

Testimony offered on behalf of:



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IN OPPOSITION TO:  
S.B. 121

General Law Committee  
Hearing: February 22, 2022, at 10:00 AM

**JESCO OPPOSES S.B. 121**

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Dear Honorable Members of the General Law Committee:

My name is Gregory Blaszk, and I am the CFO of JESCO INC. We are an equipment dealer with 350 employees and responsibility for all Ditch Witch customers in the state of Connecticut. Besides the financial aspects of my position, I am also responsible for litigation matters for the company. I have been testifying in various states over the last 5 plus years on similar bills and not one bill has passed in any state where it was considered. As a family-owned business, celebrating over 50 years in operation, we continue to create jobs and we continue to be concerned about the safety of our employees and the safety of our customer's employees who would be negatively impacted by bills such as S.B. 121. We, as a company, oppose S.B. 121 and would like to take a moment to share why we believe these bills are wrong for our industry.

The manufacturers that we represent including Ditch Witch, John Deere and Wirtgen already provide tools for the end user or independent repair shop that give them the ability to diagnose, maintain and repair equipment. By way of example, customers can utilize various diagnostic and repair options depending on their level of investment. For some of our customers, a single repair manual or access to one of our free apps, which provides diagnostic codes will suffice. For others, the on-board diagnostic system serves as a one-stop shop for preventative maintenance and repairs. At JESCO, we have over 18 million in parts inventory. Of that inventory 55 % is sold "over the counter" to customers or independent repair providers. This means that our

customers have timely and local access to the replacement parts they need to increase up time. In addition to parts, we provide significant training opportunities for customers to ensure they keep their machines up and running. Our equipment requires highly trained technicians, last year our company spent over three quarters of a million in training our technicians. Again, our business supports the customer's "right to repair" and offers a wide array of tools to do just that.

S.B. 121 goes far beyond the "right to repair" and would require access to reprogramming of safety and emissions systems. A common practice today (though illegal) in the off-road industry known as "chipping" is the current target of a nationwide, EPA enforcement initiative. Unlike on-road vehicles, however, there is currently no inspection process to ensure that off-road equipment emissions systems remain in compliance with the requirements of the U.S. Clean Air Act (CAA). Chipping is often seen as an economic way to increase horsepower. This practice violates several emission laws. For our industry, technology allows us to be good stewards of the environment and providing the unlimited access that S.B. 121 would require, creates avoidable and unacceptable risk to the environment.

Reprogramming, when necessary to conduct a repair of safety and emissions systems, is done by equipment dealers through a secure system to ensure restoration of safety and emissions standards. This process is important because Environmental Protection Agency ("EPA") standards are required to be maintained during the entire useful life of the equipment. see 42 USC § 7525(a)(1) and § 7521(a)(1). As already discussed, separate from reprogramming, our customers have the choice to do as much or as little maintenance and repair as they are comfortable with.

S.B. 121 is written so that OEMs would have to provide unfettered access to emissions and safety systems for purposes of "repair." There is no way, however, to ensure that access to these systems does not lead to the modification of these systems either accidentally or intentionally. With semi-autonomous and fully autonomous equipment now on the market this is a serious safety concern. In addition, S.B. 121 would create a host of cybersecurity risks to customers who use their machines to create and transmit important and confidential data.

I have been with the company over 40 plus years. I have witnessed what can happen by just making a simple mistake. Just recently one of our customer's employees made a simple mistake when operating a heavy piece of equipment which cost him his life. Should we further create risks of catastrophic injury by giving an individual who likes to tinker or "hot rod" equipment by those who are not trained to make a change to the programming? As an equipment dealer serving many customers in the state of Connecticut with safety as our number one priority, we certainly don't think so.

In addition, this legislation opens up a number of liability issues that will have financial impact to our industry. Specifically, for the many equipment owners who purchase their equipment in the secondary market who will be unable to determine when or if their equipment was modified and operated outside of factory specifications.

The risk to the integrity of the equipment if open access is afforded under S. B 121 is significant.

In conclusion, the unintended consequences of S.B. 121 are wide ranging and would be detrimental rather than advantageous to the safety of the environment, to equipment users, and would impact the development of innovation. The safety of equipment users and bystanders must always be our top priority.

Therefore, JESCO respectfully requests an **UNFAVORABLE COMMITTEE REPORT** on S.B. 121 or, in the alternative, incorporation of the non-road amendment language included below before any further advancement of the bill is considered.

Thank you for your time.  
Sincerely

 \_\_\_\_\_ 2/21/2022  
(Date)

**SENATE BILL 121  
NON-ROAD AMENDMENT LANGUAGE**

Manufacturers, distributors, importers or dealers of all off-road (non-road) equipment, including without limitation, farm and utility tractors, farm implements, farm machinery, forestry equipment, industrial equipment, utility equipment, construction equipment, compact construction equipment, mining equipment, turf, yard and garden equipment, outdoor power equipment (including portable generators), marine, all-terrain sports and recreational vehicles (including racing vehicles), stand-alone or integrated stationary or mobile internal combustion engines, other power sources, (including without limitation, generator sets, electric/battery and fuel cell power), power tools, and any tools, technology, attachments, accessories, components and repair parts for any of the foregoing.