

February 19,2018

Michael Yang  
Prism Group LLC  
1038-A Kikowaena Place  
Honolulu, Hawaii 96819

Representative Roy M. Takumi  
Chair House Committee on Consumer Protection & Commerce

RE: HB1620-HD1

Dear Sir,

The term aftermarket part is a very broad and all encompassing. The task force would need to address this issue and segregate parts into sub categories. When addressing safety for example, a cosmetic item like a plastic grille should not be subject to the same rules as an airbag sensor. The initiators of this bill want to comingle all the parts into one big basket. This way, they can say "for safety reasons we have to use all OEM parts". During the last hearing, Representative Onishi asked Mr. Takamoto questions concerning an item like an air bag sensor. Mr. Takamoto's response was that an item like an air bag sensor is always purchased from the OEM dealer.

I can jump start this process. Below is a listing of part categories that are currently being recommended by the insurance companies.

#### Non-structural Items

1. Radiators and Condensers
2. Lamps: Headlights, Tail lights etc.
3. Bumper covers
4. Fender liners (plastic inner fenders)
5. Grilles, Grille moldings
6. Other trim items like fog light covers

#### Structural Items

1. Fenders
2. Hoods
3. Radiator supports
4. Steel Bumpers (Pickup trucks)
5. Pickup truck tail gates

Currently anything deemed structural has to be CAPA certified. The insurance companies rely on the CAPA organization to verify that a part will meet or exceed the OEM specifications. As for the non-structural parts, lamps need to be either CAPA or NSF certified. Some insurance companies require bumper covers to be CAPA or NSF certified. Radiators, condensers, fender liners, grilles, and trim items need no certification. Although many of them are certified by CAPA, or NSF, or both.

As far as I know "critical safety items" like air bags, impact sensors, laser sensors and air bag modules are not part of the aftermarket bundle. This parts distinction is very important. At the IAC hearing the term aftermarket parts was not defined. Only at the end when Representative Onishi was asking questions was it revealed that "critical safety items" was always purchased from the OEM dealer. Up until that time I thought that the committee members were being lead to believe that all parts replaced during a repair were aftermarket parts. Any future legislation would require a breakdown of parts into specific part categories to be of any use.

Hopefully Mr. Ray Colas from LKQ Corporation will be able to serve as a member of this task force. I think his job position will give him access to national statistics and studies. If he is unable to join the task force, I am willing to volunteer. By the way, why can't the task force have two representatives from the aftermarket parts industry? One from the mainland and one from Hawaii. Please take this matter under consideration.

Thank you

Michael Yang  
Prism Group LLC



- Government Employees Insurance Company
- GEICO General Insurance Company
- GEICO Indemnity Company
- GEICO Casualty Company

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TIMOTHY M. DAYTON, CPCU, GENERAL MANAGER ALASKA & HAWAII  
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**House Committee on Consumer Protection & Commerce**  
Room 329 State Capitol  
Wednesday, February 21, 2018, 2:00 p.m.

**HB 1620, HD1 - RELATING TO Motor Vehicle Repairs.**

Chair Takumi, Vice-Chair Ichiyama and Members of the CPC:

My name is Timothy M. Dayton, General Manager of GEICO, Hawaii's largest auto insurer. **GEICO opposes House Bill Number 1620.** GEICO has concerns with the Bill; as currently drafted the Legislation contains numerous statements that are blatantly false and grossly misleading. If this Bill is not held, GEICO respectfully requests that if there is any HD2 revision that it corrects the misinformation that includes:

1. Proper repairs can be completed using after-market parts that have been tested and certified which is not limited to OEM parts.
2. Current HRS requires that insurance estimates call for after-market parts when available rather than insurers only pay for after-market parts to reduce costs.
3. After-market parts are unsafe because they are not crash tested is patently false.
4. Insurers do not allow consumers to choose between OEM and after-market is false as it would be a violation of the HRS.
5. The Task Force states it is being created to address the concerns of consumers yet there is no record that such concerns do exist in any significant numbers.

The biggest anti-consumer practice regarding repairs of motor vehicles in Hawaii is the unique to Hawaii OEM parts price markup over the Manufactures Suggested Retail Price

(MSRP). In 49 states, the pricing for OEM parts is basically the MSRP. Hawaii dealerships and body shops take this already high price and marks that up between 25% - 35%. If there is a task force set up, it will allow for a review to see if there is any basis to charge Hawaii consumers 25% - 35% more than the rest of the Country including Alaska to purchase an OEM part.

GEICO appreciates the ability to present and your consideration of this testimony. Due to all of the false information in the Bill we **respectfully urge the committee to hold House Bill 1620, HD1. GEICO further requests that the Legislature investigate the OEM parts price mark up.**

Sincerely,

A handwritten signature in black ink, appearing to read "Timothy M. Dayton", with a long horizontal flourish extending to the right.

Timothy M. Dayton, CPCU

**HOUSE COMMITTEE ON  
CONSUMER PROTECTION AND COMMERCE**

February 21, 2018

House Bill 1620, HD 1 Relating to Motor Vehicle Repairs

Chair Takumi, Vice-Chair Ichiyama, members of the House Committee on Consumer Protection and Commerce, I am Rick Tsujimura, representing State Farm Mutual Automobile Insurance Company (State Farm). State Farm offers these comments about HB 1620, HD 1 Relating to Motor Vehicle Repairs, and more specifically, Original Equipment Manufacturer (OEM) and Aftermarket Parts.

Current law, which is based on a National Association of Insurance Commissioners (NAIC) Model Act, allows insureds the choice of either an OEM or a “like kind and quality” aftermarket part in covered motor vehicle body repair work. If the vehicle manufacturer’s warranty requires the OEM part, the insurer may not charge the insured the cost difference between the parts.<sup>1</sup> In addition, the insurer may specify only non-OEM parts of “equal or better quality,” and to warranty them “for the same guarantee period as the [OEM] part.”<sup>2</sup> HRS § 431:10C-313.6 recognizes that, although consumers retain the ultimate control over the repair process, including parts selection, the decision of some insureds to select higher priced parts should not adversely impact the rest of the insuring public through higher prices.

HB 1620 would change this to prohibit insurers from charging the insured the difference in cost if the manufacturer “recommends” that its own part be used. State Farm opposes this legislation because every manufacturer will always “recommend” its own part; this will eliminate competition, drive up the cost of auto repairs, and cause Hawaii consumers to pay more for insurance. The reasons for this methodology are many, but the policy reason is premised on keeping costs low for the vast majority of insureds whose cars may be out of warranty, or for which OEM parts are not available, or if the insured’s budget for insurance is constrained. Lowering the cost of insurance is the primary reason for the current law. Moreover the current law already requires an OEM part if it would affect the warranty of the automobile. If a person wants an OEM versus a non-OEM part the insured has the right to require that part but must pay the cost difference. Again such a decision is a customer choice. This allows those who can afford such a part to acquire that part, but for the person who just wants to get their car back on the road it allows them to maintain a lower cost.

Some history might be helpful. At one time, the OEMs’ only competition for supplying sheet metal crash parts came from salvage yards marketing “recycled” or “reconditioned” parts. Beginning in the early 1980’s non-OEM sheet metal and other exterior appearance parts, such as

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<sup>1</sup> HRS § 431:10C-313.6(a)

<sup>2</sup> HRS § 431:10C-313.6(b).

grilles and lamp assemblies, became available. This development challenged what had been a virtual monopoly by OEMs in the sale and distribution of new crash parts.

Because of the growing use of non-OEM parts, insurers, non-OEM manufacturers, and repair facilities formed the Certified Automotive Parts Association (CAPA). CAPA provides independent and objective testing and quality certification for non-OEM crash parts. CAPA is modeled after Underwriters Laboratories, Inc., the global not-for-profit testing and certification organization formed by the insurance industry in 1894. Parts meeting CAPA standards are certified as functionally equivalent to OEM parts with respect to quality, fit, performance, and corrosion protection.

