

**ALASKA STATE LEGISLATURE
HOUSE TRANSPORTATION STANDING COMMITTEE**

April 24, 2003

2:05 p.m.

MEMBERS PRESENT

Representative Jim Holm, Co-Chair
Representative Beverly Masek, Co-Chair
Representative Hugh Fate
Representative Vic Kohring
Representative Dan Ogg
Representative Albert Kookesh

MEMBERS ABSENT

Representative Mary Kapsner

COMMITTEE CALENDAR

HOUSE BILL NO. 40

"An Act relating to issuance of a driver's license."

- MOVED CSHB 40(TRA) OUT OF COMMITTEE

HOUSE BILL NO. 99

"An Act relating to insurance for and work on certain motor vehicle repairs; and providing for an effective date."

- HEARD AND HELD

HOUSE BILL NO. 217

"An Act relating to driving while under the influence of an alcoholic beverage, inhalant, or controlled substance and to presumptions arising from the amount of alcohol in a person's breath or blood; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

PREVIOUS ACTION

BILL: HB 40

SHORT TITLE: REQUIREMENTS FOR DRIVER'S LICENSE

SPONSOR(S): REPRESENTATIVE(S) LYNN

Jrn-Date	Jrn-Page		Action
01/21/03	0042	(H)	PREFILE RELEASED (1/10/03)

01/21/03	0042	(H)	READ THE FIRST TIME - REFERRALS
01/21/03	0042	(H)	TRA, STA
01/31/03	0106	(H)	COSPONSOR(S): CHENAULT
04/10/03		(H)	TRA AT 1:30 PM CAPITOL 17
04/10/03		(H)	-- Meeting Canceled --
04/15/03		(H)	TRA AT 1:30 PM CAPITOL 17
04/15/03		(H)	Heard & Held
04/15/03		(H)	MINUTE(TRA)
04/24/03		(H)	TRA AT 1:30 PM CAPITOL 17

BILL: HB 99

SHORT TITLE: INSURANCE FOR MOTOR VEHICLE REPAIRS

SPONSOR(S): REPRESENTATIVE(S) HEINZE

Jrn-Date	Jrn-Page		Action
02/14/03	0214	(H)	READ THE FIRST TIME - REFERRALS
02/14/03	0214	(H)	TRA, L&C
02/14/03	0214	(H)	REFERRED TO TRANSPORTATION
04/10/03		(H)	TRA AT 1:30 PM CAPITOL 17
04/10/03		(H)	-- Meeting Canceled --
04/24/03	1108	(H)	FIN REFERRAL ADDED AFTER L&C
04/24/03		(H)	TRA AT 1:30 PM CAPITOL 17

WITNESS REGISTER

REPRESENTATIVE BOB LYNN

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: As sponsor of HB 40, highlighted the merits of the bill and urged the members to pass it from committee.

KERRY HENNINGS, Driver Licensing Manager

Division of Motor Vehicles

Department of Administration

Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 40 and answered questions from the members.

REPRESENTATIVE CHERYLL HEINZE

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: As sponsor of HB 99, she explained the purpose of the bill and answered questions from the members.

JOHN CONLEY, Owner

NAPA Auto Parts;
President, Southeast Conference
Ketchikan, Alaska
POSITION STATEMENT: Testified in opposition to HB 99 and
answered questions from the members.

MICHAEL LESSMEIER, Attorney at Law
Lessmeier & Winters
Lobbyist for State Farm Insurance Company
Juneau, Alaska
POSITION STATEMENT: Testified on behalf of State Farm Insurance
Company in opposition to HB 99.

JOHN GEORGE, Lobbyist
for National Association of Independent Insurers
Juneau, Alaska
POSITION STATEMENT: Testified on behalf of the National
Association of Independent Insurers in opposition to HB 99.

SANDY BASS-CORS, Executive Director
Coalition for Auto Repair Equality
(Address not provided)
POSITION STATEMENT: Testified in opposition to HB 99.

