

SB2243

Measure Title: RELATING TO MOTOR VEHICLE REPAIRS.

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

Description: Prohibits 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.

Companion: [HB1620](#)

Package: None

Current Referral: CPH

Introducer(s): KIDANI, GALUTERIA, INOUYE, Baker, S. Chang, Dela Cruz, K. Kahele, Nishihara, Shimabukuro, Wakai



DAVID Y. IGE
GOVERNOR
DOUGLAS S. CHIN
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 SENATE COMMITTEE ON
COMMERCE, CONSUMER PROTECTION, AND HEALTH

TWENTY-NINTH LEGISLATURE
Regular Session of 2018

Tuesday, February 20, 2018
9:00 a.m.

TESTIMONY ON SENATE BILL NO. 2243, RELATING TO MOTOR VEHICLE REPAIRS.

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

The Department of Commerce and Consumer Affairs (“Department”) appreciates the opportunity to testify on S.B. 2243, 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 H.B. 1620, H.D.1, 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.

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.

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

February 19, 2018

Filed via electronic testimony submission system

SB 2243, Motor Vehicle Repairs – NAMIC’s written testimony in opposition

Thank you for providing the National Association of Mutual Insurance Companies (NAMIC) an opportunity to submit written testimony to your committee for the February 20, 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 SB 2243 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)¹, 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 implications and promotes monopolistic practices in favor of OEM parts manufacturers to the detriment of citizens of the state of Hawaii.

¹ 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.



NAMIC respectfully submits the following concerns with the proposed legislation:

a) SB 2243 is likely to lead to needless consumer confusion -

NAMIC is concerned that SB 2243 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.² Second, the legislative declaration in SB 2243 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 SB 2243 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.

² 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) SB 2243 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 SB 2243 becomes law all 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.³

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, SB 2243 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 SB 2243, 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, 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

³ *Insurance Journal*, “Alliance Hails DC Reg. Promoting Aftermarket Parts,” www.insurancejournal.com/news/east/2003/06/04/29512.htm.



Advocacy. Leadership. Results.

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

From: Mark Sektnan, Vice President

Re: **SB 2243 – Relating to Motor Vehicle Repairs**
PCI Position: OPPOSE

Date: Tuesday, February 20, 2018
9:00 a.m., Room 229

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

The Property Casualty Insurers Association of America (PCI) is opposed to SB 2243 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. SB 2243 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.

TESTIMONY OF MICHAEL TANOUE

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

Tuesday, February 20, 2018
9:00 a.m.

SB 2243

Chair Baker, Vice Chair Tokuda, and members of the Committee on Commerce, Consumer Protection, and Health, 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** SB 2243, 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. SB 2243 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 some insurers currently use OEM parts when LKQ parts are unavailable.

We respectfully request that the measure be held.

Thank you for the opportunity to testify.

SPECIAL REPORT

January 2013

Aftermarket Parts: A \$2.34 Billion Benefit for Consumers



**Property Casualty Insurers
Association of America**

Advocacy. Leadership. Results.

Introduction

For more than 25 years, aftermarket crash parts (also known as non-OEM parts or competitive replacement parts) have been used to repair damaged vehicles. These parts, which are not supplied by original equipment manufacturers (OEM), comprise the sheet metal or plastic components forming the vehicle's exterior, such as hoods, door and bumper panels, fenders, side moldings, etc. **Studies conclude that these exterior non-OEM aftermarket parts serve no safety function and do not compromise the safety of a vehicle.**¹

Because aftermarket parts are much less expensive than OEM parts, they are often used by body shops and insurance companies in an effort to reduce repair costs. In this way, consumers benefit by saving on out-of-pocket repair costs and through reduced automobile insurance premium growth due to lower claim costs. Aftermarket parts also allow more cars to be repaired and not totaled, benefiting consumers who do not have to replace (and finance) a new car and benefiting shops with repair jobs they might not get otherwise. Furthermore, these alternative competitive replacement parts are readily available at more than 40,000 body shops nationwide. Quick access to these parts means fewer delays in repairs so personal and business vehicles can get back on the road promptly.

This PCI Special Report provides an update of the estimated cost impact resulting from the banning of aftermarket parts.

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

The Impact of Banning Non-OEM Parts

Nationwide, there are about 23.75 million claims reflecting collision, property damage (PD) liability, comprehensive (excluding theft), and uninsured and underinsured motorist-property damage (UM/UIMPD) coverages in 2011.² Roughly 3.33 million claims involve non-OEM parts and 20.43 million claims involve OEM parts. Total vehicle damage loss dollars for all crash parts (including labor) are about \$56.34 billion (\$5.20 billion—non-OEM and \$51.13 billion—OEM).³

In this analysis, the cost of labor (\$14.08 billion) is presumed to remain the same on work done on both OEM and non-OEM parts. Excluding labor, total crash part costs are about \$42.25 billion (\$3.90 billion—non-OEM and \$38.35 billion—OEM).⁴ If the use of non-OEM components had already been banned, the total losses for crash parts would have increased by 60 percent, to about \$6.24 billion. In other words, along with the current \$3.90 billion of losses from non-OEM aftermarket parts, an extra \$2.34 billion would have been added to the total parts cost of insured vehicle damage (resulting in \$6.24 billion). The total (OEM and non-OEM) crash parts would have been \$44.59 billion.

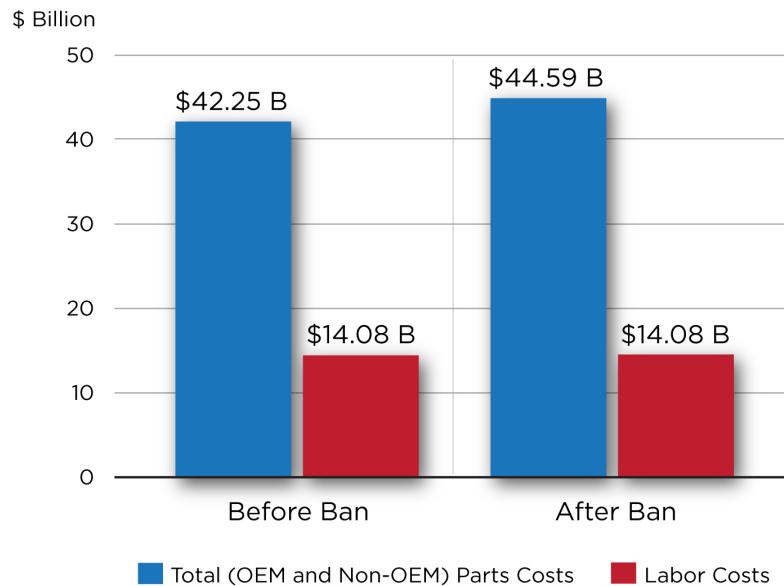
1 GAO, "Motor Vehicle Safety: NHTSA's Ability to Detect and Recall Defective Replacement Crash Parts is Limited" (1/01); and Insurance Institute of Highway Safety testimony before the National Conference of Insurance Legislators' P/C Insurance Committee (7/07/05)

2 Derived from an extrapolation using Fast Track Monitoring System (industry report) and National Association of Insurance Commissioners (NAIC) data; Minnesota was not included in the countrywide data since this state does not allow the use of aftermarket parts (source: PCI). The analysis also assumes that all companies pay for aftermarket parts.

