



ASSOCIATION OF
EQUIPMENT MANUFACTURERS

AGRICULTURE
CONSTRUCTION
FORESTRY
MINING
UTILITY

Chairman Sam Kito
House Labor and Commerce Committee
State Capitol, Room 504
Juneau, AK 99801

April 11, 2017

Dear Chairman Kito:

I write you on behalf of the Association of Equipment Manufacturers (AEM), the North American-based international trade association representing over 950 companies in the off-highway machinery market. AEM members contribute \$18 million to the state economy in Alaska.

AEM is opposed to HB 209, which would alter treatment of heavy equipment warranties. It is an unnecessary intrusion into the business relationship between an equipment manufacturer and the retail dealer. This is bad public policy that offers no benefits to consumers in Alaska.

Almost all equipment manufacturers distribute their products through independent dealers located throughout the world. Over the decades, these manufacturers and their dealers have developed close business relationships that have stood the test of time and the marketplace. The contracts that have evolved are a function of the type of products, the nature of their markets, and their combined experience.

These mutually agreed upon contracts are balanced to share the duties and responsibilities in such a way that both parties can make their best contributions toward a long-term relationship to work out isolated disagreements and conflicts that may arise and not seek wide sweeping legislative solutions.

One of the cornerstones of equipment warranty reimbursement and administration programs is incentivizing dealers to make vital, customer-driven product support investments.

Advancing this legislation sets a precedent for creating special protections for all products covered by manufacturer warranties. If the legislature approves special legislation to assist car dealers or heavy equipment dealers, how can it turn away lawn mower dealers, snow blower

1000 Vermont Avenue, NW
Suite 450
Washington, DC 20005

T 202.898.9064
F 202.898.9068

HEADQUARTERS: MILWAUKEE, WI
OFFICES: WASHINGTON, DC OTTAWA, CANADA BEIJING, CHINA

WWW.AEM.ORG
AEM@AEM.ORG
Toll Free: 866.AEM.0442



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businesses, washing machines, computers, vacuum cleaners, etc.? Each of these is sold under similar warranties under similar dealer franchise laws. It will become a substantial problem for the legislature if the committee allows this legislation to advance.

These types of bills are not about consumer protection. Quite the opposite--they are about increasing the advantage that one side of a private business has over another. In fact, if passed, this bill will likely harm the consumer in a misguided effort to enrich a few determined equipment dealers seeking special treatment under the law.

We respectfully ask you to oppose HB 209 and allow the private parties to work out their private business issues.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'Nick Yaksich', written in a cursive style.

Nick Yaksich
Senior Vice President, Government and Industry Affairs

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Suite 450
Washington, DC 20005

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AEM@AEM.ORG
Toll Free: 866.AEM.0442

SENT VIA EMAIL: representative.sam.kito.akleg.gov

Chairman Sam Kito
House Labor and Commerce Committee
State Capitol Room 504
Juneau AK, 99801

April 13, 2017

Re: HB 209 - “An act relating to product warranties and services for certain products; relating to certain dealers, distributors and manufacturers; and establishing an unfair trade practice under the Alaska Unfair Trade Practices and Consumer Protection Act.”

Subject: Opposition Testimony

Dear Chairman Kito:

On behalf of CNH Industrial America LLC (CNHI), I respectfully submit testimony in **opposition to HB 209** - “An Act relating to product warranties and required updates to products; and relating to dealers, distributors and manufacturers.”

CNHI is the global manufacturer of Case IH and New Holland brands of agricultural equipment and Case and New Holland brands of construction equipment. Our brands are sold and serviced by dealers in all 50 states and over 160 countries around the globe.

We very strongly believe in the private right of parties to contract and the power of our industry, and the free market, to correctly solve private business issues without legislative intervention.

The specific areas of the bill that I wish to testify about are as follows:

Paragraph 45.45.775: Restrictions Not Allowed -

- This paragraph is especially ambiguous and will lead to costly and unnecessary conflict if a dispute should arise;
- Potential “restrictions” are unlimited;

Paragraph 45.45.776: Required Service Reimbursement –

- Industry standards do not exist;
- Likewise, this language can lead to unnecessary conflict in the case of a dispute;

Paragraph 45.45.777: Required Service Reimbursement -

- Language in this paragraph is misleading and/or not appropriate to the industry;
- Manufacturers printed flat rate;
 - “reasonable and customary” is the typical standard;



- “The rate established by a flat rate manual for dealers or distributors if the manual is produced for dealers or distributors by a nationally recognized industry consultant”, does not exist in the construction equipment marketplace;

Paragraph 45.45.777 (c) – Included payments (clean-up, preparation, etc. etc.) -

- “Clean-up, preparation, testing and final cleaning” are completely unaccountable and un-auditable;
- Develop a standard that is identifiable and presents low administration cost;

Paragraph 45.45.777 (d) – dealer administrative time –

- This cost, like other departmental operating cost should be included in the sales shop rate the dealer charges for work performed just as the dealer does for customer labor, parts sales and machinery sales;
- This provision will unnecessarily drive-up product cost for Alaska consumers;

Paragraph 45.45.777 (e) – reimbursement for transportation and lodging –

- This provision must be verifiable and auditable;
- Alaska would be the only state to mandate employee lodging and travel expenses;
- Dealers and customers in large geographic states tend to work-out the warranty provision on their own;
- Note: CNHI voluntarily pays travel time on safety modifications (up to 2 hours);

Paragraph 45.45.778: reimbursement for products used –

- Reimbursement should be based on current cost multiplied by a factor to avoid variances and potential manipulation;
- A factor of cost is the standard;
- “in the dealer’s or distributor’s inventory” is vague and impractical as dealers will not have every part for all warranty work and will cause needless interpretation that will directly lead back to the “restrictions” language in paragraph 45.45.775;

Paragraph 45.45.778: transportation of needed covered products –

- This will drive the manufacturers to require dealers to certain stocking levels of parts based on machines under warranty;
- Method of transportation should be the dealer’s option but reimbursement coverage should be not to exceed “best-way” terms and cost;



Paragraph 45.45.783: replacement or refund –

- The manufacturer should hold the explicit option of simply refunding and not replacing. A courteous way of saying “these are not the conditions that our machine was designed to work in, and the customer would be better off with a different machine or different brand of machine”;
- This provision will drive great onus on the dealer and the customer to provide, and be accountable for, precise information from which a judgment will be made as to warranty coverage from the manufacturer;
- (b) (1) the seven-year depreciation schedule is not appropriate for construction equipment and tools;

Paragraph 45.45.788: Products covered - Equipment, tools or motor vehicles if used primarily for construction, road building, snow removal, mining, oil projects, forestry, resource development or similar -

- Tools? Hand tools, chain saws, utility vehicles, ATVs and on?
- This would appear to separate the same vehicle into two classes A farm tractor in the Mat-Su Valley is used for farming That same tractor, with a backhoe mounted on it is used for light construction in Anchorage. Will the dealer and manufacturer have to behave differently based on the application or intent of the product design?

We very strongly believe in the private right of parties to contract and the power our industry, and the free market, to correctly solve private business issues.

Please feel free to call upon us if we may provide additional input.

George Whitaker
State Government Affairs
CNH Industrial America LLC

Copy:

Representative Wool
Representative Josephson
Representative Stutes
Representative Birch
Representative Edgmon

Representative Knopp
Representative Knopp
Representative Sullivan-Loenard
Representative Chenalult