Certain aftermarket or non-OEM parts have long been available and widely accepted by vehicle owners and the repair industry. These include items such as tires, brakes, belts, filters, batteries, lamps, exhaust, electrical and cooling system components, and glass. This has created competition in parts pricing. Without question, OEM parts pricing is influenced by the availability of competitively priced aftermarket parts, and, **in some cases, the same manufacturer produces the same OEM and non-OEM part.**

In 1996, in response to OEM campaigns to ban aftermarket parts, the NAIC approved an amendment to its Unfair Claims Settlement Practices Model Regulation that requires specific notice to vehicle owners when aftermarket parts are included in repair estimates. Almost all states (including Hawaii, 1997<sup>3</sup>) subsequently adopted laws or regulations that address the use of aftermarket parts. Most of these laws are patterned after the NAIC model, which requires consumer notice and consumer choice of parts selection without requiring insurers to pay non-competitive parts prices. State Farm supports this NAIC model regulation.

State Farm supports competition in the vehicle repair industry and consumer choice, including the availability and use of quality, competitively priced aftermarket, recycled, and reconditioned parts. State Farm opposes efforts by OEMs and other interest groups to limit the parts mix through anti-competitive legislation and unnecessary regulatory restrictions. Consumers have the most to lose when competition is eliminated. **Higher repair costs mean higher insurance costs paid by consumers.**

There is no doubt that the availability of competitively priced, non-OEM parts protects consumers from monopolistic parts pricing by OEMs. This legislation would essentially remove this protection. This is bad for consumers.

House Bill 1620, HD1 proposes a vehicle repair practices task force within the Department of Commerce and Consumer Affairs to address the OEM issues consumers face. We believe that the purpose clause may not address the concerns we have expressed above, and

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<sup>3</sup> Hawaii enacted HRS § 431:10C-313.6 in 1997.

suggest that the cost implications for affordability of auto insurance also be carefully considered. Raising the cost of insurance could cause individuals to drive without insurance, a situation the legislature has been careful to avoid. We ask that an additional section (5) be added which would read as follows:

“(5) an impact study on insurance rates due to any such proposed legislation, including but not limited to, the potential for an increase in uninsured motorists, and the increase in insured rates.”

Thank you for the opportunity to present this testimony.

Testimony from Van Takemoto, President, Island Fender  
For the Automotive Body and Painting Association of Hawaii  
In opposition of HB1620 HD1 – Relating to Motor Vehicle Repairs  
COMMITTEE ON CONSUMER PROTECTION AND COMMERCE  
Wednesday, February 21, 2018; 2:00PM, Room 329

Chair Takumi, Vice-Chair Ichiyama and members of the Committee on Consumer Protection & Commerce, I am here to testify in opposition of HB 1620 HD1 and in support of amending HD1 back to the original version of HB1620.

My name is Van Takemoto, I am the owner/president of Island Fender. I am a specialist in Collision Repair and have been involved in this industry since 1971 and I am also a licensed mechanic. We are a small family business that specializes in damage analysis, repair planning and the repair of collision damaged vehicles. We are dedicated to maintaining the safety system designed into today's vehicles.

We were the first collision repair business in Hawaii to earn the designation of Gold Status by I-CAR and have maintained that designation with technicians recognized as Platinum Trained Individuals who have obtained this highest level of collision training and continuing education, which is a requirement of that designation.

I-CAR, the Inter-Industry Conference on Auto Collision Repair, is an international not-for-profit organization dedicated to providing the information, knowledge and skills required to perform complete, safe and quality repairs.

Formed in 1979 out of a collaboration across the six segments of the collision repair Inter-Industry, I-CAR serves -- and is represented by -- all segments of the Inter-Industry.

I have also made a substantial investment in training and equipment to be one of a handful of facilities certified in collision repair by many vehicle manufacturers. We are one of two certified by Mercedes-Benz, and the only facility certified by Volkswagen. We are also certified by US and Asian Vehicle Manufacturers.

I am here to testify on behalf of the Automotive Body and Painting Association of Hawaii and the drivers and passengers of Hawaii, especially those that have had the misfortune of being involved in an auto accident.

HD1 creates a task force to address the concerns of consumers with regard to the use of original equipment manufacturer parts or aftermarket parts in the repair of their vehicles. A task force is not necessary as all of the relevant information is already available. In addition the task force is made up of two members from the insurance industry and one from the aftermarket parts industry, who have special interests in seeing that the status quo is maintained and only two members from the vehicle repair industry to represent the consumer's interest. This in effect kills the original bill.

On behalf of the consumers of Hawaii, I implore you to restore HB1620 to its original wording.

Hawaii is the only state in the country that REQUIRES CLAIMANTS TO PAY THE INCREASED COST OF ORIGINAL EQUIPMENT MANUFACTURED" CRASH PARTS IN BODY REPAIR.



HRS § 431:10C-313.6 currently requires insureds and claimants to pay the difference between the cost of cheaper aftermarket crash parts and the original equipment manufacturer's crash parts.

This section of the HRS applies only to CRASH PARTS and DOES NOT APPLY to aftermarket mechanical parts like radiators, air conditioning condensers, brakes or consumables like wiper blades, coolants, tires, wheels and fluids. IT ONLY APPLIES TO BODY REPAIR CRASH PARTS.

Crash parts are defined in HRS437B-1 Definitions. "Crash parts" means motor vehicle replacement parts, either sheet metal or plastic, which constitute the visible exterior of the vehicle, including inner and outer panels, and which are repaired or replaced as the result of a collision.

#### 1997 – CRASH PARTS ARE COSMETIC

In 1997 when HRS § 431:10C-313.6 was passed into law, body repair crash parts were cosmetic in design, so it seemed reasonable to use cheaper aftermarket parts that fit and looked like the original equipment manufactured crash parts. Crash parts were merely cosmetic parts.

#### TODAY – CRASH PARTS ARE A PART OF A COMPLEX SAFETY SYSTEM.

Crash parts today are engineered and crash tested as a part of a complex safety system. The cars of today are much safer and protects the occupants from injury by managing the collision forces to move over and under the passenger compartment in an engineered and tested safety system. Occupant safety systems like seatbelts and airbags are engineered to respond to critical timing to hundredths of a second. Too fast or too slow and someone gets hurt or dies.

Personally, I would prefer that this entire section of the HRS be repealed so that the State does not play a role in the responsibility for the injury or death that will occur when untested aftermarket crash parts installed in a safety system fails to perform as effectively as the original tested safety system.

Special interest testimony has or will bring up several points to confuse the relative issues of HB1620 and I would like to address them at this time.

Increase in premiums.

- Property Casualty Insurers Association of America reported if all AM parts (this includes radiators and condensers) were banned: consumers with liability and physical damage coverages may have paid an additional 2.6 percent (or \$24) more per insured car each year because non-OEM aftermarket parts were banned. That's \$2.00 per month per vehicle.
- Insurers Information Institute reported in Trends, Challenges and Opportunities in Personal Lines Insurance in 2016 & Beyond that Hawaii was the most profitable state in the country for Personal Auto at 18.7%, three times more profitable than the national average.
- Local insurance companies like First Insurance, Island Insurance, Dtric and some national insurers like Progressive and All State, do not make Hawaii insureds or claimants pay the difference and yet they compete against the few large national insurers and their associations who are here to testify against SB2243.

Increase in total losses, therefore increasing premiums.

- Aftermarket Crash Parts makes up a small percentage of the overall cost to repair collision damaged vehicles.

- The Property and Casualty Insurers Association of America's, Special Report, Aftermarket Parts: A \$2.34 Billion Benefit for Consumers reported that excluding labor, total crash part costs are about \$42.25 billion (\$3.90 billion—non-OEM and \$38.35 billion—OEM). Aftermarket parts is therefore 9.23% of the total parts cost.
- Total Parts Costs are around 42.6% of the total repair cost, so aftermarket crash parts is only 3.93% of the total cost. This is a small number and plays a very small factor in declaring a car a total loss.
- Local insurers and many national insurance companies already pays for OEM Crash Parts and they continue to operate profitably.

HB1620 will lead to an OEM monopoly and increased OEM part prices.

- OEM part prices, MSRP, Manufacturer's Suggested Retail Price is national and international in scope, and not priced State to State.
- Hawaii is only one of 50 states and it is ludicrous to think that SB2243 will have any effect on the MSRP. We are a small part of the total market.

Anti-Aftermarket parts.

- Auto Body shops use and will continue to use and offer aftermarket mechanical and consumables that can be scientifically proven to be of like kind and quality.

Aftermarket crash parts are of like kind and quality.

