

March 28, 2017

Senator Lee Beyer, Chair
Senate Committee on Business and Transportation
900 Court St. NE, S-411
Salem, Oregon 97301

Re: Amendment to Oregon SB 982 relating to business relationships
between equipment suppliers and equipment dealers.

The Farm Equipment Manufacturers Association represents over 725 manufacturers, suppliers and distributors of farm implements. The vast majority of our members are small, family-owned companies providing good manufacturing jobs in rural communities across North America. It is on their behalf that I respectfully ask you to consider our opposition to SB 982.

The stated rationale for the current form of SB 982 is to regulate the relationship between equipment suppliers and equipment dealers “to ensure the efficient and uninterrupted flow of commerce and the smooth functioning of the economy” of Oregon. In its current form, SB 982 does not achieve these purposes. Instead, it is a wholesale rewrite of current Oregon law that, among other things, applies onerous termination and repurchase obligations on small manufacturers attempting to thrive in today’s tumultuous economic landscape.

As written, these obligations threaten to put our members out of business. Our small manufacturing members often do not have the financial wherewithal to absorb full-line equipment and repair parts repurchases from their dealers’ inventories, or the luxury to give dealers two years to remedy persistent deficient market performance. Simply put, SB 982 has ruinous potential for our members that rely on Oregon’s robust agricultural economy to help their businesses grow and succeed. Accordingly, we cannot support SB 982 in its current form.

Nevertheless, should your committee see fit to approve new legislation regulating the business relationships between equipment suppliers and equipment dealers in Oregon, we recommend the following portions of SB 982 be amended as set forth below to better protect the interests of the small, family-owned farm equipment manufacturers that do business in your state:

- ORS 646A.300, Section 1 of SB 982 be amended to include the following definitions underlined below:

“Specialty agricultural equipment” means equipment that is designed for and used in:

(a) planting, cultivating, irrigating, harvesting, and producing agricultural products; or

(b) raising, feeding, or tending to livestock or harvesting products from livestock.

“Specialty agricultural equipment supplier” means a supplier of specialty agricultural equipment whose:

(a) gross sales revenue to the dealer is less than the threshold amount;

(b) product line does not include farm tractors or combines; and

(c) qualification for that status is determined on a case-by-case basis depending on the sales of the applicable dealer and the sales to the applicable dealer by the specialty agricultural equipment supplier.

“Threshold amount” means the lesser of fifteen percent (15%) of the dealer’s gross sales or \$500,000, in each case based on net sales of the dealership during the one-year period ending on the last day of the calendar month immediately preceding either (a) the date the specialty agricultural equipment supplier provides notice of termination of the dealer agreement, or (b) the date that the dealer first attempts to invoke the protections of this chapter, whichever occurs first; however, that the \$500,000 amount must be increased each year by an amount equal to the amount on the year in which the determination is made multiplied by the percentage increase in the index from January of the immediately preceding year to January of the year in which the determination is made.

- ORS 646A.304, Section 3 of SB 982 be amended to include the following language underlined below:

(3) If the supplier determines that good cause exists under ORS 646A.308(1)(j) for terminating a dealer agreement, for withdrawing a dealer’s authorization to sell a product line or type of equipment or an authorization to sell a product line or type of equipment at one or more of the dealer’s business locations or for substantially changing the dealer’s competitive circumstances, the supplier shall give the dealer notice of the supplier’s determination at least two years before terminating the dealer agreement, withdrawing the authorization or substantially changing the dealer’s competitive circumstances. If within the two-year period the dealer meets or complies with the supplier’s reasonable standards and performance objectives, the supplier may not proceed with the termination, withdrawal, or change. This subsection shall not apply to specialty agricultural equipment suppliers.

- ORS 646A.310, Section 6 of SB 982 be amended to include the following language underlined below:

(7) This section shall not apply to a specialty agricultural equipment supplier if the dealer terminates the dealer agreement without good reason. A dealer has good reason to terminate the dealer agreement for any of the following reasons:

(a) the death or disability of a majority owner of the dealership;

(b) the dealer terminates the dealer agreement and: (1) substantially all of the dealership assets or all shares of stock of the dealership are sold to a

new owner; and (2) no owner of the terminated dealership continues to own an interest in the continuing dealership;

(c) the filing of bankruptcy by or against the dealership that has not been discharged within 30 days after the date of the filing, the appointment of a receiver, or an assignment for the benefit of creditors; or

(d) the specialty agricultural equipment supplier:

(1) abandons the market or withdraws from the market by no longer selling to the dealer a type of equipment previously sold to the dealer that constituted a material part of the specialty agricultural equipment sold by the supplier;

(2) consistently sells products to the dealer that are defective or breach the implied warranty of merchantability;

(3) consistently fails to: (i) provide adequate product support for the type and use of the product, including technical assistance, operator and repair manuals, and part lists and diagrams; (ii) provide adequate training required by the supplier for maintenance, repair, or use of the supplier's products; or (iii) provide marketing and marketing support for the supplier's product if marketing is a requirement of the dealer agreement;

(4) consistently fails to meet the supplier's warranty obligations to the dealer as required by contract or law, including obligations under this chapter;

(5) has engaged in conduct that is injurious or detrimental to the dealer's customers, the public welfare, or the dealer's reputation;

(6) has made material misrepresentations to the dealer or has falsified a record

(7) has breached the dealer agreement; or

(8) has violated this chapter.

We appreciate your consideration and look forward to working with you.

Sincerely,



Vernon F. Schmidt
Executive Vice President
Farm Equipment Manufacturers Association