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Testimony of the Department of Commerce and Consumer Affairs

**Before the
House Committee on Finance
Wednesday, March 27, 2019
2:00 p.m.
State Capitol, Conference Room 308**

On the following measure:

S.B. 823, S.D. 1, H.D. 2, RELATING TO MOTOR VEHICLE REPAIRS

Chair Luke and Members of the Committee:

My name is Colin Hayashida, and I am the Insurance Commissioner of the Department of Commerce and Consumer Affairs' (Department) Insurance Division. The Department offers comments on this bill.

The purpose of this bill is to address issues that arise during the repairs of newer motor vehicle models and the use of original equipment manufacturer parts and like kind and quality parts.

This bill mandates insurers to "clearly" make available to their policyholders, during initial applications or renewal of their policies, the option of authorizing the use of like kind and quality or original equipment manufacturer crash parts for motor vehicles' repair work. However, the word "clearly" might not be uniformly used or applied throughout the industry, as insurers may have different approaches in complying with this requirement.

The Department suggests that clarity could be attained by requiring insurers to include standardized language in motor vehicle insurance policies explaining the options regarding original equipment manufacturer and like kind quality parts. The Department respectfully suggests amending Hawaii Revised Statutes section 431:10C-313.6 to read as follows:

~~[[~~§431:10C-313.6~~]]~~ **Original equipment manufacturer's 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 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) Each motor vehicle insurance policy delivered or issued to any person in this State shall contain the provision set forth below:

“YOU have a choice of authorizing a repair provider to utilize a like kind and quality part of an equal or better quality than the original equipment manufacturer part if such part is available or an original equipment manufacturer part for motor vehicle body repair work. If YOU choose the use of an original equipment manufacturer part, YOU 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)]~~ (c) A like kind and quality part under subsection (a), of an equal or better quality than the original equipment manufacturer part, shall

carry a guarantee in writing for the quality of the like kind and quality part 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.

~~[(e)]~~ (d) Like kind and quality parts, certified or approved by governmental or industry organizations, shall be utilized if available.”

Thank you for the opportunity to testify on this measure.

TESTIMONY OF MICHAEL ONOFRIETTI

COMMITTEE ON FINANCE
Representative Sylvia Luke, Chair
Representative Ty J. K. Cullen, Vice Chair

Wednesday, March 27, 2019
2:00 p.m.

SB 823, SD1, HD2

Chair Luke, Vice Chair Cullen, and members of the Committee on Finance, my name is Michael Onofrietti, ACAS, MAAA, CPCU, Senior Vice President, Actuarial Services, Product Development & Management for Island Insurance and Chairman of the Auto Policy Committee for Hawaii Insurers Council. 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 submits comments on this measure. The use of aftermarket parts has been one of many contributing factors that stabilized auto insurance premiums over the last 20+ years in Hawaii. Our auto insurance premiums were among the highest in the nation until the early 1990s when significant reforms to our motor vehicle insurance laws were implemented. Hawaii auto insurance premiums are now in the middle of the pack in the nation and the language in 431:10C-313.6, the subject of SB823, SD1, HD2, was one of many statutory changes that has helped make premiums more affordable for Hawaii drivers.

It is important to note that there have been no incidents where aftermarket parts used in a motor vehicle repair have failed **if those parts were installed correctly**. The key is installation of the part, not the part itself. If there are any questions about safety of repaired vehicles after auto accidents, we suggest that auto body shops be licensed by the state and certified by the manufactures whose vehicles they repair.

There have been instances where OEM parts have failed resulting in serious injuries and deaths. Takata Corporation doesn't make cars but the airbags they manufacture are considered OEM parts. As has been widely reported Takata airbags in many Toyotas, Hondas, BMWs and other vehicles have been found to be defective resulting in millions of vehicle recalls, hundreds of injuries and dozens of deaths worldwide. Just because a part comes in a box that says Nissan or Toyota or Honda doesn't mean it's safe, nor does it mean that it is even made by those companies.

If the Legislature believes a disclosure is necessary and a bill mandating such disclosure should be passed this year, we should strive to minimize consumer confusion, ease enforcement by the Insurance Division and avoid potential litigation. We believe that the best way to achieve this is to make the disclosure uniform for all insurers by including the language in 431:10C313.6. Therefore, we respectfully recommend the language in Section 2 of the bill be deleted and replaced with the following:

~~§431:10C-313.6~~ Original equipment manufacturer's and like kind and quality parts.

(d) Every insurer issuing a motor vehicle insurance policy shall disclose in writing to the insured the following at the issuance or delivery of a policy, or, for a policy already in effect on July 1, 2020, disclosure shall be made at the first renewal on or after July 1, 2020:

You have the option of authorizing a repair shop to use a like kind and quality part or an original equipment manufacturer part in the repair of your vehicle.

If you choose to authorize the use of a like kind and quality part, we guarantee the quality of that part for at least 90 days or for the same guarantee period of the original equipment manufacturer part, whichever is longer.

If you choose to require the use of an original equipment manufacturer part, you will pay the additional cost to the repair shop.+

Finally, we believe that a comprehensive study should be reinserted into this bill using the language in Section 3 of the previous version of this bill, SB823, SD1, HD1.

Thank you for the opportunity to testify.

HOUSE COMMITTEE ON FINANCE

March 27, 2019

Senate Bill 823 SD1 HD2 Relating to Motor Vehicle Repairs

Chair Luke, Vice-Chair Cullen, members of the House Committee on Finance, I am Rick Tsujimura, representing State Farm Mutual Automobile Insurance Company (State Farm). State Farm offers these comments about SB 823 SD1 HD2 Relating to Motor Vehicle Repairs, and more specifically, Original Equipment Manufacturer (OEM) and Aftermarket Parts.

State Farm understands the intent of this bill is to give consumers the choice to select “like kind and quality” aftermarket replacement parts, where available, or Original Equipment Manufacturer (OEM) parts, for repairs to their cars. State Farm agrees with this, and this is provided under the current statute.

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.¹ In addition, the insurer may specify only non-OEM parts of “**equal or better quality**,” and MUST warranty them “**for the same guarantee period as the [OEM] part.**”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 policyholders to select higher priced parts should not adversely impact the rest of the insuring public through higher prices. This promotes, rather than restricts, consumer choice. The bottom line: **only if there is no aftermarket part of “equal or better quality,” that will perform the function** can the insurer charge the difference.

This bill is really a solution in search of a problem. Nevertheless, State Farm agrees with the comments submitted by the Hawaii Insurers Council (HIC) concerning the HD1 version of this bill, and opposes this bill in its current form. As written, SB 823 SD1 HD2 would require insurers to give notice of this option at point of sale for new business, and with every renewal, even though insureds are already given the opportunity to make this choice when repairs are made. These notices require costly systems changes, and experience shows that they often are not even read by consumers. Instead, State Farm believes that the HIC proposal adding a new subsection (d) to HRS §431:10C-313.6 is more reasonable. This would provide for a one-time notice at policy issuance for new policies, or at renewal for existing policies, keeping in mind that the insured will also be given this option when a claim is made:

¹ HRS § 431:10C-313.6(a)

² HRS § 431:10C-313.6(b).

§431:10C-313.6 Original equipment manufacturer's and like kind and quality parts.

(d) Every insurer issuing a motor vehicle insurance policy shall disclose in writing to the insured the following at the issuance or delivery of a policy, or, for a policy already in effect on July 1, 2020, disclosure shall be made at the first renewal on or after July 1, 2020:

“You have the option of authorizing a repair shop to use a like kind and quality part or an original equipment manufacturer part in the repair of your vehicle.