- Some may be of like kind and quality in fit and finish, or how it looks, BUT NOT AS A COMPONENT OF A SAFETY SYSTEM.
- In reality many CAPA Certified parts are not even of like kind and quality in fit and finish. 27% of aftermarket crash parts are returned for poor fit or finish. Even Geico appraisers have confirmed this after inspecting vehicles trial fitted with aftermarket CAPA Certified parts.
- Aftermarket crash parts have never been engineered or tested, by the aftermarket part manufacturers or CAPA, in the vehicle manufacturer's safety system.
- If some CAPA certified crash parts do not even qualify in fit and finish, how do you think they will perform in an actual crash. Hope you are lucky and get a good one? Live or die?
- Low speed crash tests of installed aftermarket crash parts by Volkswagen have proven that aftermarket parts installed in their safety system adversely affected the crash system. It caused the airbags to deploy when they weren't supposed to and greatly increased the damage to the vehicle and the costs to repair them.

The relative issues:

Aftermarket parts have NOT been engineered or crash tested in the safety system. Using non-OEM crash parts changes the safety system and puts the occupants at risk of injury or death. Vehicles today MUST be repaired to the OEM's RECOMMENDED REPAIR PROCEDURES, and a part of that is the use of only OEM crash parts. The reason is SAFETY, SAFETY, SAFETY. Use of non-OEM crash parts is forbidden in most OEM Lease Agreements, and use of non-OEM crash parts will put the insured in a position of voiding his lease agreement. The reason is SAFETY, SAFETY, SAFETY.

Who pays for safety, the insured or the insurer?

If Insurers believe that aftermarket crash parts are of like kind and quality as it relates to the exact performance of the original manufactured safety system, then they should not have a problem in guaranteeing that performance and agreeing to the following amendments.

**[§431:10C-313.6] Original equipment manufacturers and like kind and quality parts.** (a) An insurer shall make available a choice to the insured of authorizing a repair provider to utilize a like kind and quality part of an equal or better quality and equivalent performance in the vehicle safety system than the original equipment manufacturer part if such part is available or an original equipment manufacturer part for motor vehicle body repair work. If the insured or claimant chooses the use of an original equipment manufacturer part, the insured ~~or claimant~~ shall pay the additional cost of the original equipment manufacturer part that is in excess of the equivalent like kind and quality part, unless original equipment parts are required by the vehicle manufacturer's warranty.

(b) A like kind and quality part under subsection (a), of an equal or better quality and equivalent performance in the vehicle safety system than the original equipment manufacturer part, shall carry a guarantee in writing for the quality of the like kind and quality part and equivalent performance in the vehicle safety system, for not less than ninety days or for the same guarantee period as the original equipment manufacturer part, whichever is longer. The guarantee shall be provided by the insurer.

(c) Like kind and quality parts, and equivalent performance in the vehicle safety system certified or approved by governmental or industry organizations, shall be utilized if available. [L 1997, c 251, pt of §2]

Thank you for allowing me to testify.

Van Takemoto  
President, Island Fender  
807 Ilaniwai Street,  
Honolulu, Hi 96813  
[van@islandfender.com](mailto:van@islandfender.com)

and on behalf of the:  
The Automotive Body and Painting Association of Hawaii.



February 20, 2018

The Honorable Roy M. Takumi  
House Committee on Consumer Protection and Commerce  
415 South Beretania Street  
Honolulu, HI 96813

## House Bill 1620 Memo of Concern

Dear Committee Chair Takumi:

As a Government Affairs Representative for LKQ Corporation, we have concerns with **HB 1620**, governing the use of aftermarket parts in Hawaii which is scheduled for consideration in the House Committee on Consumer Protection and Commerce on Wednesday, February 21<sup>st</sup> at 2:00pm. **The bill creates a vehicle repair practices Task Force to address the concerns of consumers with regard to the use of aftermarket parts.**

We applaud the efforts of Representative Takumi to work with all parties to address consumer and industry concerns. We at LKQ feel that consumers should have the right to know the type of parts that are being used to repair their vehicle but, in a fair and balanced manner.

HB 1620 continues to provide false and inaccurate information regarding lawsuits across the nation where supposedly aftermarket parts installed in repaired vehicles have failed in subsequent collisions. Such statements are highly misleading and may persuade committee members and consumers alike to believe that aftermarket parts are inferior to their more expensive OEM counterparts.

Aftermarket parts benefit consumers by providing a more affordable alternative to OEM parts for vehicle repairs. Importantly, they create competition which, in turn, drives down the cost of OEM parts. In all respects, greater competition, lower costs, and lower insurance premiums are all direct benefits from the free use of like-kind and quality aftermarket parts in automobile repairs.

LKQ Corporation is a leading provider of alternative and specialty parts to repair and accessorize automobiles and other vehicles. LKQ has operations in North America, the United Kingdom, the Netherlands, Belgium, Luxembourg, Italy, Czech Republic, Switzerland, Hungary, Romania, Ukraine, Bulgaria, Slovakia, Poland and Spain. LKQ offers its customers a broad range of replacement systems, components, equipment and parts to repair and accessorize automobiles, trucks, and recreational and performance vehicles. Globally, LKQ has just under 40,000 employees and operates over 630 facilities, offering its customers a broad range of replacement systems, components, equipment and parts to repair, maintain and accessorize automobiles, trucks, and recreational and performance vehicles. LKQ employs over 30,000 people nationwide and operates more than 460 facilities in more than 44 states.

We appreciate the opportunity to submit our written comments and to respectfully express our concerns to House Bill 1620. **We ask you to reconsider your position on alternative auto parts and ask that you maintain open competition in the automotive industry.**

Please do not hesitate to contact me if you have any questions. I can be reached at (312) 621-2755.

Respectfully,

A handwritten signature in black ink, appearing to read "Ray Colas". The signature is fluid and cursive, with the first name "Ray" written in a larger, more prominent script than the last name "Colas".

Ray Colas  
Government Affairs Representative  
LKQ Corporation

Testimony from Dale Matsumoto, President of Auto Body Hawaii, Kailua-Kona  
In comments of HB1620 HD1; Relating to Motor Vehicle Repairs  
House Committee on Consumer Protection & Commerce  
Wednesday, February 21, 2018, 2:00 p.m. room 329

Aloha Chair Takumi, Vice Chair Ichiyama and Members of the Committee,

My name is Dale Matsumoto and I am a co-owner and the President of Auto Body Hawaii, located in Kailua-Kona on Big Island of Hawaii. Our company has been in business for over 42 years and I personally have been repairing vehicles for over 39 years. We are well known for our high quality and highly technical automotive collision repairs. We are known throughout our industry, in this State, the Nation and different parts of the world. Other collision repairers in the State will contact me when they are in need of technical advice. We have repaired vehicles from every major island here in the State of Hawaii. We are the only authorized Aluminum Collision Repairer for Jaguar in the State of Hawaii and the only certified repairer for Honda and Acura on the Big Island. Our technicians, including myself, are I-CAR trained, ASE certified and also have our Hawaii State mechanic's licenses.

As does the vehicle manufacturers, high quality and safety has and always be our focal point when repairing vehicles, therefore on behalf of myself and our entire staff of Auto Body Hawaii, I am sincerely offering our comments on HB1620 HD1 and respectfully seeking your support to amend HB1620 HD1 back to the original version of HB 1620, as we do not recommend assembling a task force as the information HB160 HD1 is seeking is currently available now. Even at that, the Vehicle Repair Practices Task Force currently proposed is not made up of fair parties; it includes a party from the Aftermarket Parts Industry but it does not enlist parties from the Vehicle Manufacturer, nor does it list Hawaii's consumers.

We are thankful to see that HB1620 HD1 acknowledges that the legislature finds that motor vehicle owner have the right to expect that their vehicles are repaired properly which also includes installation of OEM parts, and that safety is emphasized. We are also pleased that the legislature finds that some insurance companies only will pay for non-OEM parts and that you have identified that these parts can be unsafe and inferior to OEM parts, and that insurers may refuse to reimburse consumers for the difference between the cost of a non-OEM part and the cost of an OEM part in order to restore the vehicle to its pre-collision condition.

