

FARM AND UTILITY EQUIPMENT ACT (EXCERPT)
Act 341 of 1984

445.1452 Definitions.

Sec. 2.

As used in this act unless the context clearly requires otherwise:

(a) "Attachments" means machinery or any part of a piece of machinery designed to be used on or in conjunction with farm tractors, farm equipment, utility tractors, and utility equipment.

(b) "Current net price" means the price listed in the supplier's printed price lists, catalogs, microfiche, price tapes, invoices, or any other printed or electronically recorded data in effect at the time an agreement is canceled or discontinued, less all applicable discounts.

(c) "Dealer" means a person engaged in the business of the retail sale of farm tractors and equipment, utility tractors and equipment, or the attachments to or repair parts for that equipment. Dealer includes retail dealers, wholesalers, and distributors that obtain inventory from another person for resale.

(d) "Equipment" means motorized machines designed for or adapted and used for agriculture, horticulture, livestock raising, forestry, grounds maintenance, lawn and garden, construction, materials handling, and earth moving.

(e) "Agreement" means a written, oral, or implied contract, sales agreement, security agreement, or franchise agreement between a supplier and a dealer by which the dealer is authorized to engage in the business of the retail sale and service, wholesale sale and service, or the distribution of tractors and equipment as an authorized outlet of the supplier or in accordance with methods and procedures provided for or prescribed by the supplier.

(f) "Inventory" means farm tractors, utility tractors, equipment, and accessories for attachments to and repair parts for those tractors and that equipment.

(g) "Net cost" means an amount equal to the original invoice price that the dealer paid for the merchandise to the supplier, less all applicable discounts allowed and received, plus the freight cost incurred by the dealer from the location of the supplier to the location of the dealer.

(h) "Person" means a sole proprietorship, partnership, corporation, or any other form of business organization.

(i) "Supplier" means a manufacturer, wholesaler, or distributor of farm and utility tractors and farm and utility equipment, or the attachments to or repair parts for that equipment. Supplier includes any component member of a controlled group of corporations of which a supplier is a component member, or a successor in interest of a supplier, including any person who or which acquires more than 25% of the assets, stock, good will, or trade name of a supplier, any surviving corporation resulting from a merger or liquidation, any receiver or assignee, or any trustee of a supplier.

(j) "Usage for demonstration" means usage, not prohibited by an agreement, to demonstrate the function of equipment or inventory to potential customers, but does not include use by a buyer who subsequently rescinds the purchase of the inventory or equipment.

(k) "Usage for rental" means usage by a customer of the dealer, not prohibited by the agreement, under a rental contract or nonfinancing lease.

(l) "Dealer supplies" means any display, machinery, signage, book, manual, computer, microfiche, microfilm, communication device, or tool that a dealer purchased from a supplier, or from a third party upon the request or requirement of the supplier, and which is used by the dealer to facilitate the sale or repair of inventory furnished by the supplier and no other product line sold or serviced by the dealer.

(m) "Controlled group of corporations" means any of the following:

(i) A parent-subsidiary controlled group.

(ii) A brother-sister controlled group.

(iii) A combined group.

(iv) A group having constructive ownership of 1 or more corporations.

(n) "Parent-subsidiary controlled group" means 1 or more chains of corporations connected through stock ownership with a common parent corporation if all of the following exist:

(i) Stock possessing at least 80% of the total combined voting power of all classes of stock entitled to vote or at least 80% of the total value of shares of all classes of stock of each of the corporations, except the common parent corporation, is directly owned by 1 or more of the other corporations or stock subject to constructive ownership by the corporation.

(ii) The common parent corporation owns or has constructive ownership of stock possessing at least 80% of the total combined voting power of all classes of stock entitled to vote or at least 80% of the total value of shares of all classes of stock of at least 1 of the other corporations, excluding, in computing such voting power or value, stock owned directly by such other corporations.

(o) "Brother-sister controlled group" means 2 or more corporations if 5 or fewer persons who are individuals,

estates, or trusts own or have constructive ownership of stock possessing both of the following:

(i) At least 80% of the total combined voting power of all classes of stock entitled to vote or at least 80% of the total value of shares of all classes of the stock of each corporation.

(ii) More than 50% of the total combined voting power of all classes of stock entitled to vote or more than 50% of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each such person only to the extent such stock ownership is identical with respect to each such corporation.

(p) "Combined group" means 3 or more corporations each of which is a member of a parent-subsiary controlled group or a brother-sister controlled group and 1 of which is both of the following:

(i) Is a common parent corporation included in a parent-subsiary controlled group.

(ii) Is included in a brother-sister controlled group.

(q) "Constructive ownership" means any or all of the following:

(i) A person who has an option to acquire stock. For purposes of this subparagraph, an option to acquire is an option, and each 1 of a series of such option, is considered an option to acquire such stock.

(ii) Stock owned, directly or indirectly, by or for a partnership. Constructive ownership includes ownership by any partner having an interest of 5 % or more in either the capital or profits of the partnership in proportion to his or her interest in capital or profits, whichever such proportion is the greater.

(iii) Stock owned, directly or indirectly, by or for an estate or trust. Constructive ownership includes ownership by any beneficiary who has an actuarial interest of 5% or more in such stock, to the extent of such actuarial interest. For purposes of this subparagraph, the actuarial interest of each beneficiary shall be determined by assuming the maximum exercise of discretion by the fiduciary in favor of such beneficiary and the maximum use of such stock to satisfy his or her rights as a beneficiary.

(r) "Consumer warranty" means the promise of a supplier to repair or replace any inventory after the inventory is sold or leased by a dealer.

History: 1984, Act 341, Imd. Eff. Dec. 27, 1984 ;-- Am. 1989, Act 296, Imd. Eff. Jan. 3, 1990 ;-- Am. 1995, Act 86, Imd. Eff. June 20, 1995