

# HB 1620 HD2

Measure Title: RELATING TO MOTOR VEHICLE REPAIRS.

Report Title: Vehicle Repair Practices Task Force; Motor Vehicle Insurance; Repair; Original Equipment Manufacturer Parts; Aftermarket Parts

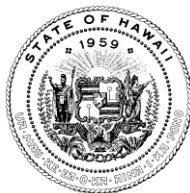
Description: Establishes the Vehicle Repair Practices Task Force to study and report on vehicle repairs made with original equipment manufacturer parts versus aftermarket parts and the effects of the use of such parts on automobile insurance coverage and costs. (HB1620 HD2)

Companion: [SB2243](#)

Package: None

Current Referral: CPH

Introducer(s): TAKUMI, ICHIYAMA



DAVID Y. IGE  
GOVERNOR

DOUGLAS S. CHIN  
LIEUTENANT GOVERNOR

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**TO THE SENATE COMMITTEE ON  
COMMERCE, CONSUMER PROTECTION, AND HEALTH**

**TWENTY-NINTH LEGISLATURE**  
**Regular Session of 2018**

Thursday, March 22, 2018  
9:15 a.m.

**TESTIMONY ON HOUSE BILL NO. 1620, H.D. 2, RELATING TO MOTOR VEHICLE  
REPAIRS.**

TO THE HONORABLE ROSALYN H. BAKER, CHAIR, AND MEMBERS OF THE  
COMMITTEE:

The Department of Commerce and Consumer Affairs (“Department”) appreciates the opportunity to testify on H.B. 1620, H.D. 2, Relating to Motor Vehicle Repairs. My name is Gordon Ito, and I am the Insurance Commissioner for the Department’s Insurance Division. The Department supports this bill, which is a companion to S.B. 2243.

The purpose of this bill is to create a Vehicle Repair Practices Task Force to examine multiple issues regarding the use of original equipment manufacturer (“OEM”) and aftermarket parts in the repair of motor vehicles. H.D. 2 amends this measure by: (1) requiring that the Task Force’s report include an impact study on insurance rates and coverage due to any legislation requiring insurers to include OEM parts within insurance coverage as proposed by the Task Force; and (2) adding an individual representing the OEM parts industry as a Task Force member.

The Department supports the review and examination of issues on motor vehicle repair, including its safety implications, costs, and impact on motor vehicle insurance rates.

The Department notes that the safety issue of using like kind and quality parts has been raised; however, the proper installation of any part, whether OEM or like kind and quality, is equally important. Furthermore, as motor vehicles become more technologically advanced, new safety features are added or are becoming standard in motor vehicles. The complexity, integration, and performance of these parts are affected by their installation. Proper installations are necessary to ensure the parts' activations of assigned functions and maximization of safety features will work as intended. In addition, without the proper installation of these complex and technologically advanced parts, the differences between OEM or aftermarket parts, if any, are minimized. Proper repair and installation are a major safety concern that should be considered.

Thank you for the opportunity to testify in support of this measure.

# OFFICE OF INFORMATION PRACTICES

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To: Senate Committee on Commerce, Consumer Protection, and Health

From: Cheryl Kakazu Park, Director

Date: March 22, 2018, 9:15 a.m.  
State Capitol, Conference Room 229

Re: Testimony on H.B. No. 1620, H.D. 2  
Relating to Motor Vehicle Repairs

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Thank you for the opportunity to submit testimony on this bill, which would establish a Vehicle Repair Practices Task Force. The Office of Information Practices (OIP) takes no position on the substance of the bill, but **questions why the proposed Task Force is exempted from the Sunshine Law, part I of chapter 92, HRS, and suggests an amendment to delete this exemption.**

The proposed Task Force is charged with addressing consumer concerns regarding the use of original manufacturer parts versus aftermarket parts in vehicle repairs, including looking at insurance practices, any existing studies on quality and safety, and a cost-benefit analysis, and reporting its findings and recommendations. It is not clear that the Task Force would be discussing sensitive or confidential information at all, and it certainly does not appear that consideration of such information would be a regular part of its meetings. Furthermore, the issue the Task Force is assigned to address is likely one that the public would be interested in hearing discussed, as well as in testifying on the various factors the group is considering.

**OIP therefore recommends that this Committee amend the bill by deleting the Sunshine Law exemption at bill page 3, lines 16-17.** If there is sensitive information that this Committee expects the Task Force to be considering, OIP would be happy to assist in crafting language to allow the Task Force to hold a closed meeting when considering that particular information.

Thank you for the opportunity to testify.

Testimony from Van Takemoto, President, Island Fender  
For the Automotive Body and Painting Association of Hawaii  
and vehicle occupants of Hawaii  
In opposition to HB1620 HD2 – Relating to Motor Vehicle Repairs  
Senate COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HEALTH  
Tuesday, February 20, 2018, 9:00AM Room 229

Chair Baker, Vice-Chair Tokuda and members of the Consumer Protection Committee, I am here to testify in opposition of HB1620 HD2 and would be in strong support of amending it with the wording in SB2243 SD1.

HB1620 HD2 establishes a task force to study original equipment manufacturer parts or aftermarket parts in the repair of vehicles. All of the pertinent facts are already known in our industry and a study is not necessary. This committee has already heard testimony from all interested parties and has in our opinion come up with a fair and reasonable alternative that protects the safety and fairness for Hawaii's consumers. We strongly request that HB1620 HD2 be amended with the wording in SB2243 SD1.

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:

- Collision repair
- Insurance
- Original equipment manufacturers (OEMs)
- Education, training and research
- Tools, equipment and supply
- Related industry services

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.

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 that SB2243 refers to, 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.

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 manufacturer's crash parts. Crash parts were merely cosmetic parts.

Fast forward twenty years and crash parts today are engineered and crash tested as a part of a complex safety system. The cars of today protect the occupants from injury by managing the collision forces to move over and under the passenger compartment. 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 SB2243 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.

SB2243 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.
- In reality many CAPA Certified parts are not of like kind and quality in fit and 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.

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]

Opposition to SB2243 is about self-interest and greed.

Support for SB2243 is about consumer protection, safety and looking after consumer's interests.

Thank you for allowing me to testify in support of SB2243 a consumer protection bill.

And this is not a drill.

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.

## **TESTIMONY OF MICHAEL ONOFRIETTI**

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COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HEALTH  
Senator Rosalyn H. Baker, Chair  
Senator Jill N. Tokuda, Vice Chair

Thursday, March 22, 2018  
9:15 a.m.