In regards to HB1620 HD1; SECTION 2(4), no legislature measure should have to regulate proper repairs. The vehicle manufacturers have already researched and developed proper repair procedures. These repair procedures have been tested in order to assure that the vehicle will function in the manor that it was originally engineered to do. With the technological advancements in the way today's vehicles are designed and built, the **ONLY** proper way to repair today's vehicles are to follow the vehicle manufacturer's specific repair procedures, which **ALSO INCLUDES** the use of their Original Equipment Manufacturer (OEM) parts, as stated in their Position Statements. No vehicle manufacturer has ever recommends the use of non-OEM parts. Especially in today's world, Advanced Driver Assistance System (ADAS) in vehicles are very complex and many of them are integrated within each other. Safety systems like Supplementary Restraint Systems( Air Bags), Adaptive Cruise Controls, Automatic Braking Systems, Collision Avoidance Systems, Blind Spot Detection Systems and many more utilizes electronic control modules, sensors, lasers and infra-red thermal cameras. These systems and components are integrated within each other and its proper operation can be compromised by the use of non-OEM parts. The use of non-OEM parts does not allow for a high quality and

safe repairs, as engineered and tested by the vehicle manufacturer, especially in today's advanced vehicles. These systems and their components are very technical, to the point where the average repair facility (mechanical and collision), including dealerships, do not thoroughly understand them, and they will be more technical advanced in the days to come. What I'm basically stating is that "they" engineered and built the car, "we" didn't... they researched, tested and developed the repair procedures, we didn't. As mentioned previously, repairing vehicles requires following the vehicle manufacturer's repair procedures, which also includes OEM parts. And this is to ensure that the vehicle and its safety systems operate in the exact manor that it was designed for.

In regards to the second sentence of the second paragraph in SECTION 1 and SECTION 2(3) of HB1620 HD1, the below link from Volkswagen shows results of a crash test, that when using non-OEM parts, the non-OEM bumper reinforcement sustained more damages and did not absorb the impact as originally engineered by the vehicle manufacturer with their OEM parts. The video also illustrates that the air bags prematurely deployed and the calculation to repair resulted in three times more in cost when utilizing non-OEM parts. Hence by using non-OEM parts, the vehicle's safety system(s) are compromised and will not protect the vehicle's occupants as it were originally designed to. And the cost to repair the vehicle in a second accident will cost significantly more.

<https://www.youtube.com/watch?v=I5qBxfCyhT4>

In regards to SECTION 2(2) of HB1620 HB1, there was a crash test done recently comparing the use of aftermarket parts to OEM parts. In the blow video link, it's summary states that when you don't follow OEM... serious and catastrophic injuries follow.

<https://www.vehiclesafetyfirm.com/blog/safety-defect/car-repair/aftermarket-parts-cause-brain-damage-severe-injuries-crash-tests/>

The attached estimate document (HARTFORD EOR) from the Hartford Underwriters Insurance Company clearly states the ambiguity of non-OEM part.

***"CRASH PARTS NOT MANUFACTURED OR SUPPLIED BY THE ORIGINAL VEHICLE EQUIPMENT MANUFACTURER MAY OR MAY NOT BE OF THE SAME QUALITY AS THE ORIGINAL VEHICLE EQUIPMENT PARTS."***

Do not be deceived in thinking that LKQ, aftermarket, non-OEM, or imitation parts are the same as OEM parts, and don't be mislead by others in what we are referring to as OEM parts, we are addressing "crash" parts, not mechanical parts, not consumable parts (e.g. tires, windshield wipers, etc.) nor hi-performance parts. In my 39 years of repairing vehicles, I have seen, dealt with and even personally have tried to utilize these non-OEM crash parts. In general they may look the same to you but they do not to us, they do not fit as well as the OEM parts, they require additional time to install; meaning that they have to be bent, drilled, slotted or modified in some manor in order for the part to be attached to the vehicle. And even at that, the finish of the part is not true, as waviness can be seen through out the panel. Not all aftermarket parts are of the same quality and even those that have been certified by entities like CAPA (Certified Automotive Parts Association) and NSF (Automotive Parts Certification) have a high rate of failure. The manager of an aftermarket parts supplier (Prizm Auto) contacted me to let me know that they do not want to sell me any more of their parts because our "return" ratio is over 85%. I told him that its not my fault that those parts did not fit as well as they should and that those parts have also been inspected and confirmed by an insurance (GEICO) representative of the non-fitment issue (see attached GEICO SOR2, page 2, line NOTE: A/M POOR FIT). We've also had tail lamps that did fit but would water leak. The only thing consistent about these non-OEM parts are their inconsistencies; some parts fit and others don't... and the majority of that do fit will have some sort of issue.

Just because these parts are called LKQ, it does not mean they are exactly the same, they are only sort of the same.

Furthermore, most, if not all of the Hawaii based insurance companies do not mandate the use of LKQ or aftermarket parts, they understand the quality and safety aspects of following recommendations set forth by the vehicle manufacturers. On the Big Island only one insurer (GEICO) mandates the use of non-OEM parts and their own representatives state that it's not their fault... it the law. Also, the current HRS 431:C-313.6 unjustly transfers the cost of proper and safe collision repairs to Hawaii's consumers, whether you are the insured or claimant. So this means if I hit you and damaged your vehicle, aftermarket parts will be used on your vehicle and if you wanted to only use factory parts, you would have to pay the difference.

Also in regards to part of SECTION 1(1) and SECTION 2(3) of HB1620 HD1, see the attached PCI Special Report from the **Property Casualty Insurers Association of America**, it states:

- If non-OEM competitive parts are no longer used, this may result in an additional \$2.34 billion in insurance cost per year that could be passed on to drivers in the form of higher premiums.
- The insurance premium reflecting vehicle damage coverages may increase by about 4.2 percent more per car. This translates into a 2.6 percent increase in combined liability and physical damage premium per insured car if non-OEM parts could no longer be used. On an average, the means about **\$24** added to the overall premium per insured car per each year.

What we see here in our business is that the average policy holder has a policy duration of only 6 months, this calculates to an increase of only \$12.00 per 6 months or simplified to **just \$2.00 per month**, which is well worth the money when you're talking about safety.

In February of 2010, SB2022 which addressed the use of Salvaged (Used) Airbags was successfully and rightfully defeated, due to consumer safety reasons. The current HRS 431:C-313.6 is based on insurance premium cost savings but it does not take into consideration the safety aspect for Hawaii's consumers. The original HB1620 also addresses consumer safety... and safety should **NEVER** be a concession.

I deep heartedly and sincerely encourage you to consider my comments and amend HB1620 HD1 back to the original proposed HB1620 for the safety and well being of Hawaii's people.

Mahalo,  
Dale Matsumoto, President  
Auto Body Hawaii  
73-5601 Maiiau Street  
Kailua-Kona, Hawaii 96740  
[dale@autobodyhawaii.com](mailto:dale@autobodyhawaii.com)

**I-CAR**, the Inter-Industry Conference on Auto Collision Repair, is an international not-for-profit organization dedicated to providing the information, knowledge and skills required to perform complete, safe and quality repairs. Formed in 1979 out of a collaboration across the six segments of the collision repair Inter-Industry, I-CAR serves and is represented by all segments of the Inter-Industry: Collision repair, Insurance, Original equipment manufacturers (OEMs), Education, training and research, Tools, equipment and supply, and related industry services

**ASE**, the National Institute for Automotive Service Excellence, since 1972 is an independent non-profit organization that works to improve the quality of vehicle repair and service by testing and certifying automotive professionals. ASE test



and certifies automotive professionals so that shop owners and service customers can better gauge a technicians level of expertise before contracting the technician's services and can offer tangible proof of their technical knowledge.

**HB-1620-HD-1**

Submitted on: 2/19/2018 10:23:28 PM

Testimony for CPC on 2/21/2018 2:00:00 PM

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| Jennifer Ellis      | Individual          | Support                   | No                        |

Comments:

I support of HB1620

I had repairs done to my vehcihle from being rear ended in an accident. I had to fight for OEM parts and pay out of pocket to have OEM parts put on a vehicle that was only a few months old. I filed a complaint with the Insruance Commissioner office and they did nothing to assist me.

Testimony **Opposing** HB1620 HD1 – Relating to Motor Vehicle Repairs - Aftermarket Vs OEM Parts

House Committee on Consumer Protection & Commerce  
Wednesday, February 21, 2:00 pm – Room 329

Submitted by Former GEICO Policyholder of 55 years,  
Ed Wagner, Mililani, HI

Aloha Chair Takumi and members of the CPC Committee, Some of you have received dozens of messages the past 5 months regarding auto insurance company abuses, particularly by GEICO.

These abuses are a systemic, epidemic, national, stage 4 cancer-like problem occurring in all 50 states and must be excised from society for the betterment of our future.