3 Derived from an extrapolation using Fast Track and NAIC data, and using 60 percent differential between average cost of OEM and non-OEM claims

4 Ibid.

Increase of \$2.34 B in Insured Vehicle Damage Losses Resulting from Banning Aftermarket Parts Nationwide



Note: After the ban, parts are OEM only.

An additional \$2.34 billion in costs could have meant a 4.2 percent increase in the premium reflecting total vehicle damage coverages, or an approximate 2.6 percent increase in the total liability and physical damage premium. In other words, consumers with liability and physical damage coverages may have paid an additional 2.6 percent (or \$24) more per insured car each year because non-OEM aftermarket parts were banned.⁵

Background Information

The results in this report were derived using findings from various studies; they are as follows:

- According to Mitchell, International,⁶ aftermarket parts represent 14 percent of the total cosmetic crash parts market. In contrast, OEM parts represent 86 percent of the total crash parts market.
- For all vehicles, the average price of an OEM part is said to cost about 60 percent more than the average price of an aftermarket part.⁷
- The cost of labor for sheet metal is estimated to be about 25 percent of the total auto body work.⁸ Hence, the cost of parts is about 75 percent of total auto body work.

Premium and claims data from the National Association of Insurance Commissioners (NAIC) and the Fast Track Monitoring System are also used in the analysis.⁹

5 The average premium reflects 2009 from the NAIC 2008/2009 Auto Insurance Database Report (2011).

6 Mitchell, International (a leading provider of collision repair data), "Industry Trends Report," Nov. 2010

7 Alliance of American Insurers (former trade association which is now part of the PCI)

8 PCI, based on data obtained from U.S. Department of Treasury "Market Segment Specialization Program: Auto Body and Repair Industry" (8/95), (p. 35), www.irs.gov/pub/irs-mssp/autobody.pdf.

9 Fast Track Monitoring System, 3rd Qtr. 2011, is a publicly available report of auto insurance loss experience prepared by Independent Statistical Service, Insurance Services Office, Inc. and National Independent Statistical Service; the report represents about 70 percent of the nationwide market.



PCI is comprised of more than 1,000 member companies, representing the broadest cross-section of insurers of any national trade association. PCI members write over \$190 billion in annual premium and 40 percent of the nation's property casualty insurance. Member companies write 46 percent of the U.S. automobile insurance market, 32 percent of the homeowners market, 38 percent of the commercial property and liability market, and 41 percent of the private workers compensation market.

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

February 20, 2018

Senate Bill 2243 Relating to Motor Vehicle Repairs

Chair Baker, Vice-Chair Tokuda, members of the Senate Committee on Commerce, Consumer Protection, and Health, I am Rick Tsujimura, representing State Farm Mutual Automobile Insurance Company (State Farm). State Farm offers these comments about SB 2243 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.¹ 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.”² 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.

SB 2243 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

¹ HRS § 431:10C-313.6(a)

² 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, 1997³) 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.

³ Hawaii enacted HRS § 431:10C-313.6 in 1997.



- 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
Direct: (808) 593-1875 ■ FAX (808) 593-1876 ■ Cell: (808) 341-9252

SENATE COMMITTEE ON CONSUMER PROTECTION AND HEALTH
Room 229 State Capitol
Tuesday February 20, 2018, 9:00 a.m.

SB 2243 RELATING TO Motor Vehicle Repairs.

Chair Baker, Vice-Chair Tokuda, Members of the Consumer Protection & Health Committee:

My name is Timothy M. Dayton, General Manager of GEICO, Hawaii's largest auto insurer. **GEICO opposes Senate Bill Number 2243.** Bill 2243 would effectively prohibit Hawaii insurers from using any replacement parts other than original equipment manufacturer (OEM) parts. The measure fails to account for the current efforts by insurers to ensure quality repairs with aftermarket parts. Nationally, OEM Parts are quite expensive as one would expect on any part being manufactured and supplied by a complete monopoly; the price set by these monopolies is commonly referred to as the Manufacturers Suggested Retail Price (**MSRP**). As exorbitant as the MSRP is throughout the other 49 states, it is much higher in Hawaii due to the unique **Hawaii 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 vehicles 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. With margins like this over and above the retail markup in the other 49 states, is it any wonder that this legislation

has been requested by one of the Hawaii Dealerships in an effort to eliminate the only competition in Hawaii? To make matters worse for Hawaii consumers, all dealerships long ago stopped stocking most OEM parts resulting in a two week delay on many repairs.

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 considering the soft costs of procuring original equipment manufacturer parts which include excess downtime during vehicle repairs, the sourcing and shipment of original equipment manufacturer parts, added rental expenses, and the increased number of vehicles declared a total loss.

HB 1620 assumes that original equipment manufacturers have a monopoly on quality assurance. Some insurers, including GEICO, offer a lifetime warranty on repairs. Additionally, original equipment manufacturer parts are always used if required or if the replacement with an aftermarket product would void the warranty on the vehicle. See Exhibit B for a copy of the warranty 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 can 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 markup the price of original equipment manufacturer parts even higher than the current Hawaii mark up. This oversight may be cured by a prohibition on pricing original equipment manufacturer parts over MSRP. Another option would be for the bill to have a restricted application OEM parts that can be stocked and sourced locally.

Finally, the measure is not based on consumer concerns. Consumers are guaranteed an original equipment manufacturer part when required by the manufacturer's warranty . If not

required by warranty, an aftermarket part of equal or better quality than the original equipment manufacturer part. Furthermore, GEICO endorses the quality of its repairs with a lifetime warranty on after-market parts.

It is GEICO's position that the prohibition on charging insureds an additional fee for repairs with original equipment manufacturer parts based solely on said manufacturer's recommendation fails to consider the manufacturer's conflict of interest, fails to mitigate cost inflation of original equipment manufacturer parts, misrepresents consumer concerns, and will immediately affect the price of insurance in Hawaii.

GEICO appreciates the ability to present and your consideration of this testimony. We **respectfully urge the committee to hold Senate Bill 2243.**

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%	<u>\$320.83</u>		No Parts Mark Up	<u>\$0</u>	
	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
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
Total Cost of Repairs			12,955.03
Deductible			1,000.00
Total Adjustments			1,000.00
Net Cost of Repairs			11,955.03

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.