### **HB 1620, HD2**

Chair Baker, Vice Chair Tokuda, and members of the Committee on Commerce, Consumer Protection, and Health, my name is Michael Onofrietti, ACAS, MAAA, CPCU, Senior Vice President, Actuarial Services, Product Development & Management for Island Insurance and Chairman of the Auto Policy Committee for Hawaii Insurers Council. Hawaii Insurers Council is a non-profit trade association of property and casualty insurance companies licensed to do business in Hawaii. Member companies underwrite approximately forty percent of all property and casualty insurance premiums in the state.

Hawaii Insurers Council supports the concept of a Task Force to come up with practical solutions to an evolving industry as motor vehicles become more complicated in their construct and safety mechanisms.

Today, those who repair motor vehicles need to be licensed by the State of Hawaii, however, those who perform body work do not. Motor vehicles today are much more complex than they were even a decade ago and safety features are no longer limited to impact-absorbing bumpers, safety glass and airbags. Current vehicles have back-up cameras, automatic braking sensors, forward-facing cameras to detect lane changes and multiple other electronic devices located in parts of the car susceptible to crash damage.

Although there have been allegations that after-market parts are unsafe, there are actual cases where Original Equipment Manufactured (OEM) parts failed. There have been deaths and injuries from Takata airbags for instance. The Texas case which has been discussed at length during hearings on OEM-related bills has been misleading in implying

an after-market part failure. In reality, the repair technique chosen by a Texas body shop was the issue in that case, not the part.

We believe a comprehensive approach is warranted, keeping the consumer's safety as a top priority while keeping costs of physical damage repairs affordable. We ask that this committee consider adding the following into the purview of the task force:

1. Issues specific to Hawaii, particularly the impacts of our remote location;
2. Whether OEM parts are arbitrarily priced in the state and between islands;
3. Whether body shops are properly installing parts, either after-market or OEM;
4. Whether current licensing laws should be expanded to include the entire vehicle's repair; and
5. Whether mandating the use of OEM parts would result in more vehicles being totaled instead of being repaired, causing increased costs to insureds in replacing vehicles.

Thank you for the opportunity to testify.

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

March 20, 2018

*Filed via electronic testimony submission system*

***HB 1620, HD2, Motor Vehicle Repairs Study – NAMIC’s written testimony in support***

Thank you for providing the National Association of Mutual Insurance Companies (NAMIC) an opportunity to submit written testimony to your committee for the March 22, 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 supports HB 1620, HD2, because insurance consumers deserve to have a thoughtful evaluation, via a formal taskforce study, of the claims made by the supporters of SB 2243 to create a de-facto ban on the use of aftermarket parts in auto insurance repairs. With two competing public policy positions on the subject of use of aftermarket parts, it makes sense for the legislature to “look before it leaps” to a decision that could fundamentally alter the current auto repair marketplace and adversely impact auto insurance rates for consumers.

The supporters of a de-facto ban on the use of aftermarket parts in auto insurance repairs argue that these parts are not reliable and safe, and that the use of OEM parts will not meaningfully increase auto repair costs and insurance costs. However, their contentions are not clearly supported by the facts of the situation or common-experience. First, common-sense leads one to the conclusion that the use of more expensive OEM parts will increase auto repair costs. The mere fact that the creation of OEM parts is monopolistic as opposed to the creation of aftermarket parts that are highly competitive, raises serious concerns about the cost-driver implications of requiring the use of OEM parts. In a way, it is akin to the debate over a decade ago when prescription drug manufacturers argued that generic prescription drugs were inherently inferior to name-brand prescription drugs. Now generic drugs are a safe and reliable standard in the industry available to address the price needs of many consumers.

Further, this increased auto repair cost concern was analyzed by the Property Casualty Insurance Association (PCI), who evaluated the cost issue and concluded that OEM parts repairs cost approximately 60% more than aftermarket parts repairs. (*“Aftermarket Parts: A \$1.5 Billion Benefit for Consumers” 2013*).

Second, the claim that aftermarket parts are not reliable and safe is highly contested. In fact, aftermarket parts used by insurers are subject to CAPA (Certified Automotive Parts Association) independent testing and certification to make sure that the auto replacement parts comply with Federal Motor Vehicle Safety Requirements and Standards and are “functional equivalents” in fit, finish, quality and performance to OEM parts. Some would argue that aftermarket parts may even be superior to OEM parts, because of the extensive competition and innovation in the aftermarket parts



marketplace. According to [Edmunds](#), today's aftermarket parts can be as good, or even better, than their OEM counterparts, because aftermarket companies are trying to compete with one another and don't need to devote their time to creating a new design, they can re-engineer the OEM part to eliminate weaknesses or flaws.

NAMIC believes that the legislature should thoroughly evaluate this issue before imposing any unnecessary costs on auto insurance consumers, who already have the option to purchase insurance coverage that pays for the use of only OEM parts, if such a consideration is of personal importance to the policyholder. Eliminating consumer choice in auto insurance and auto repairs, and the consumer's ability to address their personal financial needs/limitations should not be undertaken before the legislature conducts an extensive review of the issue and the implications of changing the law.

We are confident that once a task force is established and an evaluation of all the pertinent national studies and data on the safety, reliability, and pro-consumer cost-efficiency of aftermarket parts has been completed, 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, HD2, 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



To: The Honorable Rosalyn H. Baker, Chair  
The Honorable Jill N. Tokuda, Vice Chair  
Senate Committee on Commerce, Consumer Protection and Health

From: Mark Sektnan, Vice President

Re: HB 1620 HD2 – Relating to Motor Vehicle Repairs  
**PCI Position: SUPPORT**

Date: Thursday, March 22, 2018  
9:15 a.m., Conference Room 229

Aloha Chair Baker, Vice Chair Tokuda and Members of the Committee:

The Property Casualty Insurers Association of America (PCI) supports HB 1620 HD2 which establishes the Vehicle Repair Practices Task Force to study and report on vehicle repairs made with original equipment manufacturer parts versus aftermarket parts and the effects of the use of such parts on automobile insurance coverage and costs. In Hawaii, PCI member companies write approximately 42.3 percent of all property casualty insurance written in Hawaii. PCI member companies write 44.7 percent of all personal automobile insurance, 65.3 percent of all commercial automobile insurance and 76.5 percent of the workers' compensation insurance in Hawaii.

PCI supports the concept of a Task Force to come up with practical solutions to an evolving industry as motor vehicles become more complicated in their construct and safety mechanisms. Testimony before legislative committees points out the need for a comprehensive study to fully understand the issues raised with an any legislation that might mandate the use of higher cost OEM parts without corresponding increase in quality. The task force should keep the consumer's safety as a top priority while keeping costs of physical damage repairs affordable.