Those messages are incorporated with this testimony by reference, including prior testimony on this bill before the IAC committee, and especially the Feb 18 message entitled:

**“Umpire Rules Against GEICO in Honolulu Vehicle Repair Cost Dispute”**

Breaking news:

**Ill. bill requires OEM repair procedures, consent for aftermarket parts Feb 19, 2018**

<http://www.repairerdrivenews.com/2018/02/19/ill-bill-requires-oem-repair-procedures-consent-for-aftermarket-parts/>

**“WARNING, THE USE OF THIS PART IN YOUR VEHICLE’S REPAIR COULD INTERFERE WITH THE DESIGN COMPONENTS AND SAFETY FEATURES OF YOUR VEHICLE RESULTING IN SEVERE INJURY OR DEATH”**

Doing another study as proposed in HB1620 HD1 is a typical legislative delay tactic to deny justice to the people, and defend the rich and powerful’s need to maintain and enhance profits at the expense of our people.

**Putting known unscrupulous, greedy auto insurance companies on a task force is like letting the fox guard the hen house.**

Putting them and a representative of the aftermarket industry, both focused on profits, and not on auto safety and human life, together with 2 members of the auto repair industry focused on auto safety and human life, is like putting David and Goliath in a room together for a year and waiting to see who walks out the door with a smile.

DCCA will do what is best for the auto insurance industry, not what is best for public safety.

**State Farm's "Preferred" Auto Body Shop Performs Unsafe Repairs - Aug 22,2014**

<https://www.youtube.com/watch?v=SieKpdSZGkE>

**Supreme Court Overrules State Farm Bid Over Alleged Conspiracy Feb 13, 2018**

<https://www.fenderbender.com/articles/10112-state-farm-loses-bid-to-throw-out-case-alleging-conspiracy-over-ill-supreme-court-rulings?>

“Consumers in a lawsuit linked to State Farm’s use of aftermarket parts received a win last week as an U.S. District judge denied the insurer’s motion for summary judgment.”

**"The lawsuit seeks new damages of \$7.6 billion for the entire class."**

The most recent national class action lawsuit against GEICO is for doing the same thing the company tried to do to me, not including and paying for manufacturer required pre and post scans during the repair of my car.

### **Class-Action Lawsuit Hits GEICO Over Unsafe Repairs Dec 20, 2017**

<http://autobodynews.com/index.php/industry-news/item/14471-class-action-lawsuit-hits-geico-over-unsafe-repairs.html?>

### **Action News Investigates: Repair shops say insurers refusing to cover 'critical' scans Feb 1 2018**

<http://www.wtae.com/article/action-news-investigates-repair-shops-say-insurers-refusing-to-cover-critical-scans/15986651>

GEICO has been fined a countless number of times over the years for its abuses, the most recent being a \$200,000 fine by the CA Insurance Department for using an outdated labor rate survey, the same tactic it uses in Hawaii.

### **Basecoat reduction, timeliness, estimates: Other changes required under 2016 GEICO-CDI labor rate settlement - Dec 21, 2017**

<http://www.repairerdrivennews.com/2017/12/21/basecoat-reduction-timeliness-estimates-other-changes-required-under-2016-geico-cdi-labor-rate-settlement/>

Are these the 2 companies you want on a task force simply because they submitted testimony to the IAC Committee?

**Both will do whatever is necessary to protect their obscene profits and continue to screw the public.**

Every tactic in the book is on the table, including those used on policyholders after an accident as described in my Feb 18 message, and even BRIBERY.

You call them donations to election campaigns while I call them bribes because something is ALWAYS expected in return; namely, undying loyalty to their insatiable lust for and worship of their false god, King Moolah.

Money is given DELIBERATELY, CONSCIOUSLY, and with PREMEDITATION with an expectation of getting favored treatment in legislation over the best interests of the public and of society's future. That's BRIBERY!

Instead of creating a task force with unscrupulous companies with gobs of fines and lawsuits filed against them, **you should have Hawaii's very own reputable insurance companies, First Insurance and Island Insurance on a task force.**

Unlike GEICO & State Farm and other national companies in Hawaii, First Insurance and Island Insurance attend local seminars on auto body repairs and associated costs to fully understand the complexities and costs of today's body repairs.

pay the full fair and reasonable market rate costs of repairs without a fuss, and do not quibble over the use of more expensive OEM parts, even for an older vehicle because, unlike the national companies, auto safety and human life are a priority to them.

Before wasting an entire year on another study to protect the interests of the rich and powerful who control our government and risking the loss of a human life in Hawaii, however, you should first have a conference call with the following 2 experts:

1) Dallas attorney, Todd Tracy, who won the \$42M verdict against a body shop and crash tested vehicles with CAPA and NSF certified aftermarket parts and showed that they are unsafe. See previous, recent emails for details.

The Tracy Law Firm  
4701 Bengal St, Dallas, TX 75235  
Phone: 214-494-8575  
<https://www.vehiclesafetyfirm.com/>

2) Collision Damage Analyst, Larry Montanez, **my Independent Appraiser for the case I just won against GEICO on Feb 15.** You can obtain more details about my complaint from previous emails the past 5 months and from the Insurance Commission. Mr. Montanez was here last September giving a training class to body shops.

**Seminars Give Hawaii Body Shops Opportunity to Learn Advanced Techniques and Procedures**

<http://www.autobodynews.com/index.php/western/item/13876-seminars-give-hawaii-body-shops-opportunity-to-learn-advanced-techniques-and-procedures.html>

Larry Montanez  
Collision Damage Analyst  
CDR Certified Operators Technician/CDR Certified Data Analyst  
P&L Consultants LLC  
Estimating, Investigations & Consulting  
Office [718.891-4018](tel:718.891-4018)  
Fax [718.646-2733](tel:718.646-2733)  
Email: [larry.montanez3@gmail.com](mailto:larry.montanez3@gmail.com)  
Website: [www.pnlestimology.com](http://www.pnlestimology.com)  
Email: [info@pnlestimology.com](mailto:info@pnlestimology.com)

Furthermore, you should avail yourselves of a unique opportunity to meet with nationally known attorney, Erica Eversman, who will be here on Saturday, Feb 24, giving a class to Body Shop's about their legal rights and responsibilities to customers.

**CIC: Attorney Erica Eversman Urges Body Shops to Document Everything, Share Best Practices**

<http://www.bodyshopbusiness.com/cic-attorney-erica-eversman-urges-body-shops/>

**Attorney: Collision repairers should treat OEM procedures as 'requirement' Aug 23, 2017**

<http://www.repairerdrivennews.com/2017/08/23/attorney-collision-repairers-should-treat-oem-procedures-as-requirement/>

<https://www.vehicleinfo.com/>

No task force on aftermarket vs OEM parts is complete, fair, impartial, and unbiased without three such experts.



Leaving them out will severely bias the meetings in favor of the crooked multi-billion dollar auto insurance industry and their obscene profits at the expense of the public, auto safety, and human life.

On the other hand, you have a moral obligation to make a decision now, not a year from now. The life you save or take this year may be your own or a family member, a friend, or neighbor.

Do what is best for public safety, not what is best for unscrupulous billion dollar companies with an insatiable appetite for obscene ill-gotten profits at the expense of auto safety and human life.

If you can't make a decision now to pass HB1620 unmodified with the voluminous amount of information provided the past 5 months along with calls to Todd Tracy, Larry Montanez, and a meeting with Erica Eversman while she is here, or include such individuals AND our 2 local, reputable insurance companies on the task force instead of untrustworthy companies like GEICO and State Farm, **then you are negligent and derelict in your constitutional duties and responsibilities to protect the public, a primary responsibility of government.**

Mahalo,

Ed Wagner  
Mililani

Testimony from Eileen Tan,  
In strong support of HB 1620 – Relating to Motor Vehicle Repairs  
House Committee on Intrastate Commerce

[

Aloha members of the committee:

My name is Eileen Tan and I am testifying in strong support of HB 1620. I am a consumer that recently had to go to court against my insurance company for my reimbursement on my repairs.

On, May 16, 2017, we were in a minor collision, hit and run, which damaged my front end, I put in a claim with my insurance company, Farmers Hawaii. Farmers sent an appraiser out to assess the damages and handed us a check and an estimate for the damages and left. My husband and I read the estimate and noticed it had all Aftermarket parts on the estimate. We reached out to Farmers and explained after researching online and how my car is equipped with a safety feature of the front Collision crash sensor which is located behind the bumper cover and how we didn't feel safe on the aftermarket bumper not being tested with the sensor to read through the plastic. Farmers said, well the law states if it's like kind and quality we can use it, if not, WE HAD TO PAY THE DIFFERENCE.

