

DAVID Y. IGE  
GOVERNOR  
SHAN S. TSUTSUI  
LT. GOVERNOR

STATE OF HAWAII  
OFFICE OF THE DIRECTOR  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
335 MERCHANT STREET, ROOM 310  
P.O. Box 541  
HONOLULU, HAWAII 96809  
Phone Number: 586-2850  
Fax Number: 586-2856  
cca.hawaii.gov

CATHERINE P. AWAKUNI COLÓN  
DIRECTOR  
JO ANN M. UCHIDA TAKEUCHI  
DEPUTY DIRECTOR

TO THE HOUSE COMMITTEE ON  
INTRASTATE COMMERCE

TWENTY-NINTH LEGISLATURE  
Regular Session of 2018

Wednesday, January 31, 2018  
9:00 a.m.

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

TO THE HONORABLE TAKASHI OHNO, CHAIR, AND MEMBERS OF THE COMMITTEE:

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

This bill would require insurers to pay additional costs associated with the use of original equipment manufacturer parts for motor vehicle body repair work if the insured chooses an original equipment part, the original part is available, and the vehicle manufacturer has recommended the use of original parts in the repair.

Under Hawaii Revised Statutes (“HRS”) section 431:10C-313.6, an insured may authorize a repair provider to use “a like kind and quality part of an equal or better quality” than the original, if available, or an original part for body repair work. The insurer guarantees a “like kind and quality part” for at least ninety days “or for the same guarantee period as the original equipment manufacturer part, whichever is longer.”

If an after-market body part is available, an insured who chooses installation of an original body part must pay the difference in cost between the after-market and original part “unless original equipment parts are required by the vehicle manufacturer’s warranty” under HRS section 431:10C-313.6(a). The difference in price between original and after-market parts is considerable.<sup>1</sup>

Given the specific safeguards codified in HRS section 431:10C-313.6, the proposed change lacks an obvious benefit to the consumer. Insureds would pay higher insurance premiums, since accidents routinely involve damage to motor vehicle body parts, and original body parts cost significantly more than after-market parts.

Further, changing the statutory requirement from manufacturer “required” parts to manufacturer “recommended” parts would mean the insurer would cover the cost of all original parts, since it is likely all manufacturers would “recommend” the use of higher priced original equipment as replacements. This insurer mandate to cover the costs of all original replacement parts, which are significantly more expensive than after-market parts, will put upward pressure on consumer premium rates.

Finally, these higher costs will likely result in higher numbers of vehicles deemed total losses simply because insurers will conclude it is cheaper to “total” a vehicle than repair it.

Thank you for the opportunity to testify on this measure.

---

<sup>1</sup> As an example, Servco charges \$405.45, including shipping, for a right front 2014 2WD Tacoma truck fender. For an after-market right front Tacoma fender, Rockauto.com charges between \$43.79 and \$56.79, plus \$90.99 for DHL domestic express, the cheapest of its three shipping options.

**LATE**

**LATE**



Brian Kitagawa, President  
Dave Rolf, Executive Director

HADA TESTIMONY IN STRONG SUPPORT  
of HB1620  
RELATING TO MOTOR VEHICLE REPAIRS  
Presented to the House Committee on Intrastate Commerce  
at the Public Hearing, 9 a.m. Wednesday, January 31, 2018  
Conference Room 429, Hawaii State Capitol

Chair Ohno, Vice Chair Choy, and members of the committee:

The members of the Hawaii Automobile Dealers Association, Hawaii's franchised new car dealers, appreciate the opportunity to offer **strong support** for this bill which proposes to prohibit motor vehicle insurers from charging insureds an additional fee for repairs made with original equipment manufacturer parts if the vehicle manufacturer recommends original equipment manufacturer parts.

Original equipment manufacturer (OEM) parts are subjected to rigorous crash tests by motor vehicle manufacturers' internal departments, as well as government agencies and additional crash assessment tests by independent organizations.

When repairs are required, the best way to guarantee that a vehicle will retain and fulfill all crash requirements following repairs is to follow original equipment manufacturer repair standards and use only new original parts. Any deviation could have serious consequences on the crash performance of the vehicle and jeopardize the safety of the occupants.

Original equipment manufacturers of motor vehicles use many different types of materials and joining methods during production of the body shell. 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.

It cannot always be confirmed that equivalent materials are used to produce aftermarket parts.

All crash testing results and certifications are achieved with original parts and joining methods in place.

HADA testimony in STRONG SUPPORT of HB1620, page 2

Non-OEM components cannot necessarily be traced if subjected to a manufacturer's recall.

Non-original parts may have poor fit, finish and quality which could have a direct impact on the residual value of the vehicle.

For the foregoing reasons, the members of the Hawaii Automobile Dealers Association request that the members of the House Committee on Interstate Commerce give highest consideration to passing HB1620.

Respectfully submitted,

David H. Rolf

For the Members of the Hawaii Automobile Dealers Association



January 29, 2018

The Honorable Takashi Ohno  
House Committee on Instate Commerce  
415 South Beretania Street  
Honolulu, HI 96813

## LKQ Opposes House Bill 1620

Dear Committee Chair Ohno:

As a Government Affairs Representative for LKQ Corporation, I am greatly concerned with **HB 1620**, governing the use of aftermarket parts in Hawaii which is scheduled for consideration in the House Committee on Instate Commerce on Wednesday, January 31<sup>st</sup> at 9:00am. **The bill would allow the car companies to mandate the use of only their parts and there is not a comparable incentive which exists anywhere else in the country.**

When broadly interpreted, HB 1620 seeks to **eliminate** the use of aftermarket parts by promoting the wrongful presumption that they are unsafe to Original Equipment Manufacturer (OEM) parts. **The bill provides 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, all in an effort to secure a monopoly.

A monopoly is formed when a business controls the trade of its products and **"recommends"** their exclusive use. Naturally, a business will always **recommend** the use of their own products and services to increase its market share. In any given industry, when a business sector is suppressed and competitive market forces are disrupted, a monopoly will undeniably result in higher prices and limited choices. **HB 1620 intentionally creates a monopoly for the auto parts industry in favor of vehicle manufacturers and OEM parts, while dismissing the many benefits that independent vendors and alternative parts provide to consumers.**

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 respectfully express our **OPPOSITION** to House Bill 1620. **We urgently ask you to reconsider your bill and allow alternative auto parts to continue to service consumers and 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 a large initial "R" and "C".

Ray Colas  
Government Affairs Representative  
LKQ Corporation

Testimony from Van Takemoto, President, Island Fender  
For the Automotive Body and Painting Association of Hawaii  
In strong support of HB 1620 – Relating to Motor Vehicle Repairs  
House Committee on Intrastate Commerce  
Wednesday, Jan. 31, 2018, 9 am – Room 429

Aloha Chair Ohno and members of the committee:

My name is Van Takemoto, I am the owner of Island Fender. We are located in Kakaako, Honolulu. Island Fender was started by my father and uncle in 1937. Since then, Island Fender has specialized in collision repair. We are certified in collision repair by Mercedes-Benz., Volkswagen, Honda, Nissan, Chrysler/Fiat and others.

I am here to testify on behalf of myself and the Automotive Body and Painting Association of Hawaii. Our association was founded in 1959 and is the oldest continuously running trade association in the State of Hawaii.

The Automotive Body and Painting Association of Hawaii is in strong support of HB 1620.

HRS 431:C-313.6 was passed into law around 1997, as a cost savings measure for the insurance industry, at a time when premiums were increasing at a rapid rate. This law allows insurance companies to pass the additional cost for an original manufactured part over the less expensive aftermarket or generic part to the insured or claimant.

In 1997, bumpers, hoods, fenders, and other visible exterior body parts were considered cosmetic in design and were not safety related.

Today, twenty years later, cars have evolved dramatically. Cars are now designed and engineered as a moving safety system and are crash tested. The tests are performed to insure the safe performance in a collision in protecting the passenger compartment and the passengers inside. Use of aftermarket parts changes the safety system, it is no longer the originally designed, engineered and tested system.

Aftermarket parts have never been safety engineered or crash tested in vehicles to insure the same safety result as the original vehicle's safety system. They have never been proven to be of "like kind and quality" in safety functionality.

Today's vehicle safety systems are designed and engineered to move the engine below and away from the passenger compartment and manage the collision forces to move upward thru the windshield and roof and downward thru the floor and lower rocker panels and away from the passenger compartment, protecting the occupants. Aftermarket parts can affect these system.

Airbag and seatbelt deployment in a collision is critical in protecting the occupants of a vehicle. A 500<sup>th</sup> of a second delay or premature deployment of the airbag can result in injury or even death.

Besides the poor fit and finish that we continually see in aftermarket parts, we do not even know if the materials used in the aftermarket parts are the same as the original equipment parts. There is no way to know if aftermarket parts are of like kind and quality to original manufactured parts in safety functionality. There are no engineering safety information on aftermarket parts and they have never been crash tested by the manufacturer of the aftermarket part.

The materials used, body lines and shape in today's car parts are not only designed for looks, they play a role in the strength or weakness, to absorb or manage energy and airbag timing. For example, in the past, hoods were cosmetic in design and kept the engine from getting wet. Today's modern vehicles have convolutions in the underside of a hood, engineered to cause the hood to fold in a frontal collision, instead of going thru the windshield and potentially decapitating the front passengers, as was the case in the past.

Use of aftermarket crash parts changes the safety system as it was engineered and tested and could cause injury or death in a collision by changing the timing of airbags or how collision forces are managed.

A few very large national insurance companies are taking advantage of this current Hawaii law to shift the cost to Hawaii's consumers, to save money and increase their profits at the cost of consumer safety. But not all insurance companies choose profit over safety. Most local insurance companies have always and continue to pay for safety proven original equipment parts for Hawaii's consumers.

Insurers are not the experts in collision repair and are not certified by any vehicle manufacturer to analyze, repair plan and repair collision damaged vehicles.

Today's vehicles are very safe and vehicle manufacturers are committed to continually making them safer.

Island Fender does not recommend the use of, nor do we sell or install aftermarket crash parts.

The Automotive Body and Painting Association believes in maintain and restoring the safety system after a collision and strongly urges you to pass HB1620 and stop large national insurance companies from using this law to justify putting profit over Hawaii's consumer safety.

Mahalo for allowing us to testify in support of HB1620.