We ask that this committee also consider adding the following into the purview of the task force:

1. Issues specific to Hawaii, particularly the impacts of the state's remote location;
2. Whether OEM parts are arbitrarily priced in the state and between islands;
3. Whether body shops are properly installing parts, either after-market or OEM; and
4. Whether mandating the use of OEM parts would result in more vehicles being totaled instead of being repaired, causing increased costs to insureds in replacing vehicles.

PCI asks the committee to support HB 1620 HD2.



- 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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**Senate Committee on Commerce, Consumer Protection and Health**  
Room 229 State Capitol  
Thursday March 22, 2018; 9:15 a.m.

**HB 1620, HD2 - RELATING TO Motor Vehicle Repairs.**

Chair Baker, Vice-Chair Tokuda and Members of the Committee:

My name is Timothy M. Dayton, General Manager of GEICO, Hawaii's largest auto insurer. **GEICO supports House Bill Number 1620.** There have been several hearings on this measure and sharply conflicting testimony on the safety issues and the impact on the cost of auto insurance in Hawaii. A study as proposed would allow for a structured and comprehensive approach to sort through fact vs. fiction regarding the safety issues and the certification of non OEM Parts. This would provide the Legislature with a factual basis on which to decide what is best. It would have the additional benefit of taking a hard look at the basis and justification for the OEM parts price markup over and above the MSRP, a markup which is unique to Hawaii.

GEICO appreciates the ability to present and your consideration of this testimony.

**GEICO respectfully urges the committee to pass House Bill 1620, HD2.**

Sincerely,

Timothy M. Dayton, CPCU



March 20, 2018

The Honorable Rosalyn Baker  
Senate Committee on Commerce, Consumer Protection, and Health  
415 South Beretania Street  
Honolulu, HI 96813

## LKQ Supports House Bill 1620

Dear Committee Chair Baker, Vice Chair Tokuda and Committee Members:

On behalf of LKQ Corporation, we would like to voice our **support for HB 1620**, which is scheduled for consideration before your Committee on Thursday, March 22<sup>nd</sup> at 9:15 am. HB 1620 creates a vehicle repair practices Task Force to address the concerns of consumers with regard to the use of original equipment manufacturer (OEM) parts or aftermarket parts in the repair of their vehicles.

We applaud the efforts of Representative Takumi to work with all parties to address consumer and industry concerns. LKQ firmly believes that consumers should have the right to know the type of parts that are being used to repair their vehicle. This information should be delivered to the consumers in a fair and balanced manner. **The Task Force established by HB 1620 will evaluate third-party studies and investigations to provide accurate information to consumers and the Legislature regarding the use of aftermarket parts.**

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 the leading provider of alternative and specialty parts to repair and accessorize automobiles and other vehicles. LKQ offers its customers a broad range of replacement systems, components, equipment and parts for automobiles, trucks, and recreational and performance vehicles. Globally, LKQ has an industry leading team of over 43,000 employees operating in 25 countries at more than 1,500 facilities.

We appreciate the opportunity to provide industry input and collaborate with the Hawaii Legislature and stakeholders to advance sound policy related to the automotive industry. We respectfully ask you to **please vote "YES" on House Bill 1620.**

Please do not hesitate to contact me if you have any questions, comments or input. I can be reached at ebenezersdg@outlook.com and 754-248-9796.

Respectfully,

Catalina Jelkh Pareja  
Government Affairs Representative  
LKQ Corporation



**SENATE COMMITTEE ON  
COMMERCE, CONSUMER PROTECTION AND HEALTH**

March 22, 2018

House Bill 1620, HD 2 Relating to Motor Vehicle Repairs

Chair Baker, Vice Chair Tokuda, members of the Senate Committee on Commerce, Consumer Protection and Health, I am Rick Tsujimura, representing State Farm Mutual Automobile Insurance Company (State Farm). State Farm offers these comments about HB 1620, HD 2 Relating to Motor Vehicle Repairs, and more specifically, Original Equipment Manufacturer (OEM) and Aftermarket Parts.

HB 1620, as originally drafted, would have prohibited insurers from charging the insured the difference in cost if an insured chose an OEM part instead of a like kind and quality aftermarket part during a covered repair. As amended, HB 1620, HD2, instead provides for a vehicle repair practices task force to look at the following:

- (1) Current practices and coverages in Hawaii and nationally of coverage options and costs relating to the use of OEM and aftermarket parts in repairing an insured vehicle.
- (2) Studies by nationally accredited institutions or government agencies regarding the fitness, quality, and safety comparing aftermarket and OEM parts.
- (3) A cost-benefit analysis of the consumer using OEM vs. aftermarket parts in repairing the consumer's vehicle.
- (4) Proposed legislation to provide affordable, safe, and reliable vehicle repair options to Hawaii's consumers; and
- (5) An impact study on insurance rates due related to any proposed legislation, including the potential for an increase in uninsured motorists and an increase in insurance rates.

State Farm believes the task force should look into further protections for consumers including certification of repair shop employees and manufacturer warranty. Repair shop employees should be certified to install replacement parts on a vehicle to ensure consumer safety regardless of whether OEM parts are used. Furthermore, certification of repair shop employees who use OEM parts should continue to be covered under original manufacturer warranties as well as warranties provided by repair shops.

We ask that two additional sections (6) and (7) be added in Section 2(a) which would read as follows:

“(6) Certification of motor vehicle repair employees to ensure the proper installation of replacement parts; and

(7) Inquiry into motor vehicle manufacturer warranties if original equipment manufacturer parts are used.”

State Farm welcomes this study because it believes it will show that consumers benefit from the lower cost of crash parts created by the competition between OEM and aftermarket parts. Without this competition, manufacturers will have a monopoly that will drive up the cost of auto repairs, and cause Hawaii consumers to pay more for insurance.

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 must 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.

In the early 1980’s non-OEM crash parts became available. These 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, modeled after Underwriters Laboratories, Inc., the global not-for-profit testing and certification organization formed by the insurance industry in 1894, provides independent and objective testing and quality certification for non-OEM crash parts. Parts meeting CAPA standards are certified as functionally equivalent to OEM parts with respect to quality, fit, performance, and corrosion protection. 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.**

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

State Farm believes the task force will find that properly certified non-OEM parts that meet CAPA standards provide a safe, cost effective alternative and protect consumers from monopolistic parts pricing by OEMs.

Thank you for the opportunity to present this testimony.

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<sup>1</sup> HRS § 431:10C-313.6(a)

<sup>2</sup> HRS § 431:10C-313.6(b).