If you choose to authorize the use of a like kind and quality part, we guarantee the quality of that part for at least 90 days or for the same guarantee period of the original equipment manufacturer part, whichever is longer.

If you choose to require the use of an original equipment manufacturer part, you will pay the additional cost to the repair shop.”

No further disclosure shall be required to be included in any other renewal or replacement policy.

Because of the systems hours involved, State Farm’s only additional suggestion is to delay the effective date of the bill to January 1, 2020 to allow a reasonable time to develop the proposed notice for newly issued policies.

State Farm believes that HIC propose language will result in reasonable notice to consumers.

Thank you for the opportunity to present this testimony.



To: The Honorable Sylvia Luke, Chair
The Honorable Ty J.K. Cullen, Vice Chair
House Committee on Finance

From: Mark Sektnan, Vice President

Re: **SB 823 SD1 HD2 – Motor Vehicle Repairs**
APCIA Position: Comment with concerns

Date: Wednesday, March 27, 2019
2:00 p.m., Room 308

Aloha Chair Luke, Vice Chair Cullen and Members of the Committee:

The American Property Casualty Insurance Association (APCIA) has concerns regarding SB 823 SD1 HD2 which could inappropriately limit the use of non-original equipment manufacturer (OEM) parts. Representing nearly 60 percent of the U.S. property casualty insurance market, the American Property Casualty Insurance Association (APCIA) promotes and protects the viability of private competition for the benefit of consumers and insurers. APCIA represents the broadest cross-section of home, auto, and business insurers of any national trade association. APCIA members represent all sizes, structures, and regions, which protect families, communities, and businesses in the U.S. and across the globe.

APCIA strongly supports legislation to ensure that autos are appropriately repaired after an accident. Existing state law requires insurers to guaranty the crash part for the life of the motor vehicle and to ensure the part is of like kind and quality to the OEM part. Consumers are well served by this protection. Bills that foster the false narrative that OEM parts are the only parts consumers should use chip away at existing consumer protections and could lead to increases in auto insurance rates.

Most, if not all OEMs recommend exclusive use of their parts for the simple reason 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 of the state's auto insurance policyholders.

APCIA has concerns about Section 1 and 2 of this bill. We ask that the language contained in lines 12-16 on page 1 and lines 1-2 on page 2 be stricken as they combine two different concepts, are confusing, and unnecessary. Should the committee decide to pass the bill we are respectfully proposing alternative clarifying language. In Section 2

of the bill, we believe the language being proposed will invite litigation and instead propose adding (d) to be read as the following:

“§431:10C-313.6 Original equipment manufacturer's and like kind and quality parts.

(d) Every insurer issuing a motor vehicle insurance policy shall disclose in writing to the insured the following at the issuance or delivery of a policy, or, for a policy already in effect on July 1, 2020, disclosure shall be made at the first renewal on or after July 1, 2020.

“You have the option of authorizing a repair shop to use a like kind and quality part or an original equipment manufacturer part in the repair of your vehicle.

If you choose to authorize the use of a like kind and quality part, we guarantee the quality of that part for at least 90 days or for the same guarantee period of the original equipment manufacturer part, whichever is longer.

If you choose to require the use of an original equipment manufacturer part, you will pay the additional cost to the repair shop.”

No further disclosure shall be required to be included in any other renewal or replacement policy.”

Today, the Hawaii market is dynamic in the way different insurers handle repairs of motor vehicles. This is good for the consumer because they are able to purchase the type of insurance that fits their personal situation. Insurers sometimes use aftermarket parts in repairs because they cost less while providing the same quality. Savings resulting from this practice have been passed on to consumers over many years with no impact on safety in Hawaii.

For these reasons, APCIA has strong concerns with the previous drafts of this bill and would prefer the committee study the issue before amending the statute.

SB-823-HD-2

Submitted on: 3/26/2019 8:06:32 AM

Testimony for FIN on 3/27/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
John Florek	Kraftsman Auto Body	Support	No

Comments:

Please remove wording "claimants" from this bill. Insured's have a choice when purchasing automobile insurance. Claimants should not be subject to this same measure.

Thank You

John Florek - President

Kraftsman Auto Body

Serving West Hawaii since 1982

SB-823-HD-2

Submitted on: 3/26/2019 1:42:36 PM

Testimony for FIN on 3/27/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Mascot Auto Parts	Mascot Corporation	Support	No

Comments:

Mascot Auto Parts Support Senate Bill 823

Committee Chair Luke and Committee Members:

Senate Bill 823 requires insurers to provide a standard notice for insured consumers to select their preference to use original equipment manufacturer parts or aftermarket parts to repair their vehicle. Mascot Auto Parts is supportive of the amended SB823-HD2 because it protects consumers and allows them to make informed decisions when purchasing insurance for their motor vehicle.

Mascot Auto Parts is a local company who retail and wholesale high-quality and certified aftermarket body crash parts to residents and repair shops of Hawaii since 1999. We appreciate the opportunity to submit our written testimony for SB823-HD2.

Respectfully,

Mascot Auto Parts

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 SB823 HD2 – Relating to Motor Vehicle Repairs
COMMITTEE ON FINANCE
Wednesday, March 27, 2019

Chair Luke, Vice-Chair Cullen and members of the Committee on Finance, I am here to testify in strong support of SB823 SD1 HD2 and would like the committee to consider some suggested revisions.

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 for 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 HD1 refers to, currently requires insureds and claimants to pay the difference between the cost of aftermarket like kind and quality crash parts and the original equipment manufacturer's crash parts.

We would like to suggest that the words "insured or claimant" be amended to read "insured claimant" in this this section. A third party claimant could have legal recourse against the at fault insured if his insurer does not pay to restore the third party (not at fault) claimant's vehicle to it's pre-loss condition and value.

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 protects 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.

This section of the HRS applies only to a "part for motor vehicle body repair work" or CRASH PARTS and DOES NOT APPLY to aftermarket mechanical or non-crash parts like radiators, air conditioning condensers, brakes or consumables like wiper blades, coolants, tires, wheels and fluids. IT ONLY APPLIES TO BODY REPAIR PARTS or CRASH PARTS.

We would like to suggest that the word "crash" be added in front of all references to "parts" in this section to make it clearer that this section is only referring to the "crash" parts versus "mechanical and other non-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.

Special interest testimony has or will bring up several points to confuse the relative issues of SB823 HD1 and I would like to address them at this time.

Increase in premiums. This is not a true statement.

- 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 SB823 HD1.

Increase in total losses, therefore increasing premiums. This is not a true statement.

- Aftermarket Crash Parts makes up a small percentage of the overall cost to repair collision damaged vehicles.
- The Property and Casualty Insurers Association of America's, Special Report, Aftermarket Parts: A \$2.34 Billion Benefit for Consumers reported that excluding labor, total crash part costs are about \$42.25 billion (\$3.90 billion—non-OEM and \$38.35 billion—OEM). Aftermarket parts is therefore 9.23% of the total parts cost.
- Total Parts Costs are around 42.6% of the total repair cost, so aftermarket crash parts is only 3.93% of the total cost. This is a small number and plays a very small factor in declaring a car a total loss.
- Local insurers and many national insurance companies already pays for OEM Crash Parts and they continue to operate profitably.