C

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

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
Subtotal			19,675.15
Total Cost of Repairs			19,675.15
Deductible			250.00
Total Adjustments			250.00
Net Cost of Repairs			19,425.15

Alaska →
No parts
Make up

This is not an authorization to repair.

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February 17, 2018

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

LKQ Opposes Senate Bill 2243

Dear Committee Chair Baker:

As a Government Affairs Representative for LKQ Corporation, I am greatly concerned with **SB 2243**, governing the use of aftermarket parts in Hawaii which is scheduled for consideration in the Senate Committee on Commerce, Consumer Protection and Health on Tuesday, February 20th 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, SB 2243 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. **SB 2243 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 Senate Bill 2243. **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.**

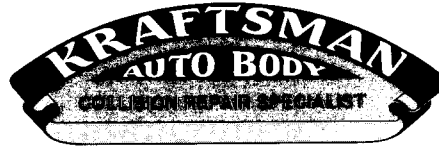
Please do not hesitate to contact me if you have any questions. I can be reached at (312) 621-2755.

Respectfully,

A handwritten signature in black ink, appearing to read "Ray Colas". The signature is fluid and cursive, with the first name "Ray" being more prominent and the last name "Colas" following in a similar style.

Ray Colas
Government Affairs Representative
LKQ Corporation

A FULL SERVICE COLLISION CENTER



(808) 329-7277
FAX (808) 329-2044

74-5622 Alapa Street • Kailua-Kona, Hawaii 96740

February 19, 2018

SB2243

Kraftsman Auto Body has been operational in Kailua Kona HI since June of 1982. Our company repairs collision damaged vehicles back to pre-accident condition as best possible and we are dedicated to making sure our customer receive the best repairs possible. We are actively involved in our industry, utilize the latest repair techniques, and maintain current repair equipment. All of our technicians are I-CAR certified and provided with continuing education on a regular basis.

We support SB 2243 so the consumers and the repairs shops have the opportunity to use OEM replacement parts without the consumer being forced to pay the difference. This is especially important when insurers are paying to repair a claimant's vehicle being the claimants are under no contractual relationship with that insurance company. Going forward this bill will help in providing repairs that will reflect current OEM recommended/required procedures for the technology seen in today's modern automobile.

I support changing the code.

John Florek - President

Kraftsman Auto Body
Serving West Hawaii since 1982
jflorek@kraftsmanautobody.com
808 329-7277



TO THE SENATE COMMITTEE ON COMMERCE,
CONSUMER PROTECTION, AND HEALTH
TWENTY-NINTH LEGISLATURE
Regular Session of 2018
SB2243

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

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 31st at 9am. 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 regular crash testing. Excerpts below are from an article in “CollisionWeek”, a respected collision industry publication:

Diamond Standard Releases Crash Test Results of Honda Fit Bumper Reinforcements

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

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 cost. 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 at the time of vehicle repair.

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

Thank you for your time and attention to this important matter

Dan Dutra

Testimony from Van Takemoto, President, Island Fender
For the Automotive Body and Painting Association of Hawaii
and vehicle occupants of Hawaii
In strong support of SB2243 – Relating to Motor Vehicle Repairs
Senate COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HEALTH
Tuesday, February 20, 2018, 9:00AM Room 229

Chair Baker, Vice-Chair Tokuda and members of the Consumer Protection Committee, I am here to testify in support of SB2243.

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

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

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

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

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

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

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

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

HRS § 431:10C-313.6 that SB2243 refers to, currently requires insureds and claimants to pay the difference between the cost of cheaper aftermarket crash parts and the original equipment manufacturer's crash parts.

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

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

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

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

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

Special interest testimony has or will bring up several points to confuse the relative issues of SB2243 and I would like to address them at this time.

Increase in premiums.

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

Increase in total losses, therefore increasing premiums.

- Aftermarket Crash Parts makes up a small percentage of the overall cost to repair collision damaged vehicles.
- The Property and Casualty Insurers Association of America's, Special Report, Aftermarket Parts: A \$2.34 Billion Benefit for Consumers reported that excluding labor, total crash part costs are

about \$42.25 billion (\$3.90 billion—non-OEM and \$38.35 billion—OEM). Aftermarket parts is therefore 9.23% of the total parts cost.

- Total Parts Costs are around 42.6% of the total repair cost, so aftermarket crash parts is only 3.93% of the total cost. This is a small number and plays a very small factor in declaring a car a total loss.
- Local insurers and many national insurance companies already pay for OEM Crash Parts and they continue to operate profitably.

SB2243 will lead to an OEM monopoly and increased OEM part prices.

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

Anti-Aftermarket parts.

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

Aftermarket crash parts are of like kind and quality.

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

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

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

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

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

Opposition to SB2243 is about self-interest and greed.

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

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

And this is not a drill.

Van Takemoto
President, Island Fender
807 Ilaniwai Street,
Honolulu, Hi 96813
van@islandfender.com

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

Testimony from Sabrina Dela Rama, Manager, Tony Collision

In strong support of SB 2243 – Relating to Motor Vehicle Repairs

Senate Committee on Consumer Protection and Health

Tuesday, Feb. 20, 9 am, Rm. 229

Aloha Chair Baker and Committee members,

My name is Sabrina Dela Rama and I am a manager of Tony Group Collision Center and the President of The Automotive Body and Paint Association of Hawaii. I have worked in the Auto Collision Industry for 29 years. I am in strong support of Senate Bill 2243.

The Collision Center has been in business for over 35 years and is a licensed Dealer repair shop, 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 an I-CAR Platinum Certified Individual as an Estimator, None Structural Tech and Refinish Tech.

Insurance Companies Profit Comes First

The current law only protects the Insurance companies' profit because it requires the consumer, either insured or claimant (not at fault party), to pay out of pocket to ensure that their vehicle is repaired properly with Original Equipment (OE) CRASH parts in lieu of After Market Parts (AM). This law has been in effect for 2 decades and has made the insurance companies millions of dollars because they have fooled the unsuspecting consumer into believing that "After Markets parts are like kind in quality." If the consumer disagrees with the use of AM parts, then the insurance company refers to the current law as their justification for denying payment for OE parts. They then require the collision shops to put AM parts on the car even though we know those parts put the consumer's safety at risk.

Complaints to DCCA and Insurance Commissioner

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

In October 2017, we, board members of the Automotive Association, went to visit Commissioner Ito to talk about the safety issue of these parts and discuss the bill. We informed him of a **\$42 million law suit in Texas** where John Eagle Collision did NOT follow the manufacturer's recommended procedures on repairing a Honda Fit. The car got into a secondary accident, did not hold up in the collision as it was

engineered to by the manufacturer, and the occupant was burnt as a result. When we discussed this with Commissioner Ito, he dismissed it and said “that’s on the mainland and until someone gets badly injured or dies here in Hawaii nothing will change.” All he was concerned about was taking credit for lowering premiums since he’s been in office.

