terminated, canceled or discontinued, then the wholesaler, manufacturer or distributor shall pay to the retailer or credit to the retailer's account, if the retailer has outstanding any sums owing the wholesaler, manufacturer or distributor, unless the retailer should desire and has a contractual right to keep such merchandise, a sum equal to one hundred percent (100%) of the current net prices, including the transportation charges from the retailer to the wholesaler, manufacturer or distributor which have been paid by the retailer, or invoiced to a retailer's account by the wholesaler, manufacturer or distributor, for manuals and repair manuals, repair parts, including superseded or previously included parts listed in current price lists or catalogs or electronic catalogs in use, or previously used within thirty-six (36) months prior to the latest parts price list issue date by the wholesaler, manufacturer or distributor on the date of cancellation or discontinuance of the contract, which parts had previously been purchased by the retailer from the wholesaler, manufacturer or distributor and are held by the retailer on the date of the cancellation or discontinuance of the contract or thereafter received by the retailer from the wholesaler, manufacturer or distributor.

The wholesaler, manufacturer or distributor shall also pay the retailer or credit to his account a sum equal to five percent (5%) of the current net price of all parts returned for the handling, packing and loading of the parts back to the wholesaler, manufacturer or distributor unless the wholesaler, manufacturer or distributor elects to perform inventorying, packing and loading of the parts themselves.

Upon the payment or allowance of credit to the retailer's account of the sum required by this section and section [28-23-101](#), Idaho Code, the title to the farm implements, equipment, machinery, attachments, accessories or repair parts shall pass to the manufacturer, wholesaler or distributor making the payment or allowing the credit and the manufacturer, wholesaler or distributor shall be entitled to the possession of the farm implements, equipment, machinery, attachments, accessories or repair parts. Title to farm implements, equipment, attachments, accessories and repair parts is transferred to the supplier FOB the dealer location. The provisions of this section shall apply to any part return adjustment agreement made between a dealer and a supplier. All payments or allowances of credit due retailers under this section shall be paid or credited by the manufacturer, wholesaler, or distributor within ninety (90) days from the termination date of the dealer agreement. After the ninety (90) days all sums of credits due shall include interest at the rate specified in section [28-22-104](#)(1), Idaho Code. However, this section and section [28-23-101](#), Idaho Code, shall not in any way affect any security interest which the wholesaler, manufacturer or distributor may have in the inventory of the retailer.

A supplier shall repurchase at one hundred percent (100%) of net dealer cost, manuals and repair manuals purchased in the previous six (6) years and at fifty percent (50%) for manuals and repair manuals purchased in the previ-

ous seven (7) through twelve (12) years as required by the supplier and held by the dealer on the date of termination. Manuals and repair manuals must be unique to the supplier's product line and must be in complete and in readable condition.

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

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

[28-23-102, added 1975, ch. 97, sec. 2, p. 197; am. 1986, ch. 248, sec. 2, p. 669; am. 2005, ch. 238, sec. 2, p. 731; am. 2011, ch. 270, sec. 3, p. 731; am. 2016, ch. 213, sec. 2, p. 598.]

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

[28-23-103, added 1975, ch. 97, sec. 3, p. 197; am. 2011, ch. 270, sec. 4, p. 732.]

28-23-104. DEATH OF DEALER -- REPURCHASE FROM HEIRS. In the event of the death of the retail dealer or a stockholder in a corporation operating a retail dealership in the business of selling and retailing farm implements, equipment, machinery, attachments or repair parts therefor, at the election of the dealer or corporation, the manufacturer, wholesaler or distributor shall, unless the heir or heirs of the deceased elect to continue to operate the dealership, repurchase the merchandise from the heir or heirs upon the same terms and conditions as are otherwise provided in this chapter. In the event the heir or heirs do not agree to continue to operate the retail dealership, it shall be deemed a cancellation or discontinuance of the contract by

the retailer under the provisions of sections [28-23-101](#) and [28-23-102](#), Idaho Code.

[28-23-104, added 1975, ch. 97, sec. 4, p. 197; am. 2011, ch. 270, sec. 5, p. 733.]