Will lead to an OEM monopoly and increased OEM part prices. This is not a true statement.

- 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 SB 823 SD1 HD2 will have any effect on the MSRP. We are a small part of the total market.

Anti-Aftermarket parts. This is not a true statement.

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

Aftermarket crash parts are of like kind and quality. This is not a true statement.

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

Opposition to SB823 SD1 HD2 is about self-interest and greed.

Support for SB823 SD1 HD1 is about consumer protection, safety and looking after consumer's interests.

Thank you for allowing me to testify in support of SB823 SD1 HD1 a consumer protection bill.

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.

Relating to Motor Vehicle Repairs
Committee of Finance
Wednesday, March 27, 2019

Aloha Chair Luke, Vice Chair Cullen and members of the Committee on Finance, I am here to testify in strong support with the purpose of SB823 HD2. I am asking for amendments to the Bill. My amendments are to strike out the words: "or claimants" from the bill.

My name is Sabrina Dela Rama, I am the manager of Tony Group Collision Center and a Board of Director for the Automotive Body and Paint Association of Hawai'i. I have been doing Collision repair for 30 years and we are a Licensed repair dealer shop, a certified OEM repairer, an I-CAR Gold Class shop, all our collision technicians are certified in all metal welding (Steel, Aluminum and Silicone Brazing) and I am an I-CAR Platinum individual as well. Our company invests in continued training and equipment's that is needed to repair today's vehicles.

I would like to explain why SB823 HD2 is needed; it's to correct an obsolete law written in 1997, HRS 431:10C.313 when written was about cosmetic parts, today's vehicle is built on safety avoidance systems and crash avoidance energy. Here is DATA by the IIHS on crashes decreasing because of all these technology AND safety features on cars. It shows **50%** less rear end collision's alone. **SEE attachments of EXHIBIT A**

I have pulled data that shows a decrease in deaths from crashes, although population is higher year after year and millions more of miles driven from 1997-2017, this data was from The Insurance Institute for Highway Safety/Highway Loss Data Institute. IIHS shows dramatic drops in crashes and deaths each year, which means less risk, less cost in repairs and less injury claims, LESS premiums cost. **SEE attachments of EXHIBIT B**

There are many insurance companies and 3 of the local carriers that don't push the use of A/M (Generic) part for their damage analyzes and yet, they are very competitive in our market.

What concerns me the most with the current law includes the 3rd party consumers also known as "claimant's" (innocent victim). I have concerns for consumers with Leased vehicle's too. HRS: 431:10C-313 causes the Lease to be in breach of their contract. I've read many lease agreements and they "require" Leased vehicle to be returned in the same condition as the day of the lease.

Imagine you're the claimant (3rd party) and Geico's insured hits you, with 431:10C-313 you must pay the difference and if you can't pay the difference for someone else's fault, you may have just breached your lease agreement. You have NO choice with the obsolete 1997 law. PLEASE STRIKE OUT CLAIMANTS FROM THE BILL.

I support SB823 HD2 because it removes the claimants (3rd party) and addresses the policy upfront.

When consumers hear the would “like kind in quality” also known as (LKQ) they are expecting the exact same fit, finish and integrity part as what was built on their vehicle. “Aftermarket” parts are; “generic”, not same as Original part or LKQ.

As a consumer, a reasonable person knows the difference between an aftermarket (generic) vs a Like kind in quality part. The current law states; “LKQ” but no one can prove such generic parts are LKQ. As a professional I am testifying that CAPA A/M parts are NOT Like kind in quality. Here are documents I’ve pulled from CAPA’S website. See attachments, in one-month CAPA has “DE-CERTIFIED” many parts that was once considered CERTIFIED. How does CAPA de-certify these parts, by independent shops. Shops must go online to CAPA’S website and register the part. This takes a lot of time for shops to do, guess how many shops really does it. Imagine how many “aftermarket/generic” parts don’t get reported? Evidences of 2 pages from CAPA’S website, this is just 1 aspect of the A/M parts NOT being like kind in quality, there’s so many other issues on that website from CAPA.

I picked a random month from the CAPA’S WEBSITE-this is only 1 month of “decertified parts”. see the CAPA monthly recall report attachments.

EXHIBIT (C) & EXHIBIT (C-1)

Here is ANOTHER issue with generic DE-CERTIFIED PARTS vs OEM parts, when a generic part is de-certified, it’s the “INSTALLER” (**shop**) who has to notify the customers about their car having a DE-CERTIFIED part. However, when an OE manufacture has a re-called part, the OE Manufacture will send out a re-call notice to the owner. The car can be sold 10x’s and guess what; the current owner will get that recall letter. How is this done, whenever anyone orders an OEM part, the part department requires the VIN#, they register the part sold to that repairer or consumer to the VIN# and it gets tracked for the life of that vehicle from the OE manufacturer.

Consumer’s already “pre” paid a premium in advance to the insurance company, only when they are in a collision, are they fully aware of the aftermarket part cost difference. “**SURPRISE**”!!!!!!

I always use this example to consumers when they find out after they are in a collision and has out of pocket expense. The insurance company made a bet with you (consumer), they (insurance company) said, I bet for X amount of \$’s a month you will NOT get into an accident. You (consumer) said, I will take on that bet and pay you that premium every month. Consumer paid premium every month, then the consumer gets into an accident, the insurance company lost that bet and now the terms of that bet is being changed AFTER THE consumer gets into an accident or they’re surprised.

Geico’s GM has testified that Hawaii’s OEM part prices are higher than Alaska or the mainland. I have evidence to show that **Aftermarket parts** in Hawaii are higher than the mainland too, **3x’s** higher. Why is it **3x’s** higher than several mainland companies?

EXHIBIT (D)

Please Chair Luke, Vice-Chair Cullen and members of the Committee, I am asking you to pass SB823-HD2 with amendments and let's update an obsolete law.

I want to thank you very much for taking the time to allow me to put in my testimony.

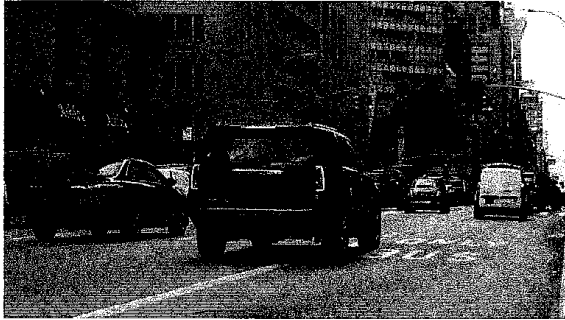
Sabrina Dela Rama
Tony Group Collision Center
Director of;
Automotive Body and Paint Association of Hawai'i.

SEE EXHIBITS BELOW OF A, B, C, C-1, D & D-1



Status Report, Vol. 54, No. 2 | February 21, 2019

Autobrake is good, but it could be better



When it comes to preventing typical front-to-rear crashes, automatic emergency braking is a proven winner. Extending its functionality to address less-common types of rear-end crashes involving turning, changing lanes or striking heavy trucks or motorcycles, for instance, would help maximize autobrake's benefits, a new IIHS study indicates.

Current autobrake systems are designed to address potential crash scenarios involving two passenger vehicles traveling in a line on a dry road at low speeds. The Institute's front crash prevention ratings program, which IIHS launched in 2013, assesses autobrake system performance in this kind of situation in which one vehicle is in danger of rear-ending another. Sixty-six percent of the autobrake systems IIHS has evaluated on 2019 models earn the highest rating of superior for front crash prevention, and nearly 8 percent earn an advanced rating.

