

JAN 18 2019

A BILL FOR AN ACT

RELATING TO MOTOR VEHICLE REPAIRS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that motor vehicle owners
2 have the right to expect that their vehicles are repaired
3 properly following a collision. Proper repairs include the
4 installation of original equipment manufacturer crash parts,
5 that is, the parts that vehicle manufacturers have tested and
6 engineered to ensure proper fit, function, and most importantly,
7 safety. Repairing vehicles with original equipment manufacturer
8 crash parts helps to ensure the safety and proper performance of
9 repaired motor vehicles.

10 The legislature further finds that to reduce costs, some
11 insurance companies only pay for vehicle repairs made with
12 aftermarket crash parts, despite vehicle manufacturer
13 recommendations to the contrary. These aftermarket crash parts,
14 also called non-original equipment manufacturer parts or generic
15 parts, are not made by the original manufacturer and can be
16 unsafe because they are not crash-tested and are inferior to
17 original equipment manufacturer crash parts in fit and finish.



1 Furthermore, many motor vehicle insurers do not allow
2 insured consumers to decide whether repairs are made with
3 aftermarket crash parts or original equipment manufacturer crash
4 parts, and may refuse to reimburse insured consumers for the
5 additional costs of installing original equipment manufacturer
6 crash parts, even when necessary to restore a vehicle to its
7 pre-collision condition. This practice of the insurance
8 industry has resulted in lawsuits across the nation when
9 aftermarket crash parts installed in repaired vehicles have
10 failed in subsequent collisions.

11 The purpose of this Act is to:

- 12 (1) Require insurers to provide a choice to insured
13 consumers of authorizing a repair provider to utilize
14 a like kind and quality crash part or the original
15 equipment manufacturer crash part;
- 16 (2) Specify that an insured consumer who chooses the use
17 of an original equipment manufacturer crash part that
18 would affect the insured consumer's crash avoidance or
19 safety systems shall not be required to pay the
20 additional cost of the original equipment manufacturer



1 crash part that is in excess of the equivalent like
2 kind and quality crash part; and
3 (3) Specify that an insured consumer who chooses the use
4 of an original equipment manufacturer crash part that
5 would not affect the insured consumer's crash
6 avoidance or safety systems shall pay the additional
7 cost of the original equipment manufacturer crash part
8 that is in excess of the equivalent like kind and
9 quality crash part, unless original equipment
10 manufacturer crash parts are required by the vehicle
11 manufacturer's warranty or the use of a like kind and
12 quality crash part would void an existing
13 manufacturer's warranty or the insured consumer's
14 vehicle lease agreement.

15 SECTION 2. Section 431:10C-313.6, Hawaii Revised Statutes,
16 is amended to read as follows:

17 "[+]§431:10C-313.6[+] Original equipment manufacturer's
18 and like kind and quality crash parts. (a) An insurer shall
19 make available a choice to the insured consumer of authorizing a
20 repair provider to utilize a like kind and quality crash part of
21 an equal or better quality than the original equipment



1 manufacturer crash part if [~~such~~] the crash part is available or
2 an original equipment manufacturer crash part for motor vehicle
3 body repair work. If the insured consumer chooses the use of an
4 original equipment manufacturer crash part that would affect the
5 insured consumer's crash avoidance or safety systems, the
6 insured consumer shall not pay the additional cost of the
7 original equipment manufacturer crash part that is in excess of
8 the equivalent like kind and quality crash part. If the insured
9 [~~or claimant~~] consumer chooses the use of an original equipment
10 manufacturer crash part [~~]~~ that would not affect the insured
11 consumer's crash avoidance or safety systems, the insured [~~or~~
12 ~~claimant~~] consumer shall pay the additional cost of the original
13 equipment manufacturer crash part that is in excess of the
14 equivalent like kind and quality crash part, unless original
15 equipment manufacturer crash parts are required by the vehicle
16 manufacturer's warranty [~~]~~ or the use of a like kind and quality
17 crash part would void an existing manufacturer's warranty or the
18 insured consumer's vehicle lease agreement.

19 (b) A like kind and quality crash part under subsection
20 (a), of an equal or better quality than the original equipment
21 manufacturer crash part, shall carry a guarantee in writing for



1 the quality of the like kind and quality crash part and the
2 equivalent performance in a vehicle's crash avoidance and safety
3 systems for not less than ninety days or for the same guarantee
4 period as the original equipment manufacturer crash part,
5 whichever is longer. The guarantee shall be provided by the
6 insurer.

7 (c) Like kind and quality crash parts, certified or
8 approved by governmental or industry organizations, shall be
9 utilized if available.

10 (d) For any crash part authorized under subsection (a), a
11 repair provider shall:

12 (1) Provide an insured consumer with the cost of the
13 original equipment manufacturer crash part and the
14 like kind and quality crash part, which shall detail
15 the cost markup for each crash part; and

16 (2) Disclose to an insured consumer any potential impact
17 that use of a like kind and quality crash part may
18 have on a vehicle manufacturer's warranty, or whether
19 any crash part that meets the vehicle manufacturer's
20 specifications is acceptable for purposes of



1 maintaining or receiving benefits under the vehicle
2 manufacturer's warranty.

3 (e) This section shall apply to crash parts for vehicles
4 that are not more than five years old, as of the date of the
5 collision.

6 (f) For the purposes of this section, "like kind and
7 quality" means having a quality that is equal to or better than
8 the original equipment manufacturer crash part and performing at
9 least as well as the original equipment manufacturer crash part
10 in a crash avoidance and safety system test."

11 SECTION 3. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 SECTION 4. This Act shall take effect on July 1, 2019, and
14 shall be repealed on July 1, 2024; provided that section
15 431:10C-313.6, Hawaii Revised Statutes, as amended by section 2
16 of this Act, shall be reenacted in the form in which it read on
17 the day before the effective date of this Act.

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INTRODUCED BY: Rosalyn de Bruin
D. K. ...
BSG



S.B. NO. 823

Kurt Fowler



S.B. NO. 823

Report Title:

Vehicle Repair Practices Task Force; Motor Vehicle Insurance; Repair; Original Equipment Manufacturer Crash Parts; Aftermarket Crash Parts

Description:

Requires insurers to provide a choice to the insured consumer of authorizing a repair provider to utilize a like kind and quality crash part or the original equipment manufacturer crash part. Specifies that an insured consumer who chooses the use of an original equipment manufacturer crash part that would affect the insured consumer's crash avoidance or safety systems shall not be required to pay the additional cost for repairs using that original equipment manufacturer crash part. Specifies that an insured consumer who chooses the use of an original equipment manufacturer crash part that would not affect the insured consumer's crash avoidance or safety systems shall pay the additional cost of the original equipment manufacturer crash part that is in excess of the equivalent like kind and quality crash part, unless original equipment manufacturer crash parts are required by the vehicle manufacturer's warranty or the use of a like kind and quality crash part would void an existing manufacturer's warranty or the insured consumer's vehicle lease agreement. Sunsets 7/1/2024.

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