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STATEMENT OF ERIC WAREHAM
VICE PRESIDENT, GOVERNMENT AFFAIRS
WESTERN EQUIPMENT DEALERS ASSOCIATION
SENATE TRANSPORTATION COMMITTEE
REGARDING 2018 SB 426
MARCH 14, 2018

Mr. Chairman and Members:

Western Equipment Dealers Association is an international trade association that represents approximately 2,200 farm, industrial and outdoor power equipment dealers in North America.

In Kansas, Western represents 147 dealer locations. Those locations account for \$2 billion in annual revenue and over 1500 employees. Through the sale of equipment, parts, and service, our dealer members work in partnership with farmers and ranchers across Kansas to make them the most productive and competitive producers in the world.

The proposed legislation is an update to Kansas Dealer Statutes. The statutes covering agreements between equipment dealers and manufacturers have not been updated since 2000. Since that time, the industry has significantly changed and these updates will make Kansas consistent with neighboring states such Texas and Oklahoma, keeping dealers in Kansas competitive.

The changes sought are necessary to make dealers more competitive and responsive to their customers. In today's equipment environment there is consistent pressure from original equipment manufacturers (OEMs) to consolidate. Third and fourth generation equipment dealers are faced with the choice of whether to grow or sell-out. While the Association does not take a position on whether consolidation is good or bad, we do believe that dealers should have control over decision making that involves business decisions such as the transition of their independent businesses. These decisions should be based on what is best for the dealer and their customers, not what is best for the manufacturer.

Another trend occurring since the last revision of the dealer protection statutes is the ever increasing influence of the OEM in the dealer's day to day operations, as well as business planning. Because of the OEMs disproportionate bargaining strength, dealers are forced to incorporate terms into their dealer agreements that lead to OEMs having an outsized role in approving or disapproving business decisions. This proposed legislation remedies part of that problem.

For these reasons, Kansas dealer statutes require updates to ensure that dealers remain competitive and are able to respond to the needs of their customers. These changes are ultimately pro-competitive and create a stronger dealership network here in Kansas that can continue to serve the needs of Kansas Ag producers. A summary of the changes the legislation proposes to four key areas is provided.

Four Key Areas

1: Expanded Scope

Update:

- Expands application of prohibited acts to include outdoor power equipment

2: Transfer of Ownership

Update:

- Prohibit a manufacturer from preventing the issuance or transfer of a non-controlling interest in an equipment dealership

3: Competitive Circumstances

Update:

- Prevents a manufacturer from changing a dealers competitive circumstances by forcing detrimental changes to store locations, product lines, placement of competing stores that would hurt the dealers ability to compete with other dealers of the same brand

4: Warranty

Update:

- Manufacturer must compensate a dealer for parts used in warranty repairs at current cost plus a 15% markup and freight
- Creates reasonable process requirements for manufacturer to approve or deny warranty claims in a timely manner
- Provides for audit procedures on warranty work