

Honolulu, Hawaii

FEB 28 2019

RE: S.B. No. 823

S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirtieth State Legislature
Regular Session of 2019
State of Hawaii

Sir:

Your Committee on Commerce, Consumer Protection, and Health,
to which was referred S.B. No. 823 entitled:

"A BILL FOR AN ACT RELATING TO MOTOR VEHICLE REPAIRS,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Require insurers to provide a choice to the insured consumer authorizing a repair provider to utilize a like kind and quality crash part or the original equipment manufacturer crash part; and
- (2) Specify the circumstances when an insured consumer who chooses the use of an original equipment manufacturer crash part must pay the additional cost of the original equipment manufacturer crash part that is in excess of the equivalent like kind and quality crash part.

Your Committee received testimony in support of this measure from the Automotive Body and Painting Association of Hawaii, Auto Body Hawaii, and sixteen individuals. Your Committee received testimony in opposition to this measure from the Hawaii Insurers Council; National Association of Mutual Insurance Companies; GEICO; LKQ Corporation; American Property Casualty Insurance Association; Prism Group, LLC; Sigs Collision Centers; Oahu Aluminum Repair; and Mascot Auto Parts. Your Committee received



comments on this measure from the Department of Commerce and Consumer Affairs and State Farm Mutual Automobile Insurance Company.

Your Committee finds that Hawaii is the only state that requires claimants to pay the increased cost between a cheaper, aftermarket crash part, and the original equipment manufacturer crash parts in body repair. In the event a driver causes an accident, the insurance company insuring the driver can choose to use generic or aftermarket crash parts, and require the injured party to pay the difference in the event the injured party wants the replacement parts to be original equipment manufacturer crash parts. Because advanced driver assistance systems in vehicles are very complex and many of them are integrated with each other, proper operation may be compromised by the use of non-original equipment manufacturer parts. This measure aids in preventing additional costs to the consumer and the insurer and takes into consideration the preferences of the insured consumer.

Your Committee notes that the intent of this measure is not to discourage the use of aftermarket parts, but rather to ensure that consumers receive appropriate disclosures concerning the comparisons between and the prices of aftermarket crash parts and original equipment manufacturer crash parts.

Your Committee has heard the concerns raised in testimony that the measure lacks sufficient definitions, which may cause ambiguity and confusion, in addition to a number of comments regarding language in the purpose section.

Accordingly, your Committee has amended this measure by:

- (1) Specifying that insurers must clearly give consumers notice, at the time the insurer offers new or renewal motor vehicle policy coverage, of the choice of whether to use a like kind and quality crash part or an original equipment manufacturer crash part for motor vehicle body repair work;
- (2) Replacing references to the term "crash avoidance" with the industry standard term "Advanced Driver Assist Systems";



- (3) Removing language that required insured consumers to pay the additional cost of the original equipment manufacturer crash part that is in excess of the equivalent like kind and quality crash part, unless original equipment manufacturer crash parts are required by the vehicle manufacturer's warranty, as federal law prohibits warranties to contain such a requirement;
- (4) Clarifying that like kind and quality parts that are both certified and approved by governmental or industry organizations shall be utilized, rather than utilized if available;
- (5) Clarifying that this measure applies to crash parts for vehicles that are not more than ten years old, rather than five years old, as of the date of the collision;
- (6) Inserting a definition of "crash part";
- (7) Clarifying the definition of "like kind and quality" to mean an aftermarket part that is not manufactured by the original vehicle manufacturer;
- (8) Updating the purpose section;
- (9) Extending its sunset date to July 1, 2029;
- (10) Inserting an effective date of July 1, 2050, to encourage further discussion; and
- (11) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection, and Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 823, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 823, S.D. 1, and be placed on the calendar for Third Reading.



Respectfully submitted on
behalf of the members of the
Committee on Commerce, Consumer
Protection, and Health,



ROSALYN H. BAKER, Chair



