



March 12, 2018

Senator Mike Petersen
Chair, Committee on Transportation
Kansas State Capitol, 345-S
300 SW 10th Street
Topeka, KS 66612

Senator Dan Goddard
Vice-Chair, Committee on Transportation
Kansas State Capitol, 541-E
300 SW 10th Street
Topeka, KS 66612

Senator Pat Pettey
Ranking Minority Member, Committee on Transportation
Kansas State Capitol, 125-E
300 SW 10th Street
Topeka, KS 66612

Re: OPEI opposition to SB 426 – *AN ACT concerning contracts; relating to dealership agreements for farm equipment, outdoor power equipment and lawn and garden equipment ...*

Dear Senators Petersen, Goddard, and Pettey:

The Outdoor Power Equipment Institute 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 currently distribute their products through independent dealers who are authorized to sell and service their equipment through a contractual arrangement.

OPEI is writing in opposition to SB 426 as it would significantly impair our members' existing contracts and processes with their Kansas-based dealers. The following are our major points and rationale for opposition to this legislation.

Private Right to Contract: OPEI supports the private right to contract between two approving parties without legislative intervention. The proposed legislation interferes with that private right.

Retroactivity: SB 426 would apply to all current agreements, rendering many existing contract terms unlawful.

Manufacturers' Expenses: SB 426 increases the warranty expense for manufacturers to include warranty reimbursement rates and processing requirements not currently included in mutually agreed upon contracts with authorized dealers. Note, when you consider the additives manufacturers offer, some of these warranty requirements may result in less for dealers. Those costs would ultimately increase the price of the goods to customers.

Transfer of Ownership: SB 426 would significantly impair the manufacturers' ability to choose who it contracts with and who represents its brand. Specifically, SB 426 precludes manufacturers from denying any ownership within a dealer organization unless it results in a change in the controlling interest. Manufacturers believe they should decide who represents their brand(s) and not be required to permit changes in dealer ownership, without their review and approval. The ability to vet and accept or reject prospective owners is fundamental to manufacturers' brand integrity and business models.

Creates Ambiguity: SB 426 includes confusing provisions and terms, increasing the likelihood of litigation.

Manufacturers' Obligations: SB 426 creates new warranty obligations not found in the laws of many other states.

In summary, OPEI's member manufacturers make significant investments in the development of innovative products and the marketing of their brand(s), with the intent to drive business to its authorized dealer locations. Counter to this priority, SB 426 would significantly impair the existing contracts between manufacturers and their dealers, creating unnecessary ambiguity and possibly increased manufacturing expenses. For all of the above reasons OPEI opposes SB 426.

OPEI appreciates the opportunity to provide comments on this legislation, and your consideration of our concerns.

Best regards,

A handwritten signature in black ink that reads "Daniel J. Mustico". The signature is written in a cursive style with a large initial "D" and "M".

Daniel J. Mustico
Vice President, Government & Market Affairs
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Alexandria, VA 22314
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cc: Members of the Senate Committee on Transportation