

Pioneer Equipment Dealers Association

Serving Equipment Dealers for 117 years!

Partnering with:

North Dakota Agriculture Association ■ North Dakota Farm Bureau
North Dakota Grain Growers Association ■ North Dakota Farmers Union
North Dakota Stockmen's Association



SENATE BILL 2289

Strengthens ND Farm Equipment Dealer Protections & Free Market Principles

One of the major reasons for this legislation is an attempt to add stability for North Dakota farm equipment dealers following a recent and fundamental shift in new demands placed upon dealers by farm equipment manufacturers. For example, **in 2016 and 2018 two major manufacturers** presented new contracts to dealers which contain provisions that are unreasonably demanding, one-sided, and **non-negotiable** – dealers had no choice but to sign the contract or not be a dealer. Several of the provisions have the capability to impose significant financial burdens on dealers...possibly bankruptcy. SB 2289 is current North Dakota state law and applies to all dealer agreements signed after August 1, 2017.

Senate Bill 2289 accomplished the following (see reverse):

1. Addresses contract issues where unfair and **unreasonable manufacturer demands** have placed dealers at a distinct disadvantage with no recourse or ability to negotiate. These issues include **mandatory equipment and parts purchases**, payment chargebacks, unfair performance requirements, dealership terminations, and reimbursement for warranty service.
2. Allows a dealer to sell their dealership provided that the proposed buyer meets the manufacturer's financial and business experience requirements.

Why the need?

1. A new contract provision allowed the manufacturer to require the dealer to purchase a minimum number of tractors, combines, parts, etc. Mandatory equipment purchase orders, which may or may not consist of products that farmers will purchase, could present a significant and unfair financial burden on ND's dealers who are forced to pay for and stock such equipment.
2. Some dealerships have been unfairly terminated under the guise that they are "not achieving required market share." In 2015 we lost at least 2 dealerships. **Farmers in those areas now have a greater distance to travel for service, which is especially difficult during harvest.**
3. Manufacturers contractually require dealers to perform warranty repair... regardless of whether the dealer sold that specific piece of equipment or not. Manufacturers then reimburse dealers at a rate that is arbitrarily set by the manufacturer. In some cases, dealers are experiencing significant losses to fulfill a promise made by the manufacturer!

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SB 2289

Strengthens ND Farm Equipment Dealer Protections and North Dakota's Economy

"Farmers need SB 2289 to help protect one of the most vital components of our economy; the dealerships that repair and service our state's farm equipment." Pete Hanebutt, Director of Public Policy, North Dakota Farm Bureau

SENATE BILL 2289:

1. **Protects dealers from being required to purchase farm equipment**, parts or accessories that the dealer does not voluntarily order.
2. **Protects dealers from being required to purchase additional, unwanted inventory** as a condition of filling an order.
3. **Protects dealers from being required to separate product brands**, service areas, facilities, personnel, or display space in order to renew a dealer agreement or participate in a program discount or sales incentive.
4. **Protects dealers from the arbitrary termination of their dealership contract** and unreasonable removal of authorization for a branch location or product line.
5. **Protects dealers from being forced to move their dealership to another location** or to make unreasonable changes to the dealership building or property.
6. **Allows a dealer to move to another location** as long as the location and site plan are reasonable. The manufacturer may approve or deny the request within 60 days.
7. **Requires the performance standards placed on dealers** to be reasonable, fair, and transparent.
8. **Protects dealers from being required to sign an agreement** that requires the law of another jurisdiction to apply to a dispute between the dealer and manufacturer or require the dealer to waive their rights under ND state law.

9. **Adds farm equipment dealers** to existing North Dakota state law that sets forth the conditions for selling an automobile dealership. A manufacturer has 60 days to approve or deny a dealer's request to transfer a farm equipment dealership. The manufacturer may deny the request only if the proposed buyer does not meet financial or business experience requirements set by the manufacturer.

WARRANTY & INCENTIVE CLAIMS

1. **Prohibits a manufacturer from conducting an audit or chargeback** on warranty or incentive payments made more than 1 year after payment.
2. **Manufacturers may not charge back a dealer** for an incentive or warranty payment unless the dealer's claim was false, fraudulent, or the dealer did not comply with the manufacturer's written procedures for turning in a claim.
3. **Requires the manufacturer to be transparent** and identify each claim at issue before imposing a chargeback. Manufacturers may not chargeback an amount that exceeds the total direct compensation received by the dealer for the applicable claim and must provide the dealer with at least 45 days to present additional information regarding any claim at issue.
4. **Requires warranty reimbursement payments for labor, parts, and transportation** be equivalent to the respective dealer's retail, non-warranty customer pay rates.