Autobrake reduces the frequency of property damage liability claims by 13 percent, rates of rear-end crashes by 50 percent and rear-end crashes involving injuries by 56 percent, studies conducted by IIHS and HLDI have found. Property damage liability coverage pays for damage that an at-fault driver causes to another vehicle.

Although the reductions are impressive, there is more room for progress. IIHS estimates that autobrake could potentially prevent as many as 70 percent of front-to-rear crashes involving passenger vehicles as striking vehicles and 20 percent of all passenger vehicle crashes reported to police.

To see what types of rear-end crashes in which vehicles with autobrake are involved, IIHS researchers examined police crash-report data from 23 U.S. states during 2009–2016 for striking passenger vehicles with and without autobrake among models on which the system was optional. They controlled for driver demographics and vehicle features and used logistic regression to examine the odds that rear-end crashes with various characteristics involved a striking vehicle with autobrake. Autobrake was considered to be less effective at preventing the types of rear-end crashes that were overrepresented among vehicles with the feature and more effective at preventing crash types that were underrepresented.

"Our goal was to identify additional opportunities to increase the effectiveness of autobrake," says Jessica Cicchino, IIHS vice president for research and a study co-author. "The findings will help guide future modifications to our front crash prevention tests to take into account some of these other crash scenarios."

<https://www.iihs.org/iihs/sr/statusreport/article/54/2/2>

3/13/2019

EXHIBIT (A)



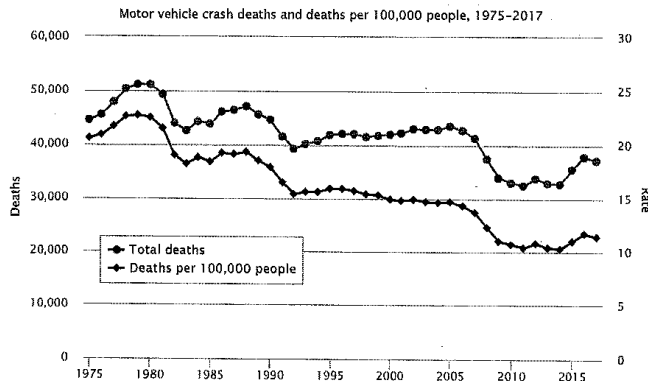
General statistics

Crashes took 37,133 lives in the U.S. in 2017.

The number of people killed in motor vehicle crashes has fallen over the last decade. The death toll in 2017 was 15 percent lower than it was in 2005, when it began a sharp decline.

Fatality rates per population and per mile traveled have dropped even more rapidly. The crash death rate per population has fallen by nearly half since the 1970s and declined 3 percent from 2016 to 2017.

More men than women die in motor vehicle crashes. Men typically drive more miles than women and are more likely to engage in risky practices.



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MONTHLY RECALL REPORT
June 2018*

[Report: P8]
 Monthly

RECALLED DECERTIFIED LOTS

In cooperation with repairers, insurers, distributors, and part manufacturers, CAPA continuously monitors and reviews the quality of parts certified to meet or exceed CAPA standards. The following list includes parts that no longer meet the CAPA standards to which they were originally certified and therefore the following parts have been decertified. CAPA would like to thank you for your support in reporting non-compliance variations regardless of the significance. your assistance assures repairers and consumers they can continue to expect quality collision replacement parts when they see the CAPA seal.

Part lots are expressed in dates. Distributors holding decertified CAPA parts are entitled to a refund, replacement part or credit from the applicable Participant. They can receive one of the above (the Participant decides which) by cutting out the section of the part (a coupon) bearing the CAPA Quality Seal and submitting the coupon(s) to CAPA Headquarters with a completed Recall Reimbursement Form within ninety (90) days of public notice of decertification to CAPA at Recall Report 1000 Vermont Avenue, N.W., Suite 1010, Washington, D.C. 20005 or FAX (202) 737-2214.

CAPA 201 STANDARD - PLASTICS

Manufacturer Number	Application Description	Part Description	Manufacturer	Lot	OEM Number	PartsLink Number
LSB042NDQ	Lexus ES 350, 13-15, w/Parking sensors	Bumper Cover, Rear	Pro Fortune	05/16A	5215933953	LX1100161
LSB042NDQ	Lexus ES 350, 13-17, w/Parking sensors	Bumper Cover, Rear	Pro Fortune	05/16A	5215933943	LX1100161
LX2100000-010C	Lexus IS 250, 06-08, w/o pre collision; w/o headlamp washer	Bumper Cover, Front	AP-Procom	01/18A	5211953925	LX1000163
LX2100000-010C	Lexus IS 350, 06-08, w/o pre collision, w/o headlamp washer	Bumper Cover, Front	AP-Procom	01/18A	5211953925	LX1000163
MZ-04095BBQ	Mazda 6, 06-08, w/o turbo	Bumper Cover, Front	Tong Yang	06/17B	GPYA50031A	MA1000218
MZ-04095BBQ	Mazda 6, 06-08, w/o turbo	Bumper Cover, Front	Tong Yang	06/17B	GPYA50031ABB	MA1000218
Y-DSBP244CA	Nissan Versa Sedan, 12, (P)	Bumper Cover, Rear	Y.C.C.	08/16A	HEM223AN0H	NI1100284
Y-DSBP244CA	Nissan Versa Sedan, 12-16	Bumper Cover, Rear	Y.C.C.	08/16A	HEM223AN0J	NI1100284
TY-04402BBQ	Toyota Camry Hybrid, 12-14	Bumper Cover, Front	Tong Yang	01/17B	5211906974	TO1000378
TY-04402BBQ	Toyota Camry Hybrid, 12-14	Bumper Cover, Front	Tong Yang	07/17A	5211906974	TO1000378
TY-04402BBQ	Toyota Camry L/E/XLE, 12-14	Bumper Cover, Front	Tong Yang	01/17B	5211906974	TO1000378
TY-04402BBQ	Toyota Camry L/E/XLE, 12-14	Bumper Cover, Front	Tong Yang	07/17A	5211906974	TO1000378
Y-TYBP271HCA	Toyota Corolla, 09-10, (Japan)	Bumper Cover, Rear	Y.C.C.	01/18A	5215912934	TO1100268
TY-04442BBQ	Toyota RAV-4, 13-15, North America Built	Bumper Cover, Front	Tong Yang	11/17B	521190R911	TO1014101
VGB056NBQ	Volkswagen Jetta Hybrid, 13	Bumper Cover, Rear	Pro Fortune	12/16A	5C6807421GRU	VW1100189
VGB056NBQ	Volkswagen Jetta Sedan, 11-13, w/o Parking assist	Bumper Cover, Rear	Pro Fortune	12/16A	5C6807421GRU	VW1100189
VG0940000-200C	Volkswagen Passat, 12-15	Bumper Cover, Front	AP-Procom	08/17A	561807217BGRU	VW1000199
324-1102L-UC7	Lexus ES 350, 07-09, w/o HID	Headlamp Assy, L	DEPO	20170410	8117033670	LX2502134
GM1106663DSC	Chevrolet Impala, 06-16	Bar, Impact	PBSI-DS	11/17A	25865729	GM1106663
GM1106663DSC	Chevrolet Monte Carlo, 06-16	Bar, Impact	PBSI-DS	11/17A	25865729	GM1106663
FDB7081APT	Ford F250/F350 Pickup, 11-16, Paint to match	Bumper, Front	Auto Power	11/17A	BC3Z17757CPTM	FO1002417
FDB7081APT	Ford F450 Super Duty Pickup, 11-16, w/o Bumper end caps, Paint to match	Bumper, Front	Auto Power	11/17A	BC3Z17757CPTM	FO1002417