THE SENATE  
THE TWENTY-NINTH LEGISLATURE  
REGULAR SESSION OF 2018

COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND  
HEALTH

Senator Rosalyn H. Baker, Chair  
Senator Jill N. Tokuda, Vice Chair  
HB1620 and SB2243

To the Honorable Senator Baker, Senator Tokuda and committee members,

My Name is Dan Dutra. I am a partner in Sigs Collision Centers. We operate three collision repair centers in the great state of Hawaii. Our 2 established shops are designated ICAR GOLD CLASS, the new shop in Kaneohe will achieve this designation in the next few months. I have spent my entire career of 43 years in collision repair. I have been an ICAR trainer and currently hold Platinum level certificates in 3 disciplines, Estimator, Non-structural technician and steel structural technician.

I am opposed to HB 1620 and the Senate version SB 2243 as written.

I believe that the information made available to the house and senate by the advocates of this bill is not complete and at times misleading. While I would like to see the bill voted down in its current form, I would support an effort to further study the important issue of consumer safety to get all the facts out in the open. Volumes of information on the subject of aftermarket parts relative to crashworthiness, safety, function and the implications on warranty exist in the public domain. There are engineers and experts, much better qualified, than any of us in this room, that could be consulted if desired. I believe making a quick decision on the proposed bill without examining all the evidence, would be doing a disservice to your constituents and the consumers that have entrusted you to represent them. If passed in it's current form, It could be misconstrued that you are serving the special interest of a small group that has a strong profit motive.

There are economic implications and unintended consequences to consider if this bill is passed. Insurance premiums will go up. All insured motorists will see this happen. Once it does then everyone in this room will be subsidizing the few people that get into an accident and want OEM parts. The 1%ers will pay the premium and move on un-affected. It is the people that you are supposed to be protecting and representing that will feel the pain. With the increase in premiums, people barely making it from paycheck to paycheck will look at ways to reduce their costs. This will come in multiple forms. Reduced coverage policies, choosing higher deductibles to name a few. When they do have an accident they will not be able to afford the deductible and choose either not having their car repaired or going to shop that will complete an unsafe repair to fit into a budget. You will then be creating the environment that you are trying to avoid, people driving in cars that are unsafe.

The following are some examples of the assumptions you are making with my input to each:

#1 "Crash parts were originally cosmetic in design and are now engineered and crash tested as part of a complex safety system."

This statement is not completely accurate and is misleading. Exterior crash sheet metal crash parts are still primarily cosmetic, the highly engineered components that protect the vehicle occupants from injury and death are structural components made of various types of steel ranging from high strength (HSS), ultra high strength (UHSS), Boron, various forms of aluminum and carbon fiber, engineered with collapse (or crush) zones. These are the manufacturer designed systems to manage and channel the impact energy around and away from the occupants. This system works hand and hand with airbags and restraint systems triggered through a computerized system that utilizes strategically placed and calibrated sensors. This is the foundation for an engineered safety system that is tied to airbags and restraints (SRS). Nowhere in these designed energy management and safety deployment systems does an aftermarket headlamp, bumper cover, fender, or other exterior bolt on sheet metal have any kind of a significant role.

#2 "Furthermore, according to testimony received by your Committee, original equipment manufacturers of motor vehicles use many different types of materials and joining methods during production of a body shell for a motor vehicle. These materials work in unison with the rest of the vehicle to deliver the level of safety, driving performance, and appearance expected for the product. However, it cannot always be confirmed that equivalent materials are used to produce aftermarket crash parts."

We have never repaired or replaced a body shell (structural) component on a vehicle with an aftermarket part. We have never been asked by an insurer to do so. This paragraph needs to be stricken completely from both versions of the proposed bill. This is a repair decision made in the shop. The question here is not whether the shop is using aftermarket parts, but are they repairing the vehicle per OEM safe repair methods using the correct equipment and the correct materials. I submit to you that a significant number of shops in the state are not properly equipped and/or trained to complete structural repairs as required by the OEM's. This is not an aftermarket parts issue, this is a training, education and proper repair issue.

#3 (2) Specifying that an insured consumer who chooses the use of an original equipment manufacturer crash part that affects the insured consumer's crash avoidance or safety systems shall not be required to pay the additional cost for repairs using that original equipment manufacturer crash part;

This is a confusing statement. I would like someone to explain to me how aftermarket exterior crash parts such as fenders, hoods, trunk lids, rear hatches, headlamps and grilles, affect the crash avoidance and safety systems on a vehicle.

If there is a bumper cover that has a sensor behind it requiring a specific calibrated impedance, then that bumper cover should not even be repaired and should be replaced with an OEM (original equipment manufacturer)

part. This is a decision that needs to be left to the body shop and insurer working together to make the right decision for the consumer. Typically you will not find the aftermarket parts producers offering this type of part because of specific functionality and therefore limited demand. There is not a market for it. Just like there is not a market for structural components that are safety related.

#4 “the insured [~~or claimant~~] consumer shall pay the additional cost of the original equipment manufacturer crash part that is in excess of the equivalent like kind and quality crash part, unless original equipment manufacturer crash parts are required by the vehicle manufacturer's warranty[~~or~~] or the use of a like kind and quality crash part would void an existing manufacturer's warranty or the insured consumer's vehicle lease agreement.”

To me, this statement implies that using aftermarket parts would void a manufacturer warranty. The idea that the use of non-OEM parts voids the auto manufacturer's warranty has been floated out there, but is completely false. The issue is whether the use of non-OEM aftermarket crash parts would affect the warranty on the entire vehicle. Opponents of non-OEM parts argue that using non-OEM parts to repair a damaged vehicle voids the manufacturer's warranty. This argument is without merit. The federal Magnuson-Moss Warranty Act of 1975 provides that no warrantor may condition the continued validity of a warranty on the use of only authorized repair service and/or authorized replacement parts for non-warranty service and maintenance. Existing federal law already addresses this point and I believe it should be stricken from both bills versions.

#4 “(c) Like kind and quality parts, certified or approved by governmental or industry organizations, shall be utilized if available.”

All aftermarket parts that I have ever been asked to use, have also been required to be CAPA or NSF certified. These are the two top industry

organizations that test, evaluate and certify parts for the collision repair industry for fit, finish, and material composition.

Perhaps the ultimate authority on the subject at hand is another governmental agency, The National Highway Traffic Safety Administration (NHTSA). NHTSA is a federal agency, responsible for reducing accidents, deaths, and injuries resulting from motor vehicle crashes. The Motor Vehicle Safety Act provides NHTSA with the authority to prescribe safety standards for new motor vehicles and new motor vehicle equipment sold in interstate commerce—a category that includes aftermarket crash parts. Although NHTSA has the authority to regulate aftermarket crash parts, it has not determined that these parts pose a significant safety concern and, therefore, has not developed safety standards. Some aftermarket parts are regulated by the NHTSA based on safety concerns. NHTSA regulates equipment that is required on all new motor vehicles. An aftermarket part may be directly regulated (e.g., lighting equipment, tires, mirrors, brake hoses) or it may be indirectly regulated (i.e., a part may not take the vehicle out-of-compliance when installed). In all cases, NHTSA can regulate any equipment that poses a safety concern. At this time it has not deemed aftermarket external replacement parts as a concern or threat to safety standards that would place the consumer at risk.