We purchased this car for my family, my daughter and grandchildren. We do I feel right putting my family in a car that has a bumper not fully tested? This defeats the purpose of purchasing this car. We ended up having our vehicle repaired with Original Factory parts, I paid the repair bill difference out of pocket and had to go to court to get Farmers to refund me for the full amount of the repairs.

The HRS code Section 431:10C-313.6 needs to be revised to protect consumers like us. We purchased a vehicle for safety and researched the crash rating on it before we made the purchase, it was a 5 star. Why after an accident and after we pay full premium, do we have to settle for untested parts or pay the difference for my family's safety? The law is being used in the wrong way, it's not to protect consumers, it is to benefit insurance companies and their profits. Farmers put profits over our family's safety and I had to go to court to get refunded for what was right in the first place. The problem lies, most people won't go to court for such a small amount. To take off of work, dedicate time and additional money just to get what should be rightfully ours in the first place. We did it because it is wrong for Farmers to deny our request for mfg. recommended part. It's upsetting to think, this happens all the time. However, for us, it was the principle of what is right and wrong.

I ask you to please pass bill HB1620 for us the consumers.

Thank you,  
Eileen Tan

Hawaii State Legislature  
House Committee on Consumer Protection and Commerce  
Hawaii State Capitol  
415 South Beretania Street  
Honolulu, HI 96813

February 20, 2018

*Filed via electronic testimony submission system*

***HB 1620, HD1, Motor Vehicle Repairs – NAMIC’s written testimony in support***

Dear Representative Takumi, Chair; Representative Ichiyama, Vice-Chair; and honorable committee members:

Thank you for providing the National Association of Mutual Insurance Companies (NAMIC) an opportunity to submit written testimony to your committee for the February 21, 2018, public hearing. Unfortunately, I will not be able to attend the public hearing, because of a previously scheduled professional obligation. NAMIC’s written comments need not be read into the record, so long as they are referenced as a formal submission and are provided to the committee for consideration.

The National Association of Mutual Insurance Companies (NAMIC) is the largest property/casualty insurance trade association in the country, with more than 1,400 member companies. NAMIC supports regional and local mutual insurance companies on main streets across America and many of the country’s largest national insurers. NAMIC members represent 40 percent of the total property/casualty insurance market, serve more than 170 million policyholders, and write nearly \$225 billion in annual premiums. NAMIC has 84 members who write property/casualty/workers’ compensation in the State of Hawaii, which represents 28% of the insurance marketplace.

NAMIC appreciates the importance of providing auto insurance consumers with the option of have Original Equipment Manufacturer (OEM) parts installed on their vehicle, if such a consideration is of personal importance to the policyholder. However, mandating the use of OEM parts if their use is “recommended” by the automobile manufacturer is concerned, because this could: a) Lead to consumer confusion in auto repairs; b) Effectuate a “de-facto” ban on the use of aftermarket parts in Hawaii; c) Hinder insurers in their ability to provide consumers with timely and cost-effective quality auto repairs; d) Create an unfair and inappropriate competitive advantage for OEM parts manufacturers to the detriment of all auto repair consumers; and e) Adversely impact the affordability of insurance for auto insurance consumers.

We commend the legislature for amending HB 1620 to establish a vehicle repair practices task force within the Department of Commerce and Consumer Affairs to address the concerns of consumers



with regard to the use of original equipment manufacturer parts or aftermarket parts in the repair of their vehicles. We are confident that once the task force evaluates all of the national studies and data on the safety, reliability, and pro-consumer cost-efficiency of aftermarket parts the legislature will conclude that it makes sense to continue to allow insurers the opportunity to provide consumers with auto insurance policies that utilize aftermarket parts in auto repairs.

For the aforementioned reasons, NAMIC respectfully requests a **YES VOTE on HB 1620, HD 1, because a comprehensive evaluation of OEM and aftermarket parts is in the best interest of consumers.**

Thank you for your time and consideration. Please feel free to contact me at 303.907.0587 or at [crataj@namic.org](mailto:crataj@namic.org), if you would like to discuss NAMIC's written testimony.

Respectfully,

Christian John Rataj, Esq.  
NAMIC Senior Regional Vice President  
State Government Affairs, Western Region

Testimony from Brandon Okahara, Vice-President Oka's Auto Body  
In regards to HB1620 HD1 – Relating to Motor Vehicle Repairs  
Committee on Consumer Protection and Commerce  
Wednesday February 21<sup>st</sup>, 2018. 2:00pm, Room 320

Aloha Chairman Takumi, Vice-Chair Ichiyama, and fellow members of the Committee on Consumer Protection and Commerce. My name is Brandon Okahara and I am the Vice-President and Co-owner of Oka's Auto Body in Waipahu. We are a second generation, family owned and operated, collision repair shop that has proudly served the Leeward community for 53 years. Our shop is an Icar Gold Class facility, we employ ASE certified and Icar Platinum technicians, and we have our Hawaii State mechanic's license.

I am here to respectfully ask that HB1620 HD1 be amended back and utilize the original wording as we had initially submitted. I feel that it is highly unnecessary to assemble a task force to research the information requested, as there have been countless crash tests, multiple articles published in Industry trade magazines, and numerous seminars and trainings that provide this information at the click of a button. All of which are readily available and public information for anybody to acquire. Furthermore, the majority of said task force has a majority interest in maintaining the current law as it stands being that it's comprised of Insurance Company as well as aftermarket parts representatives. Unfortunately, Hawaii consumers would not have fair representation and in the end, their safety could be put at risk if this task force has less than fair intentions.

Another point that we would like to make clear is that we are seeking the usage of OEM "crash" parts when recommended by the vehicle manufacturer. We are not saying or implying that aftermarket parts do not have a place in modern vehicle repairs. There are many aftermarket mechanical parts such as A/C components, brake pads, and tires (just to name a few) that are like kind and quality. The key point is that there needs to be definitive testing done to prove that these parts will work in unison with other vehicle systems and perform as the manufacturer intended. Unfortunately this cannot be said of aftermarket crash parts. To the best of my knowledge, I have never seen testing that has proven that an OEM safety system will react as designed and engineered if you substitute an OEM part with an aftermarket one. Any collision repair shop you talk to will tell you that even CAPA Certified (Capa is an independent body that certifies aftermarket parts) are NOT Like Kind and Quality. What is even more disturbing is that while CAPA will tell you that their parts are certified and are like kind and quality, at the same time, they also De-certify parts too. Just in January 2018 alone, CAPA **De-Certified** close to 70 parts (Bumpers, hoods, and radiator supports) from different vehicles. So what does that tell you? How is it that an aftermarket crash part can be like kind in quality one month, but not like kind and quality the next? And if that's the case, would you feel comfortable rolling the dice and hoping that the bumper, hood, and radiator support installed on your daughter's vehicle is one of the "Like Kind and Quality" ones? And in turn, could that potentially affect the crash worthiness of her vehicle?

Lastly, you may hear individuals stating that if this bill is passed, then it will raise insurance premiums across the board for all consumers. That is absolutely and completely untrue. Property Casualty Insurers Association of America reported that if all A/M parts were no longer used, consumers with combined liability and property damage coverages might see a 2.6% increase in premiums. **That translates to less than \$25 per year.** You need to really ask yourselves, is this reason enough to be concerned? Is this \$25/year reason enough to shift the responsibility to a claimant to pay the difference when they request an OEM part to be installed into the safety system of their vehicle? Or is the possibility that your airbag may not deploy because the safety system has been altered.....is that more concerning and worth the potential \$25/year? And if these insurance companies that push the usage of aftermarket crash parts are so concerned with the consumers premiums no longer being competitive, how is it that local insurance companies can compete with some of the big dogs, yet they do not push a/m?

I'm proud to open the shop every morning and carry on the legacy that my father and uncles started back in 1965. They built this business through hard work, perseverance, and doing what's right for the people we serve. We strive to repair each and every vehicle back to OEM standard, according to the vehicle manufactures recommendations, utilizing the parts that the manufacturer recommends. I am not an engineer and have no experience designing a safety system. Thankfully the people that the OEM's employ know exactly how these safety systems work. They designed them, tested them, and then tested them yet again. I have no desire to stray from repairing a vehicle to the tee how the manufacturer recommends. I only hope that the shop that repairs your vehicles do the same.