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.  
Sabrina Dela Rama, President





To: The Honorable Takashi Ohno, Chair  
The Honorable Isaac W. Choy, Vice Chair  
House Committee on Intrastate Commerce

From: Mark Sektnan, Vice President

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

Date: Wednesday January 31, 2018  
9:00 a.m., Room 429

Aloha Chair Ohno, Vice Chair Choy and Members of the Committee:

The Property Casualty Insurers Association of America (PCI) is opposed to HB 1620 which would create further confusion for vehicle owners regarding their ability to choose the type of parts used in the repair of their vehicle. Current law requires insurers to give insureds and claimants a choice to use original manufacturer equipment (OEM) parts if insurer has chosen to use equivalent like kind and quality parts, but the insured or claimant must pay the difference in cost. There is an exception to this provision that requires the insurer to pay the additional cost if required by the vehicle warranty. HB 1620 requires the insurer to pay the cost of OEM parts if the vehicle manufacturer “recommends” the use of OEM parts.

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.

Not surprisingly, most if not all OEM’s recommend exclusive use of their parts for the simple reason that that OEM parts can cost up to 60 percent more than equivalent like kind and quality parts. This bill effectively requires OEM parts to be used on every repair, which could significantly increase the repair costs that are ultimately reflected in what consumers pay for auto insurance. Current law strikes an appropriate balance, consumers who want to pay the additional cost of an OEM part can do so and the additional cost is not passed on to all the state’s auto insurance policyholders who benefit from the cost saving generated using quality aftermarket parts.

OEM Parts Cost More than Aftermarket Parts without added value

Non-OEM parts are quite common throughout the repair industry, are tested and verified to meet OEM standards and help keep repair costs down, which in-turn helps keep auto insurance more affordable. In fact, many non-OEM parts are often made by the same manufacturers that make

OEM parts. Greater access to high quality generic replacement parts help consumers by increasing competition and lowering prices and usually provide lifetime warranties, far more than the warranties of many original equipment manufacturers.

Consumer advocates support competition for repair parts. In support of federal legislation to protect the competitive marketplace for repair parts consumer had this to say:

CFA: Consumer Federation of America

“The lack of competition for repair parts will result in high repair costs and more vehicles being ‘totaled’ because the price of repairing the damage exceeds the value of the vehicle. High repair costs will lead to higher insurance premiums. Furthermore, when faced with expensive repairs and a limited budget, consumers may simply not be able to replace their head light or a broken side mirror, items essential for safe driving.”

Advocates for Highway and Auto Safety

“The bottom line: If automakers succeed in eliminating competition, the cost to the consumer would be profound.”

Consumers should not be pressured into using higher cost OEM when parts of equal, and sometime better quality, are available at a fraction of the cost. This cost should not be borne by the consumers of Hawaii. If the legislature insists on requiring insurers to pay for the additional costs associated with OEM parts, insurers should be given time to adjust premiums to spread these unnecessary costs among all consumers in Hawaii.

PCI asks the committee to **hold** the bill in committee.

## HOUSE COMMITTEE ON INTRASTATE COMMERCE

January 31, 2018

### House Bill 1620 Relating to Motor Vehicle Repairs

Chair Ohno, Vice-Chair Choy, members of the House Committee on Intrastate Commerce, I am Rick Tsujimura, representing State Farm Mutual Automobile Insurance Company (State Farm). State Farm offers these comments about HB 1620 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

---

<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.

Thank you for the opportunity to present this testimony.

---

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

## TESTIMONY OF MICHAEL TANOUE

---

COMMITTEE ON INTRASTATE COMMERCE  
Representative Takashi Ohno, Chair  
Representative Isaac Choy, Vice Chair

Wednesday, January 31, 2018  
9:00 a.m.

### **HB 1620**

Chair Ohno, Vice Chair Choy, and members of the Committee on Intrastate Commerce, my name is Michael Tanoue, counsel for the Hawaii Insurers Council. The 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 **opposes** HB1620, which would require the use of original equipment manufacturer (OEM) parts if recommended by the manufacturer in repairs under a motor vehicle insurance policy. If enacted, this bill would increase the cost of motor vehicle insurance with no benefit to consumers.

A November 3, 2010 article published by the Insurance Institute for Highway Safety (IIHS) found that like kind and quality (LKQ) bumpers performed similarly to OEM bumpers in a crash test. The article further states that cosmetic parts such as fenders, quarter panels, bumper covers, etc. serve no safety or structural function. This article can be accessed at this link: <http://www.iihs.org/iihs/sr/statusreport/article/45/11/1>).

In addition to crash parts, this bill would require use of OEM parts for mechanical components damaged in auto accidents. In 2012 testimony, HIC provided examples showing that OEM radiators cost more than twice as much as the equivalent LKQ part.

As part of the second phase of significant auto insurance reforms, the legislature inserted section 431:10C-313.6 into the Hawaii Revised Statutes during the 1997 session. The reason was to keep the price of auto insurance as low as possible for consumers. Subsection 431:10C-313.6(a) provides an appropriate balance of cost savings and consumer choice. Consumers have the option to buy much more expensive OEM parts if they are willing to pay the difference in cost. HB1620 would force all consumers to unnecessarily bear the burden of "recommended" OEM parts. In addition, subsection 431:10C-313.6(b) in the current law protects the insured because it provides that LKQ parts shall carry the same guarantee as OEM parts and that the guarantee shall be provided by the insurer.

Please note that insurers currently use OEM parts when LKQ parts are unavailable. For instance, when a brand new vehicle model is damaged.

In very rough terms, this bill is equivalent to requiring insurers to pay for brand-name drugs when functionally equivalent generic drugs are readily available. We respectfully request that the measure be held.

Thank you for the opportunity to testify.

**Pamela Beaney**

---

From: mike yang  
<mikeyang@hawaii.rr.com>  
Sent: Monday, January 29, 2018 4:32 PM  
To: IACtestimony  
cc: Rep. Linda Ichiyama  
Subject: HB1620/SB2243  
Attachments: HB1620.docx

Dear

Sirs,

Attached is my testimony regarding HB1620/ SB2243

thank you mike yang

January 29,2018

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

Hawaii State Legislature

RE: HB1620/SB2243

Dear Sirs,

Section 1.

Motor vehicle owners by all means have the right to have their cars repaired properly. That is a given. But the writers of this bill assume that only parts from the original vehicle manufacturers are tested for proper fit, function and safety. It would appear the initiators for this bill failed to educate the legislators writing this bill. Non original vehicle manufacturers parts (Aftermarket Parts) that are currently recommended by the insurance companies and used by the local repair shops are certified by independent organizations for proper fit, function and yes safety. The first organization is CAPA Certified Auto Parts who's web site is [WWW.CAPACERTIFIED.ORG](http://WWW.CAPACERTIFIED.ORG) The other organization NSF which is an international organization that certifies products for proper fit, function and safety. Their web site is [WWW.NSF.ORG](http://WWW.NSF.ORG) .

.Original vehicle manufactures will always advice the public to use their parts and not the aftermarket parts. What is the reason? My guess is profits. Here is a bit of irony, original vehicle manufactures assemble vehicles. The majority of parts used in a vehicle are out sourced. In fact many aftermarket parts manufacturers make parts for both domestic and import car manufacturers. The original headlights for a certain model year Toyota Tacoma was made an aftermarket manufacturer that I do business with.

There is no basis for legislators to assume that aftermarket parts are unsafe. If that were true this would already be a national matter and not just a local issue. Hawaii legislators are not qualified to judge if a part is safe or not, and neither are the people who initiated this bill. The only law suit that I am aware of concerning aftermarket parts is the class action law suit against State Farm. Apparently State Farm misled its customers using aftermarket parts in place of OEM parts. Deception was the issue not safety.

The remainder of section 1 relates to insurance company practices. The ignorant would assume that the insurance companies are committing fraud. Let's get educated. If an insurance company recommends aftermarket parts it is because that is what is stated on the vehicle owners policy. That is what the vehicle owner paid for. So if the vehicle owners wants to use original parts he/she needs to pay for the additional cost. On this point, I think better disclosure to the vehicle/policy holder may be helpful. Most people don't read their policy until after an accident. Maybe a separate disclosure statement signed by the policy owner (if this is not already being done).

The use of aftermarket parts in vehicle repairs is necessary to control cost. Requiring the use of original vehicle manufacturers parts would raise insurance premiums for everyone in the state whether you have an accident or not. This will cause more people to drive uninsured. More vehicles will be "totaled" because the cost to repair will be too high. Compared to purchasing another vehicle and incurring a debt that will need to be serviced for years. Paying a deductible and repairing a vehicle is by far a better option.



The initiators of this bill spoke to you legislators citing safety concerns. The two independent organizations, CAPA and NSF test for safety, so that should not be a concern. They may also complain that they have fit issues with aftermarket parts. What they failed to tell you is that they have fit issues with original parts too. When it comes to fit issues, I and my staff can name the shops who have "problems". Funny, we can also name the shops who don't have "problems". Fit issues are directly related to the management or lack management at a body shop.

Here is an example: 2014 Camry LE

Front bumper cover Original vehicle part list price (hawaii) approx. \$383.00

Front bumper cover Aftermarket CAPA certified (Prism Group) \$115.00

Insurance companies pay repair shops list price, Repair shops purchase the parts usually at a discount of 25%.

So the repair shop will make a lot more money using the original part rather than the aftermarket. Do you think that profit might be the real motive because all their hype about safety is out the window. Hmm.

If you use the above example could you see rates doubling or even tripling?

Section 2

The language "or recommended" should not be included in Section 431:10C-313 Hawaii Revised Statues. All manufactures will recommend their parts over others. The motive is profit not safety.

If the wording was to be changed it would cost everyone in this state more money. The insurance companies would have no choice but to raise premiums. Original Vehicle dealerships will raise their parts prices since they have no competition.

Thank you

Michael Yang  
Prism Group LLC

**HB-1620**

Submitted on: 1/29/2018 6:35:43 PM

Testimony for IAC on 1/31/2018 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
brandee lee	tony group collision center	Support	No

Comments:

Testimony From : Brandee Lee,

In strong support of HB 162- relating to Motor Vehicle Repairs

House Committee on; Insurance Commerce

Aloha Chair Ohno and member of the committee:

My name is Brandee Lee and I am testifying in strong support of HB 1620. I am a customer and an auto damage estimator.

I have seen firsthand how shops have forced on aftermarket parts to “fit” vehicles. As a professional in the Collision repair industry I have come across so many new and complicated technology on these vehicles. Technology that is put in place to make driving more convenient and safer for the occupant. It worries me to know that shops use aftermarket parts that aren’t made for these specific vehicles sensors/ technology. By Putting an aftermarket bumper on a vehicle with sonar or distance sensors could affect the very reason it was made. The sensor may not read properly because the bumper is thick or too thin. Therefore, the sensor with an aftermarket bumper may read that it has 5 inch till impact, when you really only have 2inch. As a consumer/ mother a few inches is a lot when I am driving with my child. I would never want someone to force fit or drill holes to adjust a part to “fit” my vehicle.

Aftermarket parts are not crash tested on the specific vehicles that they are being “fitted” on. Will my air bag deploy on time or when its suppose? The OEM made vehicles and its parts a certain way and with certain materials for a reason.

