

Oregon SB 982: Regulation of the business relationship between equipment dealers and equipment manufacturers

Position:

CNH Industrial (CNHI), manufacturers of Case IH and New Holland brands of farm equipment, and, Case and New Holland brands of construction equipment opposes SB 982 which seeks to make sweeping changes to the existing statute regarding regulation of the business relationship between equipment dealers and equipment manufacturers.

Rationale:

SB 982 is the product of a previously negotiated agreement that was unilaterally changed by the Western Equipment Dealer Association without demonstrable input from manufacturers.

In our review of the bill, we have identified at least twenty (20) specific areas of significant concern in which the bill adversely effects:

- the contractual relationship between manufacturers and dealers;
- consumer choice and access to products;
- manufacturer ability to adapt policy to changing markets and business conditions;
- manufacturer ability to raise the brand image, and therefore the dealer's brand image in the competitive marketplace;
- equal treatment under the law for manufacturers and dealers no matter the size of their business in the State;

Of particular concern are the following Sections of the bill:

- **Section 7, ORS 646A.312**
 - This restrictive language strikes at the very essence of why manufacturers work with dealers in the local market – profitably stock, promote, sell and support products in their local market;
 - A dealer should be required to stock equipment of the type sold in his area of sales responsibility and in quantities that align with an agreed upon dealer annual business plan.
 - Stocking equipment is a benefit to retail consumers. By not stocking equipment the dealer thereby suppresses consumer choice and often serves to distort price in the marketplace;



- **Section 7, ORS 646A.312**
 - If a dealer seeks to acquire and merge two major competing brands the manufacturers should have the permissive option to negotiate for separate facilities and sales personnel to represent their brand.

- **SECTION 7. ORS 646A.312**
 - With regard to dealer locations and coverage of the assigned area of sales responsibilities, manufacturers must have the right to protect their representation in the marketplace. Dealer business interests often change over time, manufacturers must have the right to change with them.

- **SECTION 7. ORS 646A.308**
 - Major manufacturers utilize a standard dealer agreement in large part to assure that all dealers are treated equally under the law and in practice. SB 982 seeks to diminish agreement areas such as compliance with requirements of the dealer agreement, defaults of chattel mortgage and competitive circumstance changes.
 - These measures adversely effect on dealers that have made significant investments vs. dealers that can't or won't. Dealers that seek high standards and work closely with manufacturers to maximize brand presence in the state, suffer financial and reputational damage at the hands of dealers that do not seek and are not held to high standards.

- **SECTION 8. ORS 646A.314**
 - Strong warranty reimbursement provisions are not objectionable to major manufacturers.
 - However, strong reimbursement provisions should be complemented by strong compliance and audit provisions that protect manufacturers. SB 968 tears away at manufacturer's right to require compliance to procedure and fundamental audit principles.
 - The provision that requires a manufacturer to pay a dealer 5% of a machine retail price if the manufacturer wishes to provide a discount in lieu of warranty is an entirely unrealistic hurdle rate and only serves to restrict flexibility in manufacturers approach to warranty.



- **Several other provisions within SB 982, not mentioned in this letter, are of significant concern.**

We very much appreciate your consideration and we welcome the opportunity to work with the Western Equipment Dealer Association, and the committee, to create a solution that meets the needs of Oregon dealers, farmers and producers.

Sincerely,

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CNH Industrial America (CNHI)

CNHI is a global manufacturer of Case IH and New Holland brands of agricultural equipment, and, Case and New Holland brands of construction equipment. Our brands are sold and serviced by dealers in all 50 states and over 160 countries around the globe.

CNHI in Oregon:

CNHI operates a service parts depot in Portland near the Portland International Airport. The CNHI Portland Service Parts Depot serves dealers throughout the western United States and part of Western Canada with service and repair parts for customer machines.

CNHI brands have over 25 independently owned dealer locations in the State of Oregon.