Thank you for allowing me to share my concerns about HB1620 HD1. I hope to see it restored back to its original wording.

Brandon Okahara  
Oka's Auto Body  
Waipahu, HI. 96797  
[brandon@okasautobody.com](mailto:brandon@okasautobody.com)  
#808-677-5474

**LATE**

ichiyama2 - Naomi

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From: Kim Santos <kimberz75@yahoo.com>  
Sent: Wednesday, February 21, 2018 2:40 PM  
To: CPCtestimony  
Subject: SUPPORT OF BILL HB1620

Good morning

My name is Kimberly Letua. I am in support of HB1620.

On December 19, 2016 I was involved in a rear end vehicle crash, where I was rear ended twice from the back. I was not at fault. Up until that time Geico had been my insurance carrier for well over 4-5+ years.

After the accident, I was notified when and where to take my vehicle for an estimate. I was sent by Geico to West Side Autobody to get an estimate from one of the adjusters who worked there at the satellite office. While the adjuster was checking in the vehicle I was telling him the things that I noticed upon driving the car that were different after the accident, as far as the front and rear end and also the automatic back hatch that seemed to be out of alignment. I was then told by the adjuster that he looks and records what he sees and if there is more to be done, then they will look at it then. I was a little challenged by this as I felt my concerns about my vehicle weren't being addressed. After a little while he was trying to explain to me about the after market parts because I was showing him the fenders on the front and rear where he just briefly looked over. I wanted him to be thorough in his claim and I wanted my vehicle to be fixed the way it was supposed to be fixed. When he told me about the after market parts being used I was upset. I told him no, I want the factory or manufacturer parts because I don't know how it will affect my warranty he said it's not up to me it's the way the law works. I was super upset. I immediately called the dealership and asked about the warranty to which I was told that if it's not the factory or manufacturer parts that my warranty would not cover any parts that were changed using after market parts. I called Geico as soon as I hung up the phone and shared my concerns which I was met w the same answer like they don't care, that's the way the law works.

I have not repaired my vehicle to this day. I also am no longer a customer of Geico insurance. I am totally upset that I wasn't told this until after the accident and while on the phone the manager, he told me it's my problem I didn't read the policy about using after market parts to repair the vehicle? As a consumer I think they should tell all their customers about the statue they use to their advantage to mislead consumers to think that they're covered and not to worry about their vehicle, if it ever needs repair when they hide behind the lie of using parts that I know most consumers are unaware of. As a consumer when you call to get a policy, all we know is what we pay and what coverage our vehicles get but never told, oh by the way, we use after market parts. If I knew that I would never use Geico. That's sad and very misleading to people who trust insurance companies they pay for years with good standing to get rear ended and find

out all those years as a loyal customer and they only care about what they pay out and not the safety of my three younger children, 10, 9 and 7 who are in my car daily and also my grandchildren 11, 9, 5 and 4 who ride w me atleast three or more times a week when I watch or shuttle them from school, to practice or to the park or beach.

Also let me reiterate, I have not repaired my vehicle yet because of my warranty on the safety parts of my 2015 Toyota Highlander as both front and rear bumper were damaged in the accident. I have rear facing camera in my bumper, etc. I need my vehicle to be repaired and the only reason I didn't repair it yet is because I don't have the funds to pay the deductible which is \$500 and the cost of the factory or manufacturer parts.

[Sent from Yahoo Mail for iPhone](#)



Testimony from Sabrina Dela Rama, Manager, Tony Collision

In strong support of HB1620 – Relating to Motor Vehicle Repairs

House Committee on Consumer Protection and Commerce

Wednesday, Feb. 21, 2PM, Room 329

Aloha Chair Takumi and Committee members,

My name is Sabrina Dela Rama and I am a manager of Tony Group Collision Center and the President of The Automotive Body and Paint Association of Hawaii. I have worked in the Auto Collision Industry for 29 years. I am in strong support of House Bill HB1620 and ask the ORIGINAL LANGUAGE BE BACK IN.

**The task force is a unnecessary** and is just a delay tactic to kill the bill based on misleading information provided by the Insurance Commissioner.

#### **Complaints to DCCA and Insurance Commissioner**

In 2016, I started to advocate for consumers and directed 7 (Woodson, Gabriel, Cardenas, Howard, Ellis, among others were filed back in 2016) clients to file complaints with the DCCA and Insurance Commissioner's office to try to resolve their issues about being forced to use AM parts and Not being aware of it up front as the law requires. Those complaints went nowhere. I was eventually contacted by the Insurance Commissioner's office and was threatened with violating the law just by informing these consumers to file their complaints with the IC. I was shocked and taped the 25-minute conversation. Since the IC office refused to address the complaints, I now assist consumers in filing lawsuits against the insurance companies to pay for their deficiencies.

The statute "allows" insurance companies to replace OEM parts with After Market Parts and that cost is passed on to the consumer. Complaints filed with the Insurance Commissioner's office were discounted because according to the Insurance Commissioner, the Insurance Companies were not doing anything illegal.

#### **Insurance Companies Profit Comes First**



graph from Ins Info  
Institute-Hi is the hi

The current law only protects the Insurance companies' profit (see attachment) because it requires the consumer, either insured or claimant (not at fault party), to pay out of pocket to ensure that their vehicle is repaired properly with Original Equipment (OE) CRASH parts in lieu of After Market Parts (AM). This law has been in effect for 2 decades and has made the insurance companies millions of dollars because they have fooled the unsuspecting consumer into believing that "After Markets parts are like kind in quality." If the consumer disagrees with the use of AM parts, then the insurance company refers

to the current law as their justification for denying payment for OE parts. They then require the collision shops to put AM parts on the car even though we know those parts put the consumer's safety at risk.

In October 2017, we, board members of the Automotive Association, went to visit Commissioner Ito to talk about the safety issue of these parts and discuss the bill. We informed him of a **\$42 million law suit in Texas** where John Eagle Collision did NOT follow the manufacturer's recommended procedures on repairing a Honda Fit. The car got into a secondary accident, did not hold up in the collision as it was engineered to by the manufacturer, and the occupant was burnt as a result. When we discussed this with Commissioner Ito, he dismissed it and said "that's on the mainland and until someone gets badly injured or dies here in Hawaii nothing will change." All he was concerned about was taking credit for lowering premiums since he's been in office.

### **Litigation Required Because IC Refuses to Follow Up on Complaints**

Our client Joslyn Lee sued Geico's insured because Geico refused to reimburse her the full amount for repairs. My client was the innocent claimant hit by the Geico insured and Geico put aftermarket parts on her car, she asked them for a crash report on the aftermarket parts and fought them on it and eventually had to sue Geico's insured and she won, Geico allowed their own insured to be sued over cost, he now has a judgement against him. We had another consumer Stephen Aleviado who also had to sue Geico directly for deficiencies. Eileen Tan who could not be here today but testified on the house bill had to take her carrier to court. Carolyn Won also took their carriers to court and I litigated on her behalf— just so they could get paid to properly repair their vehicles. And there are many more. These mainland insurance companies (not the local companies) force consumers to use the justice system for compensation since the State has refused to help. I still have multiple clients that filed complaints to DCCA for unfair settlement practice and unfair trade practice, yet nothing has been done on the Commissioner's side. Ed Wagner, Jay Miyamoto all had to hire Umpires to get paid for their proper repairs, all won. The suits are all against 2 major mainland carriers only. The companies will not use untested parts or cut the cost of repairs just to save a buck.

### **Threats from Insurance Companies to Small Repair Shops**

It's gotten so bad an insurance company went as far as to threatened collision shops if they support this bill. These are all small, family owned businesses. One owner has been on our Board since the 60s. He told us that he got a call from a high up manager who made it clear that if he supports this bill or the association that he will lose his business relationship/direct repair program referral with them. Two other board members and shop owners called me and made similar statements and addressed this in multiple board meetings. All three resigned from the Board once this bill started. The only thing all 3 shops have in common is that they are all major direct repair shops for Geico. I got a text from an insurance appraiser that 2 shops talked to him about being threaten by the same carrier and told the shops to testify against the bill, I have it here on my phone today. Why would a carrier go through lengths to force shops to oppose the bill? Will provide names-emails of shops upon request, will also provide phone to show original text from Insurance appraiser (must be kept confidential)

### **Insurance Preferred provider program shop;**

Being on a contract/referral program/DRP=direct repair program with certain insurance carrier's you are measured by your aftermarket parts usage and required to use xx% of aftermarket parts monthly or you will be reprimanded. They do a quarterly survey of your shop and will give you all your severities on cost, labor times, cycle times and aftermarket parts usage. They will dictate what you can do and can't do, what you set your rates at, your material cost at, etc...Yes, it's true! Once again, it's the major mainland players.