Honestly as a professional in this field and as a mother, I expect my vehicle and my customer’s vehicles to be brought back to the way it was made by the people who designed it.

Chairman Ohno and the committee, I ask that you please pass this bill HB1620.

Mahalo

Brandee Lee

Testimony from Sabrina Dela Rama, President of Automotive Body and Paint Association of Hawaii and manager of Tony Group Collision Center

I am in strong support of HB 1620; Relating to Motor Vehicle Repairs

House Committee on Intrastate Commerce

Wednesday, January 31, 2018, 9 a.m. Room 429

Aloha Chair Ohno and Members of the Committee,

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. The collision Center has been in business for over 35 years and is an Incensed Dealer repair shop, and an I CAR Gold Class shop =I-CAR stands for (Inter-Industry Conference on Auto Collision Repair), a Honda Certified Pro-First Shop, Nissan & Infiniti Certified Shop, Hyundai certified, GM and Chrysler Certified shop and I have personally been in the Auto Collision Industry for 29 years, I am an I-CAR Platinum Certified Individual as an Estimator, None Structural Tech and Refinish Tech.

Being in the Auto Collision Industry for 29 years, I've seen the dramatic change in vehicle repairs but most of all the safety of the way they're being built today. In 1996 when this bill was first approved, vehicles were not at all tested to protect the occupant's safety as it is today. Today's vehicle is built as a one-piece safety system. Modifying the system by using a part that's not of same quality could have dramatic consequences to the occupant's safety.

*This statement below was written straight from NHTSA (national Highway traffic safety Administration )*

### **Air Bag Deployment**

“Generally, when there is a moderate to severe crash, a signal is sent from the air bag system's electronic control unit to an inflator within the air bag module. An igniter in the inflator starts a chemical reaction that produces a harmless gas, which inflates the air bag within the blink of an eye – or less than 1/20th of a second. Because air bags deploy very rapidly, serious or sometimes fatal injuries can occur if the driver or passenger is too close to – or comes in direct contact with – the air bag when it first begins to deploy.”

The statement above explains how rapid the system reacts by sending the signal, to the module, to sending the deployment of the bags and then the deflation of the bags for deployment to protect the Occupants. This is why I am in strong support of HB1620.

Each Manufacturer does a series of crash testing on every model they produce, that is how the models are rated on their safety ability of a 5 star. Manufacturers can monitor their parts for safety and do re-calls on them at any given time. Aftermarket part companies have no crash testing and no way to trace, therefore, how do we know how it will react in a collision? We don't know if Aftermarket parts will crumple to fast or at all in the right locations, this could change the signal from the crash sensor to the airbags and deploy to soon or too late. The state from NHTSA states; “if occupants are to close when it deploys it could cause serious injuries or even death”. The Original manufactures test and test to make sure airbag timing is PERFECT in a crash, there is no stronger word than PERFECT timing!

We need to make sure consumers have a right to be safe and NO one has that right to choose their destiny for them.

Please Chairman Ohno and Members of the Committee, please pass bill HB1620.

Thank you for allowing me to testify in support of HB 1620.

Sabrina Dela Rama  
Tony Group Collision Center  
President of; The Automotive Body and Paint Association of Hawaii.  
94-1133 Ka Uka Blvd.  
Waipahu, Hawai'i 96797

**HB-1620**

Submitted on: 1/30/2018 4:35:11 AM

Testimony for IAC on 1/31/2018 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Dale Matsumoto	Auto Body Hawaii	Support	Yes

Comments:

Testimony from Dale Matsumoto, President of Auto Body Hawaii, Kailua-Kona

In strong support of HB 1620; Relating to Motor Vehicle Repairs

House Committee on Intrastate Commerce

Wednesday, January 31, 2018, 9:00 a.m. Room 429

Aloha Chair Ohno 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 specialize in high quality automotive collision repairs. 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, our entire staff and Auto Body Hawaii I am sincerely honored to testify in strong support of HB 1620.

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. 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(aka 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 are systems 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, especially in today's advanced vehicles.

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. The current HRS 431:C-313.6 also unjustly transfers the cost of proper and safe collision repairs to Hawaii's consumers.

In February of 2010, SB2022 which addressed the use of Salvaged (Used) Airbags was successfully and rightfully defeated, basically 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. HB 1620 addresses consumer safety... and safety should never be a concession.

Thank you for allowing me to testify in support of HB 1620.

Dale Matsumoto, President

Auto Body Hawaii

73-5601 Maiiau Street

Kailua-Kona, Hawaii 96740

[dale@autobodyhawaii.com](mailto:dale@autobodyhawaii.com)

**HB-1620**

Submitted on: 1/30/2018 7:15:34 AM

Testimony for IAC on 1/31/2018 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Tom Tucker	Auto Care Association	Oppose	No

Comments:

January 29, 2018

The Honorable [Takashi Ohno](#)

House Committee on Interstate Commerce

Hawaii State Capitol, Room 332

Honolulu, HI 96813

Dear Chairman Ohno:

The Auto Care Association is a Bethesda, Md.-based trade association comprised of more than 3,000 members and affiliates that manufacture, distribute, and sell motor vehicle parts, accessories, services, tools, equipment, materials and supplies.

The Auto Care Association is writing to express our strong opposition to HB 1620 related to Motor Vehicle Repairs. The language is particularly troubling because it disparages the use of aftermarket parts based on the unsubstantiated claim that they are inferior. In fact, the availability of non-OEM parts provides consumers with an affordable quality option from the often-high priced parts available from the vehicle manufacturer. Not only would this legislation create higher repair costs for consumers, but it would threaten an industry that generates \$318B in annual sales and employs 4.2 million people across the country. The auto care industry in Hawaii directly employs approximately 6,622 people and generates \$831.7 million in economic activity in the state.

Clearly, the distinction between original equipment (OE) parts and non-original equipment parts mandated in HB 1620, will leave car owners under the false impression that aftermarket parts are of inferior quality to the original equipment component. There is no body of research, no individual study or any data to support the implication that



aftermarket parts are inferior to OE parts. In reality, aftermarket parts are as good and often, better than the OE parts they replace. In fact, they are often produced by the same company, but may come in a different box. The only difference is that the OE part often costs more than its non-OE branded equivalent, meaning increased repair and insurance costs for consumers. Further, since aftermarket companies have the opportunity to view OE parts in-use, our members often are able to correct problems with the component that were discovered after the vehicle was on the road. Such action translates into the ability of aftermarket parts to provide both improved vehicle reliability and safety.

We urge you to vote "NO" on HB 1620 based on the negative impact it will have on the auto care industry and most of all on the unjustified increased out of pocket costs for Hawaii vehicle owners.

Sincerely,

Thomas Tucker

Director, State Government Affairs

**HB-1620**

Submitted on: 1/30/2018 7:47:25 AM

Testimony for IAC on 1/31/2018 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Mascot Auto Parts		Oppose	No

Comments:

Your honor,

Mascot Auto Parts is a local company who retail and wholesale aftermarket body crash parts to local residents and local repair shops since 1999. We carefully import quality, certified aftermarket auto parts from manufactures whose factory and manufacturing process has been approved by the Certified Automotive Parts Association (CAPA). CAPA is the nation's only ANSI accredited standards developer for competitive crash repair parts. CAPA is a non-profit organization that was established in 1987 to assure the suitability and quality of automotive replace parts. CAPA examines the manufacturer's plant, equipment, manufacturing processes, and resulting products. The CAPA certification seal only issued to the examined parts that are equivalent in appearance, fit, material composition, and mechanical properties to new OEM parts. All test procedures utilize nationally recognized test such as those of the American Society for Testing and Materials(ASTM) and Society of Automotive Engineers(SAE). CAPA creates a presumption that certified non-OEM parts are equal to OEM parts in kind and quality.

Generally, all insurance companies in Hawaii only used so-called cosmetic parts such as plastic bumper covers, fenders, grilles on their repairs. They do not use any aftermarket parts that are related to the structural or the frame of the vehicle (parts such as bumper reinforcement, steel bumpers, bumper brackets, and radiator support). Some argue the non-OEM parts do not fit or wear the same way; therefore, be unsafe. No clear conclusion concerning the safety of aftermarket parts has been reached. However, studies done by the Insurance Institute of Highway Safety (IIHS) have found that non-OEM parts do not affect vehicle safety.

Without a viable market allowing for the use of high quality certified aftermarket auto parts, auto makers would have a monopoly on the replacement part industry with no checks or balances on pricing. Lower repair cost results in lower premium for policy holders. If aftermarket parts were never used, the high cost of OEM parts would drastically increase insurance premiums.



Representative Committee on Intrastate Commerce  
Conference Room 429 State Capitol  
Wednesday, January 31, 2018, 9:00AM  
HB 1620 – Relating to Motor Vehicle Repairs

Chairperson Onho,

My name is Dan Dutra and I am a partner in Sigs Collision Centers. We have three locations on Oahu, and perform collision repair on approximately 3,600 vehicles per year. Currently we process more vehicle repairs annually than any single business entity in the great State of Hawaii.

I am writing today to OPPOSE HB 1620, to be heard January 31, 2018 at 9:00am. The proposed bill makes several assumptions that are false or misleading about aftermarket parts.

It states that “Proper repairs” require the use of parts produced by the manufacturer. We know this to be false as “aftermarket parts” such as tires, spark plugs, suspension parts, and wheels, among others, are often known to be equal to, or better than, the original equipment parts. So much so, that many vehicle owners PURPOSELY use aftermarket parts when repairing or maintaining their vehicle due to their equal (or superior) quality and reduced cost.

Aftermarket Collision replacement parts that are recommended by insurance companies have to meet the rigorous testing standards by independent testing organizations such as CAPA and NSF for fit and finish. Only parts that meet or exceed the strict fit and finish standards are recommended for use by Insurance companies. I personally participated in CIC (Collision Industry Conference) Industry blind testing, where OEM (original equipment manufacturer) parts were compared to AM (aftermarket) parts for fit and finish. Over a two-year period, the results were almost even.

The proposed bill says that these parts are not crash tested. This is another false statement, as Diamond Standard, a manufacturer of these parts does crash testing. Excerpts below are from an article in “Collision Week”; a respected collision industry publication.

### **Diamond Standard Releases Crash Test Results of Honda Fit Bumper Reinforcements**

JANUARY 26, 2018 BY [COLLISIONWEEK EDITOR](#)

#### **Aftermarket parts manufacturer again demonstrates that its parts perform to OEM standards through testing.**

.....According to Diamond Standard, the testing reports were reviewed by George Neat, former Chief of the Vehicle Crashworthiness Division, US Department of Transportation/Volpe National Transport Systems Center. In his final conclusion, Neat states, “The consistent test results of the velocity reductions presented here demonstrate that comparable energy would be absorbed by each of the rebar/absorber combinations. It can be concluded that using Diamond Standard certified re-bars would assure that safety performance would be maintained in the case of a crash.”

