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March 30, 2016

Vermont House Committee on Commerce and Economic Development

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### **S. 224 - Equipment and Machinery Dealerships**

On behalf of CNH Industrial, I respectfully submit testimony to the House Committee on Commerce and Economic Development in opposition to S 224: The Equipment and Machinery Dealer bill.

CNH Industrial manufactures Case IH and New Holland agricultural equipment and Case and New Holland construction equipment. Our brands have dealers and customers in all fifty states and over 160 countries around the globe.

At a minimum, I wish to address the following elements of the bill with the committee:

- Section 1 – Findings and Intent: Paragraphs (3) and (4)

The many companies, whose brands are sold by dealers in Vermont, are extremely disappointed and concerned by the language found in Section 1 FINDINGS, paragraph 3. CNH Industrial has been in business for 174 years and has a decades-long record of conducting business with integrity and respect for Vermont dealers and consumers. Language in the public domain indicating that our company must be regulated to prevent “unfair and arbitrary treatment of dealers” is inappropriate, unproductive and damaging to our reputation and the reputation of our great industry.

- § 4078. Warranty Obligations:

Suppliers have agreed to the change in dealer warranty reimbursement rates. However, paragraph (g) (2) prohibits surcharges, fees or price increases to offset increased costs. This provision denies a supplier's right to price its products and services as it sees appropriate in the free and competitive marketplace. The



provision denies increased cost has accrued to the supplier and ignores that the costs will eventually be absorbed into the pricing system.

- § 4077A. Prohibited Acts.

Paragraph (c) (2). Competing Product Lines.

Supplier's should not be subject to an unfettered dealer option to acquire major competing product line(s) without the supplier's permissive right to defend dedication of resources by the dealer, including separation of facilities and sales resources when appropriate.

In the case of major competing product lines, supplier's should have a say in who, where and how their products are sold by a dealer with an agreement in place.

- Section 3. Implementation / Effective Date

Vermont statute (Title 1 / Chapter 3 – Construction of statutes / Section 214 (b) (3) suggests legislative preference toward prospective implementation of bills of this nature so as to not disturb or impair existing contracts.

We believe in the right to contract between two approving private parties without legislative intervention on existing contracts. S 224 should not interfere with this private right.

Further, so as to reduce ambiguity in the law, we respectfully submit that there are opportunities to improve certain language (e.g. Termination section and Prohibited Acts section) in the current draft of the bill. We will be happy to submit our suggestions for your consideration.

Thank you for the opportunity to appear before the committee and thank you for your service to Vermont.

Respectfully -

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