

January 27, 2022

VIA EMAIL (DelMWebert@house.virginia.gov)

Chairman Michael Webert
Chair, Commerce and Energy Committee, Subcommittee #2
Pocahontas Building, Room E418
900 East Main Street
Richmond, Virginia 23219

Re: Virginia House Bill 143

Dear Chairman,

The Truck and Engine Manufacturers Association (EMA) opposes Virginia House Bill 143 (HB 143). EMA represents the world's leading manufacturers of commercial vehicles and on- and off-road engines used in several applications, including: trucks; buses; construction and farm equipment; locomotives; marine vessels; lawn and garden equipment; and stationary generators. HB 143 would apply to a significant number of the products manufactured by EMA members.

The bill seeks to statutorily and mandatorily change the contractual relationships between heavy equipment manufacturers and dealers – with significant adverse consequences. A legislative solution simply is not needed. More importantly, House Bill 143 would create an unnecessary legislative interference in business relationships between parties. For manufacturers and dealers alike, the bill's requirements would hinder their ability to negotiate contracts that are in the best interests of their respective businesses. While its applicability seemingly is narrow, HB 143 would result in imposing a number of concerning consequences, whether intended or unintended.

First, the bill would impact many industries, as the definition of "heavy equipment" (*see* § 59.1-353) includes "equipment and machinery, including engines, weighing 5000 pounds or more, primarily employed for construction, industrial, maritime, mining and forestry uses." Such a broad scope of the bill would create a wide-ranging impact on contracts for most equipment in the Commonwealth, including to industries that are likely not even aware of the bill. That breadth and yet unknown consequences from stakeholders who have not had a chance to be heard could further impact consumers and users of heavy equipment in those industries.

Second, HB 143's provisions would impose requirements that actually would force change in the way that some equipment manufacturers conduct their business operations. Those changes would negate the ability for a manufacturer to have an exclusive dealer, and needlessly and recklessly impact existing contracts. While some manufacturer-dealer contracts include such exclusivity, there also are contracts that do not. However, contracts are designed to the business operation and benefit of the involved parties. The legislation in question is designed to interfere with and unnecessarily constrain negotiations and agreements between parties.

Lastly, HB 143 could set a dangerous precedent in its applicability to future, and even potentially existing, equipment manufacturer and dealer contracts in Virginia. At best, it would constrain parties' contractual negotiations. At worst, it could create barriers to contractual agreements, especially for equipment manufacturers, to essentially discourage investment and expansion of dealer networks within the Commonwealth, thus sending those investments to other states.

While EMA opposes Virginia House Bill 143 generally, we believe that, at a minimum, the bill should be withdrawn for the current legislative session. That is a special concern given the timing of the bill's introduction, public posting, and initial scheduled hearing. Due to the potential impacts to such a wide range of products that would be affected by this bill, greater attention must be paid to ensuring that stakeholders in covered industries can provide meaningful input on the impacts of this legislation.

If you have any questions or need additional information, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Tia Sutton Sysounthorn", with a long, sweeping horizontal line extending to the right.

Tia Sutton Sysounthorn