Litigation Required Because IC Refuses to Follow Up on Complaints

Our client Joslyn Lee sued Geico’s insured because Geico refused to reimburse her the full amount for repairs. My client was the innocent claimant hit by the Geico insured. We had another consumer Stephen Aleviado sue Geico directly for deficiencies. Eileen Tan who could not be here today but testified on the house bill had to take her carrier to court. Carolyn Won also took their carriers to court and I litigated on her behalf– just so they could get paid to properly repair their vehicles. And there are many more. These mainland insurance companies (not the local companies) force consumers to use the justice system for compensation since the State has refused to help. I still have multiple clients that filed complaints to DCCA for unfair practice, yet nothing has been done on the Commissioner’s side. Ed Wagner, Jay Miyamoto all had to hire Umpires to get paid for their proper repairs, all won.

Threats from Insurance Companies to Small Repair Shops

It’s gotten so bad the mainland insurance companies have threatened collision shops if they support this bill. These are all small, family owned businesses. One owner has been on our Board since the 60s. He told us that he got a call from an high up manager who made it clear that if he supports this bill or the association that he will lose his business relationship/direct repair program referral with them. Two other board members and shop owners called me and made similar statements and addressed this in multiple board meetings. All three resigned from the Board. The only thing all 3 shops have in common is that they are all major direct repair shops for Geico and one owner did say it was Geico. We had 12 board members in attendance and all are witnesses to the threats.

Insurance Preferred provider program shop;

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

Insurance Premiums Remain Competitive with OE Parts

While these large mainland carriers with billion-profits want you to believe that premiums will increase, there are three major Hawaii insurance companies that DO NOT use AM parts as well as several mainland ones that have competitive rates and their rates have not gone up as a result of using OE parts. Hartford Insurance doesn’t use AM parts and in their estimates they say: “aftermarket parts is not the same quality as the original equipment parts.” Allstate allows the consumer to choose to use AM parts or not and DOES NOT pass the cost to the consumer. Liberty Mutual doesn’t use AM parts and Progressive also allows the consumers to make a choice and DOES NOT pass on the cost. These

companies all support OE parts and put the consumer's and their safety first. They are competitive and affordable. The other companies sacrifice safety for profit by forcing consumers to accept AM parts or pay out of pocket. The Insurance Institute did a study and found that if Original Equipment collision parts are used, the premiums may increase \$24 per year. This is for crash parts only – not other mechanical parts used in repair. These include hoods, fenders, bumpers, reinforcement bars, absorbers, radiator support and headlights.

There are NO confusion if premiums will increase, it will not, it's all going to cost less moving forward, why because of the safety system these vehicles are built with today; A regular **Honda Ridgeline** has **airbags everywhere**: front, side, seat, passenger, seat belts and head airbags, **Intelligent traction management system**=adjust driving performance on various road surfaces, **vehicle stability assist**=helps to stabilize the vehicle during over compensation of cornering, **adaptive cruise control**=maintains a constant speed and distance from the vehicle in front of you and will automatically slow the vehicle down if it comes too close to the front vehicle, **Lane Watch**=it will signal you if there's a car in your blind spot and will send a signal of the vehicle in your blind spot, **Lane keep Assist**=Keeps your vehicle in your lane, **Road departure mitigation**=it will alert you if a car is coming into your lane, **Collision braking assist**=this will alert you when you are coming too close to the vehicle in front of you and some will even brake for you and slow the vehicle down, **blind spot assist**=Alerts you to detected vehicle in your left or right blind spot while driving 20mph or higher, **cross traffic monitor**=alerts you if a detected vehicle is approaching from a rear corner when your vehicle is in reverse, **reverse camera**=a camera when you are reversing, all these are on a Ridgeline from Honda \$25-\$35K, not a \$50k vehicle but a fairly reasonable cost vehicle. Some manufacturers have even more safety systems on their vehicles; that is why premiums will NOT increase but as a matter of fact, it will decrease because of less accidents and less cost of repairs from all these safety systems. OEM parts will NOT affect premiums, the study conducted that shows an increase of \$24.00 a year if ALL OEM parts was used was in 2015, before all these safety features came out, imagine the survey now? It might even say -minus \$24.00 plus a year..

Example of OE vs. AM Parts

I had a 2017 Odyssey Van that had front damage. The original fender is made of Aluminum. The aftermarket fender is made of steel. The whole front of the Odyssey's are now Aluminum because Honda is required to make these vehicles with better fuel mileage. But they must be safer as well. Since the A/M parts are all made of steel, this is not "like kind in quality." If you put these parts on that van, you have NOW re-engineered that vehicle. That is why it's always important to follow the recommended manufacturer procedures. These parts and procedures are not REQUIRED. They are RECOMMENDED. So the insurance companies use this language as a loop hole to avoid paying for proper vehicle repair OR they make the consumer absorb the cost.

Aftermarket part warranty???

We had a customer who came in for a minor bumper repair, upon inspection we noticed the sides of her bumper was bowed outwards, thinking the damage was so minor we were puzzled but with the vehicles

today, you never know if the energy transferred. Upon removal, the tech had problems, he finally removed the rear bumper and found there were additional screws holding this bumper on the van, these screws obviously didn't belong there, upon future inspection he noticed the reverse sensors were glued on to this bumper too all because the original sensors didn't fit the hole in this bumper so the **prior** shop glued them in place. We looked at the cover and found this was all done by the **prior** shop because it was an aftermarket bumper that did not fit properly on the van and to make it stay, the tech added screws where they didn't belong and glued on the reverse sensors which became not usable. We reached out to the customer she calls Geico who forced her to repair at their shop and as of today, that file has NOT been paid. Geico refused to pay the full amount of the redo using an Original equipment bumper because they told Ms. Adela she had to take the van back to the shop that did the prior repairs or pay the difference out of her own pocket. Then Geico called the Prior shop and made the shop call me. Is that what Geico calls "warranty" that is not warranty on the aftermarket part failure, that is plain redirecting and getting out of paying. We have many more but because this file is recent and still pending I thought you would like to know what goes on daily. It's about the **3 D's, delay, deny and defend**. WARNING, THE USE OF THIS PART IN YOUR VEHICLE'S REPAIR COULD INTERFERE WITH THE DESIGN COMPONENTS AND SAFETY FEATURES OF YOUR VEHICLE RESULTING IN SEVERE INJURY OR DEATH-this was in Repairer driven news on Aftermarket parts;

Other states.

Many states are also passing new laws that restrict the use of none crash tested aftermarket parts, let's not be second or last, let's take charge and be the first. However, the bill is not restricting the use at all, it's just allowing the consumers to have a choice. Our bill is not as strict as other states, we want fairness for all but we should always put the consumer's safety FIRST!