Concerns about the crash performance of non-OEM bumper reinforcements and structural parts were raised nearly a decade ago at venues such as the Collision Industry Conference.

In 2009, Diamond Standard led an industry effort to assure the collision repair industry that its parts were equivalent to OEM parts through crash testing. At that time, Diamond Standard had invested in excess of \$2 million to dynamically and destructively test its parts compared to OEM.

In January 2010, in response to concerns raised at the 2009 NACE show and the January 2010 Collision Industry Conference, Diamond Standard announced its parts certification program for its safety parts built off its testing experience.



“Diamond Standard continues the testing process it began in 1997, working with former NHTSA legend Jim Hackney and MGA to develop and expand component parts testing utilizing quasi static and dynamic sled carts for comparison with the OEM version production or service,” concluded O’Neal.

The proposed bill also implies that the Insurance industry is the sole beneficiary of reduced cost (increased profits) by using AM parts. The pricing model for insurance premiums already accounts for the use of these reduced cost parts. If HB 1620 is passed, insurance companies will more than likely have to raise premiums to cover these additional costs. This will result in the cost being passed on to all consumers on all premiums charged. It makes more sense for the individual involved in an accident to be able to make the decision at the time of the repair to spend extra money for OEM parts. This should not be a financial burden placed on all insurance paying drivers. Most of which may never get into an accident.

There are unintended consequences to the proposed legislation that would not be in the best interest of the public. Trying to dictate the specific use of any part or procedure, no matter the good intention, will do just the opposite and raise cost to all consumers.

The proposed amendment also states

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 or recommended by the vehicle manufacturer.’~

This will increase costs across the board to the consumer as ALL MAUFACTURERS require or RECOMMEND that their OEM parts are used. There are NO OEM manufacturers that recommend using AM or alternative parts. If passed, this legislation would financially benefit the Manufacturers at the expense of the consumer through increased premium costs. It is obvious that premium cost will increase to the consumer to pay for these more expensive parts.

In conclusion.

HB1620 fails to serve your constituents in the state of Hawaii by removing choice and increasing costs to the consumer. When you go to a steakhouse, can you demand that they serve you Big Island Grass fed beef for the same price as the steak they get from their regular supplier – even if they both carry the same grade of PRIME? Can we expect to make a fish house serve us local caught fresh Ahi at the same price as the frozen Ahi that is flown in from the Marshall Islands? I think not! There is more cost involved. This does not limit us from buying and consuming the other Steak or Ahi to keep our dinner bill within budget. We have a choice to spend more or less. Let the people make these choices for themselves

I believe the existing law SHOULD NOT be amended as proposed.

Thank you for your time and attention to this important matter

Dan Dutra

From: Christian Rataj <crataj@namic.org>  
Sent: Tuesday, January 30, 2018 12:57 AM  
To: IACtestimony  
cc: Christian Rataj  
Subject: HB 1620 - NAMICs written testimony for 1/31/18 public hearing  
Attachments: HI HB 1620 aftermarket parts - NAMICs written testimonyl.docx

Please accept this letter as NAMIC's submission to the public hearing.

Thanks!

Christian John Rataj, Esq.  
NAMIC State Government Affairs  
Senior Regional Vice President —Western  
Region (AK, CA, CO, HI, ID, MT, NV, OR,  
WA, & WY)

Cell: 303-907-0587

[www.namic.org](http://www.namic.org)



SHAPING OUR MUTUAL FUTURE'



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

January 30, 2018

Filed via electronic testimony submission system

HB 1620, Aftermarketparts — NAMIC's written testimony in opposition

Dear Representative Takashi Ohno, Chair; Representative Isaac W. Choy, 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 January 31, 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, NAMIC is concerned about the proposed legislation, because HB 1620 is likely to: a) Lead to needless consumer confusion; 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 are also concerned that the proposed legislation is inconsistent with the stated purpose and legislative intent of the pending federal legislation on point, "Promoting Automotive Repair, Trade, and Sales Act" (The PARTS Act)<sup>1</sup>, and the national trend toward increasing market competition in the creation and use of affordable, reliable, and safe automobile replacement parts. Interstate and international aftermarket parts and Non-OEM parts manufacturing and commerce involves matters subject to the regulatory authority of the federal government pursuant to the Dormant Commerce Clause of the U.S. Constitution. Consequently, NAMIC believes that the Hawaii State Legislature should avoid interfering with federal regulation of this interstate commerce activity, especially when the proposed legislation has federal anti-trust law

As considered by Congress, the Promoting Automotive Repair, Trade, and Sales (PARTS) Act of 2015 (H.R. 1057 and S. 560) is designed to ensure open competition for one of the most expensive aspects of crash repair, the parts consumers need to get their cars fixed. Without robust competition, consumers are saddled with only one source for the parts they need (the car companies) and there will be no incentive to fairly price those parts. Competition is the most fundamental component of the America's free market. It ensures fair prices and quality products for the American consumer. The PARTS Act will protect the competitive marketplace.



implications and promotes monopolistic practices in favor of OEM parts manufacturers to the detriment of citizens of the state of Hawaii.

NAMIC respectfully submits the following concerns with the proposed legislation:

a) HB 1620 is likely to lead to needless consumer confusion -

NAMIC is concerned that HB 1620 states in its legislative declarations that aftermarket parts "can be unsafe because they are not crash-tested and are inferior to original equipment manufacturer parts in fit and finish". First of all, the national data on point clearly does not support this contention. Further, since there is no evidence to support the belief that aftermarket parts are inferior in any way to OEM parts, this statement is likely to lead to consumer confusion over the safety of aftermarket parts. <sup>1</sup> Second, the legislative declaration in HB 1620 creates an improper statutory preference for the use of OEM parts that could lead consumers to believe that they are being disadvantaged by having their vehicle repaired with aftermarket parts.

b) The proposed legislation could effectuate a "de-facto" ban on the use of aftermarket parts in Hawaii.

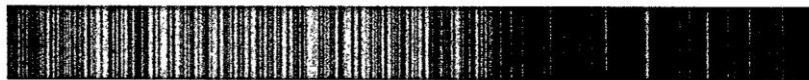
The proposed legislation would amend current state law to require insurers to pay for OEM parts if the manufacturer either requires or recommends use of OEM parts. Manufacturer created motor vehicle user manuals and service guides almost always, if not always, recommend use of parts manufactured by them. This is a classic example of one promoting their own economic self-interest — don't shop around for more affordable auto parts, buy my expensive auto parts.

Additionally, the proposed "recommendation" standard is somewhat ambiguous. Is a slight recommendation the same as a strong recommendation? Is a recommendation supported with a rational explanation as to the tangible benefit to the consumer the same as a mere casual recommendation? Is an oral recommendation the same as a recommendation stated in a formal repair estimate? The current "required" standard is clear and unequivocal, because it is tied to a specific contractual requirement (typically associated with a contractual warranty provision that requires use of an OEM part).

c) The proposed legislation will hinder auto insurers in their ability to provide consumers with timely and cost-effective quality auto repairs -

NAMIC is concerned that HB 1620 will force insurers and auto repair shops to only use OEM parts, which could cause serious delays in repairing automobiles because use of OEM parts will ultimately become the "only game in town". Further, once Non-OEM and aftermarket parts become scarce due to limited use in the state marketplace, OEM parts will be subject to "demand-surge" pricing, which will lead to more expensive auto repairs for all consumers (insurance related repairs and non-insurance related auto repairs).

The insurance implications of the proposed legislation are that insurers will be required to pay the difference between the cost of OEM parts and aftermarket parts, regardless of what the parties agreed to in the insuring agreement as to the use of aftermarket parts in auto repairs. Initially, this will provide some consumers with insurance benefits the policyholder did not purchase or pay for in his/her premium. Consumers currently have the option to purchase auto insurance policies or endorsements that specifically pay for OEM parts. Naturally, insurance consumers pay a higher rate for this more expensive, specialized auto insurance coverage. However, many consumers don't want or need OEM parts and would



prefer to save money in their annual premium by agreeing to have their motor vehicle repaired with quality aftermarket parts as opposed to more expensive OEM parts. The proposed legislation will punish these cost-conscious and/or limited-income auto insurance consumers.

---

<sup>1</sup> 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.

d) HB 1620 will create an unfair and inappropriate competitive advantage for OEM parts manufacturers to the detriment of all auto repair consumers -

One has to remember that a significant number of auto repairs are negotiated and paid for outside of the insurance transaction by consumers that may not have procured first-party collision insurance coverage or for auto repairs unrelated to an insurance claim, so if HB 1620 becomes law auto repair consumers will be adversely impacted by higher auto repair costs. According to the Quality Parts Coalition, "the use of aftermarket parts saves consumer \$1.5 billion a year". Additionally, national studies have repeatedly determined that the average price of an OEM part costs about 60 percent more than the average price of an aftermarket part.<sup>2</sup>

e) The proposed legislation could adversely impact the affordability of insurance for consumers -

If insurers are required by state law to pay the difference between aftermarket parts and OEM parts, insurers will just factor this increased cost into the future price of their standard automobile insurance policy to cover the cost of OEM parts and then they will likely just stop using aftermarket parts altogether. Consequently, the proposed legislation will limit consumer choice and the policyholder's opportunity to purchase a less expensive auto insurance policy. In effect, HB 1620 will become a significant auto-insurance rate cost-driver.

Based upon a 2013 analysis by the Property and Casualty Insurers Association of America (PCI), if the use of aftermarket parts were prohibited, "[t]he average insurance premium reflecting vehicle damage coverages may increase by about 3.6 percent more per insured car.. ." or 7.2 percent per average household of two cars. NAMIC believes that the cost differential between OEM parts and aftermarket parts is even greater in 2018, so the PCI data may be a considerably low estimate of the adverse insurance cost implications of requiring use of OEM parts in auto insurance repairs.

For the aforementioned reasons, NAMIC respectfully requests a NO VOTE on HB 1620, because it is special interest legislation that would benefit wealthy auto manufacturers to the detriment 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

---

<sup>2</sup> Insurance Journal, "Alliance Hails DC Reg. Promoting Aftermarket Parts," [www.insurancejournal.com/news/east/2003/06/04/29512.htm](http://www.insurancejournal.com/news/east/2003/06/04/29512.htm).





Automotive Recyclers Association Statement on

"H.B. NO. 1620"

Hawaii House Intrastate Commerce Committee

January 31, 2018

The Automotive Recyclers Association (ARA) represents over 4,500 professional automotive recyclers across the United States and 17 other countries internationally. The ARA is dedicated to the efficient removal and reutilization of genuine original equipment manufacturer (OEM) automotive parts, and the processing of inoperable motor vehicles in an environmentally responsible manner. ARA is also committed to promoting effective competition in the markets for replacement parts and equipment to ensure efficient repair and maintenance of motor vehicles around the globe.