President Obama ratcheted up the existing CAFE standards in 2012 requiring greater fuel efficiency requirements for all vehicles to be sold in the United States. This resulted in new lighter vehicle designs that could not sacrifice safety. In fact the vehicle structural components became the focus of these safety efforts combined with the systems I outlined above. NHTSA has been involved all along in the testing of these new designs and is well aware of the current use of after market parts. They still have not found these parts to be of any significant threat to consumer safety as they have not made any statement that rules on the use of these parts. Quoted below is a press release from the White House on August 28, 2012 mentioning the role NHTSA is to play.

*“Achieving the new fuel efficiency standards will encourage innovation and investment in advanced technologies that increase our economic competitiveness and support high-quality domestic jobs in the auto*

*industry. The final standards were developed by DOT's National Highway Traffic Safety Administration (NHTSA) and EPA following extensive engagement with automakers, the United Auto Workers, consumer groups, environmental and energy experts, states, and the public. Last year, 13 major automakers, which together account for more than 90 percent of all vehicles sold in the United States, announced their support for the new standards. By aligning Federal and state requirements and providing manufacturers with long-term regulatory certainty and compliance flexibility, the standards encourage investments in clean, innovative technologies that will benefit families, promote U.S. leadership in the automotive sector, and curb pollution."*

In conclusion,

I believe there currently exists enough industry and government oversight to make sure that aftermarket parts usage does not place the consumer at risk.

Aftermarket parts or OEM parts combined with properly equipped trained technicians as part of a safe and proper repair will ensure the consumer is safe when they get back in their vehicle.

On the other hand, no amount of OEM recommended parts combined with ill equipped and poorly trained technicians can insure a proper, safe repair.

Unqualified shops executing improper repairs will put peoples lives at risk, not aftermarket parts.

Thanks you for your time and leadership on this very important subject,

Aloha

Dan Dutra  
Partner  
Sigs Collision Centers



Testimony **Opposing** HB1620 HD2 - Relating to Motor Vehicle Repairs  
- Aftermarket Vs OEM Parts

Senate Committee on Commerce, Consumer Protection, and Health

Thursday, March 22, 2018 9:15 AM – Room 229

Submitted by Former GEICO Policyholder for 55 years,

Ed Wagner, Mililani, HI

Aloha Chair Baker and members of the CPH Committee,

HB1620 HD2 is a completely watered down, unacceptable version of  
the original bill and the current SB2243 SD1, which, in its current  
modified form, is also not entirely acceptable to **REPUTABLE** body  
shops either.

HD2 gives GEICO and the rest of the insurance industry what it wants,  
a year of inaction instead of action and decision to save lives now, a  
year in which to ensure that, in the end, GEICO and the rest of the  
insurance industry gets what it wants, more obscene ill-gotten profits at  
the expense of auto safety and human life, maybe your own life or that  
of a family member.

It should be abundantly clear to every member of the CPH, CPC, and  
IAC Committees, as well as hundreds of others around Hawaii, the  
country, in and out of government, and even several other countries  
now, that all testimony submitted by GEICO for HB1620 & SB2243 has  
ZERO credibility, ZERO merit, and ZERO relevance to the passage of  
this or any other Hawaii insurance related bills in the future.

In the name of justice, GEICO's testimony should be stricken from the record and not used for further deliberation on this or any other bill, just as judges instruct jurors to disregard an invalid line of questioning during their deliberations on a verdict.

Did you know that GEICO spends One Billion Dollars or more a year on advertising?

**Mililani B. Trask First Friday Show Unauthorized News: GEICO Underpays Policyholders For Repairs After Accidents**

<https://www.youtube.com/watch?v=rBl2zouyykc>

**Note:** Her show is viewed by approximately 300,000 people around Hawaii. One viewer contacted her about helping to get GEICO's license revoked.

**Note:** The Oahu First Circuit Court sealed the records of the following lawsuit against GEICO by its own managing attorney in Honolulu to hide GEICO's abuses from the people of Hawaii, the nation, and the world.

In the interest of justice, those records must be unsealed IMMEDIATELY to show you and the world what GEICO's evil business tactics are truly like.

**GEICO Attorney Questions Insurer's Policies - Courthouse News Service July 29, 2013**

<https://www.courthousenews.com/geico-attorney-questions-insurers-policies/>

HONOLULU (CN) – A GEICO attorney claims the insurer defamed and harassed him for informing policyholders of their legal rights, and unconstitutionally monitored his attorney-client communication with clients.

Stephen Keawe Roy sued GEICO, two of its agents and a claims manager in Oahu First Circuit Court. Roy's wife also is a plaintiff.

Roy claims the defendants get bonuses from the unethical program, which has been "instituted by GEICO in other locations throughout the U.S. and is extremely profitable."

He claims GEICO policies conflict with his legal ethics and judgment, and that the company sends dishonest letters to customers under his letterhead without his permission.

Roy has been managing attorney for GEICO's Honolulu law office and has been representing GEICO customers since 1996, he says in the complaint.

It states: "Plaintiffs bring this action as a result of defendants' harassment, retaliation and coercion affecting the terms and conditions of employment that directly and proximately resulted from Mr. Roy's reports and attempts to change GEICO's policy and practice of: (1) prohibiting him from informing his clients, GEICO's insureds, that

GEICO would indemnify them in excess of policy limits if they were subjected to an excess judgment or award after a policy limits demand had been rejected; and (2) prohibiting him from following Hawaii's statutory mandates to enter into binding arbitration at the request of his clients. Mr. Roy also questioned GEICO's practice of monitoring and/or recording his confidential attorney-client communications with GEICO's insureds. Finally, Mr. Roy reported what he reasonably believed to be unlawful collections practices by GEICO, instituted by [defendant BEICO agent] Mr. [Timothy] Dayton, which violated the Fair Debt Collections Practices Act 15 U.S.C. § 1692 (hereafter 'FDCPA') and its Hawai'i analogue, Haw. Rev. Stat. § 480D-3, that 'included, without limitation, sending letters on Mr. Roy's letterhead to GEICO's insureds, without his permission and without his review of their files, falsely stating the insureds owed premiums and that if they did not pay the amount reflected in their letter, GEICO would seek legal redress through the court system and recover treble damages, along with, attorneys' fees and other charges to which GEICO was not entitled.