Opposition to this bill is all about profit over safety. This bill puts the consumer first. Hawaii consumers should not have to pay additional out of pocket costs to ensure that their vehicle is repaired properly. Especially when they are not at fault. Please pass SB 2243.

Sincerely,
Sabrina Dela Rama

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

Testimony from Eileen Tan,
In strong support of SB2243 – Relating to Motor Vehicle Repairs,
Title: Motor Vehicle Insurance, Repair, Original Equipment manufacturer Parts;
Aftermarket Parts

[

Aloha members of the committee:

My name is Eileen Tan and I am testifying in strong support of SB2243. I am a consumer that recently had to go to court against my insurance company for reimbursement on my repairs.

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

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

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

Thank you,
Eileen Tan

Testimony Supporting SB2243 – Relating to Motor Vehicle Repairs - Aftermarket Vs OEM Parts

Senate Committee on Commerce, Consumer Protection,
and Health

Tuesday, February 20, 2018 9:00 AM – Room 229

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

Aloha Chair Baker and members of the CPH Committee,

Some of you have received dozens of messages the past 5 months regarding auto insurance company abuses, particularly by GEICO.

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

Those messages are incorporated with this testimony by reference, especially the Feb 18 message entitled:

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

The problem of Aftermarket Parts (AM) is a problem directly related to auto insurance company abuses of policyholder legal 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 the 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 a minor accident that is not their fault.

I have a complaint against GEICO under investigation with the Insurance Commission as a result of GEICO's mistreatment of me, and all of you should know my story by now, after receiving dozens of emails from me the past 5 months.

On Feb 15, an umpire ruled against GEICO on costs related to the repair of my car. See Feb 18 message for details and a copy of the umpire ruling. Contact the Insurance Commission for more details. GEICO is now required to pay the full cost of the repairs to my car.

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.

The IAC / CPC / CPH Committees should investigate the allegation that Sigs Body Shop opposed HB1620

solely on the basis that it has rented a warehouse for shipping in and storing aftermarket parts.

In other words, if the allegation is true, Sigs is, like GEICO and other national chain insurers in Hawaii, selfishly thinking of itself and its profits instead of focusing on auto safety and human life. Sigs also teamed up with GEICO to donate a car to someone as part of KHON2's Big Give. Are they in collusion with each other?

GEICO and Sigs Collision Centers partners with KHON2 for The Big Give

<http://khon2.com/2017/12/07/geico-and-sigs-collision-centers-partners-with-khon2-for-the-big-give/>

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 last year and continuing in 2018, requiring a manufacturer-certified shop to redo the repairs so that the car is safe to be on the road again to protect occupants from harm as originally intended by the manufacturer.

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=TcaXLlqgpzA>

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 SB2243 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

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/>

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/>

The 2013 Fit crashed Tuesday carried Certified Automotive Parts Association-certified fenders and a CAPA-certified hood; a NSF-certified bumper reinforcement beam; an uncertified aftermarket radiator

support, windshield and drivers-side front wheel; and two uncertified aftermarket hood hinges.

**Aftermarket Parts, Glued Roof ‘Flunk’
Crashworthiness Test Commissioned by Todd Tracy -
Jan 2018**

<http://www.bodyshopbusiness.com/aftermarket-parts-glued-roof-flunk-crashworthiness-test/>

Before deciding to reject or modify this bill to do another study like the IAC or CPC chose to do in HB1620 HD1, you should first have a conference call with the following 2 experts:

1) Dallas attorney, Todd Tracy, who won the \$42M verdict mentioned above, and crash tested vehicles as detailed above with CAPA and NSF certified aftermarket parts and showed that they are unsafe.

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

2) Collision Damage Analyst, Larry Montanez, **my Independent Appraiser for the case I just won against GEICO on Feb 15.**

You can obtain more details about my complaint from the Insurance Commission, but If you don't know my story

after receiving 5 months of detailed emails about it, you never will “get it”.

Mr. Montanez was here last September giving a training class to body shops.

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

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

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

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

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

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

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

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

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

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>

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

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

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

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

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 required pre and post scans 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/>

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

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

I wonder where these 2 class action lawsuits stand.

Geico is Facing Two Class Action Lawsuits for Shady Behavior.

<https://www.ihlaw.com/geico-is-facing-two-class-action-lawsuits-for-shady-behavior/>

GEICO facing class action

<https://www.insurancebusinessmag.com/us/news/breaking-news/geico-facing-class-action-70454.aspx>

This law firm shows a list of all its successful cases against GEICO

GEICO Injury Claim Settlements & Verdicts

<https://www.injurytriallawyer.com/library/geico-insurance-bad-faith.cfm>

Here is a large list of lawsuits against GEICO

Law 360 GEICO

<https://www.law360.com/companies/geico/articles>

GEICO's Honolulu General Manager, Timothy Dayton opposed HB1620 claiming that GEICO warrants aftermarket parts repairs, but we all know that **ONLY a body shop can warrant / guarantee repairs, not an**

insurance company. He knows that to be true but will twist and distort the truth around in testimony to mislead and deceive the legislature to protect GEICO profits just as he did in 2 response letters to my Insurance Commission complaint.

"Who Guarantees Repairs?" The Insurance Company or the Auto Body Shop?

<https://www.youtube.com/watch?v=7RoiWI9BWJU>

"Additionally, some insurers, including GEICO, offer a lifetime guarantee on the aftermarket parts used in its repairs." - Timothy Dayton IAC testimony

The Insurance Commission should order GEICO and other insurance companies to remove this blatantly false, deceptive, misleading statement from their estimates.

Dayton testimony, Exhibit B guarantee

***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 QUALIFY REPLACEMENT PARTS ARE DEFECTIVE IN EITHER MATERIAL OR WORKMANSHIP, CONTACT YOUR LOCAL GEICO REPRESENTATIVE.

Why is this false guarantee not transferable? The \$42M verdict involved a vehicle that a previous owner had repaired and then sold to the unfortunate victims burned in the subsequent accident.

Mr. Dayton also asked why OEM parts are 25% to 35% higher in Hawaii than on the mainland and Alaska without any justification.

There is nothing unique about the 25% to 35% parts price markup in Hawaii as he claims as having no justification.

He forgot to mention that, like everything else, aftermarket parts are higher cost in Hawaii than on the mainland too. The antiquated Jones Act of 1920 is responsible for a 20% to 30% increase in Hawaii's cost of living because of shipping costs to protect profits for the Matson shipping monopoly.

It is called the **Paradise Tax** and is applied to **EVERYTHING**, including the cost of food, medicine, clothing, as well as to housing, rent, and yes, even the price of a new car.

Have you ever looked at the local markup price for cars at your favorite dealership? As I recall, it can be as high if not higher than \$2,000 ABOVE MSRP just because we live in Hawaii.