ARA has significant concerns regarding the harmful impact House Bill 1620 would have on the utilization of recycled OEM automotive parts in Hawaii. As currently written, the legislation could potentially restrict the use of recycled OEM parts by legitimizing automotive manufacturers' recommendations that only new OEM parts be utilized for repair work. Such unsubstantiated recommendations are blatantly self-serving and lack any independent third-party scrutiny.

For decades, automotive manufacturers have employed numerous tactics to bias consumers against the use of recycled OEM parts and foster a monopolistic marketplace for expensive "new" OEM parts. It comes as no surprise that almost every manufacturer has a position statement on replacement parts utilization for vehicle repairs, and in each of those statements it is recommended that only new OEM parts be utilized. These "recommendations" are often made without supporting documentation and are made for the sole purpose of calling the genuine integrity of the parts our members sell and others into question. Manufacturers have for years failed to cite any valid research to back up their claims that recycled parts are inferior to new parts. ARA has in fact met with representatives of the U.S. Federal Trade Commission (FTC) about this very issue and urged the FTC to take a serious look into the actions of automobile manufacturers that continue to engage in deceptively unfair trade practices and promote misinformation and false advertising without a shred of research to substantiate their claims. Permitting auto manufacturers' recommendations regarding new OEM parts to be adopted into state statute would perpetuate a concerted effort among automobile manufacturers to limit competition in the automotive parts market. Each day over 500,000 recycled OEM parts that were designed and built to meet the automakers original requirements for fit, finish, durability and safety are sold directly to consumers as well as to repair shops and automobile dealers in the United States. To ensure that the recycled OEM parts they provide meet customer expectations, ARA member facilities employ multi-step quality control precautions. ARA vigorously supports the quality repair option that OEM recycled parts provide consumers. These parts are reutilized in the repair and service of motor vehicles throughout their lifespan and these replacement parts continue to operate as they were originally intended in terms of form, function, performance and safety.

ARA supports professional repair representatives' ability to economically repair vehicles within the automotive insurance process and has long been an advocate for consumer choice. ARA supports a robust automotive parts supply chain. Likewise ARA does not want to pass additional expenses or fees on to vehicle owners during the repair process. However, this legislation will result in a mandate for higher-priced parts, only ensuring that more vehicles will ultimately be declared total losses by insurance companies, higher overall repair costs and insurance premiums for consumers.

Consider this: consumers vehicles are currently "totaled" in 18 percent of all insurance claims. This totaled figure soars to over 30 percent when vehicles 7 years or older are involved and incentives that

promote use of more expensive parts over more reasonably priced parts contribute to this high level of total loss determinations. These circumstances take on added significance in today's market where according to automotive research company, IHS Markit, the average age of a vehicle in 2016 was 11.6 years old, up from 8.4 years in 1995.

Another example of the complexities surrounding this issue is the "Genuine GM Parts" website launched by General Motors (GM) in 2016. The new and updated content included a collision repair position statement on recycled and salvaged parts that reverses the manufacturer's previous position that accepted recycled parts utilization. [See Attachment A] In a 2010 position statement, GM acknowledged that "Recycled original equipment parts may also be used for repair.... A recycled original equipment part, may be an acceptable choice to maintain your vehicles originally designed appearance and safety performance". [See Attachment B]

These recent statements are not only a reversal, but GM is misleading consumers with allegations that recycled GM parts are "non-GM" parts. In the revised position statement GM includes the following paragraph:

"Genuine GM Parts are designed and constructed using metals with specific properties, thicknesses and stamping features built to perform in a consistent and predictable way during a collision event. The use of non-OEM structural components may compromise the overall crashworthiness and occupant safety of General Motors vehicles in a subsequent collision. In summary, General Motors does not support the use of salvage or recycled parts in a vehicle's repair. GM recommends the use of Genuine GM Parts in repairs to help ensure the vehicle is returned to pre-collision condition."

References to the "use of non-OEM structural components" immediately before GM states that it does not support the use of salvage or recycled parts is deceptive and ARA believes it is done intentionally to confuse consumers into believing that recycled GM parts are not the company's components. Many additional examples of misleading and inaccurate information can be viewed on the "Genuine GM" Parts website. [Attachment C]

Another example of the complexities of this issue can be found in a recent West Virginia case. In January 2015, a West Virginia judge dismissed a lawsuit filed in December 2011 by then-Attorney General Darrell McGraw that attacked a collision repair facility's utilization of recycled OEM parts. The ruling in Kanawha County followed the June 2014 ruling by the West Virginia Supreme Court of Appeals that also affirmed the use of salvage/recycled OEM crash parts in vehicle repairs.

While this specific litigation had been going on for several years, this final ruling ended decades of mischaracterizing recycled, OEM parts as aftermarket in the state of West Virginia. In December 2011 the state of West Virginia filed a complaint and petition for injunction against Liberty Mutual Insurance Company and Greg Chandler's Frame & Body, LLC, alleging that the defendants violated the state's Automotive Crash Parts Act and Consumer Credit and Protection Act by repairing new vehicles using salvage crash parts without obtaining the written consent of the motor vehicle owner at the time of the repair. The West Virginia Crash Parts Act requires body shops and insurance companies to disclose to

vehicle owners the use of certain replacement crash parts in repairs conducted within three years of the repaired vehicle's original manufacture date, as well as written consent from the vehicle owner to use aftermarket crash parts and the distribution of a statutory notice to the owner that aftermarket crash parts have been used.

In a June 2014 opinion, the West Virginia Supreme Court of Appeals considered the applications of the Crash Parts Act and the Consumer Credit and Protection Act and found neither statute prohibited body shops or insurers from utilizing recycled/salvaged parts, and, moreover, applauded the insurers for using measures to reduce premium costs for their customers. The Court ruled that aftermarket crash parts and salvage/recycled OEM crash parts are diametrically different products and not interchangeable in the context of the statute. Thus, the use of salvaged/recycled OEM parts by Liberty Mutual and the collision repair shop did not violate the Crash Parts Act.

The lower court that ruled in January 2015 originally ruled in favor of McGraw's office and the case went on appeal before state Supreme Court justices, who reversed the decision and sent it back to circuit court. Kanawha Circuit Judge Charles King subsequently entered an order in favor of Liberty and the body shop owner, Greg Chandler of Greg Chandler's Frame & Body, LLC.

On the issue of quality control, the professional automotive recycling industry has become increasingly sophisticated in methods of processing, identifying, evaluating and inventorying parts and assemblies that are harvested from total loss and/or end-of-life vehicles. For example, at the typical professional automotive recycling facility, these processes may include: taking images of the vehicle and its component parts to create vehicle part records, review of a vehicle's build codes, assessing the extent and type of any damage, and checking the vehicle identification number (VIN). Major component parts like engines and transmissions, as well as many mechanical parts, have manufacturer codes and identification numbers on them. In 1997 ARA established its Gold Seal Certification Program that defines standards for recycled parts quality assurance, customer service, parts descriptions and other facets of quality control. This program continues to grow and is recognized by the Automotive Service Association and other industry partners.

ARA supports a system under which professional motor vehicle repair representatives are better able to pursue all repair options to fix repairable vehicles owned by consumers within the insurance structure. Repair procedures, insurance policies and manufacturer recommendations that advance only the highest priced parts option ensure more vehicles owned by consumers will ultimately be declared total losses by insurance companies. Regrettably, these "total loss" vehicles are increasingly being purchased and repaired by individuals with little to no accountability and sold to unsuspecting consumers.

Given the complexity of issues involved in the automotive insurance and repair marketplace, I urge the Committee to OPPOSE House Bill 1620 and to ensure that quality OEM recycled parts are not mischaracterized in a way that diminishes their utilization in the professional repair process.



## Use of Salvage and Recycled Parts

August 2016

---

General Motors vehicles, systems and components are engineered, tested and manufactured to protect vehicle occupants based upon both government mandated and internal corporate requirements relative to durability, NVH (noise/vibration/harshness), occupant protection, and vehicle safety. The overall structural integrity of the vehicle is dependent on its inherent design specifications.

To help preserve the performance of General Motors vehicles, General Motors publishes detailed collision repair procedures and produces and sells Genuine GM Parts, which are manufactured to the same design and specifications as the parts originally installed on new Chevrolet, Buick, GMC and Cadillac vehicles. Repairing a vehicle using Genuine GM Parts and procedures ensure that a vehicle is returned as close to pre-accident condition as possible.

General Motors does not support the use of salvage or recycled parts due to the sensitive nature of the safety and performance of General Motors vehicles. Salvage or recycled parts are defined as parts removed from a previously damaged vehicle and then re-installed on a different vehicle. These parts pose the following risks to Chevrolet, Buick, GMC and Cadillac vehicles when used in repair

### Salvage or recycled parts:

- May have compromised crush zones due to previous repairs

May have additional layers of refinish materials affecting long term durability and appearance of repair.

- COMMENT: may be a factor in new panel installations too
- Will require additional time to prepare due to variations in delivered assembly component content.
- Lead to more complex repairs due to variations in how the assembly is stored, processed, and shipped to a repair center
- see bullet #2 see bullet #1 and #2 May have been exposed to use and storage conditions that have never been considered by the manufacturer

Genuine GM Parts are designed and constructed using metals with specific properties, thicknesses and stamping features built to perform in a consistent and predictable way during a collision event. The use of non-OEM structural components may compromise the overall crashworthiness and occupant safety of General Motors vehicles in a subsequent collision. In summary, General Motors does not support the use of salvage or recycled parts in a vehicle's repair. GM recommends the use of Genuine GM Parts in repairs to help ensure the vehicle is returned to pre-collision condition.



## Collision Damage Repair

If your vehicle is involved in a collision and it is damaged, have the damage repaired by a qualified technician using the proper equipment and quality replacement parts. Poorly performed collision repairs will diminish your vehicle's resale value, and safety performance can be compromised in subsequent collisions.

### Collision Parts

Genuine GM Collision parts are new parts made with the same materials and construction methods as the parts with which your vehicle was originally built. Genuine GM Collision parts are your best choice to assure that your vehicle's designed appearance, durability and safety are preserved. The use of Genuine GM parts can help maintain your GM New Vehicle Warranty.

Recycled original equipment parts may also be used for repair. These parts are typically removed from vehicles that were total losses in prior accidents. In most cases, the parts being recycled are from undamaged sections of the vehicle. A recycled original equipment GM part, may be an acceptable choice to maintain your vehicle's originally designed appearance and safety performance, however, the history of these parts is not known. Such parts are not covered by your GM New Vehicle Limited Warranty, and any related failures are not covered by that warranty.