EILEEN SOTTILE, Director
Government Relations
Keystone Automotive Industries, Inc.;
Co-Chair, Legislative and Regulatory Committee
Automotive Body Parts Association (ABPA)
Medley, Florida
POSITION STATEMENT: Testified in opposition to HB 99 and
answered questions from the members.

JACK GILLIS, Executive Director
Certified Automotive Parts Association (CAPA);
Director, Public Affairs, Consumer Federation of America;
Author, The Car Book
(Address not provided)
POSITION STATEMENT: Testified in opposition to HB 99 and
answered questions from the members.

ACTION NARRATIVE

TAPE 03-18, SIDE A
Number 0001

CO-CHAIR BEVERLY MASEK called the House Transportation Standing Committee meeting to order at 2:05 p.m. Present at the call to order were Representatives Masek, Holm, Fate, and Kohring. Representatives Ogg and Kookesh arrived while the meeting was in progress.

HB 40 - REQUIREMENTS FOR DRIVER'S LICENSE

CO-CHAIR MASEK announced that the first order of business would be HOUSE BILL NO. 40, "An Act relating to issuance of a driver's license." She reminded the members that the committee has heard this bill before and that a proposed committee substitute (CS) has been prepared.

Number 0089

REPRESENTATIVE FATE moved to adopt the proposed CS, Version 23-LS0262\H, Ford, 4/16/03, as a work draft. There being no objection, Version H was before the committee.

Number 0135

REPRESENTATIVE BOB LYNN, Alaska State Legislature, as sponsor of HB 40, highlighted the merits of the bill. He reiterated comments made at an earlier hearing by saying that HB 40 is an important piece of legislation to protect homeland security, guard against identity theft and voter fraud, and ensure legal accountability. Representative Lynn said he believes this is a good bill and asked the members for favorable consideration to pass the bill out of committee.

CO-CHAIR MASEK asked if members have questions with respect to the new proposed CS the committee has before them. She also noted for the record that Representative Ogg has joined the meeting.

Number 0212

KERRY HENNINGS, Driver License Manager, Division of Motor Vehicles, Department of Administration, testified in support of HB 40 and offered to answer questions from the members.

REPRESENTATIVE FATE asked Ms. Hennings if the Division of Motor Vehicles has any problem with the bill.

MS. HENNINGS told the committee that the Division of Motor Vehicles supports this bill and as a policy is currently

administering the driver's licenses program in keeping with the legislation. She explained that about 30 states currently have this kind of legislation in place, and there is the hope that more states will adopt this policy as a security measure prior to the policy's being mandated by the federal government.

REPRESENTATIVE OGG asked if an individual in the United States and who is seeking political asylum would be allowed to get a driver's license.

MS. HENNINGS replied that while she is not an expert in that area, her experience working with ICE [Bureau of Immigration and Customs Enforcement], formerly the INS [Immigration and Naturalization Service], has shown that a person in these circumstances would be able obtain the proper documentation necessary to get a driver's license in Alaska.

CO-CHAIR MASEK commented that Representative Ogg's question is addressed in the proposed committee substitute on page 2, lines 17-19.

Number 0398

REPRESENTATIVE FATE moved to report CSHB 40, Version 23-LS0262\H, Ford, 4/16/03, out of committee with individual recommendations and the accompanying zero fiscal notes. There being no objection, CSHB 40(TRA) was reported out of the House Transportation Standing Committee.

HB 99 - INSURANCE FOR MOTOR VEHICLE REPAIRS

Number 0462

CO-CHAIR MASEK announced that the next order of business would be HOUSE BILL NO. 99, "An Act relating to insurance for and work on certain motor vehicle repairs; and providing for an effective date."

