

March 2, 2023

**Written Testimony offered on behalf of:
Northeast Equipment Dealers Association
Senate Committee on Economic Development, Housing and General Affairs
Hearing: February 24, 2023, at 8:30 AM**

Northeast Equipment Dealers Association OPPOSES S.46

Attn: Scott Moore, Committee Assistant
*Chair Hinsdale and Honorable Members of the
Senate Committee on Economic Development, Housing and General Affairs
Submitted Via Electronic Mail: SMOore@leg.state.vt.us*

Dear Chair Hinsdale and Honorable Committee Members:

My name is Tim Wentz and I am the Field Director for the Northeast Equipment Dealers Association (NEDA). The Northeast Equipment Dealers Association (NEDA) represents over 450 agricultural, industrial, rental, and outdoor power equipment dealer locations in Vermont, Massachusetts, Maine, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Connecticut. As Field Director, I am responsible for maintaining relationships with dealership principals and their staffs, identifying common challenges such as workforce development and monitoring legislative actions that might impact our member dealers.

On behalf of our members, I am writing to you in opposition to S.46 and would like to share just a few of the reasons why I strongly believe that such legislation is wrong for our industry, dealers, and their customers.

First, I want to make it clear that our association and our member dealers fully support a customer's or independent repair provider's ability to repair equipment and the ability purchase parts, diagnostic equipment, software, and tools which may be the same or similar to what a dealer might purchase for use by their factory trained technicians. **What we cannot support is the right to modify!**

I have witnessed dealers, service managers and technicians going the extra mile and working ungodly hours (seven days a week, etc.), all in an effort to ensure that their customers' equipment is up and running when they need it! Dealers invest hundreds of thousands of dollars in specialized tools, training and professional development, facilities, trucks, etc. not to include millions of dollars in parts inventories, and "loaner" equipment.

That being the case our association believes that S.46 is unnecessary within the equipment industry and should exempt off-road equipment mirroring language adopted by New York's legislature. Without an exemption the legislation might result in numerous and significant unintended consequences to the equipment dealers, the industry, and the customers they serve.

Simply put, it is unrealistic to think that the ability to modify will extend equipment life or lower repair and operating costs of off-road equipment. Rather, it is much more likely that we would see emissions and safety systems defeated, equipment failing prematurely, and higher repair/maintenance costs because of equipment operation outside of engineering design. I'd point to the number of EPA fines

levied against third party manufacturers and independent repair organizations in the auto, motorcycle, heavy and light truck markets related to emissions defeat devices as an example. We've been there done that!

Stable and predictable used equipment values are critical to our dealers, their customers, and the banks/financial institutions servicing them. Unfortunately, the same technology enabling enhanced productivity and efficiencies has also made it more difficult to determine if equipment has been modified resulting in excessive wear and/or premature failure. Reasonable business practice dictates that used equipment values will suffer should "modification" become the norm – simply put, the "market" will demand that an increased risk of premature failure and liability will require a corresponding value adjustment.

Unfortunately, accidents resulting from the operation (or modification) of off-road equipment can easily result in the death or dismemberment of the operator, co-workers, service technicians, or by-standers. Safety is an equally important issue for our dealers, their employees, the manufacturers they represent, and their insurance carriers. No one wins when someone is injured, or worse yet killed, in an equipment accident. I would point to operator deaths resulting from the removal/modification of roll-over-protection (ROPS) as just one example of an unintended consequence resulting from a "well-meaning modification".

Unlike on-road vehicles, there are no inspection requirements for off-road equipment which might discover emissions systems defeat devices, chipping and/or tuning devices (often seen as an economic way to increase horsepower and or lower fuel consumption), disabled safety systems, etc. Please understand that our member dealers and the equipment industry endeavor to be good stewards of the environment and value the safety of their employees and those who operate the equipment they sell and service. Rest assured; dealers are fully vested in their customers' success – their success is dependent on it!

In conclusion, within the off-road industry, we support the right and the ability to repair, it is already standard practice. If drafted without an exemption S.46 could result in substantial and significant unintended consequences and would be detrimental to the safety of the environment, dealerships, their staff, and their customers, and I would encourage all members of the Vermont legislature to oppose the bill or, in the alternative, to exempt the off-road industry.

Should the committee/legislature chose to move forward with legislation, please consider incorporating the following exemption language:

Manufacturers, distributors, importers or dealers of all off-road (non-road) equipment, including without limitation, farm and utility tractors, farm implements, farm machinery, forestry equipment, industrial equipment, utility equipment, construction equipment, compact construction equipment, road-building equipment, mining equipment, turf, yard and garden equipment, outdoor power equipment, portable generators, marine, all-terrain sports and recreational vehicles (including racing vehicles), stand-alone or integrated stationary or mobile internal combustion engines, other power sources, (including without limitation, generator sets, electric/battery and fuel cell power), power tools, and any tools, technology, attachments, accessories, components and repair parts for any of the foregoing.

Thank you for your time and consideration.

Most respectfully yours,

Tim Wentz

Field Director

Northeast Equipment Dealer Association, Inc.