Aftermarket collision parts are also available. These are made by companies other than GM and may not have been tested for your vehicle. As a result, these parts may fit poorly, exhibit premature durability/corrosion problems, and may not perform properly in subsequent collisions. Aftermarket parts are not covered by your GM New Vehicle Limited Warranty, and any vehicle failure related to such parts are not covered by that warranty.

### Repair Facility

GM also recommends that you choose a collision repair facility that meets your needs before you ever need collision repairs. Your GM dealer may have a collision repair center with GM-trained technicians and state of the art equipment, or be able to recommend a collision repair center that has GM-trained technicians and comparable equipment.

### Insuring Your Vehicle

Protect your investment in your GM vehicle with comprehensive and collision insurance coverage. There are significant differences in the quality of coverage afforded by various insurance policy terms. Many insurance policies provide reduced protection to your GM vehicle by limiting compensation for damage repairs by using aftermarket collision parts. Some insurance companies will not specify aftermarket collision parts. When purchasing insurance, we recommend that you assure your vehicle will be repaired with GM original equipment collision parts. If such insurance coverage is not available from your current insurance carrier, consider switching to another insurance carrier.

If your vehicle is leased, the leasing company may require you to have insurance that assures repairs with Genuine GM Original Equipment Manufacturer (OEM) parts or Genuine Manufacturer replacement parts. Read your lease carefully, as you may be charged at the end of your lease for poor quality repairs.

## If an Accident Occurs

Here's what to do if you are involved in an accident.

- Try to relax and then check to make sure you are all right. If you are uninjured, make sure that no one else in your vehicle, or the other vehicle, is injured.
- If there has been an injury, call 911 for help. Do not leave the scene of an accident until all matters have been taken care of. Move your vehicle only if its position puts you in danger or you are instructed to move it by a police officer.
- Give only the necessary and requested information to police and other parties involved in the accident. Do not discuss your personal condition, mental frame of mind, or anything unrelated to the accident. This will help guard against post-accident legal action.
- If you need roadside assistance, call GM Roadside Assistance. See "Roadside Assistance" for more information.
- If your vehicle cannot be driven, know where the towing service will be taking it. Get a card from the tow truck operator or write down the driver's name, the service's name, and the phone number.
- Remove any valuables from your vehicle before it is towed away. Make sure this includes your insurance information and registration if you keep these items in your vehicle.
- Gather the important information you'll need from the other driver. Things like name, address, phone number, driver's license number, vehicle license plate, vehicle make, model and model year, vehicle identification number, insurance company and policy number, and a general description of the damage to the other vehicle.
- If possible, call your insurance company from the scene of the accident. They will walk you through the information they will need. If they ask for a police report, phone or go to the police department headquarters the next day and you can get a copy of the report for a nominal fee. In some states with "no fault" insurance laws, a report may not be necessary. This is especially true if there are no injuries and both vehicles are drivable.
- Choose a reputable collision repair facility for your vehicle. Whether you select a GM dealer or a private collision repair facility to fix the damage, make sure you are comfortable with them. Remember, you will have to feel comfortable with their work for a long time.
- Once you have an estimate, read it carefully and make sure you understand what work will be performed on your vehicle. If you have a question, ask for an explanation. Reputable shops welcome this opportunity.

## Managing the Vehicle Damage Repair Process

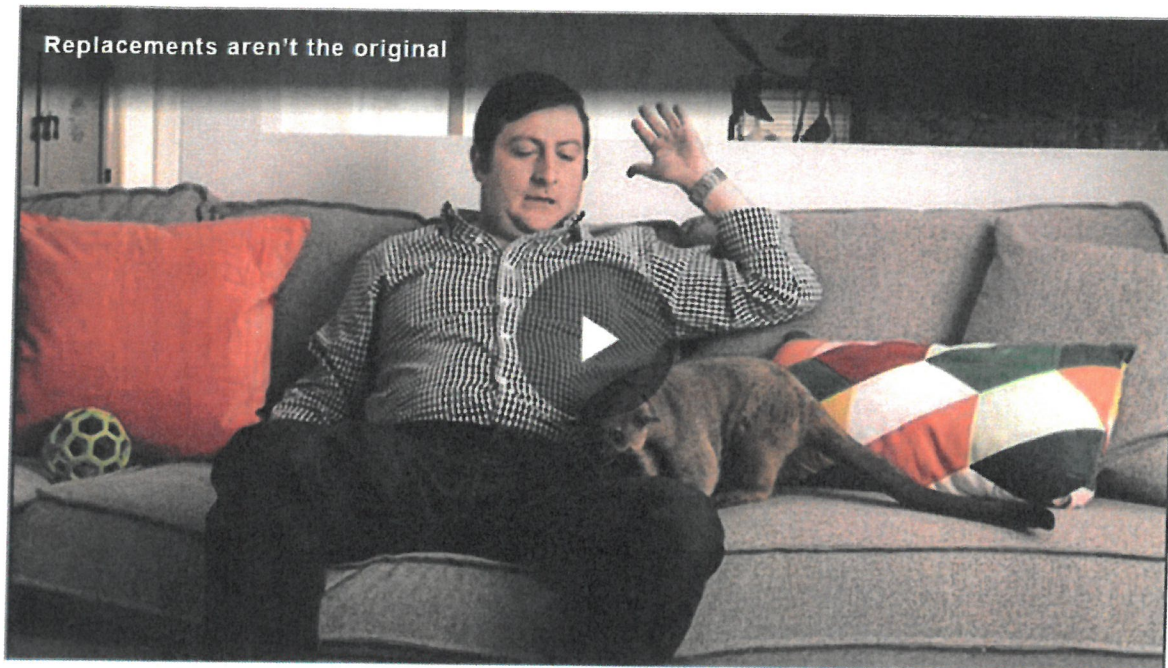
In the event that your vehicle requires damage repairs, GM recommends that you take an active role in its repair. If you have a pre-determined repair facility of choice, take your vehicle there, or have it towed there. Specify to the facility that any required replacement collision parts be original equipment parts, either new Genuine GM parts or recycled original GM parts (remember, recycled parts will not be covered by your GM vehicle warranty).

Insurance pays the bill for the repair, but you must live with the repair. Depending on your policy limits, your insurance company may initially value the repair using aftermarket parts. Discuss this with your repair professional, and insist on Genuine GM parts. Remember if your vehicle is leased you may be obligated to have the vehicle repaired with Genuine GM parts, even if your insurance coverage does not pay the full cost.

If another party's insurance company is paying for the repairs, you are not obligated to accept a repair valuation based on that insurance company's collision policy repair limits, as you have no contractual limits with that company. In such cases, you can have control of the repair and parts choices as long as cost stays within reasonable limits.

## GM Parts

**Make an informed decision about the collision parts used on your Chevrolet, Buick, GMC, and Cadillac vehicle.**



### **REPLACEMENTS AREN'T THE ORIGINAL**

Replacing your pet with a wild exotic animal can be like installing non-GM OE replacement parts in your car. Loss of sleep, losing your keys, finding half eaten fruit in your bed every morning – life just won't be the way it used to be.

### **HOW DO I TELL THE DIFFERENCE BETWEEN GENUINE GM PARTS AND NON-OE PARTS?**

Only Genuine GM Parts are engineered to the exact specifications of your Chevrolet, Buick, GMC, or Cadillac vehicle—everything else is non-OE. To ensure your GM stays a GM, look for the following terms and abbreviations on your body shop invoice:

- A/M – Aftermarket / Automotive replacement parts
- QRP – Quality Replacement Parts
- CP – Competitive Parts
- Salvage
- Recon – Reconditioned
- Recycled

To keep your Chevrolet, Buick, GMC, or Cadillac vehicle original, avoid the above items and insist on Genuine GM Parts. For more collision repair terminology, [visit crashrepairinfo.com](http://www.crashrepairinfo.com). There you'll find a list of terms from the OEM Collision Repair Roundtable—a coalition of Original Equipment Manufacturers that include GM.



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

Aloha Chairman Ohno and committee!

My name is Rozanna Matuu and I am testifying in strong support of HB 1620. I am a consumer as well as an auto damage estimator. I have been in the Auto collision industry for the past thirteen years and I believe the HRS code section 431:10C-313.6 needs to be revised to protect us, the consumers.

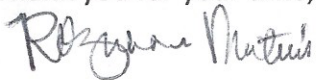
I have seen firsthand the poor quality of these aftermarket parts and the way other shops have tried to “make them fit” to install them. Vehicle safety is created with OEM (original manufacture equipment) parts and replacing them with aftermarket parts changes the way parts work together. Aftermarket parts are not crash tested like OEM parts and they are not made of the same quality materials. Just a split millisecond can change lives. I would never allow anyone I love or know to have their vehicle repaired with aftermarket parts for the sake of their safety.

I pay my insurance premium expecting that I will be taken cared of should I need to use my policy. As a consumer, I expect my vehicle to be brought back to the same condition prior to an accident using OEM parts. Consumers are surprised when they find out that the insurance company is replacing a part on their vehicle with a part less than original manufacture.

The current law is helping the big mainland insurance companies save money by putting consumers in jeopardy. The same insurance companies are reaping the benefits and profiting off this bill but the bill should be to protect the consumers. Our local Hawaii insurance companies do not support the use of aftermarket parts.

Chairman Ohno and committee, I humbly ask you to please pass bill HB 1620 for consumer protection.

Thank you for your time,



Rozanna Matuu

**HB-1620**

Submitted on: 1/29/2018 8:38:39 PM

Testimony for IAC on 1/31/2018 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Stan Mull		Support	No

Comments:

Aloha

I'm in support of this bill. I have a family and if my car is ever in a accident I want it repaired back to manufactures specifications and crash test ratings. Do you want you family riding in a vehicle that may or may not have the same crash rating. I know the manufactures test their parts and I want quality parts that have been tested and made specifically for my car if it ever gets in an accident. I don't think my family should be put at risk because an insurance company wants to save a few dollars.

**HB-1620**

Submitted on: 1/30/2018 7:25:28 AM

Testimony for IAC on 1/31/2018 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Richard J Doyle		Support	No

Comments:

I've been in the industry for 55 years. I have seen many things. Cars today are much more sophisticated, complex and much safer. Vehicles are tested in a lot of different situations and there are a lot of safety features that they didn't have before. This is why we must put original equipment back on the vehicles when repaired because those components have been tested for safety. If the component being installed on the vehicle has not been tested in different scenarios we dont know how it will react in the case of a collision. I know my family is too important to take a chance on. Would you be willing to gamble on your family's safety and life? The insurance compaines should not be able to try and save some money and possibly put someones life at risk due to saving money.

**LATE**

Testimony Supporting HB 1620 – Relating to Motor  
Vehicle Repairs

House Committee on Intrastate Commerce

Wednesday, January 31, 9:00 am – Room 429

Submitted by Former GEICO Policyholder of 55 years.