Number 0455

REPRESENTATIVE CHERYLL HEINZE, Alaska State Legislature, as sponsor of HB 99, explained the purpose of the bill and answered questions from the members. She explained that HB 99 has two central provisions. The first is that it requires an insurance company to provide a warranty for "aftermarket" crash parts when providing automobile insurance. The second part of the bill prohibits a motor vehicle repair facility from using an

"aftermarket" crash part on a vehicle that is less than four years old unless it is with the consent of the owner. Representative Heinze reiterated that consent under this bill would state that consumers should have the right to use crash parts in their cars. Currently, owners do not have to be notified if [crash parts] are used in repairing their cars.

The committee took an at-ease from 2:15 p.m. to 2:18 p.m.

CO-CHAIR MASEK announced for the record that Representative Kookesh has joined the meeting.

Number 0562

JOHN CONLEY, Owner, NAPA Auto Parts; President, Southeast Conference, testified in opposition to HB 99, noting that he owns two NAPA Auto Parts stores. He told the committee that the Southeast Conference is a regional economic development organization. He said he spent nine years serving on the local borough assembly and two years as vice-mayor. Mr. Conley stated that this bill directly affects his business and livelihood. He said he is opposed to HB 99 because he believes there are serious defects in the bill. Mr. Conley offered some background information about this kind of legislation, saying that several states have attempted to pass similar legislation, but have failed.

MR. CONLEY read from a written response to the sponsor's statement on HB 99, which he passed out to members. It read as follows [Some punctuation and formatting changed]:

"There are many types of replacement parts used to repair collision damage to a motor vehicle. 'Original equipment manufacturer' (OEM) parts are developed by the original manufacturer of the motor vehicle, and are designed to meet particular fit, finish, function, and corrosion resistance specifications. Non-OEM (also called 'aftermarket') crash parts are reverse engineered to replicate the original. While some non-OEM (aftermarket) parts are a comparable low-cost alternative to the OEM parts manufactured and distributed by the vehicle's manufacturer, professionals have found others to be inferior to OEM parts in terms of fit, finish, and quality."

Not true - many aftermarket parts exceed OEM specifications; the aftermarket improves poor designs

and offers lifetime warranties. In many situations the aftermarket and the OEM's part are supplied by the same manufacture. The aftermarket serves the customer and creates a competitive marketplace. This bill clearly attempts to create a monopoly for the OEMs in the case of collision repair.

"The use of non-OEM parts in the repair of a new vehicle can affect the vehicle's resale value, the manufacturer's warranty, and the vehicle's safety."

This is an unproven statement; many OEM dealership regularly purchase and install aftermarket parts. My company does a lot of business with both a GM and Ford dealer. NAPA parts give them the ability to offer their customers lifetime guarantees on some repair jobs, a feature not available with the use of OEM parts. I have spoken with service managers that speak of the poor quality of some of the OEM parts that they must use for warranty repairs. They install NAPA parts on out-of-warranty repairs because of our improved designs and better warranty.

"I am concerned that many Alaskans are not aware of the use of aftermarket parts in their vehicles' repair, or the effect the use of non-OEM parts can have on their vehicle."

This statement implies that aftermarket parts are dangerous. The aftermarket has repeatedly improved poor OEM designs. We offer better warranties, and in the 24 years I have been in the parts business, NAPA has not had to recall any vehicles that our parts have been installed on. Can the OEMS make the same statement? Our goal is to be the best supplier of automotive repair parts to our customers. We don't need the Alaska State Legislature to pass laws that give us an unfair advantage. We believe in the quality of our products and support the American tradition of the consumer voting with their pocket books.

Number 0664

MR. CONLEY said that there is a section in the bill [page 2, lines 27-29], that reads:

(e) In this section, "aftermarket crash part" means a motor vehicle replacement part that is not supplied by or manufactured at the direction of the original equipment manufacturer and that is generally installed as a result of a crash or collision.