CAPA 202 STANDARD - NON-WOVEN FABRICS

Manufacturer Number	Application Description	Part Description	Manufacturer	Lot	OEM Number	PartsLink Number
NONE						

CAPA 301 STANDARD - LIGHTING

Manufacturer Number	Application Description	Part Description	Manufacturer	Lot	OEM Number	PartsLink Number
NONE						

CAPA 501 STANDARD - BUMPER PARTS

Manufacturer Number	Application Description	Part Description	Manufacturer	Lot	OEM Number	PartsLink Number
NONE						

CAPA 601 STANDARD - RADIATORS

Manufacturer Number	Application Description	Part Description	Manufacturer	Lot	OEM Number	PartsLink Number
NONE						

*This report includes all decertifications from May 1, 2018 through May 31, 2018.

All CAPA Reports including the recall report are available on the CAPA website at www.capacertified.org.

If you would like to download this report directly from the website and wish to be removed from this distribution list, please contact CAPA at jillian.rahal@intertek.com.



MONTHLY RECALL REPORT
June 2018*

[Report: P8]
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CAPA 101 STANDARD - METALS

Manufacturer Number	Application Description	Part Description	Manufacturer	Lot	OEM Number	PartsLink Number
HD-20053AQ	Acura TL, 04-08	Hood	Tong Yang	03/18A	60100SEPA90ZZ	AC1230112
S0807H000AS	Acura TL, 04-08	Hood	Jui Li	03/18A	60100SEPA90ZZ	AC1230112
CVQN10FL1	Chevrolet Equinox, 10-11	Fender L	Gordon	10/17A	20859528	GM1240364
CVQN10FL1	Chevrolet Equinox, 10-17	Fender L	Gordon	10/17A	22846917	GM1240364
FD-03031AQ	Ford Focus Sedan/Hatchback, 12-14	Radiator Support	Tong Yang	11/17B	CP928A284A	FO1225214
FD-03031AQ	Ford Focus Sedan/Hatchback, 12-16	Radiator Support	Tong Yang	11/17B	CM5Z8A284A	FO1225214
FD-03031AQ	Ford Focus, 14-18	Radiator Support	Tong Yang	11/17B	CM5Z8A284ACP	FO1225214
FD-03031AQ	Ford Focus, 14-18, Hybrid	Radiator Support	Tong Yang	11/17B	CM5Z8A284ACP	FO1225214
HDCV12FR1	Honda Civic Coupe, 12-13	Fender R	Gordon	05/17A	60211TR6305ZZ	HO1241181
HDCV12FR1	Honda Civic Hybrid, 12-14	Fender R	Gordon	05/17A	60211TR6305ZZ	HO1241181
HDCV12FR1	Honda Civic Sedan, 12-15	Fender R	Gordon	05/17A	60211TR6305ZZ	HO1241181
HDCV12FR1	Honda Civic, 12-13	Fender R	Gordon	05/17A	60211TR6305ZZ	HO1241181
HDCV12FR1	Honda Civic, 12-14	Fender R	Gordon	05/17A	60211TR6999ZZ	HO1241181
KA5510150-000C	Kia Sorento, 11-15	Hood	AP	01/18A	664001U000	KI1230126

CAPA 201 STANDARD - PLASTICS

Manufacturer Number	Application Description	Part Description	Manufacturer	Lot	OEM Number	PartsLink Number
Y-GMBP339CA	Chevrolet Avalanche, 07-11, w/off road pkg	Bumper Cover, Front	Y.C.C.	01/18A	15946214	GM1000830
Y-GMBP339CA	Chevrolet Avalanche, 07-13, w/off road pkg	Bumper Cover, Front	Y.C.C.	01/18A	25830185	GM1000830
GMCImpA-R06NEW	Chevrolet Impala LS/LT, 06-11	Bumper Cover, Rear	Micro Rim	C3817	19120960	GM1100735
GMCImpA-R06NEW	Chevrolet Impala, 08, 50th Anniversary	Bumper Cover, Rear	Micro Rim	C3817	19120960	GM1100735
Y-GMBP339CA	Chevrolet Suburban, 07-10	Bumper Cover, Front	Y.C.C.	01/18A	15946214	GM1000830
Y-GMBP339CA	Chevrolet Suburban, 07-14	Bumper Cover, Front	Y.C.C.	01/18A	25830185	GM1000830
Y-GMBP339CA	Chevrolet Tahoe, 07-11, w/off-road pkg	Bumper Cover, Front	Y.C.C.	01/18A	15946214	GM1000830
Y-GMBP339CA	Chevrolet Tahoe, 07-14, w/off-road pkg	Bumper Cover, Front	Y.C.C.	01/18A	25830185	GM1000830
CV-04247BBQ	Chevrolet Traverse, 13-14	Bumper Cover, Front Upper	Tong Yang	09/17A	22899627	GM1014107
CV-04247BBQ	Chevrolet Traverse, 13-17	Bumper Cover, Front Upper	Tong Yang	09/17A	23328140	GM1014107
CR29-9915-WSH	Chrysler 300 Sedan, 11-12, w/Parking Sensor	Bumper Cover, Front	Tran Hung	04/17A	68127939AA	CH1000A01
CR29-9915-WSH	Chrysler 300 Sedan, 11-12, w/Parking Sensor	Bumper Cover, Front	Tran Hung	04/17A	68127939AD	CH1000A01
CR29-9915-WSH	Chrysler 300 Sedan, 11-14, w/Parking Sensor	Bumper Cover, Front	Tran Hung	04/17A	68127939AE	CH1000A01
DG-04141BBQ	Dodge Challenger, 11-14	Bumper Cover, Front	Tong Yang	11/17A	68109836AB	CH1000994
Y-CRBP029PGC	Dodge Dakota, 01, (USA) paint to match, w/o R/T, w/fog	Bumper Cover, Front	Y.C.C.	01/18A	5073221AA	CH1000925
Y-CRBP029PGC	Dodge Dakota, 03-04, paint to match, w/Fog Lamps	Bumper Cover, Front	Y.C.C.	01/18A	5073221AA	CH1000925
Y-CRBP029PGC	Dodge Durango, 03, w/fog lamps	Bumper Cover, Front	Y.C.C.	01/18A	5073221AA	CH1000925
FD-07223GAQ	Ford Excursion, 05, Chrome	Grille	Tong Yang	12/16A	5C3Z8200BAA	FO1200456
FD-07223GAQ	Ford Excursion, 05, Chrome	Grille	Tong Yang	12/16A	6C3Z8200BC	FO1200456
FD-07223GAQ	Ford F-Series Super Duty XLT/Lariat/Outlaw Pickup, 05, w/o Chrome Pkg	Grille	Tong Yang	12/16A	5C3Z8200BAA	FO1200456
FD-07223GAQ	Ford F-Series Super Duty XLT/Lariat/Outlaw Pickup, 05, w/o Chrome Pkg	Grille	Tong Yang	12/16A	6C3Z8200BC	FO1200456
FD-07363GAQ	Ford Taurus, 13-16	Grille, Outer	Tong Yang	08/17A	DG1Z8200SA	FO1202104
HDB083NBQ	Honda Civic Hybrid, 06-08	Bumper Cover, Front	Pro Fortune	01/18A	04711SNEA90ZZ	HO1000239
HDB083NBQ	Honda Civic Sedan, 06-08, 1.8L eng	Bumper Cover, Front	Pro Fortune	01/18A	04711SNEA90ZZ	HO1000239
Y-HDBP214CA	Honda Civic Sedan/Coupe, 16-18	Bumper Cover, Front	Y.C.C.	01/18A	04711TBAA00ZZ	HO1000306
Y-HYBP031CA	Hyundai Elantra Sedan, 14-15, Korea built	Bumper Cover, Rear	Y.C.C.	01/18A	866113X700	HY1100202
Y-HYGR017CPC	Hyundai Sonata, 11-12	Grille	Y.C.C.	07/17A	863503S100	HY1200154
IFB002NDQ	Infiniti FX35, 09-13, w/o Premium pkg	Bumper Cover, Rear	Pro Fortune	10/16A	HEM221CA0H	IN1100134
IFB002NDQ	Infiniti FX37, 09-13, w/o Premium pkg	Bumper Cover, Rear	Pro Fortune	10/16A	HEM221CA0H	IN1100134
IFB002NDQ	Infiniti QX70, 14, w/o Parking sensors	Bumper Cover, Rear	Pro Fortune	10/16A	HEM221CA0H	IN1100134
KA-04014BBQ	Kia Sportage, 05-07, w/Luxury Pkg.	Bumper Cover, Front	Tong Yang	10/17A	865111F001	KI1000130

