

U.S. Supreme Court Declines to Hear Challenge to New Hampshire's "Auto Dealer's Bill of Rights"

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The protracted challenge to [New Hampshire Senate Bill 126](#), which amended New Hampshire's Motor Vehicle Franchise Act to include farm, industrial, construction, forestry, and yard and garden equipment, has finally come to an end. On October 3, 2016, the U.S. Supreme Court denied the equipment manufacturers' petition for certiorari without comment and, in doing so, dealt the final blow to any hope that SB 126 would be struck down as a violation of the U.S. Constitution.

In support of the petition for certiorari, the equipment manufacturers argued that the New Hampshire Supreme Court erred by declining to accept the manufacturers' arguments that (1) SB 126 violates the contracts clause of the U.S. Constitution insofar as it impairs existing equipment dealership contracts by subjecting them to New Hampshire's protectionist motor vehicle statutory scheme, and (2) protectionist legislation like SB 126 does not safeguard the general welfare of New Hampshire's citizens, nor does its retroactive application to existing equipment dealer contracts serve any legitimate and substantial public purpose. Instead, according to the manufacturers, SB 126 is geared simply to protect certain special interest groups (e.g., industrial equipment dealers).

In opposition to the equipment manufacturers' petition for certiorari, New Hampshire and several equipment dealers argued that the New Hampshire Supreme Court applied the correct level of scrutiny in its contracts clause analysis and thus properly concluded that SB 126 served a "significant and legitimate public purpose" — protecting dealers from allegedly abusive and oppressive manufacturers — and was a "reasonable" and "appropriate" way to achieve that public purpose.

Although the U.S. Supreme Court denied the equipment manufacturers' petition without comment, it is possible that the court declined to review the challenge to SB 126 because New Hampshire's statutory scheme governing automobile manufacturers had long been a part of New Hampshire's regulatory regime, and equipment manufacturers should have reasonably expected that they, too, could be regulated in similar fashion.

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