MR. CONLEY warned that the members will be told that companies will be using imported sheet metal parts made in Taiwan or the Far East. He pointed out that the amazing thing is that the United States imports cars that are made in the Far East and people love them, but if automobile parts are imported, they are viewed as [inferior]. He said that these parts are not sheet metal; they are light bulbs, screws, fasteners, or paint. Mr. Conley told the members that for many of the parts that would be affected by this legislation, his company sells and offers a lifetime guarantee on the parts. He explained that many of the parts that would be prohibited under this bill are manufactured for his company by the same manufacturers that produced the part for the [original company that manufactured the vehicles].

MR. CONLEY said that this bill would eliminate competition from the marketplace and drive up the cost of vehicle repair. He told the committee passing this legislation would mean that they would be giving the big car manufacturers a huge monopoly for four years, and insurance costs would go up. Mr. Conley pointed out that the big car dealerships do not have facilities in every community in Alaska. He said his car has been around a whole lot longer than the car dealerships have. He added that the automotive aftermarket [industry] takes care of rural Alaska and does a fine job. There are auto parts in virtually every community in the state of Alaska, and the automotive industry has been serving Alaska for years. He said he believes that this legislation would be a great disservice to the people of Alaska and that it creates a monopoly for the original equipment manufacturers (OEMs).

MR. CONLEY explained that when similar legislation was introduced at the federal level, there was a determination that it violated the "Magnuson-Moss Warranty Act" [Magnuson-Moss Warranty - Federal Trade Commission Improvement Act]. He provided the members with a copy of an interpretation of the Magnuson-Moss Warranty Act. Mr. Conley said this federal law will basically prohibit certain sections of this bill from being implemented. He said that he hopes the committee does not pass this bill from committee.

Number 0833

CO-CHAIR MASEK asked Mr. Conley how he feels about the language in Section 1 that requires insurance companies to provide warranties for aftermarket parts used to repair a vehicle, regardless of the age of the vehicle.

MR. CONLEY responded that he is a businessman and businesses fail if they do not provide warranties. He told the committee that he spoke with several body shops before coming to Juneau to testify and found that reputable businesses provide warranties. Mr. Conley explained that the free marketplace does not allow a business to survive if it does not provide warranties. It would not take long for the public and insurance companies to see that the company does shoddy work and would not do business with them. Requiring the insurance company to provide a warranty clearly violates the Magnuson-Moss Warranty Act.

MR. CONLEY said the warranty is already in place and he does not see government doing this to other businesses. For example, it would be like passing a law that says that if a person buys a pair of shoes, the seller of the shoes will warrant under all conditions that the shoes will last three years. He explained that people take care of their belongings in different ways and that determining two years down the road what caused something to wear out would be very difficult. He summarized that reputable companies stay in business because they provide those warranties and that is why they are successful.

CO-CHAIR HOLM commented that one statement that has been discussed is the safety factor of aftermarket parts. He asked if there is any empirical data that shows that [aftermarket parts have safety issues].

MR. CONLEY responded that the company he recently purchased, where he has worked for 24 years, has never had a recall for safety reasons for any part that has been installed on a vehicle. He commented that he heard the statement which was made about a safety factor, but there is no data that substantiates the claim. There is a GAO [General Accounting Office] report that was provided to Congress, but there are no documented cases. He said he can think of many more Ford and General Motors recalls that affect safety than anything about the aftermarket [parts] sales.

CO-CHAIR HOLM thanked Mr. Conley. He said he wanted this fact on the record because he has never seen anything with respect to

safety [issues on aftermarket parts], and it is disturbing to hear the allegations if there is no [data] to back it up.

MR. CONLEY replied that he is very disturbed too. He said that his company is a contributing part of the community and at one time he employed 32 people. The economy is kind of tough in Southeast right now, so he has sold a couple of stores. Mr. Conley expressed his belief that this legislation implies that the automotive aftermarket is a kind of shady, back-street operation, and that is not true. It is a multibillion-dollar contributor to the transportation economy of this country, he said.