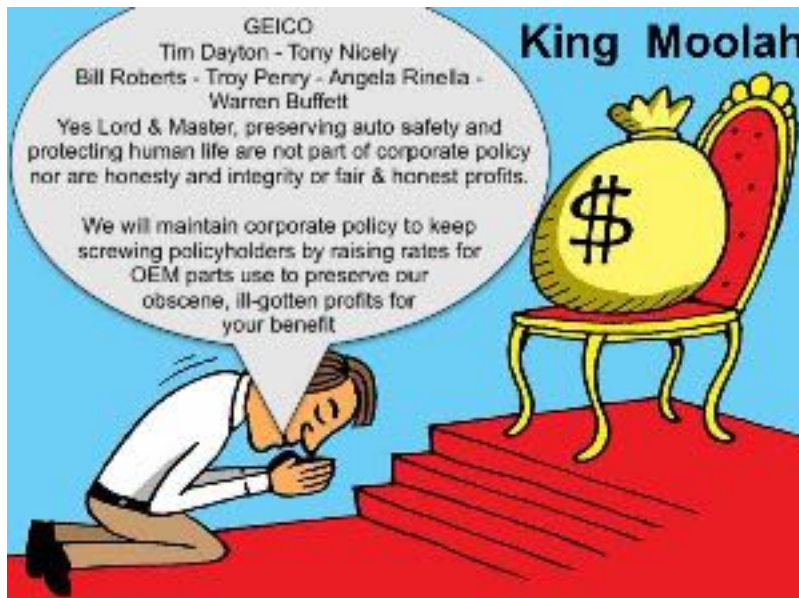
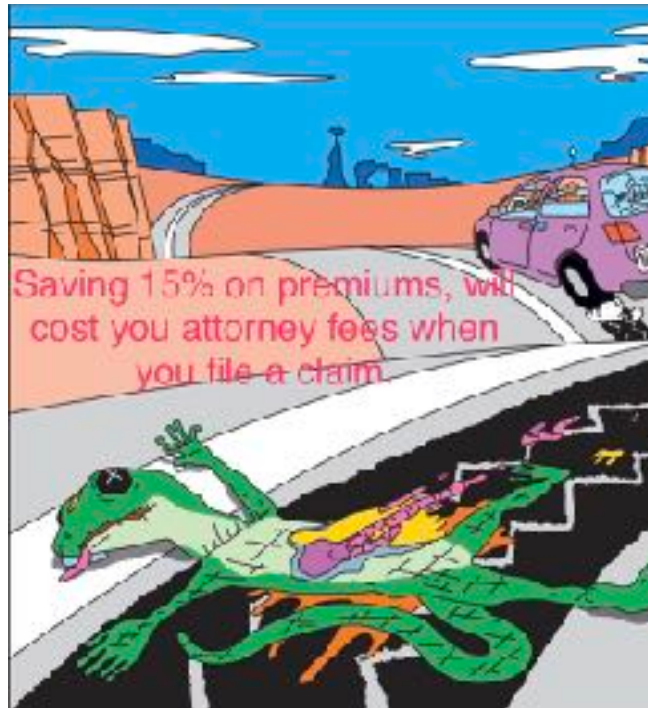
Have you visited neighbor islands like Kaua'i or Big Island to see the higher cost of goods than on Oahu because of additional shipping costs?

GEICO and other insurers possibly use illegal Bait and Switch tactics to get people to buy in, only to screw them royally on the back end when an accident occurs, even when the accident is not their fault and even when the policyholder has been a GEICO policyholder for 55 years.

What ever happened to Truth in Advertising laws?
What ever happened to honesty, integrity, fair and honest profits and salaries?

It is time to squash the GEICO gecko. Saving 15% on insurance will cost you 25% to 50% or more in attorney fees and / or other expenses (like an Independent

Appraiser and Umpire) after you have an accident and file a claim!



Mr. Dayton brags about GEICO being the largest auto insurer in Hawaii (163,000 insured stated in his response to my complaint, not in testimony).

Policyholders who have had the misfortune of having to deal with GEICO after an accident have 2 options.

1) They must fight tooth and nail to get justice like myself and one IAC testifier who had to take off 2 days of work without pay to appear in court to get paid in full for car repairs.

2) They just accept the low ball, "short pay" offer provided by GEICO and move on with life.

99% of accident victims are too vulnerable, too uneducated about their legal rights, too afraid, too intimidated, too bullied by claims adjusters, too trusting, too gullible, and too busy with family and life's struggles to realize they are being duped, screwed, deceived, lied to, abused, manipulated, robbed, fleeced, and having their legal rights trampled upon by GEICO - and likely most other auto insurance companies. This fact of human nature is what auto insurance companies rely upon to continue their abuse and outright theft of money from policyholders.

Policyholders mistakenly think GEICO is some sort of saintly, angelic savior or all knowing god in their midst, there to protect them after an accident when, in fact,

GEICO is there for only one reason, to screw them to protect its interests and obscene profits.

That is the ONLY reason why the Hawaii Insurance Commission hasn't been flooded with complaints yet by every Hawaii resident that GEICO has screwed out of money after an accident over the past 10 years to enhance its profits, allowing Honolulu General Manager, Timothy Dayton, to claim that none of GEICO's 163,000 policyholders in Hawaii are filing complaints with the Insurance Commission.

Contrary to Insurance Commissioner Ito's IAC testimony, his office does not take complaints seriously. He is more concerned about preserving his bragging rights for keeping rates low on his watch regardless of the negative consequences to our people. The Attorney General doesn't take complaints seriously either.

Both just tell complainants that they must seek an attorney's help and file a lawsuit so the AG and Insurance Commissioner don't have to bother doing their job to protect the public from harm, a primary responsibility of government.

Contrary to his IAC testimony, he is fully aware of all the lawsuits on the mainland, including the \$42M Dallas verdict by attorney Todd Tracy as a result of the use of

aftermarket parts and improper procedures for repairing a car.

Leave it to a nationally read Michigan auto repair news site to do investigative research and reporting to shoot holes in both his and GEICO's local General Manager, Timothy Dayton's testimony before the IAC Committee on HB1620.

The local news media are too afraid to talk stink about greedy, powerful, crooked billion dollar companies.

Ins. Commissioner Ito opposes bill to keep Hawaiians from paying out-of-pocket on OEM parts - Feb 7, 2018

<http://www.repairerdrivenews.com/2018/02/07/insurance-commissioner-ito-opposes-bill-to-keep-hawaiians-from-paying-out-of-pocket-on-oem-parts/>

Opposing parts bill, Hawaii insurance head critical of OEMs, gives status quo pass Feb 7 2018

<http://www.repairerdrivenews.com/2018/02/07/opposing-parts-bill-hawaii-insurance-head-critical-of-oems-gives-status-quo-pass/>

While some insurers might be baking the cost of the technology's repairs into higher premiums, the [Chicago Tribune](#) indicate others are offering [discounts to consumers](#) for having such features.