Ed Wagner, Mililani, HI

Aloha Chair Ohno and members of the IAC Committee:

Some of you have received many messages from me the past several months regarding the systemic, epidemic, national, stage 4 cancerous problem occurring in all 50 states. Assuming that you have not deleted those messages, I include them by reference with this testimony.

The problem of Aftermarket Parts ( AM ) is a problem directly related to auto insurance company abuses of policyholder rights, and insurers total disregard for honesty, integrity, ethics, and morality, auto safety and human life, to enhance their ill-gotten and obscene profits.

Auto Insurance companies abuse policyholders as much as powerful men, including one doctor, abuse women. There is a plethora of parallels between both issues. See last Friday's 20/20 Expose on the olympic athlete abuse scandal, and you will understand those parallels as I do.

I canceled all my GEICO policies in January, 2018 after being a loyal customer for 55 years and my dad before

me, after seeing how GEICO royally screws its policyholders in return for their loyalty after an accident that is not their fault. I also have a complaint against GEICO under investigation with the Insurance Commission as a result of GEICO's mistreatment of me.

It is time to squash the GEICO gecko. Saving 15% on insurance will cost you 25% to 50% or more in attorney fees and other expenses after you have an accident and file a claim!

It would not surprise me if it is discovered that GEICO is bullying, threatening, and intimidating body shops under its DRP / ARX / GRP program to oppose this bill or suffer the consequences by losing work to other shops.

Our equally unscrupulous Hawaiian Electric monopoly is also known to use the same tactics on solar and electric businesses who dare to talk stink about the company that instigated and actively participated in the Overthrow of the Hawaiian Monarchy 125 years ago on Jan 17, 1893.

Unscrupulous billion dollar companies maintain control and protect ill-gotten profits by threats and intimidation and by using gobs of money to bribe politicians.

In order for you to understand your moral obligation and the urgency to pass this bill unmodified, you must educate yourselves about Aftermarket ( AM ) vs Original Equipment Manufacturer ( OEM ) replacement parts for returning a damaged vehicle to pre-accident condition.

You must ask yourselves if you are willing to drive or allow a family member or relative to drive a car that was repaired with inferior aftermarket parts and even repaired with shoddy workmanship like that done by several of GEICO's preferred DRP shops on Oahu, requiring a manufacturer-certified shop to redo the repairs so that the car was safe to be on the road again without jeopardizing the lives of its occupants in the event of another accident.

Most, if not all AM parts are inferior to OEM parts. They are cheaper because they are thinner, weaker, poor fitting, and are not certified through crash testing to meet the strength requirements of the OEM part to insure passenger safety in an accident.

AM parts can be damaged in an accident just like an OEM part, but can result in more severe damage and more severe bodily injury and even death if they do not meet auto manufacturer standards.

The following videos will open your eyes and educate you about the danger of using AM parts to return crashed vehicles to pre-accident condition solely to protect insurance company exorbitant, ill-gotten profits.

Ford Motor Company destruction testing of OEM vs Aftermarket bumper beam - Ford Crash Parts vs. Aftermarket HD Dec 20, 2010  
<https://www.youtube.com/watch?v=l7EEtVJq2aM>

OEM Vs. Aftermarket - Ford Motor Company Sep 15, 2014

<https://www.youtube.com/watch?v=c8suAmnZ0M0>

Aftermarket Car Replacement Parts | Consumer Reports  
Aug 11, 2010

<https://www.youtube.com/watch?v=69Ku2Xcwa9I>

Aftermarket Car Parts Investigation - July 8, 2015

<https://www.youtube.com/watch?v=JyAZo8GQHSQ>

You must turn up the volume on the next video apparently recorded by someone from a TV broadcast. The story compares a Honda OEM hood to one made in Taiwan.

CONSUMER SAFETY ALERT: GEICO/Counterfeit  
Aftermarket Parts- 2 Investigates - Collision Course Dec  
2, 2015

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

The Importance of OEM Parts in Collision Repair

<https://www.youtube.com/watch?v=6J1eJg2IAh4>

The following video is an important one because Hawaii Insurance Commissioner Ito likes to brag about how he is keeping insurance rates low on his watch.

Do Aftermarket Parts Keep Your Insurance Premiums  
Low? Jul 22, 2016

<https://www.youtube.com/watch?v=AMuwFp6kqRU>

\*\*\*\*\*

The following videos are critical to an understanding of AM parts and the need to pass HB1620 without amendments.

\$42 Million Verdict Warns Auto Insurance Carriers To Stop Bullying Body Shops Into Making Shoddy Repairs - Oct 3, 2017

<https://www.vehiclesafetyfirm.com/blog/safety-defect/car-repair/42-million-verdict-warns-auto-insurance-carriers-to-stop-bullying-body-shops-into-making-shoddy-repairs/>

Attorney Tracy provides more details about Honda Fit crash tests - The Crash Test Car Insurance Carriers Don't Want You To Know About - Putting Car Insurance Bullies To The Safety Test - Dec 8, 2017 Watch the video

<http://www.repairerdrivennews.com/2017/12/08/attorney-tracy-provides-more-details-about-honda-fit-crash-tests/>

Video - Crash Tests Prove Aftermarket Auto Parts & Non OEM Repairs Cause Serious Injuries - Jan 12, 2018

<https://www.vehiclesafetyfirm.com/blog/safety-defect/car-repair/crash-tests-prove-aftermarket-auto-parts-cause-serious-injuries/>



John Eagle Collision Center Defective Car Repair Video -  
Aug 20, 2017

[https://www.youtube.com/watch?v=IXS\\_UzOJGPE](https://www.youtube.com/watch?v=IXS_UzOJGPE)

Video - Why Auto Insurance Company CEO's Do Not  
Want Us To Run This Crash Test - Dec 14, 2017

[https://www.vehiclesafetyfirm.com/blog/safety-defect/  
car-repair/aftermarket-parts-crash-test/](https://www.vehiclesafetyfirm.com/blog/safety-defect/car-repair/aftermarket-parts-crash-test/)

Tracy: Tests provide 'scientific and engineering' proof  
against non-OEM parts, alternative repairs

[http://www.repairerdrivennews.com/2018/01/03/tracy-  
tests-provide-scientific-and-engineering-proof-against-  
non-oem-parts-alternative-repairs/](http://www.repairerdrivennews.com/2018/01/03/tracy-tests-provide-scientific-and-engineering-proof-against-non-oem-parts-alternative-repairs/)

Tracy: Crash test of 2013 Honda Fit with aftermarket parts  
'monumental' Dec 20, 2017

[http://www.repairerdrivennews.com/2017/12/20/tracy-  
crash-test-of-2013-honda-fit-with-aftermarket-parts-  
monumental/](http://www.repairerdrivennews.com/2017/12/20/tracy-crash-test-of-2013-honda-fit-with-aftermarket-parts-monumental/)

Aftermarket Parts, Glued Roof 'Flunk' Crashworthiness  
Test Commissioned by Todd Tracy - Jan 2018

[http://www.bodyshopbusiness.com/aftermarket-parts-  
glued-roof-flunk-crashworthiness-test/](http://www.bodyshopbusiness.com/aftermarket-parts-glued-roof-flunk-crashworthiness-test/)

I'm confident that Mr Tracy who has been a recipient of  
my many emails about auto insurance company abuses  
will be happy to answer any questions you might have to

help you pass this bill and ignore any attempt by the auto insurance industry, especially GEICO, to kill this bill in the name of their ill-gotten and obscene profits.

Attorney Todd Tracy can be contacted at 214-571-6365  
<https://www.vehiclesafetyfirm.com/>

\*\*\*\*\*

Here are supplemental videos to help you understand the systemic, epidemic, stage 4 cancerous problem faced by ALL 50 states fighting auto insurance company abuses in courts for the past 20 years.

Kan. shop counters Farmers aftermarket parts request on 2016 Fusion with video of their poor fit  
<http://www.repairerdrivennews.com/2017/10/19/kan-shop-counters-farmers-aftermarket-parts-request-on-2016-fusion-with-video-of-their-poor-fit/>

CNN's Drew Griffin investigates claims that some insurance companies are skimping on repairing damaged vehicles to pad their profits.  
<https://www.youtube.com/watch?v=JiX7Q2yWY8w>

"Who Guarantees Repairs?" The Insurance Company or the Auto Body Shop?  
<https://www.youtube.com/watch?v=7RoiWI9BWJU>

CONSUMER SAFETY ALERT: GEICO/ABRA UNSAFE/  
DANGEROUS REPAIRS - Nov 13, 2015

<https://www.youtube.com/watch?v=xaLHgR-JSg8>

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

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

Scams and DRP Shops May 23, 2015

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

AASP-NJ: Insurer role 'not to come out and dictate';  
attorney says shops should write own estimate Aug 31,  
2017

<http://www.repairerdrivennews.com/2017/08/31/aasp-nj-insurer-role-not-to-come-out-and-dictate-attorney-says-shops-should-write-own-estimate/>

The most recent national class action lawsuit against  
GEICO is for doing the same thing the company tried to  
do to me, not pay for manufacturer recommended or  
required procedures on 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?>

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.

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/>

If you value auto safety and human life, including the lives of your own family and friends, then pass this bill without amendments and without delay.

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

I'm in consultation with my attorney about the possibility that all of you individually, or the state of Hawaii, could be held legally liable for any future accidents, injuries and deaths specifically related to the use of AM parts on a repaired car in Hawaii after having full knowledge of the consequences of killing this bill. Are you willing to take that chance?

Mahalo,

Ed Wagner

Mililani, HI

stopheco.hi@gmail.com

808-352-7900



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

TIMOTHY M. DAYTON, CPCU, GENERAL MANAGER ALASKA & HAWAII  
711 Kapiolani Blvd., Suite 300 ■ Honolulu, HI 96813-5238 ■ Email: [tdayton@geico.com](mailto:tdayton@geico.com)  
Direct: (808) 593-1875 ■ FAX (808) 593-1876 ■ Cell: (808) 341-9252

**House Committee on Intrastate Commerce**  
Room 429 State Capitol  
Wednesday, January 31, 2018, 9:00 a.m.

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

Chair Ohno, Vice-Chair Choy and Members of the Intrastate Commerce Committee:

My name is Timothy M. Dayton, General Manager of GEICO, Hawaii's largest auto insurer. **GEICO opposes House Bill Number 1620.** House Bill 1620 would effectively prohibit Hawaii insurers from using any replacement parts other than original equipment manufacturer (OEM) parts. The measure does not account for the current efforts by insurers to ensure quality repairs with aftermarket parts. Nationally OEM parts are much more expensive than the parts supplied by aftermarket competitors. The price set by the manufacturers is referred to as the Manufacturers Suggested Retail Price (MSRP). As highly priced as the MSRP is throughout the other 49 states, it is much higher in Hawaii due to Hawaii's unique *parts price mark up* on OEM parts sold here. The mark up is typically 25% - 35% of the MSRP; there is no known justification for it. I have attached repair estimate sheets for a 2017 Jeep Cherokee repaired in Hawaii and the same year, make and model repaired in Alaska. There were 8 parts identical on both repairs and they are summarized in attachment A. The charge for the parts that were needed on both was \$1,283.30 in Alaska and \$1,604.13 in Hawaii. Attachments B and C show the summary estimate page for each and the total mark up in Hawaii and the complete absence of any mark up in Alaska. These profit margins are over and above the retail markup in the other 49 states, including the other remote state of Alaska. Perhaps because of the high

markups in Hawaii, all dealerships long ago stopped stocking most OEM parts resulting in a two week delay on many repairs, which makes the hardships of awaiting repairs even harder for Hawaii consumers. Further, if this bill is passed, it is likely that it will be difficult, if not impossible, for competing aftermarket parts distributors to stay in business, depriving Hawaii consumers of reasonably priced alternatives.