Number 1055

REPRESENTATIVE OGG referred to Section 1, lines 9-11, where it says, "Before issuing or renewing a personal automobile insurance policy, the insurer shall provide the applicant or insured written notice of the warranty available under this subsection." He asked Mr. Conley what that requires.

MR. CONLEY responded that what this means to him is that the insurance company will either raise rates or quit writing insurance in Alaska. He said he thinks the sponsor could probably explain the mechanics of it; however, it is important to note that this part of the bill violates federal law. Mr. Conley asked, if an automobile is repaired and someone goes out and damages the vehicle, whose responsibility it is. He said that if a vehicle is still under the original equipment manufacturer's warranty, it is still under warranty. If, for example, GM has a parts recall, but the owner does not go in and have it repaired, a warranty still exists until the warranty expires, and then there is no warranty. Mr. Conley said that NAPA sells parts that have lifetime warranties. The car manufacturers will give a customer a three-year warranty, and this bill will give [car manufacturers] a four-year monopoly.

REPRESENTATIVE OGG asked why the warranty would be transferred from the manufacturers to the insurance companies.

MR. CONLEY agreed that he does not understand why this would be done.

REPRESENTATIVE FATE said he would like to hear from anyone who can address the language in the bill where it says [page 1, line 6-8], "An insurer ... shall provide the insured a warranty for ... parts." He asked if insurance companies who issue insurance

policies have contributed to the writing of this bill, and whether they agree with the language where they assume the responsibility of providing a warranty on parts.

Number 1252

MICHAEL LESSMEIER, Attorney at Law, Lessmeier & Winters, Lobbyist for State Farm Insurance Company ("State Farm"), testified on behalf of State Farm in opposition to HB 99. He told the members that State Farm did not have a part in drafting this legislation. Mr. Lessmeier explained that this legislation was before the legislature last year; State Farm opposed it then, and they oppose it now. He spoke to the issue of aftermarket parts and explained that they are not using them in Alaska now. In fact, he said he does not believe [State Farm] uses them anywhere because of a lawsuit in the state of Illinois. Mr. Lessmeier said that when State Farm used them, they provided warrantees for them. If the company is able to use them again, they will stand behind them and warrant them.

REPRESENTATIVE FATE thanked him for confirming that State Farm had no part in drafting this legislation.

MR. CONLEY asked the members to use common sense with this bill. He said he believes that there is no problem that this bill solves. Mr. Conley expressed the belief that [Section 2, Subsection (e)] is radical because the debate has been focused on sheet metal, but this section changes that to "any part" involved in a crash. For example, if someone is in a "fender-bender" and the dollar light bulb goes out, the body shop has to get a hold of the consumer to get consent to use a light bulb that is purchase by the body shop and that is made by the same company that provided that same light bulb to the original equipment manufacturer. He said that seems to eliminate competition in the marketplace, and it is competition that keeps things affordable. Mr. Conley told the members he believes if this bill were to pass, there would be no way the original equipment manufacturers would not seize the opportunity to raise prices. There would be no compelling reason for them not to, because it is a monopolistic opportunity for them, he said.

Number 1390

JOHN GEORGE, Lobbyist for National Association of Independent Insurers, testified in opposition to HB 99. He told the committee the National Association of Independent Insurers is an independent trade association made up of 700 insurance

companies. About 100 of those are registered to write insurance in the state of Alaska, and they provide about 60 percent of all the auto and homeowner's insurance in the state. Mr. George said the association opposes this legislation for a number of reasons. He told the committee when he was the director of the Division of Insurance 15 years ago, the complaint from consumers was always that insurance costs too much. Mr. George pointed out that there are many things that are being done that raise the price of insurance, and not a lot to contain the cost. Mandating the use of original parts, which cost more, contributes to higher costs of insurance, he said. Mr. George commented that in another bill with respect to insurance and credit scoring, Hawaii kept being thrown up as a state to emulate. When State Farm started looking at Hawaii, it found that [Hawaii] actually mandates the use of aftermarket parts. In [Hawaii's] case, if an individual wants to use the original part, then the individual must pay the difference. This policy has been implemented as a cost-control measure.