20180601MD

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EXHIBIT (C-1)

GEICO
 Visit us online at WWW.GEICO.COM
 Request a supplement at partners.geico.com

711 Kapiolani Blvd. Ste 300
 Honolulu, HI 96813
 Phone: (808) 341-9245
 Fax: (866) 410-1305

Claim #: 12-01
 Workfile ID: 771fd314

Estimate of Record

Written By: LON RECAMARA, 2/13/2019 8:14:27 PM
 Adjuster: RECAMARA, LON, (808) 341-9245 Business

Insured: _____ Owner Policy #: _____ Claim #: .01012-01
 Type of Loss: Collision Date of Loss: 02/11/2019 12:17 PM Days to Repair: 15
 Point of Impact: 01 Right Front Deductible: 500.00

Owner (Insured): _____ **Inspection Location:** _____ **Appraiser Information:** _____ **Repair Facility:** _____

WAIPAHU, HI 96797

VEHICLE

2014 NISSA Rogue SL FWD 4D UTV 4-2.5L Gasoline Sequential MPI black

VIN: _____ Production Date: _____ Interior Color: _____

2014 NISSA Rogue SL FWD 4D UTV 4-2.5L Gasoline Sequential MPI black



Line	Oper	Description	Qty	Extended Price \$	Labor	Paint
FRONT BUMPER & GRILLE						
1						
2	R&I	R&I bumper cover			2.1	
3	*	Rpr Bumper cover			1.0	2.6
4		Add for Clear Coat				1.0
5	R&I	RT Hole cover w/fog lamps			0.2	
6	R&I	LT Hole cover w/fog lamps			0.2	
7	R&I	Trim molding			0.1	
8	R&I	Lower grille			0.2	
9	R&I	License bracket			0.2	
FRONT LAMPS						
10						
11	R&I	RT Headlamp assy			0.3	
12	R&I	LT Headlamp assy			0.3	
HOOD						
13						
14	*	Rpr Hood (ALU)			0.5	2.0
15		Add for Clear Coat				0.8
FENDER						
16	**	Repl A/M CAPA RT Fender	1	238.00	2.0	2.2
17		Overlap Major Adj. Panel				-0.4
18		Add for Clear Coat				0.4
19						-

2014 NISSA Rogue SL FWD 4D UTV 4-2.5L Gasoline Sequential MPI black

ALTERNATE PARTS SUPPLIERS

Line	Supplier	Description	Price
17	Prism Group LLC Customer Service 1038-B Kikowaena Place Honolulu HI 96819 (808) 833-4200	#NI1241212C A/M CAPA RT Fender	\$ 238.00

EHIBIT (D)

 Add a vehicle 

Search for parts 

[Add a vehicle to see if this part fits your car >](#)

[VIEW MORE FENDERS](#)

Keystone Collision Front Driver Side Fender, Made Of Steel

\$47.99

★★★★★ No Reviews

[Add a vehicle to find parts that fit](#)



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Unlock →



EXHIBIT (D-1)

Parts Geek THE DEALER ALTERNATIVE Discount Auto Parts and Accessories SELLING PARTS ONLINE SINCE 2008 Buy With Confidence

Home Online Catalog Brands Customer Service Track Order View Cart Checkout

Search Search **Make/Model**

Back - [2014](#) > [Nissan](#) > [Rogue](#) > [Body Mechanical & Trim](#) > [Fender](#)


2014 Nissan Rogue Fender

[Review Fitment Notes to Ensure Proper Fit](#)

Search by Part Name...

Related Parts

- [Accelerator Pedal Sensor](#)
- [Bicycle Rack](#)
- [Bug Shield](#)
- [Bumper Absorber](#)
- [Bumper Cover](#)
- [Bumper Cover Bracket](#)
- [Bumper Cover Molding](#)
- [Bumper Cover Reflector](#)
- [Bumper Cover Reinforcement](#)
- [Bumper Cover Retainer](#)
- [Bumper Cover Shield](#)
- [Bumper Grille](#)
- [Bumper Molding](#)
- [Bumper Reinforcement](#)
- [Bumper Reinforcement Bracket](#)
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- [Door Lock Actuator](#)
- [Door Mirror Glass](#)
- [Door Shell](#)
- [Engine Cover Clip](#)
- [Engine Splash Shield Hardware](#)
- Fender**
- [Fender Brace](#)
- [Fender Flares](#)
- [Floor Mat Set](#)
- [Floor Mats](#)
- [Fog Light Bezel](#)
- [Fog Light Cover](#)





Action Crash Fender - Front Left - Driver Side; Premium
Part Number: 128080-04156924
Notes: DRIVER SIDE FRONT FENDER
Position: Front Left - Driver Side
Quality: Premium - High quality new replacement part.
Condition: New

Shipping Options:
Ships by Truck

Product List Price: ~~\$367.49~~
Our List Price: **\$64.98**

Quantity:


(35) In Stock

Click to Enlarge

PartsGeek.com

(Read reviews)

- **Oversized Item** - Customer must inspect all parts upon delivery. If an item is damaged refuse only the item that is damaged and contact us immediately.

This Part Fits: **Catalog: D**

Vehicle	Notes
2014 Nissan Rogue	DRIVER SIDE FRONT FENDER



Action Crash Fender - Left - Driver Side; Capa Certified
Part Number: 128080-04247670
Notes: FRONT DRIVER SIDE FENDER; MADE OF STEEL
Position: Left - Driver Side
Quality: Capa Certified - Ensures the part fits, performs, and lasts the same as the original.
Condition: New

Shipping Options:
Ships by Truck

Product List Price: ~~\$367.49~~
Our List Price: **\$80.98**

Quantity:

(99) In Stock



Click to Enlarge

PartsGeek.com

(Read reviews)

EXHIBIT (D-1)

**14 2014 Nissan Rogue Fender Front Left - Driver Side
Action Crash**



[Click to Enlarge](#)

★★★★★
[\(Read reviews\)](#)

Product List Price:
\$367.49

Our List Price:
\$72.98

[Info](#)

Product SKU: NI1240212C

Product Note: DRIVER SIDE FRONT FENDER

Position of Product: Front Left - Driver Side

Condition: New

Quality: Capa Certified Ensures the part fits, performs, and lasts the same as the original.

