

Outdoor Power Equipment Institute

January 5, 2024

The Honorable (Representative) Tiffany Roberts
Chair, Committee on Innovation, Development, Economic Advancement and Business
Maine State Legislature
tiffany.roberts@legislature.maine.gov

The Honorable (Senator) Chip Curry
Chair, Committee on Innovation, Development, Economic Advancement and Business
Maine State Legislature
chip.curry@legislature.maine.gov

re: Opposition to ME LD No. 1716 (H.P. 1105) – An Act to Establish a Repairability Index for Consumer Electronic Products

Dear Chairs Roberts and Curry:

I write on behalf of OPEI¹ member companies in opposition to the subject legislation which would introduce an overly subjective factor into the marketplace for consumer electric lawnmowers, without any demonstrated benefit for Maine’s consumers. Instead, this new requirement if adopted, would create a standard unique to Maine which is both confusing to consumers and an undue burden for lawnmower manufacturers, distributors, retailers, and service providers.

The proposed “repairability index” would create unworkable challenges to both state and interstate commerce, impacting the manufacturing and distribution of products by our member companies, and the future supply to Maine’s consumers. This legislation could additionally create risks to product safety and performance by creating confusion and compromising manufacturer repair instructions and market services already effectively serving consumer repair needs.

OPEI members manufacture and distribute 95% of the approximately 1.8 million consumer electric lawnmowers shipped in the U.S. each year. These products include a diverse array of models intended for different applications and market sectors, including battery- and corded (AC)-powered walk-behind mowers, and battery-powered zero-turn and lawn tractor style riding mowers. Electric lawnmowers, depending on the model and intended application, can have different manufacturer recommendations and specifications for the product’s repair and service. In some cases, lawnmowers are designed and

¹ OPEI is an international trade association representing the manufacturers and their suppliers of non-road gasoline powered engines, personal transport & utility vehicles, golf cars and consumer and commercial outdoor power equipment (“OPE”). OPE includes lawnmowers, garden tractors, trimmers, edgers, chain saws, snow throwers, tillers, leaf blowers and other related products. OPEI member companies and their suppliers contribute approximately \$16 billion to US GDP each year. OPEI members currently distribute their products across all fifty states, through a diversity of retail outlets including independent dealers who are authorized to sell and service their equipment through a contractual arrangement.



intended for extended service lives, sometimes exceeding ten years, making them more amenable to potential resale and requiring different repair considerations.

Nonetheless, OPEI members commonly provide for the effective repair and service of these products, where appropriate, through individual manufacturer recommendations and specifications and service relationships with company-affiliated and independent retailers and service providers. As the first priority, manufacturers provide consumers with repair solutions that do not create undue risks to product safety. These considerations are consistent with the relevant industry standards and regulation to which electric lawnmowers manufactured by OPEI members comply, and do not create the potential for unsafe product modification instead of repair. This is the primary concern OPEI has regularly expressed, even previously before this committee, over other legislation also in the name of a consumer's "right to repair".

OPEI opposes this legislation and recommends that this committee reject its adoption on the following grounds:

- H.P. 1105 would create a subjective and unworkable requirement unique to Maine, incentivizing other states to propose similar but disparate requirements. This would create confusion for consumers, and unworkable challenges for state and interstate commerce.
- H.P. 1105 would base a state index on subjective criteria which would create risks of unfair competition between manufacturers and their distribution of electric lawnmowers in Maine, which would only then harm state consumers through reduced choices and higher costs in the marketplace. An example would be the criteria around the availability of spare parts, creating unfair competition between suppliers, and favoring those with existing distribution and supply in-state. Also, to influence a reparability index score, manufacturers may be incentivized to overstock spare parts at retailers and service providers, leading to unnecessary waste.
- H.P. 1105 proposes subjective criteria not capable of considering products which are designed and manufactured to last longer without being repaired.
- H.P. 1105 proposes to require an on-product label, unique to Maine, creating multiplication of information, labels, and marks already on electric lawnmowers and their packaging per manufacturer recommendations, relevant industry standards, and government regulation. Without a demonstrated benefit this new label would only create confusion and misunderstanding among consumers.
- H.P. 1105 would create substantial administrative burdens and costs associated with the calculation of index values for each manufacturer. These impacts to different degrees would be felt by manufacturers, retailers, service providers, state government, and most importantly Maine's consumers.

As with other "right to repair" policy proposals, including those previously taken up by this committee, OPEI and its members are interested in working with policymakers to assure that consumer repair needs are being met in a fair and affordable manner. Nonetheless, OPEI opposes H.P. 1105 as the proposed index and its underlying criteria is a flawed policy solution. Even if a well-informed reparability index could be developed, it should only be considered for national adoption to avoid the commerce challenges inherent in H.P. 1105.

Thank you for the consideration of these comments, and I would be happy to address any questions you might have.

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
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