28-23-105. FAILURE TO PAY SUMS SPECIFIED ON CANCELLATION OF CONTRACTS -- LIABILITY. In the event that any manufacturer, wholesaler or distributor of farm implements, equipment, machinery, attachments, accessories or repair parts, upon the cancellation of a contract by either a retailer or such manufacturer, wholesaler or distributor, fails or refuses to make payment to the dealer or his heir or heirs as required by the provisions of this chapter, or any other violations of the provisions of this chapter, the manufacturer, wholesaler or distributor shall be liable in a civil action to be brought by the retailer or his heir or heirs for (a) one hundred percent (100%) of the net cost of the farm implements, equipment, machinery, attachments and accessories, (b) transportation charges required in section [28-23-102](#), Idaho Code, which have been paid by the retailer, or invoiced to the retailer's account, (c) one hundred percent (100%) of the current net price of repair parts, (d) five percent (5%) for handling, packing and loading, if applicable, (e) one hundred percent (100%) of the current net price for manuals and repair manuals, (f) reasonable reimbursement for services performed in connection with assembly and predelivery inspections of the equipment and (g) additionally, any judgment rendered by a court of competent jurisdiction for the plaintiff in a suit filed pursuant to this section may include damages in the amount of two (2) times the compensatory damages found due and owing [owing]. A person, firm or corporation which brings an action under this section must commence the action in the county in which the principal place of business of the retailer is located.

[28-23-105, added 1975, ch. 97, sec. 5, p. 197; am. 2005, ch. 238, sec. 3, p. 733; am. 2011, ch. 270, sec. 6, p. 733.]

28-23-106. EXCEPTIONS. This act shall not require the repurchase from a retailer of a repair part where the retailer previously has failed to return the repair part to the wholesaler, manufacturer or distributor after being offered a reasonable opportunity to return the repair part at a price not less than one hundred percent (100%) of the net price of the repair part as listed in the then current price list or catalog, and transportation charges required in section [28-23-102](#), Idaho Code, which have been paid by the retailer, or invoiced to the retailer's account. This act shall not require the repurchase from a retailer of repair parts the retailer purchased in a set of multiple parts, unless the set is complete and in resalable condition and parts which because of their condition are not resalable without reconditioning.

[28-23-106, added 1975, ch. 97, sec. 6, p. 197; am. 2005, ch. 238, sec. 4, p. 733.]

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

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

[28-23-107, added 1975, ch. 97, sec. 7, p. 197; am. 2011, ch. 270, sec. 7, p. 733.]

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

[28-23-108, added 1975, ch. 97, sec. 8, p. 197; am. 2005, ch. 238, sec. 5, p. 734; am. 2011, ch. 270, sec. 8, p. 734.]

28-23-109. GUARANTY AND SECURITY AGREEMENT PERSONAL ASSET LIMIT. No party or person signing a security agreement or guaranty agreement with a manufacturer, distributor or wholesaler, shall be required to pledge or encumber its or his personal assets in a value in excess of the amount of the indebtedness secured.

[28-23-109, added 1975, ch. 97, sec. 9, p. 197.]

28-23-110. PENALTY FOR FAILURE TO GIVE NOTICE OR OBTAIN CONSENT. In the event that any manufacturer, wholesaler or distributor of farm implements, equipment, machinery, attachments and repair parts fails to give notice or obtain consent pursuant to section [28-23-108](#), Idaho Code, or fails or refuses to comply with section [28-23-109](#), Idaho Code, the guaranty or security agreement thereby affected will be deemed cancelled and terminated.

[28-23-110, added 1975, ch. 97, sec. 10, p. 197; am. 2011, ch. 270, sec. 9, p. 734.]

28-23-111. APPLICATION. This act shall apply to all franchise agreements, security agreements and guaranty agreements dated prior to July 1, 1975, and all franchise agreements, security agreements and guaranty agreements dated on or after July 1, 1975.

[28-23-111, added 1975, ch. 97, sec. 11, p. 197.]

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

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

[28-23-112, added 2011, ch. 270, sec. 10, p. 734.]

28-23-113. DEFINITIONS. The definitions set forth in section [28-24-102](#), Idaho Code, shall apply to the provisions of this chapter.

[28-23-113, added 2011, ch. 270, sec. 11, p. 734.]