



JOHN DEERE

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To: Chairman Botzow and members of the House Commerce and Economic Development Committee

Subject: **Vermont H 58: Amends the Title 9, Chapter 107 of the Vermont Machinery Dealer Statutes**

Thank you for the opportunity to provide testimony relative to Vermont H58. John Deere Opposes the revisions to the Vermont Machinery Dealer Statutes as recommended due to the substantial impact this legislation would have on our ability to do business in Vermont.

For over 176 years, John Deere has committed itself to providing quality, innovative products and services to meet our customers' needs. For over a century, we have distributed these products through independent dealers who are authorized to sell John Deere equipment through a contractual arrangement. The strength of the relationship between manufacturers and dealers is key to their mutual success. John Deere works hard to build a relationship with our dealers that is built around trust, consistency, and certainty. While we prefer that our dealer agreement serves as the foundation for the partnership we have with our dealers, we remain committed to working with our dealers on any challenges they may see in doing business with us. We are willing to work with the Vermont legislature on addressing any issues of concern, however, feel that the legislature should fully consider the impacts or unintended consequences their proposals may have on the dealers and customers in Vermont.

Below is a summary of our key concerns with the proposed legislation.

- **Modification to the definition of “Single line dealer” (“SLD”)** – The SLD exception is a recognition that higher volume businesses possess sufficient resources, sophistication and market power and that they do not require the same level of protection as do smaller dealership operations. The proposed amendment would take the threshold from \$15M currently to \$100M. We believe that dealers within our industry with sales volumes of \$15M possess the referenced traits and therefore we do not see any structural need to raise the volume threshold.
- **Restriction on the manufacturer’s right to terminate solely for market share performance** (§ 4072 (a)) – The primary purpose for awarding an Area of Responsibility (AOR) to a dealer under the dealer agreement is for the dealer to “...effectively market Goods against competing products in Dealer’s AOR.” The proposed amendment would eviscerate the primary purpose. Under the Vermont statute, suppliers (Deere) may only terminate dealer agreements for “cause.” The revised language specifically excludes from the definition of “cause” termination solely for “failure to meet market share provisions.” We currently have implemented processes to address state statutes that require cure periods (normally one year) during which time we must work with our dealers to improve performance before we terminate. This proposed language, which would put into place a

wholesale prohibition on termination for failure to meet market share requirements, is unprecedented and could result in impairment of our contracts.

- **Restriction on Deere's right to consider termination upon withdrawal of a key person** (§ 4072(b)(6) – In most instances, a dealer owner is actively engaged in the operation and management of the dealership. However, there are situations where the dealer owner relies more heavily on an operations manager at the dealership location level. It is important that we have the ability to consider the impact that withdrawal of a key person may have on our dealerships and the customers they serve, even if this person is not an individual proprietor, partner, or major shareholder. We consider the role of the 'key person' fundamental and critical to ensuring that the ownership experience delivered to the customer is a positive one and worthy of the John Deere Brand and the brand of the Dealer.
- **Restricts the manufacturer's right to assign Areas of Responsibility (AOR):** (§4077a (5)) – The revisions prohibit changes to the AOR *without written consent from the dealer*. Restricting Deere from redrawing AOR pursuant to a voluntary termination, merger and acquisition, or an addition of a location to meet market demands would impair our agreements and would lead to inequitable treatment of neighboring dealers in terms of allocation of counties both inside and outside of Vermont.

The proposed amendment would cause significant changes to our warranty system. As a result, parts and service reimbursement costs will all significantly increase. H. 58 also prohibits a manufacturer from "recovering all or any portion of its costs". Consequently, the amendment will require higher costs for the manufacturer and then makes it unlawful to recoup the added expenses.

Thank you again for allowing John Deere to provide this testimony. We believe that most contradictory view points between dealers and their manufacturers can best be addressed through open communication and dialogue. Legislative actions often yield unintended consequences that all parties did not take into consideration and which in turn create new conflicts of more significant impact. We respectfully ask that you oppose this legislation as it is misguided and will ultimately result in higher costs for the consumers of Vermont.

Sincerely,



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