MR. GEORGE shared a personal experience that he had with his wife's car, which is a Toyota Camry, all-track and all-wheel drive. He said Toyota did not make a lot of these cars, so the aftermarket parts for it are not made for the specific four-wheel-drive [model]. He told the members he wanted to buy parts from aftermarket places, [but the manufacturers do not make them], so they had to go to Toyota. The cost was \$350 because they are the only ones who make [the parts]. Mr. George commented that this is a good example of why it is important to support aftermarket parts where appropriate. He clarified his comments by saying that it is not that he believes using original parts is inappropriate, but that the competition will keep parts reasonably priced.

CO-CHAIR HOLM acknowledged that Carl Krag, from Toyota Motor Sales USA, was available for questions.

Number 1590

SANDY BASS-CORS, Executive Director, Coalition for Auto Repair Equality, testified in opposition to HB 99. She told the committee that the coalition is a national organization that represents aftermarket companies throughout Alaska. She said the coalition represents companies in Alaska such as NAPA, Midas, CAR QUEST, Jiffy Lube, and Schucks. Ms. Bass-Cors said the coalition believes that this bill discriminates against low- and fixed-income motorists by steering them into purchasing identical, but higher priced, car dealer parts, which would then

require motorists to pay higher insurance premiums. Ms. Bass-Cors went on to say she believes this bill also hurts jobs in the independent repair industry because without the business, there is no profit and people are laid off.

MS. BASS-CORS commented that HB 99 does violate the federal law known as the Magnuson-Moss Warranty Act. She told the members that the aftermarket parts are manufactured by the same companies that manufacture car dealer parts, so the parts already meet, and often exceed, the original equipment manufacturer parts for fit, finish, and quality.

MS. BASS-CORS pointed out that aftermarket parts come with extended or lifetime warranties, and the automotive aftermarket [industry] has an 80 percent market share, which is a repeat business that shows that people come back to the companies because they receive quality products. She said that the reason car dealerships promote this legislation across the country is that aftermarket parts do cost up to 50 percent less than car dealer parts. She pointed out that the car dealers' interest is not in the quality of parts provided, but in the profit margin that is made in higher markups which further hurt low-income motorists. Ms. Bass-Cors told the members that it is true that some of the parts are made in Taiwan, but that is true of the original parts as well.

MS. BASS-CORS told the members that in 1991 the car manufacturers introduced a bill in Congress called the "Design, Innovation, and Technology Act," which would have given a 10-year monopoly on all parts. That bill was killed in committee. She said that because that battle was lost in Congress, the car manufacturers have turned to the states. She said [car manufacturers] believe they will have easier access picking off the states one by one, but have not had success in doing that.

MS. BASS-CORS concluded her testimony by telling the committee that a recent congressional study was done by the GAO [General Accounting Office] which found that there were so few problems that exist with aftermarket parts that no further action was necessary. She offered to send a copy of this report to any legislator who would like to review it. Ms. Bass-Cors said the Coalition for Auto Repair Equality believes that anything that is required of the aftermarket [industry] should also be required of the manufacturers.

Number 1762

EILEEN SOTTILE, Director, Government Relations, Keystone Automotive Industries, Inc. ("Keystone"); Co-Chair, Legislative and Regulatory Committee, Automotive Body Parts Association (ABPA), testified in opposition to HB 99. She provided a brief history of Keystone by telling the members that Keystone has been in business for 50 years, services 25,000 collision repairs across the country, has over 3,200 employees, and is the largest distributor of crash auto parts in Alaska. She told the members that the company that she works for sells parts for the "skin" of the vehicle or the hood, fenders, panels, sheet metal, et cetera.

