



February 5, 2018

Transmitted via e-mail

Senator Michael Sirotnik
Chair, Senate Committee on Economic Development, Housing, and General Affairs
Vermont State House
115 State Street
Montpelier, VT 05633

Senator Alison Clarkson
Vice-Chair, Senate Committee on Economic Development, Housing, and General Affairs
Vermont State House
115 State Street
Montpelier, VT 05633

Re: OPEI opposition to: S 180 – Vermont Fair Repair Act

Dear Senators Sirotnik and Clarkson:

The Outdoor Power Equipment Institute (“OPEI”) writes in opposition to S 180 which would inappropriately provide access to sophisticated coding and diagnostic information for the repair and modification of “equipment”.

OPEI is an international trade association representing the manufacturers and their suppliers of consumer and commercial outdoor power equipment such as lawnmowers, garden tractors, utility vehicles, trimmers, edgers, chain saws, snow throwers, tillers, leaf blowers and other related products. OPEI member companies and their suppliers contribute approximately \$13 billion to US GDP each year. OPEI members currently distribute their products across all 50 states, through a diversity of retail outlets including independent dealers who are authorized to sell and service their equipment through a contractual arrangement.

The subject legislation defines its scope [equipment] such that it would place new adverse requirements on virtually all of our members and the overwhelming majority of the products they manufacture. Our members make considerable investments in developing cutting-edge technology, which often includes electronic functions and controls reliant upon embedded software for proper operation, diagnostics, and repair. To support such technology and customer needs, our members likewise make considerable investments in training authorized technicians to correctly analyze and address service issues. In the case of emission controls, protected access to embedded software is necessary to assure that products are not improperly repaired or altered in ways which cause emissions to exceed legal limits. The safe and efficient operation of this equipment is of the utmost importance to our members, for the safety and well-being of their customers. In reality, almost all service information regarding parts, services and best practices for equipment is available to consumers – often at no cost to the consumer.

If adopted, this legislation would turn back long-standing and necessary protections of information necessary for digital repair, with significant potential consequences for the manufacturers. Further, this

legislation would grant compulsory licenses to intellectual property without compensation to the owners (manufacturers).

Other examples of the adverse consequences of this legislation, impacting manufacturers and in many cases consumers, are:

- a. Disclosure of proprietary information to the general public;
- b. Dilution of time / training investment in servicing dealers;
- c. Safety concerns if information is not used as intended;
- d. Alterations to embedded software, which can result in:
 - i. The unsafe operation of the product;
 - ii. Disruption of the product's capabilities and performance;
 - iii. Illegal emission controls alterations;
 - iv. The voiding of a product's warranty;
 - v. A lack of transparency during resale;
 - vi. A hindered customer experience.

OPEI recognizes the consumer interest in additional tools to help diagnose issues with their equipment and determine their best option for repair to maximize efficiency and minimize downtime. To this end, our industry is interested in a dialogue about service information issues with all affected stakeholders to eliminate the need for such legislation. OPEI hopes that through such a dialogue a consensus can be reached which meets consumer needs while protecting information proprietary to manufacturers. In the end, all solutions must first provide for the safety of products as intended by the manufacturer.

OPEI very much appreciates the opportunity to provide comments on this legislation, and would be happy to provide further information if requested.

Best regards,



Daniel J. Mustico
Vice President, Government & Market Affairs
Outdoor Power Equipment Institute, Inc.
341 South Patrick Street
Alexandria, VA 22314
(703) 678-2990; dmustico@opei.org

cc: Members of the Senate Committee on Economic Development, Housing, and General Affairs
Committee Assistant, Kayla Dewey
Senator Christopher A. Pearson (sponsor)