"After Mr. Roy reported these unethical and unlawful policies and practices, he was subjected to harassment, retaliation and coercion by GEICO and the individual defendants. The harassment, retaliation and coercion by GEICO and the individual defendants included, without limitation, being placed on two performance 'improvement' plans ('PIP's), denying Mr. Roy pay he would have received, but for defendants' conduct and being forced to work under terms and

conditions that jeopardized Mr. Roy's license to practice law and interfered with his ethical obligations, independent judgment and attorney-client relationships.”

Roy claims that GEICO, Dayton and defendant GEICO agent Richard Dwyer began retaliating, harassing and coercing him in July 2012 to prevent him from blowing the whistle on GEICO. GEICO agent John Dornan also is named as a defendant.

The complaint states: “Mr. Dornan frequently approaches the claims adjusters to ask if they have any cases with a select group of plaintiffs’ attorneys. He will take such files involving these plaintiffs’ attorneys from the adjusters and these cases settle without the protracted disputes in which GEICO usually engages.”

Roy claims that GEICO deters adjusters from settling claims, specifically in cases where GEICO “refused to pay a policy limit demand,” to encourage insureds to go to jury trial.

GEICO then pays the insured less than the award, Roy claims.

He claims that GEICO audited his office in 2011 and found that GEICO’s claims personnel were “interfering with the legal staff’s independent judgment and attorney-client relationships.”

Roy claims that the auditor told him that Dayton and Dwyer’s supervisor had instructed him to “sanitize” the audit report and remove criticisms from it.

The lawsuit states: “In August 2012, Mr. Roy reported to his supervisor, Richard Dwyer, who also is an attorney, that he opposed and would not adhere to GEICO’s policy prohibiting him from informing his clients, GEICO’s insureds, that GEICO would indemnify them in excess of policy limits if they were subjected to an excess judgment or award after a policy limits demand had been rejected.

“Mr. Roy sought to do so to establish: (1) that his clients’ personal assets would not be at risk if GEICO claims personnel refused offers of settlement within the limits of insurance purchased and paid for by his clients; (2) to discharge his ethical obligations to fully inform his clients of their right to such excess coverage where GEICO refused to settle; and (3) to provide his clients peace of mind.”

Roy claims he expressed his concern in a letter to Dwyer, which stated, in part:

“[Your response] glosses over the basic problem I have ethically and professionally as GEICO’s in-house counsel when representing a GEICO insured client in a third party case in which GEICO has refused to pay a policy limit demand.

“In that situation Hawaii law and our code of professional responsibilities impose ethical and legal duties on me to my client – not GEICO. You told me that even in a third party case my client-‘only client’ is ‘GEICO’, not our insured. That is not true, at least under Hawaii law.

“Every GEICO insured client I have ever represented would much prefer it if GEICO would settle their case within policy limits, rather than go to trial. The personal, emotional cost to them of going to trial is astoundingly high.

“GEICO is wrong to instruct me as in-house counsel that I cannot inform my client (our insured) that GEICO’s policy is, in every case, to pay an excess judgment if one is rendered by a jury, in a case in which GEICO refused to pay a policy limit demand. This non-disclosure by me of the truth to my client violates my legal and ethical duties to my client, and Hawaii Code of Professional Responsibilities and Hawaii case law. It is also legal malpractice by me.

“I request you and GEICO change this policy. I understand GEICO will not issue ‘Blue Sky’ letters to our clients. However, not allowing me to tell my clients (our insured) the truth, is instructing me to violate the Hawaii Law, and my ethical and legal obligations to my clients.  
(Brackets and parentheses in complaint.)

Roy claims that Dayton and Dwyer responded: “[Y]ou retain certain duties to your employer. These include a duty not to divulge confidential business information, such as GEICO’s history of payments and/or settlements in third-party cases. Moreover, the scope of your representation when defending GEICO’s insureds is limited to the defense of the subject liability action. The scope or representation does not include advising the client on insurance coverage issues or

the respective obligations of insurers and insureds. As you are aware, Hawaii law does not require an insurer to cover an excess judgment simply because the insurer did not accede to a policy limits demand. Rather, an insurer's potential liability for an excess judgment depends on the reasonableness of the insurer's actions. Again, that question is beyond the scope of your representation of GEICO's insureds."

But Roy claims that the opinion of GEICO's Disciplinary Counsel conflicts with that response, and that GEICO attorneys must use their professional judgment and decline representation if policy provisions or guidelines are ethically unacceptable.

Roy claims that GEICO has sent letters to policyholders, including active-duty military overseas, on his letterhead, "falsely stating the insureds owe premiums" and that it charges former policyholders "premiums" for not turning in their insurance cards.

As a result of the unauthorized letters, Roy claims, he and his associates frequently receive calls and threats of legal action from people distressed by the demands.

Roy claims that Dayton conceived of the letters program, and that he and claims manager John Dornan receive bonuses from it.

Roy claims that when he asked the defendants to stop this practice, they started using an outside collections agency but continue to use his letterhead and electronic signature.



He claims they also put him on a retaliatory and unreasonable performance improvement plan and are monitoring and recording his telephone calls.

Roy seeks an injunction and punitive damages for whistleblower violations, defamation, violations of public policy, intentional infliction of emotional distress, and loss of consortium.

He is represented by Carl Varady.

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Following is a summary of what GEICO's Timothy Dayton put me through for 6 months since Sep 2017, just to obtain full payment for the repairs to my vehicle. He tried to steal from and pissed off the wrong person!

In January, a GEICO policyholder for 55 years cancelled 5 insurance policies ( 2 with other companies but obtained through GEICO ) after learning that GEICO uses what he considers ( allegedly ) illegal, deceptive, bait and switch tactics in its advertising, claiming in catchy TV ads that if if you spend 15 minutes and switch to GEICO, you can save 15% or more on car insurance.

What the ads don't tell unsuspecting viewers is that if you file a claim, that 15% saving disappears instantly and costs even more because you must hire an attorney and / or and Independent Appraiser / Collision Damage Analyst and an Umpire to force GEICO - and other

companies - to pay the full repair costs to return your car to pre-accident condition UNLESS you are willing to accept its low ball payment, lower the resale value of your car, and put your life in jeopardy if another accident should occur in the future.

What ever happened to Truth in Advertising laws? What ever happened to honesty, integrity, fair and honest profits and salaries? What ever happened to the importance of auto safety and human life?

Increasing profits at the expense of auto safety and human life is all that matters to GEICO - and most other auto insurance companies.

With a \$500 policy deductible, GEICO expected him to accept a check for \$65 for the balance of repair costs for his car with only 500 miles on the vehicle while the actual repair bill was \$2,000.00 (rounded ).

The GEICO adjuster **KNOWINGLY and DELIBERATELY** excluded the cost of manufacturer **REQUIRED pre and post safety scans** on the original estimate in the hope that the omission would go unnoticed so GEICO could pocket extra profits.