Shipping Options:

Ground

▶ Fitment Information:

Catalog: D

Vehicle

Notes

2014 (14) Nissan Rogue

DRIVER SIDE FRONT FENDER

EXHIBIT (D-1)

Hawaii State Legislature
House Committee on Finance

March 26, 2019

Filed via electronic testimony submission system

RE: SB 823, SD1, HD 2, Relating to 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 March 27, 2019, public hearing. Unfortunately, I will not be able to attend the public hearing, because of a previously scheduled professional obligation.

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 and workers’ compensation in the State of Hawaii, which represents 28% of the insurance marketplace.

NAMIC commends the Hawai’i State Legislature for its commitment to thoughtful and deliberative policymaking by each and every committee. Although NAMIC still has concerns with the most recently amended bill (SB 823, SD1, HD2), we appreciate how the legislature is revising the bill to address the *actual reality of what consumers want and need*, i.e. competitive and cost-effective auto insurance options. We respectfully request that this committee take the next logical step toward making the proposed legislation more consumer-friendly.

SB 823, SD1, HD2 states:

*An insurer shall clearly make available a choice to the insured, **at the time the insurer offers new or renewal motor vehicle policy coverage**, of authorizing a repair provider to utilize a like kind and quality part of an equal or better quality than the original equipment manufacturer part if such part is available or an original equipment manufacturer part for motor vehicle body repair work. [Emphasis Added]*

NAMIC shares the legislature’s desire to make sure that consumers are *appropriately and meaningfully informed* of their option to have their motor vehicle repaired with original equipment manufacturer (OEM) parts. Our concern is that the proposed consumer notice, as well-intended as it may be, is not an *appropriate and meaningful* consumer notice. Why? Simply because the insurance consumer isn’t thinking about an auto accident, an insurance claim, or a motor vehicle repair at the time they are entering into their insurance agreement. Intellectually, it is kind of a kin to expecting a person to make detailed decisions about their divorce when they are signing their marriage certificate. A consumer’s decision as to whether or not to select OEM parts for their auto repair as part of their insurance claim is best made at the time the decision is meaningful, i.e. when the repair is about to be made and the consumer is actually required to make a formal decision as to whether they want more expensive OEM parts used in the repair.

Auto insurers actively promote informed consumer choice, which requires *timely notice* of consumer options. The only notice that is timely is the notice provided at the time the repair is about to be undertaken. Informing the consumer of their right to select and pay the additional amount for OEM parts months before the accident is of no real value or help to the consumer. Important decisions are typically made at the time when the decision has practical implications for the consumer. A person could decide that they want OEM parts used when they enter into the insuring agreement and then 11 months later at the time of the accident and subsequent motor vehicle repair, the consumer may have changed his/her mind and decided that the use of OEM parts is entirely unnecessary. Therefore, the proposed notice at the time the



insurer offers new or renewed insurance coverage to the consumer is of no practical value. Why require a consumer disclosure that is of no real value to the policyholder?

Unfortunately, the proposed consumer notice requirement is far more than just a meaningless disclosure, *it is also an insurance rate cost-driver* that could adversely impact affordability of insurance for consumers. All state mandated consumer notices create administrative costs and burdens for insurers, which are ultimately passed on to the consumer. Moreover, new consumer notice requirements expose insurers to legal liability and regulatory compliance costs. As with all business endeavors, transactional costs and legal/regulatory expenses end up impacting the cost of goods and services provided to the consumer. Therefore, NAMIC believes that the proposed consumer notice requirement is more than just a solution in search of a problem, we believe it is an unnecessary consumer cost that creates no corresponding consumer benefit.

Insurance consumers are already being appropriately informed at the time of the adjusting of the insurance claim and the repair of their vehicle that they have the right to select more expensive OEM parts if that is their personal preference at the time of the repair. This is the best and most timely consumer notice one could ever receive. What more is really needed?

For the aforementioned reasons, NAMIC respectfully requests a **NO VOTE on SB 823, SD 1, HD 2, because a well-intended consumer notice that is not well-designed to address the reality of when consumers make auto repair decisions should be avoided by thoughtful policymakers.**

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



- 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

COMMITTEE ON FINANCE

Rep. Sylvia Luke, Chair
Rep. Ty J. K. Cullen, Vice Chair
Wednesday, March 27, 2019; 2:00 p.m.
Room 308

HB405 - RELATING TO Motor Vehicle Repairs

Chair Luke, Vice Chair Cullen and Members of the Finance Committee

My name is Timothy M. Dayton, General Manager of GEICO, Hawaii's largest auto insurer. GEICO insures over 270,000 vehicles in Hawaii. **GEICO opposes SB823 HD2 in its current form.** The measure as proposed will be confusing and little understood by consumers at the time of policy issuance or renewal. It will require all motor vehicle insurers to price, file and obtain approval from the Insurance Commissioner for two distinct options for repair. It will likely lead to litigation over what the definitions of *clearly* and *choice*. More importantly it fails to consider the related critical issues of price and availability of original equipment parts (OEM). Specifically, it does not address the unique Hawaii mark-up that charges 25% - 35% over MSRP for all OEM parts when all over states (including Alaska) charge MSRP or less. It also fails to address that pretty much all OEM parts have to be order/shipped from the mainland causing delays in repairs that often exceed the typical 30 day rental coverage most commonly purchased. The proposal fails to consider that the lack of parts stocked in Hawaii will be a major consumer problem in the event of a major hurricane. Non OEM parts are pretty much all stocked locally.

We respectfully ask that SB823 either be held or revert back to a study as recommended in SB823HD1.

Thank you for the opportunity to submit our thoughts on this measure.

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

SB-823-HD-2

Submitted on: 3/26/2019 7:32:50 AM

Testimony for FIN on 3/27/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Dylan Matsumoto	Individual	Support	No

Comments:

I am in support of SB823.

SB-823-HD-2

Submitted on: 3/26/2019 7:33:53 AM

Testimony for FIN on 3/27/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Linnell Heneralau	Individual	Support	No

Comments:

I am in support of bill SB823

Sue Feleciano
94-123 Akaku Place
Mililani, HI 96789

27 March 2019

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

RE: SB823 Relating To Motor Vehicle Repairs

Dear Members of the Committee:

My name is Sue Feleciano, an average local citizen of our great Aloha State, who has been impacted by an automobile accident and the preceding motor vehicle repairs that were required.

My accident occurred on a beautiful Saturday afternoon while return home from a day of activities. I was rear ended by a fellow Geico policy holder. The impact from the accident was so intense and forceful that it smashed me into the vehicle in front of me causing rear and front damage to my Toyota 4 Runner. HPD responded to the accident and the individual that struck me was cited for the accident.

Just a little background from me, I have been a Geico policy holder for over 10 years here in Hawaii and many more years in the Mainland and Overseas locations. I was never advised of any added cost or that there was even an option for repair parts or after-market/refurbished parts in my policy. I assumed that since I pay for "full coverage" insurance with underinsured and uninsured that my vehicle is fully covered for any accidents. Little did I know that this option was given to the Insurance Company and not the repair shops – whom I would have assumed to be the subject matter experts. I am especially concerned with this current legislation as I was the innocent party to my accident. I have never encountered these issues when involved in any type of accident when the other party was a different insurance company.