Insurer discounts for safety tech carry messages for shops, adjusters - Dec 20, 2016

<http://www.repairerdrivennews.com/2016/12/20/insurer-discounts-for-safety-tech-carry-messages-for-shops-adjusters/>

A Honda analysis of Allstate claims has found that the [Honda Sensing ADAS suite](#) not only cut frequency — it surprisingly cut severity as well.

"Ito apparently doesn't recognize any of this research or the benefits to insurers, and instead blamed OEM engineers."

"There is a safety issue," Ito said. "The question is really, I think, on cost and who should bear the burden. Because of the increase of sensors in the bumpers and other things, I mean my suggestion to the car manufacturers is 'Take it out of the bumpers and put it someplace where in a fender-bender situation, the sensors are not damaged.'"

"There you have it, OEM engineers. The Hawaiian insurance commissioner has solved ADAS design for you: Put it somewhere that can't be damaged in a collision."

"Ito didn't say where this magical vehicle location would be. Perhaps in a drone hovering over every vehicle?"

Mr. Ito's comment points to his incompetence and the need to fire him!

What an embarrassment this should be to the State of Hawaii and especially Hawaii's news media - TV, Print, Online - that refuses to perform their solemn moral duty to inform the public about issues that affect their safety, their very existence, and the finances of every resident of Hawaii. Shame, shame, shame on all of them.

In the wake of Hawaii becoming the most talked stink about state in the wake of the missile attack debacle, one would think that Hawaii would wise up and learn how to lead instead of just following the donkey's ass!

I was contacted by another mainland news site that is working on its own story about this bill.

The IAC, CPH and CPC Committees of the Hawaii Legislature should know that **CAPA and likely NSF are backed by the greedy insurance industry, not the customer oriented repair industry.**

Any SB2243 modification which suggests or claims that CAPA-certified or NSF-certified aftermarket parts are acceptable as replacements for OEM parts is patently false.

Such language could conceivably expose the State of Hawaii to liability for any Hawaii accident that involves such parts and it is discovered by someone like Dallas attorney, Todd Tracy, that those parts caused more serious injuries or even death to the occupants.

I would not want to be a defendant in a Todd Tracy lawsuit. Would you?

Armed with Rockwell hardness tester, Vt. repairer questions CAPA high-strength steel parts May 10 2016

<http://www.repairerdrivennews.com/2016/05/10/armed-with-rockwell-hardness-tester-vt-repairer-questions-capa-high-strength-steel-parts/>

The following video should reinforce what one or more IAC testifiers stated about car safety being a system.

Video - Nissan: Safety Is A System

https://www.youtube.com/watch?time_continue=158&v=uwXia8HYEek

Independent Crash Test Comparison - Genuine Vs. Non Genuine Parts - Volkswagen Golf

https://www.youtube.com/watch?time_continue=126&v=I5qBxfCyhT4

According to the Independent Appraiser for my complaint, Larry Montanez, the insurance investigator tried to bully him just as another investigator a few years ago bullied someone, **saying that she should not be encouraging consumers to file complaints!**

Maybe both investigators should be investigated by the state Ethics Commission and receive their pink slips along with Mr. Ito.

Use Of Aftermarket (Non-OEM) Crash Parts In Repair Of Damaged Vehicles last update 12/18,/2017

<https://www.mwl-law.com/wp-content/uploads/2017/09/USE-OF-NON-ORIGINAL-EQUIPMENT-MANUFACTURER-OEM-CHART.pdf>

HAWAII:

Authority: Haw. Rev. Stat. § 437B-1; Haw. Rev. Stat. § 437B-13; Haw. Rev. Stat. § 437B-15; Haw. Rev. Stat. § 431:10C-313.6.

Summary: The insured must be given a choice between using OEM or non-OEM parts. If the insured chooses to use the OEM part over a non-OEM part, the insured must

pay for the difference in cost between the OEM and non - OEM part unless the car's warranty specifies that OEM parts must be used. If a non OEM part is used, the **insurer must guarantee the non-OEM part for either 90 days or the same length that the OEM part would be guaranteed for, whichever is longer.** All work done by the repair shop must be recorded on an invoice and note clearly where the non-OEM parts were used. Any warranties that come with the non-OEM parts must also be included with the invoice.

Assuming that the above language is current, Hawaii law is in error and should be changed immediately because we all know now that the body shops, not the Insurance companies, guarantee or warrant their work, including the parts they install in a vehicle.

That language was likely provided to the legislature by the insurance companies in a deliberate effort to protect profits and deceive policyholders.

This is how GEICO and Hawaii / Alaska GM Timothy Dayton treats customers like me who was a 55 year long policyholder of GEICO and my dad before me, until January, when I moved all policies to a local, reputable insurance company, First Insurance, a company that supports the use of OEM parts to preserve auto safety systems and protect human life.



With a \$500 deductible, GEICO expected me to be gullible enough to accept a check for \$65 dollars for the balance of repair costs for my car with only 500 miles on the car. The actual repair bill was (rounded) \$2,000.00

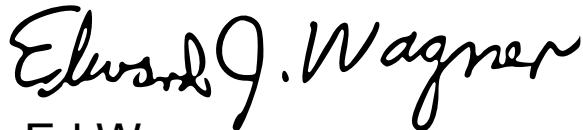
The adjuster DELIBERATELY excluded the cost of REQUIRED pre and post scans on the original estimate in the hope that I would not notice so GEICO could pocket extra profits, and tried to steer me to one of its preferred shops where the estimate was made, a shop that uses GEICO's own low ball labor rates instead of competitive market rates.

You have a moral obligation to make a decision now, not a year from now like CPC wants to do. The life you save or take this year may be your own or a family member, a friend, or neighbor.

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

If you can't make a decision now to pass SB2243 unmodified with the voluminous amount of information provided the past 5 months along with calls to Todd Tracy, Larry Montanez, and a meeting with Erica Eversman while she is here, and even seek out advise from Hawaii's 2 local, reputable insurance companies, First Insurance and Island Insurance instead of listening to 100% untrustworthy companies like GEICO and State Farm who submitted testimony for HB1620 before IAC, **then you are negligent and derelict in your constitutional duties and responsibilities to protect the public from harm, a primary obligation of government.**

Mahalo,

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

Ed Wagner
Mililani, HI



Brian Kitagawa, President
Dave Rolf, Executive Director

HADA TESTIMONY IN STRONG SUPPORT
of SB2243
RELATING TO MOTOR VEHICLE REPAIRS
Presented to the Senate Committee on Commerce, Consumer Protection and Health
at the Public Hearing, 9 a.m. Tuesday Feb. 20, 2018
Conference Room 229, Hawaii State Capitol

Chair Baker, Vice Chair Tokuda, 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 Senate Committee on Commerce, Consumer Protection and Health give highest consideration to passing SB2243.