The adjuster tried to steer him to one of GEICO's preferred shops where the estimate was done, a shop that uses GEICO's own below prevailing market labor rates instead of competitive market rates, all to enhance GEICO profits.

The adjuster told him that if he took his car to the shop of his choice instead of a GEICO shop, he would be required to pay any difference in the cost for repairs.

**NOTE:** Several GEICO shops have performed shoddy, unsafe work that had to be redone by a manufacturer certified shop before the car could be returned to pre-accident condition to protect the passengers as originally intended by the manufacturer.

Several of its shops do not have required mechanic's licenses and are being investigated by Regulated Industries and the Insurance Commission.

Some do not have proper welding equipment or frame measuring racks to ensure that the car is aligned properly as it was when it left the factory.

What this policyholder learned the hard way after paying GEICO premiums for 55 years is that GEICO is all about preserving excessive, exorbitant, obscene, ill-gotten profits that it obtains ( ALLEGEDLY ) by deliberately preying upon vulnerable accident victims unaware of their legal rights, by manipulating, deceiving, lying to, bullying, withholding information from, misrepresenting facts to, short paying accident victims for repairs, steering victims to its preferred below prevailing market labor rate shops, and **DELIBERATELY and KNOWINGLY** excluding manufacturer required procedures and electronic safety

scans from estimates to steal from vulnerable accident victims who don't know their legal rights.

In February, the Umpire ruled against GEICO that is now required to pay - and has paid - the full amount of repairs to his vehicle. There are 2 other known umpire rulings against GEICO in Hawaii and one against Farmers this past year.

Hawaii Small Claims Court, Civil Court, and the Hawaii Supreme Court have consistently ruled AGAINST insurance companies and in favor of vehicle owners.

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February 19, 2018

To Whom It May Concern,

**PROPERTY DAMAGE APPRAISERS**

After a careful review of all documents provided, we respectfully submit our findings, with regards to Mr. Edward Wagner's appraisal clause claim. The vehicle repaired is a 2017 Honda Accord vin# 1HGCR2F86HA141738 with 521 miles, for a rear end collision. Repairs were performed by Tony Group Collision Center. This repair facility is an extension of the Honda dealer and therefore is held to performing repairs to factory standards and following all repair procedures to maintain the factory warranty. While their rates may appear high on the front, they are within market averages and are paid these rates regularly by other companies. It is our opinion the original estimate is written below the market rate and that Tony Honda performed the repairs in accordance with repair procedures as outlined in Motors guide, and Honda standards. With these findings the *vehicle owner* and shop should be paid in accordance with the final invoice from Tony Group Collision Center.

Respectfully,

Robert W Daniel

Robert Daniel

Owner/Appraiser – Hawaii/Alaska

Property Damage Appraisers, Inc. 808-626-3495

907-243-6688 [pdahonolulu@pdaorg.net](mailto:pdahonolulu@pdaorg.net) [pdaanchorage@pdaorg.net](mailto:pdaanchorage@pdaorg.net)

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His advice to viewers of this show is to do the following:

- 1) Do not purchase auto insurance from any national company, especially GEICO, the most abusive of them all with many, many lawsuits and fines against GEICO.
- 2) Cancel ALL GEICO policies after obtaining new coverage from one of Hawaii's own honest, reputable insurance companies.
- 3) Take your damaged car ONLY to a manufacturer certified shop.
- 4) Don't allow a GEICO claims adjuster - or any other claims adjuster - tell you that you must take your car to one of its preferred / ARX / GRP shops or pay the difference in repair costs if you choose to take it to a shop of your choice, especially a manufacturer certified shop that will strictly follow manufacturer procedures to return the car to SAFE pre-accident condition.

5) Do not allow a GEICO or other company claims adjuster to tell you that cheaper aftermarket **CRASH SAFETY** parts are of like kind and quality and must be used. Such parts will put your life - or a future owner of your car - in jeopardy if another accident occurs. Always use **OEM CRASH SAFETY** parts.

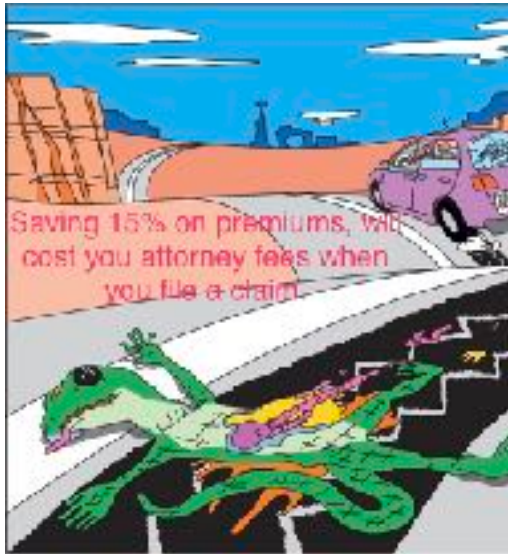
6) If you are being bullied or threatened in any way or feel your are being abused by any claims adjuster, then file a complaint immediately with the Hawaii Insurance Commission.

7) Learn a lesson from a nationally known Dallas attorney, Todd Tracy, who won a \$42M verdict against a body shop last year for not following manufacturer repair procedures and for using aftermarket parts.

The occupants of a previously owned and shoddily repaired car suffered near-death injuries that will be with them for life. If OEM parts and required manufacturer procedures had been used, the couple would have walked away from the accident instead of being stuck in a burning vehicle, suffering severe burns and other injuries.

8) DO NOT TRUST GEICO. Do not put your life or that of a future owner in jeopardy by using GEICO's substandard repair shops that cut corners to meet GEICO's cheap dictatorial repair requirements to save money at the expense of your life. **All shops should be certified by the manufacturer before they are allowed to repair a damaged vehicle.**

9) Tell this story to all your family, friends, neighbors, and social media contacts. It is time to squash the GEICO gecko and get it out of Hawaii.



After sending 3 emails directly to CEO Nicely, CO Roberts, VP of claims Rinella, Assistant VP of Claims Penry, GEICO director Don Lyons sent me a rather poor attempt at an apology on March 7 with Cc to CEO Nicely, COO Roberts, and VP of Claims Rinella. It didn't even have his signature block.

On Wed, Mar 7, 2018 at 11:32 AM, Lyons, Don <> wrote:  
*Good afternoon, Mr. Wagner. Your e-mail of March 5th was forwarded to me as I am Geico's senior officer in the west. I am sorry that we lost you as a long-time customer and am sorry that we disagreed on the handling of your case. What I can say is that GEICO has grown to be the largest auto insurer in Hawaii through providing outstanding service and great prices. We are proud of our reputation in Hawaii. We pay for quality repairs, paying what efficient shops require to do a quality repair. I am sorry that you were involved in what should have been a discussion between the shop and GEICO.*

I replied to give them more in-depth details about GEICO's abuses.