### **Insurance Premiums Remain Competitive with OE Parts**

While this large mainland carrier with billion-profits want you to believe that premiums will increase, there are three major Hawaii insurance companies that DO NOT use AM parts as well as several mainland ones that have competitive rates and their rates have not gone up as a result of using OE parts. The Hartford Insurance doesn't use AM parts and in their estimates, they say: "aftermarket parts is not the same quality as the original equipment parts." this is an insurance company saying this. Many companies realize the danger untested crash parts poses and they have decided they will not put profits over safety. If they have stopped using aftermarket parts and they are very competitive then you must realize the inaccurate statement that premiums will increase from one carrier may not be a true statement. I have data today showing if in fact let's just say it does increase if NO aftermarket parts are used, then the cost from the National Insurance Institute researched it to be \$24.00 a year, that's \$ 2.00 a month. However, this data was before all these avoidance systems were available, in just 3 years we have cars that will brake for you, stop you from cutting into the next lane, park itself and so on. So, NO I believe with the increase of these avoidance and safety systems, premium will decrease even with NO se of aftermarket parts. SEE attached Data showing if any increase will happen, it is only \$24 a year but we are NOT asking for mechanical part to be changed (HRS:437B.15) only CRASH BODY parts..



PCI Crash Parts  
Report-overall incre:

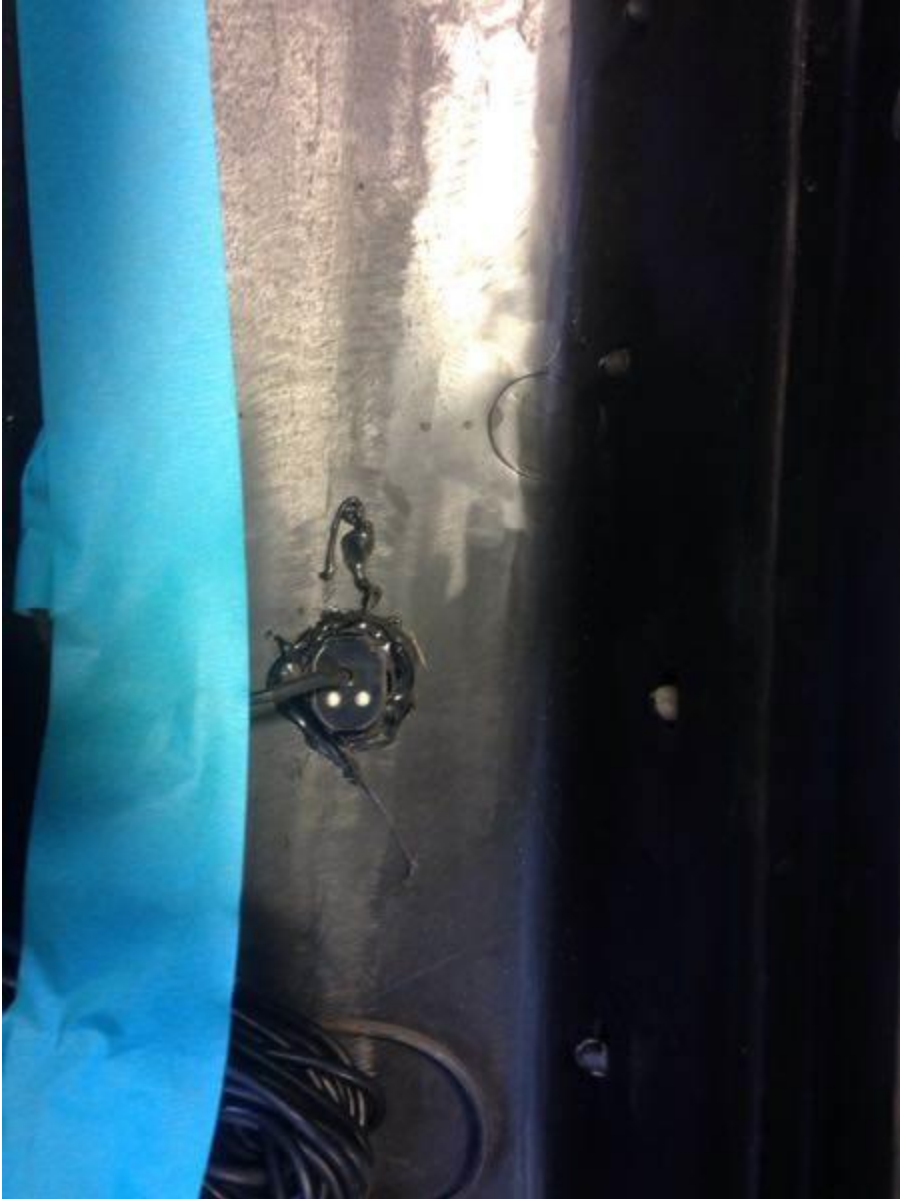
### **Example of OE vs. AM Parts**

I had a 2017 Odyssey Van that had front damage. The original fender is made of Aluminum. The aftermarket fender is made of steel. The whole front of the Odyssey's is now Aluminum because Honda is required to make these vehicles with better fuel mileage. But they must be safer as well. Since the A/M parts are all made of steel, this is not "like kind in quality." If you put these parts on that van, you have NOW re-engineered that vehicle. That is why it's always important to follow the recommended manufacturer procedures.

**Aftermarket part warranty??**











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We had a customer who came in for a minor bumper repair, upon inspection we noticed the sides of her bumper was bowed outwards, thinking the damage was so minor we were puzzled but with the vehicles today, you never know if the energy transferred. Upon removal, the tech had problems, he finally removed the rear bumper and found there were additional screws holding this bumper on the van (see photo1), these screws obviously didn't belong there, upon future inspection he noticed the reverse sensors were glued on to this bumper too (photo 2 &3) all because the original sensors didn't fit the hole in this bumper so the **prior** shop glued them in place. We looked at the cover and found this was all done by the **prior** shop because it was an aftermarket bumper (Photos 4 & 5-showing it was CAPA CERTIFIED) that did not fit properly on the van and to make it stay, the tech added screws where they didn't belong and glued on the reverse sensors which became not usable. We reached out to the customer she calls Geico who forced her to repair at their shop and as of today, that file has NOT been paid. Geico refused to pay the full amount of the redo using an Original equipment bumper because



they told Ms. Adela she had to take the van back to the shop that did the prior repairs or pay the difference out of her own pocket when she refused, they placed a stop pay on the check (see customers email attached). Then Geico called the Prior shop and made the shop call me. Is that what Geico calls “warranty” that is not warranty on the aftermarket part failure, that is plain redirecting and getting out of paying. We have many more but because this file is recent and still pending I thought you would like to know what goes on daily. It’s about the **3 D’s, delay, deny and defend**. **WARNING, THE USE OF THIS PART IN YOUR VEHICLE’S REPAIR COULD INTERFERE WITH THE DESIGN COMPONENTS AND SAFETY FEATURES OF YOUR VEHICLE RESULTING IN SEVERE INJURY OR DEATH**-this was in Repairer driven news on Aftermarket parts;



Adela Andres -  
Van-showing a stop

**Other states.**

Many states are also passing new laws and introducing bills similar to our bill like Illinois (<http://www.repairerdrivennews.com/2018/02/19/ill-bill-requires-oem-repair-procedures-consent-for-aftermarket-parts/>) and west Virginia. (<http://www.bodyshopbusiness.com/west-virginia-bill-require-new-not-recycled-oem-crash-parts-newer-vehicles/?eid=323157885&bid=2007291>) , let’s not be second or last, let’s take charge and be the first. we want fairness for all but we should always put the consumer’s safety FIRST!

**Opposition to this bill is all about profit over safety.** This bill puts the consumer first. Hawaii consumers should not have to pay additional out of pocket costs to ensure that their vehicle is repaired properly. Especially when they are not at fault. Please pass HB1620 with the **ORIGINAL LANGUAGE**.

Sincerely,  
Sabrina Dela Rama

President of the Automotive Body and Paint Association of Hawaii  
Manager of Tony Group Collision Center