I contact my insurance after the accident providing pictures and information on the accident. I provided the claims adjustor with name of a local repair shop (as suggested by Toyota) but the first available date to repair my vehicle would have been several weeks away. Geico stated that they could not wait that long to repair and needed to get my vehicle into a repair shop immediately. Geico referred me to their "Preferred Shop", stating it was one of the best on island and that they guarantee all their repairs and ensured me my vehicle would be brought back to "Pre-accident" condition. Being a loyal Geico customer I had no reason to doubt or question the suggestions since I assumed Geico had my best interest and the "100% guarantee" gave me confidence that this repair shop was the best on island as stated.

I was not aware that aftermarket/generic/refurbished parts were being utilized to repair my vehicle especially when I was constantly told that the repairs were delayed because of parts from Toyota. I had many concerns because of the accident about the frame and overall repairs but Geico steadily assured

me that all measurement repairs would be documented and I would receive a copy. After 2 months of delays and reschedules my vehicle was finally ready and I was eager to have my vehicle back, but my excitement was quickly shattered at the appearance of my vehicle.

I was immediately drawn to the different color of the replaced front bumper and the alignment. When I asked the shop foreman about the color he shrugged his shoulders and stated, "this is the way they sent it" I was curious about who "they" were and assumed it was Toyota. When I asked about painting he stated Geico did not provide it on the estimate. Further review of the back of my vehicle was worse with obvious over lapping and several gaps offsetting the lights – I was surprised my hatchback closed properly. I requested to speak to the Geico representative on site and she began discussing the actions with the shop foreman, she stated the action we minor cosmetic adjustments to which the shop foreman asked if I was taking the vehicle. The main objective was for me to sign for my vehicle and drive away – no importance on these repair parts not fitting properly or if the vehicle was even safe to drive.

I contacted my Geico adjuster (who referred me to this shop) about the issues and was assured that all shops have difficulty with Toyota parts on their fit and alignment but he would contact the shop owner. I also contacted my adjuster's supervisor in reference to the actions of the on-site adjuster and was told, "the vehicle has been repaired and the issues are only cosmetic, technically you should have taken the vehicle since Geico has been paying for a rental car beyond 30days." I was a little shocked at his response and could see why the adjuster replied in the same manner. With the difficulties the shop had with just cosmetic repairs I had serious concerns about the true safety issues.

Still assuming these fit issues were a result of Toyota parts I asked if these are known issues throughout the industry why is Toyota not being formally notified about the condition of their parts? I received a long speech about the process and that these issues have never happened at this shop before. After almost 4 months of constant back and forth, I was again notified my vehicle was ready for pick up, which I requested my Geico adjuster be present. At the final pick up I was again filled with remorse and disappointment; the paint had orange peel, compound, and swirls that were not buffed out, the alignment issues with the bumpers remained, the hood now had a gap to which I could place my finger in and appeared as the hood would not close. The inside of my vehicle was covered with dust particles and shoe prints on the carpet and seats - to add insult, when I removed the paper cover from the driver's side (commonly used to protect the floor) there were muddy foot prints on my floor. Geico stated they would address these issues with the owner again have the shop correct the issues and clean the vehicle. I requested the measurement of frame repairs but received no response and only received the receipt of repairs from the shop that were based on the estimate provided by Geico. I was no longer confident in repairs and had major doubts about any of Geico's guaranteed preferred shops and requested a second opinion from an independent shop.

After researching some additional shops, I contacted reputable repair shops who advised that they were not on the Geico guarantee program and as a result Geico would not pay their rates and would not warrant my repairs. I was referred to Mr. Russel Chang when I contacted Geico again who stated these shops inflate their costs which is why Geico does not utilize them and stated I needed to select a "Guaranteed Repair Program".

After hearing many other stories of similar repairs from preferred shops, I am left with the sentiment that the "Guaranteed Repair Program" is in the best interest of Geico and utilizing after-market parts are a way to short cut quality repairs.

I genuinely thank you for your time and efforts and hope as insurance consumers and drivers in our state of Hawaii, that you would please consider how HB62 affects our livelihoods and not the benefits/profit margin of insurance industry.

Sincerely,

Sue Feleciano



LATE

March 26, 2019

The Honorable Sylvia Luke
House Committee on Finance
415 S Beretania Street
Honolulu, HI 96813

LKQ Opposes Senate Bill 823

Dear Committee Chair Luke and Committee Members:

On behalf of LKQ Corporation, we would like to voice our opposition to SB 823, which is scheduled for a hearing before your committee on March 27th at 2:00 pm. While we greatly appreciate the efforts to amend the original bill to remove some of the false and flawed statements in Section 1 and the restrictive provisions in Section 2, we remain gravely concerned regarding the overall bias against aftermarket parts.

SB 823 HD2 still contains misguided statements that continue to depict aftermarket parts as somehow unsafe and inferior compared to OEM parts. We strongly oppose the general notion that consumers should be “warned” when presented with the option to repair their vehicles with aftermarket parts versus OEM parts. Such warnings are scare tactics that intend to plant a seed of doubt and mislead consumers into believing that OEM parts are the more appropriate option for vehicle repair. LKQ agrees that consumers should have the right to know the type of parts that are being used to repair their vehicles. However, this information should be delivered to consumers in a fair, truthful, unbiased, and balanced manner.

Proponents have brought up this bill for two consecutive years making inaccurate statements and attacking the integrity of the alternative parts industry. Nevertheless, proponents have not yet provided conclusive evidence asserting that aftermarket parts have caused accident, injury or death. Without scientific or real-world evidence to back their claims against aftermarket parts, we perceive their legislative efforts as unfounded and one-sided in favor of OEM parts.

In particular, we oppose the claim that the use of aftermarket parts would void a vehicle’s warranty, as proponents have suggested in prior testimony. This claim contradicts the Magnusson Moss Warranty Act, a federal mandate that protects consumers by securing their right to repair their vehicles with aftermarket parts without the fear of voiding the manufacturer’s warranty. We would like to make clear that the use of aftermarket parts would not and does not void a motor vehicle’s warranty. Please consider the following amendment:

“This section shall not apply to the replacement of an original equipment part if replacement of that part is no longer covered under the original equipment manufacturer's warranty.”

LKQ Corporation is a leading provider of alternative and specialty parts to repair and accessorize automobiles and other vehicles. LKQ offers its customers a broad range of replacement systems, components, equipment and parts to repair and accessorize automobiles, trucks, and recreational and performance vehicles. LKQ has operations in North America, the United Kingdom, the Netherlands,

Belgium, Luxembourg, Italy, Czech Republic, Switzerland, Hungary, Romania, Ukraine, Bulgaria, Slovakia, Poland, Spain, Croatia, Slovenia, Austria and Germany. Globally, LKQ has an industry leading team of over 51,000 employees and operates over 1,700 facilities. LKQ employs approximately 25,000 people in North America and operates more than 550 facilities in 47 states.

We appreciate the opportunity to provide industry input and collaborate with the Hawaii Legislature and stakeholders to advance sound policy related to the automotive industry. We respectfully ask you to please ***vote "NO" on SB 823.***

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

Respectfully,

Catalina Jelkh Pareja
LKQ Corporation
Government Affairs Representative