GEICO's tactics - and most other insurers - are all about the **3 D's, Delay, Deny, and Defend**. GEICO makes more ill-gotten profits by short paying **EVERYONE**, and just dealing with a handful of policyholders, like myself, who will fight for justice in court or through an umpire, to get what is legally owed on a valid claim.

If GEICO owner, Warren Buffett, is having such a difficult time investing \$109B in cash and plans to give 50% of his personal fortune to charity through the Gates Giving Pledge Foundation, then why doesn't he start by ordering GEICO to stop short paying on valid claims  
**DELIBERATELY** and forcing policyholders to fight in court or through umpires to get paid in full and get their cars repaired safely?

Why doesn't he begin by firing his pal, CEO Tony Nicely, COO Bill Roberts, and VP of Claims Rinella, and ordering the company to get its code of conduct out of the sewer and into the light of day by developing strict guidelines for honesty, integrity, ethical and moral behavior, fair and honest profits, good faith dealings with customers, fair trade practices, and truth in advertising?

**Timothy Dayton must also be fired and denied his pension as punishment for all that he has done in Hawaii to abuse and steal from our people.**

**A consumer Bill of Rights must be passed** by all 50 states and the US Government to ensure full transparency and disclosure to



customers when buying insurance or filing a claim, and full disclosure when raising or canceling a policy.

Timothy Dayton is likely following policies from top GEICO managers like CEO Nicely, COO Roberts, VP of Claims Rinella, GEICO Director Lyons, and other GEICO Directors, all who should be held financially accountable directly for GEICO's abuses toward policyholders, especially in a RICO lawsuit.

Plausible Deniability won't work. They all know and condone everything that goes on in the GEICO hierarchy and chain of command down to claims adjusters.

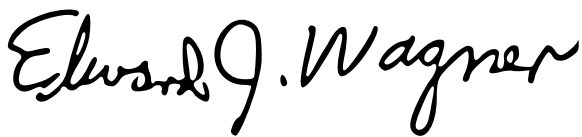
State Farm is already involved in a RICO lawsuit, and one for filing against GEICO is under discussion. A class action lawsuit was filed against GEICO in late 2017. GEICO has lost its share of court cases and has paid its share of fines for its abuses.

The AG, Department of Consumer Protection, Insurance Commission in all 50 states, the USDOJ and FBI, FTC, SEC, and Senate Subcommittee on Insurance & Consumer Protection are all encouraged to conduct investigations of GEICO - and the entire insurance industry for ( possible or alleged ) bad faith, unfair trade practices, racketeering, antitrust, and perhaps even securities violations and **ORGANIZED CRIME.**

GEICO should be ordered by the state of Hawaii to cease and desist all advertising, especially on TV and in movie theaters immediately. Its Hawaii business license should be revoked, its claimed 163,000 policies taken over by our local, REPUTABLE insurance companies, and it should be given a 2018 date by which it must close its Honolulu and any neighbor island offices permanently. Doing so will set an example for the rest of the insurance industry.

**HB1620 and SB2243 should be passed with their original language intact, without any modifications.**

Mahalo,

A handwritten signature in black ink that reads "Edward J. Wagner". The signature is written in a cursive, flowing style.

Ed Wagner

**HB-1620-HD-2**

Submitted on: 3/21/2018 8:32:28 AM

Testimony for CPH on 3/22/2018 9:15:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Sabrina Dela Rama	Individual	Oppose	Yes

Comments:

Aloha Senator Baker,

I oppose the task force and ask you please input your SB2243-SD1 language.

There has been data out for years and years that shows and documents Imitation parts is Not equal too OEM parts. I understand some are worried about premiums going up but as lto himself stated, premiums has increased regardless. increase in premiums is just a scared tactic the insurance companies uses to discourage the fact that they're profiting from the use of imitation parts and that imitation parts does not benefit the consumers. Not all carriers support imitation parts and their premiums has been very affordable. There's data out already that there has been 40% fewer accidents since cars has the avoidance systems. premiums should be decreasing not increasing.

instead of allowing their rates to increase, why not investigate their profits.

Senator Baker, please input your SB2243SD1 language into HB1620.

Thank you for understanding and putting consumers safety first, the task force if it is required should be done with the SB2243 SD1 because SD1 has a 5 year pilot therefore, any data should be evidence within the 5 year plan.

Thank you for fighting for our consumers, you are highly respected!

Sabrina Dela Rama

**HB-1620-HD-2**

Submitted on: 3/21/2018 9:18:21 AM

Testimony for CPH on 3/22/2018 9:15:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Jane Sugimura	Individual	Oppose	No

Comments:

I prefer the language in the original bill. I believe that my insurance policy requires the insurer to restore my vehicle to its original pre-crash condition and if the damage to my car requires manufacturer recommended parts or the repair needs to comply with safety standards set by the manufacturer, I would expect the insurer to pay for those parts and/or the recommended manufacturer's repairs since the manufacturer knows more than the carrier as to how to maintain the safety of my vehicle. A task force is an unnecessary waste of time and money.

# OFFICE OF INFORMATION PRACTICES

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To: Senate Committee on Commerce, Consumer Protection, and Health

From: Cheryl Kakazu Park, Director

Date: March 22, 2018, 9:15 a.m.  
State Capitol, Conference Room 229

Re: Testimony on H.B. No. 1620, H.D. 2  
Relating to Motor Vehicle Repairs

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Thank you for the opportunity to submit testimony on this bill, which would establish a Vehicle Repair Practices Task Force. The Office of Information Practices (OIP) takes no position on the substance of the bill, but **questions why the proposed Task Force is exempted from the Sunshine Law, part I of chapter 92, HRS, and suggests an amendment to delete this exemption.**

The proposed Task Force is charged with addressing consumer concerns regarding the use of original manufacturer parts versus aftermarket parts in vehicle repairs, including looking at insurance practices, any existing studies on quality and safety, and a cost-benefit analysis, and reporting its findings and recommendations. It is not clear that the Task Force would be discussing sensitive or confidential information at all, and it certainly does not appear that consideration of such information would be a regular part of its meetings. Furthermore, the issue the Task Force is assigned to address is likely one that the public would be interested in hearing discussed, as well as in testifying on the various factors the group is considering.

**OIP therefore recommends that this Committee amend the bill by deleting the Sunshine Law exemption at bill page 3, lines 16-17.** If there is sensitive information that this Committee expects the Task Force to be considering, OIP would be happy to assist in crafting language to allow the Task Force to hold a closed meeting when considering that particular information.

Thank you for the opportunity to testify.