This bill will raise insurance rates; not only due to the price markup of OEM parts compared to aftermarket parts of equal or better quality, but also due to the excess downtime during vehicle repairs, additional rental expenses, and the increased number of vehicles declared a total loss.

HB 1620 assumes that original equipment manufacturers are the only manufacturers concerned with quality assurance. If a quality aftermarket part is unavailable, original equipment manufacturer parts are always used. Additionally, some insurers, including GEICO, offer a lifetime guarantee on the aftermarket parts used in its repairs. See Exhibit B for a copy of the guarantee that GEICO's customers receive on every estimate that calls for an aftermarket part.

This bill places extensive confidence in manufacturers to make recommendations in good faith despite their conflict of interest; a manufacturer would be able to recommend original equipment parts without any justification or oversight. Manufacturers have monetary and market incentives to recommend replacement or repairs with their own brand of products. Manufacturers or retailers may take advantage of this measure to mark up the price of OEM parts even higher than the current Hawaii mark up. This oversight may be cured by a prohibition on pricing OEM parts over MSRP. Another option would be for the bill to have a restricted application to OEM parts that are stocked and sourced locally.

Finally, the measure is not based on consumer concerns. Consumers receive an OEM part when a like kind and quality part of equal or better quality than the OEM part is unavailable. As stated above, GEICO endorses the quality of its repairs with a lifetime guarantee on aftermarket parts.

It is GEICO's position that this bill is bad for Hawaii's consumers of automotive repairs and automobile insurance.

GEICO appreciates the ability to present and your consideration of this testimony. We **respectfully urge the committee to hold House Bill 1620.**

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



A

## Part Price Comparison Hawaii versus Alaska

2017 Jeep Cherokee

Hawaii Claim		Alaska Claim		Variance of	
0591397260101014-01		0577826540101012-01		Cost	
Line 29	Radiator OE	\$319.00	Line 7 Radiator OE	\$319.00	\$0
Line 40	LF Fender AM	\$192.00	Line 10 LF Fender AM	\$207.00	(\$15)
Line 52	LF Door Nameplate OE	\$79	Line 34 LF Door Nameplate OE	\$79	\$0
Line 76	Rear Bumper AM	\$300	Line 102 Rear Bumper AM	\$283	\$17
Line 79	Rear Lower Cover AM	\$220	Line 106 Rear Lower Cover OE	\$239	(\$19)
Line 80	Rear Absorber OE	\$119	Line 123 Rear Absorber OE	\$119	\$0
Line 83	Reverse Sensor OE	\$44.20	Line 115 Reverse Sensor OE	\$44.20	\$0
Line 85	Reverse Sensor Ring OE	\$10.10	Line 119 Reverse Sensor Ring OE	\$10.10	\$0
		\$1,283.30		\$1,300.30	
	Hawaii Parts Mark Up 25%	\$320.83		No Parts Mark Up	\$0
	Total Parts Cost Hawaii	\$1,604.13			\$1,300.30

Claim #: 0591397260101014-01  
 Workfile ID: 2011f798

### Estimate of Record

2017 JEEP Grand Cherokee Limited 4D UTV 6-3.6L Flex Fuel Sequential MPI WHITE

#### ESTIMATE TOTALS

Category	Basis	Rate	Cost \$
Parts			6,621.15
Hawaii → Parts Markup	\$ 4,939.65	25.0 %	1,234.91
Body Labor	43.5 hrs @	\$ 48.00 /hr	2,088.00
Paint Labor	29.0 hrs @	\$ 48.00 /hr	1,392.00
Mechanical Labor	2.2 hrs @	\$ 65.00 /hr	143.00
Paint Supplies	29.0 hrs @	\$ 30.00 /hr	870.00
Miscellaneous			20.00
Other Charges			3.00
Subtotal			12,372.06
Sales Tax	\$ 12,372.06 @	4.7120 %	582.97
<b>Total Cost of Repairs</b>			<b>12,955.03</b>
Deductible			1,000.00
<b>Total Adjustments</b>			<b>1,000.00</b>
<b>Net Cost of Repairs</b>			<b>11,955.03</b>

This is not an authorization to repair.

All GEICO customers have the right to have their vehicle repaired in the shop of their choice.

No Supplement will be honored unless authorized by GEICO.

NOTICE: Vehicles constructed of special metals may require the use of specialized welding and bonding equipment. Proper measuring and structural repair systems are required on today's vehicle to accurately accomplish vehicle repairs. Make sure your shop has the proper equipment to repair your vehicle.

#### ALTERNATE PARTS DISCLAIMER:

IF A QUALITY REPLACEMENT PART (A/M, LKQ, RECOND OR OPT OEM) APPEARS ON THIS ESTIMATE, IT INDICATES THAT THIS ESTIMATE HAS BEEN PREPARED BASED ON THE USE OF ONE OR MORE CRASH PARTS SUPPLIED BY A SOURCE OTHER THAN THE MANUFACTURER OF YOUR MOTOR VEHICLE. GUARANTEES, IF ANY, APPLICABLE TO THESE REPLACEMENT CRASH PARTS ARE PROVIDED BY THE PART MANUFACTURER OR DISTRIBUTOR RATHER THAN BY THE MANUFACTURER OF YOUR VEHICLE.

\*\*\*IN ADDITION TO ANY SUCH GUARANTEES, GEICO PROVIDES THE FOLLOWING:

\*\*\*\*OWNER LIMITED GUARANTEE\*\*\*\* WE GUARANTEE THAT ALL QUALITY REPLACEMENT BODY PARTS (PARTS NOT MANUFACTURED BY THE MANUFACTURER) IDENTIFIED ON YOUR ESTIMATE, ARE FREE OF DEFECTS IN MATERIAL AND WORKMANSHIP AND MEET GENERALLY ACCEPTED INDUSTRY STANDARDS. THIS PARTS AND LABOR GUARANTEE WILL BE IN EFFECT FOR AS LONG AS YOU OWN THE VEHICLE DESCRIBED IN THE ESTIMATE. THIS GUARANTEE COVERS THE COST OF THE PART, LABOR TO INSTALL, AND INCIDENTALS SUCH AS PAINT AND MATERIALS AND IS SPECIFICALLY LIMITED TO THOSE ITEMS. THIS GUARANTEE DOES NOT COVER LOSS OR DAMAGE THAT IS UNRELATED TO DEFECTS IN THE QUALITY REPLACEMENT PARTS. THIS IS NOT TRANSFERABLE. IF ANY QUALITY REPLACEMENT PARTS ARE DEFECTIVE IN EITHER MATERIAL OR WORKMANSHIP, CONTACT YOUR LOCAL GEICO REPRESENTATIVE.



**Estimate of Record**

2017 JEEP Grand Cherokee Laredo 4WD 4D UTV 6-3.6L Gasoline Sequential MPI black

**NOTES**

Line 43: TIME IS FOR DENT AND SCRS LWR REAR

Prior Damage Notes:  
veh is new

**ESTIMATE TOTALS**

*Alaska →  
No parts  
make up*

Category	Basis	Rate	Cost \$
Parts			11,195.15
Body Labor	93.6 hrs @	\$ 57.00 /hr	5,335.20
Paint Labor	29.4 hrs @	\$ 57.00 /hr	1,675.80
Frame Labor	8.0 hrs @	\$ 57.00 /hr	456.00
Paint Supplies	29.4 hrs @	\$ 30.00 /hr	882.00
Miscellaneous			128.00
Other Charges			3.00
<b>Subtotal</b>			<b>19,675.15</b>
<b>Total Cost of Repairs</b>			<b>19,675.15</b>
Deductible			250.00
<b>Total Adjustments</b>			<b>250.00</b>
<b>Net Cost of Repairs</b>			<b>19,425.15</b>

This is not an authorization to repair.

All GEICO customers have the right to have their vehicle repaired in the shop of their choice.

No Supplement will be honored unless authorized by GEICO.

NOTICE: Vehicles constructed of special metals may require the use of specialized welding and bonding equipment. Proper measuring and structural repair systems are required on today's vehicle to accurately accomplish vehicle repairs. Make sure your shop has the proper equipment to repair your vehicle.

**ALTERNATE PARTS DISCLAIMER:**

IF A QUALITY REPLACEMENT PART (A/M, LKQ, RECOND OR OPT OEM) APPEARS ON THIS ESTIMATE, IT INDICATES THAT THIS ESTIMATE HAS BEEN PREPARED BASED ON THE USE OF ONE OR MORE CRASH PARTS SUPPLIED BY A SOURCE OTHER THAN THE MANUFACTURER OF YOUR MOTOR VEHICLE. GUARANTEES, IF ANY, APPLICABLE TO THESE REPLACEMENT CRASH PARTS ARE PROVIDED BY THE PART MANUFACTURER OR DISTRIBUTOR RATHER THAN BY THE MANUFACTURER OF YOUR VEHICLE.

\*\*\*IN ADDITION TO ANY SUCH GUARANTEES, GEICO PROVIDES THE FOLLOWING:

\*\*\*\*\*OWNER LIMITED GUARANTEE\*\*\*\*\* WE GUARANTEE THAT ALL QUALITY REPLACEMENT BODY PARTS (PARTS NOT MANUFACTURED BY THE MANUFACTURER) IDENTIFIED ON YOUR ESTIMATE, ARE FREE OF DEFECTS IN MATERIAL AND WORKMANSHIP AND MEET GENERALLY ACCEPTED INDUSTRY STANDARDS. THIS PARTS AND LABOR GUARANTEE WILL BE IN EFFECT FOR AS LONG AS YOU OWN THE VEHICLE DESCRIBED IN THE ESTIMATE. THIS GUARANTEE COVERS THE COST OF THE PART, LABOR TO INSTALL, AND INCIDENTALS SUCH AS PAINT AND