Respectfully submitted,

David H. Rolf

For the Members of the Hawaii Automobile Dealers Association

SB-2243

Submitted on: 2/19/2018 11:58:23 AM

Testimony for CPH on 2/20/2018 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Stan Mull	Individual	Support	No

Comments:

aloha

It is important that we have vehicles repaired to the same standard we buy them. We will have a false sense of security if they are not at the same standard. People are unaware that the vehicle may not have the same crash rating if it is not at the same standard. Would you want your family driving a vehicle that does not have the same crash test rating as what it was when you purchased it?

SB-2243

Submitted on: 2/19/2018 12:07:20 PM

Testimony for CPH on 2/20/2018 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
jer	Individual	Support	No

Comments:

i support the use of oem parts only for repairs ive seen too many like kind parts that were not up to standards in iehter safety or fitment

SB-2243

Submitted on: 2/19/2018 12:08:11 PM

Testimony for CPH on 2/20/2018 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Richard J Doyle	Individual	Support	No

Comments:

Why are we putting dollars ahead of human lives? It only takes 1 mishap to cause heartbreak and tragedy that would change family's lives forever. Why?? Because we didn't want to use original parts? Because we didn't want to raise the insurance premiums? Again Mr/Mrs Legislatures, would you trade premium dollars for untested parts? I mean cars that have been tested with the realilby of parts installed on specific models of vehicles. How many aftermarket parts have been tested by the Highway Transportation safety committee? Why are we playing semantic games with the insurance companies. Lets do the right thing for the citizens of Hawaii. Without delay pass this legislation.

SB-2243

Submitted on: 2/19/2018 12:18:49 PM

Testimony for CPH on 2/20/2018 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
CHRIS SHIMAMOTO	Individual	Support	No

Comments:

In favor of SB2243 due to the use of vehicles using aftermarket body parts rather than original equipment body part compromises the safety of anyone who is in the vehicle and could possibly compromise the safety of others who may come in contact with said vehicle. I cannot think of a single vehicle manufacture that would agree to use non original equipment parts on body repairs. These are the reasons behind crash test that each manufacture conducts, to ensure the upmost safest vehicles they can provide.

February 19,2018

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

Senator Rosalyn H.Baker
Chair Senate Committee on Commerce, Consumer Protection and Health

RE: SB2243

Dear Madam,

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 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 .

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 owner 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. 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 Statutes. 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.

Conclusion

This proposed bill lacks clarity as to specific parts. This broad category labeled "Aftermarket Parts" needs to be dissected and categorized. During the House hearing the committee members were lead to

believe that all parts are replaced with aftermarket parts. Not true. Critical safety items like air bag sensors are purchased from the OEM dealership and not thru the aftermarket.

Furthermore the bill as written is prejudice against aftermarket parts by assuming that these parts do not meet or exceed OEM specifications. If the legislature has evidence that the specific aftermarket parts recommended by insurance companies do not meet OEM standards why is that not shown and be subject to scrutiny? Until the validity of aftermarket parts are proven or disproven no further legislation can be made.

Thank you

Michael Yang
Prism Group LLC

SB-2243

Submitted on: 2/19/2018 2:51:34 PM

Testimony for CPH on 2/20/2018 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
MILES MILER	Individual	Support	No

Comments:

I agree with this proposal. Parts made by the vehicle manufacture are far superior in every way to aftermarket equivalent. OE parts are safe

SB-2243

Submitted on: 2/19/2018 2:58:01 PM

Testimony for CPH on 2/20/2018 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
solomon	Individual	Support	No

Comments:

OEM parts are subjected to tests from the manufacturer to receive a minimum standards where as aftermarket parts don't require any type of testing from the government. I would never use aftermarket parts, my families lives as well as mines matters!! insurers should charge more if aftermarket parts are used due to the fact that they are putting lives at risk and not charge for using OEM parts which comes with the vehicles already. Besides the poor quality of aftermarket parts, they also dont fit right which would require a technician more time to install since the factory specs aren't met.

Personal Testimony for [SB 2243](#):

I have 25 years of experience working with automobile auto repair. Factory Original Equipment parts from the Manufacture are designed, constructed, and fitted to replace the original part installed during the manufacturing process. These parts not only fit but meet the design specifications intended by the manufacture in terms of durability, safety, and performance. These parts have been tested and are certified to deliver exactly what the original design specifications for that vehicle call for. As a consumer I expect nothing less than OEM parts to be installed on my vehicle in the event of an insurance claim repair. As a consumer I expect my vehicle to be repaired as per the recommendations of the manufacture. I pay a lot of money for insurance premiums to protect my vehicle and the property of others in the event of an accident. I don't expect any insurance company to save money by cutting corners on the quality of parts going in my vehicle during an insurance claim repair. My family depends on the integrity of the parts on my vehicle to provide them safety while riding in my vehicle. How can you put a price on safety and performance? Just because the part may look like it fits doesn't mean that it is the same as an OEM part. I am for OEM Parts on all insurance repairs.

SB-2243

Submitted on: 2/19/2018 4:06:02 PM

Testimony for CPH on 2/20/2018 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Gavin Dixon	Individual	Support	No

Comments:

As a consumer I have had experience where the manufacture of my vehicle (nissan) has stated in their warranty book for servicing that they recommend using ester oil for engine oil. The repair shop I took my vehicle in to do the servicing used conventional motor oil because it was cheaper and able to meet their special oil change price even after I mentioned about nissan recommending ester oil. The repair shop basically said that the oil doesn't say required so it was ok. As I drove my car for the next several days I noticed a ticking/rattling noise from the engine. So I brought my car into the dealership and found out the noise was caused from not following the manufactures recommendations by using ester oil. Now I know that there is no difference between recommended and required. If the maker or manufacture of a product says they recommend using something, then you should follow their direction.

SB-2243

Submitted on: 2/19/2018 5:04:14 PM

Testimony for CPH on 2/20/2018 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
brandee lee	Individual	Support	No

Comments:

Testimony From : Brandee Lee,

In strong support of SB 2243 – Relating to Motor Vehicle Repairs

Senate Committee on Consumer Protection and Health

Aloha Chair Baker and Committee members,

My name is Brandee Lee and I am testifying in strong support of HB 2243. 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 to? 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.

This bill will put the consumer first. Consumers should not be responsible to pay additional out of pocket costs to have their vehicles brought back to the condition it was

in before the accident. I have always thought that this was why I pay for my insurance. So they will take care of me and my family's vehicle. I strongly support this bill, I feel like this bill will take care of me and my family if need be.

Please pass SB 2243.

Mahalo

Brandee Lee