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In OPPOSITION to S.B. 242

The North America Equipment Dealers Association is an international trade association representing approximately 4,500 farm, industrial, and outdoor power equipment dealers in North America. In West Virginia, NAEDA represents several dealer locations. Through the sale of equipment, parts, and services, our dealer members partner with farmers and ranchers across the state to make them the world's most productive and competitive producers.

S.B. 242 is unnecessary and potentially harmful legislation that attempts to solve a problem that does not exist in our industry. We strongly urge legislators to vote NO on this bill for the following reasons:

Our industry is already a leading example of one that supports customer self-repair. Equipment manufacturers and dealers are committed to providing owners and independent repair shops with access to and widespread availability of parts, tools, documentation, and diagnostic capabilities.

The major stakeholders on this issue have developed effective private-sector solutions through Memorandums of Understanding. The MOUs between John Deere, CNHI, Kubota, AGCO, Claas, and the American Farm Bureau Federation formalize the commitment to supporting customer repair and make legislation unnecessary for our industry.

Beyond being unnecessary, S.B. 242 raises serious legal concerns:

First, farm equipment is tightly regulated by the Federal Clean Air Act, and several provisions of this bill would violate federal law by allowing access to emissions criteria. 42 U.S.C. § 7543(e) states, "No State or any political subdivision thereof shall adopt or attempt to enforce any standard or other requirement relating to the control of emissions from either of the following new nonroad engines or nonroad vehicles." This represents a clear case where state legislation would directly conflict with established federal law, creating regulatory confusion and potential legal challenges.

Second, the bill raises significant intellectual property concerns. Modern agricultural equipment relies on proprietary software and technology developed through significant research and investment. While the bill attempts to protect trade secrets, it fails to adequately safeguard the broader intellectual property rights that drive innovation in our industry. Forcing manufacturers to provide access to embedded software could compromise these intellectual property protections and potentially violate federal copyright laws.

In conclusion, OEMs and dealers already make parts, tools, and documentation available to customers regardless of their equipment's warranty status. Requiring that embedded software, as defined in this bill, be made available to customers presents several practical, safety, environmental, and constitutional issues. We urge legislators to support the effective solutions already provided by the private sector and vote NO on S.B. 242.

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Director of Government Affairs

North American Equipment Dealers Association