MS. SOTTILE told the members that the ABPA has 210 competitor members and she is speaking in opposition to this bill on their behalf. She said she has read the sponsor statement and there is a serious violation of the Magnuson-Moss Warranty Act in this bill. She pointed out that when a part is replaced there no longer is a warranty on the original part because it has been removed; however, Keystone will provide a warranty on the aftermarket [part]. She told the committee the standard warranty for the aftermarket part for Keystone Automotive Industries is a lifetime warranty. So consumers are better protected by having a Keystone part on their cars because they have a lifetime warranty. Keystone provides quality parts with affordable prices, which is great consumer benefit in terms of the safety issue.

MS. SOTTILE asked if it would be appropriate to show a video that she provided to the committee at this time.

CO-CHAIR MASEK replied that the committee does not have the equipment available to show the video at this time.

MS. SOTTILE referred the members to a study in their packets that was done by the Insurance Institute for Highway Safety which illustrates the results of crash tests [between original parts and aftermarket parts]. The test that compares the results of a crash to a hood and the results of the damage to both vehicles was somewhat exact. Both [hoods] passed all the standards for highway safety, and the institute concluded that aftermarket parts had no impact on safety and that the aftermarket parts performed well. Thatcham in the United Kingdom has also done a crash test on hoods, and it came to the same conclusion.

Number 1918

MS. SOTTILE told the members that Keystone is the largest distributor of aftermarket parts in the United States and has never received a report of injury as a result of the use of its parts. She said she mentioned this fact with respect to comments made earlier about safety concerns. The National Highway Safety Administration has repeatedly stated that cosmetic non-structural auto parts have no safety ramifications. Ms. Sottile commented that many of their manufacturers also supply parts to the car companies. Some of these companies are Ford, Toyota, Isuzu, and Mitsubishi. She explained that the car companies currently hold approximately 79 percent of the market share of crash parts. This bill would essentially guarantee a monopoly for the car companies. She said Keystone's parts typically cost 20 percent to 50 percent less than what the car companies are charging. Ms. Sottile said [these lower prices] help to keep car prices down.

MS. SOTTILE shared a comparison of parts prices for a Nissan pickup truck, 1989 through 1997. The company price is \$192.10, the Keystone price is \$94.00, and the difference is \$98.00, which is a 50 percent savings. She said another example is the Ford Taurus headlight assembly for 1986 through 1991: the car company's price is \$170.15, the Keystone price is \$94.00, and the difference is \$76.15, or a 44 percent savings. This savings helps to contain claims costs and assist consumers in being able to afford to have their repairs done.

MS. SOTTILE summarized her comments by saying that car companies have consistently attacked the [auto parts industry] in propaganda put out in magazines and by other means. She read an advertisement that was put out by Nissan which talks about how to "install a genuine Nissan in your customer's head." It coaches consumers to ask for an original Nissan part by calling their insurance companies and demanding genuine Nissan parts.

REPRESENTATIVE FATE asked if the original manufacturers have agreements with the aftermarket manufacturers or if there are patent accommodations for these parts.

MS. SOTTILE replied that the parts are reverse-engineered and there are no patents on the parts, just as it is not possible to patent a pencil or a pen. Many of the parts are manufactured in the same plants where the original part was manufactured. Most of these companies are registered at this time. She explained that these are the standards the car companies created.

REPRESENTATIVE FATE responded that he does not question the quality of the part, but wondered if there has ever been litigation with respect to these activities. He asked if it is possible for an individual to be drawn into litigation by installing one of these parts on his/her car.

MS. SOTTILE assured Representative Fate that the auto parts industry is a generic industry and this practice is widely accepted, just as supermarket products compete with a well-known brand-name product and offer it for a lower price. She pointed out that the practice of encouraging customers to buy parts from the original manufacturer is often done by implying that the aftermarket part is of inferior or unsafe quality. This is done by requiring a sign-off for installing an aftermarket part, while not requiring it for the original car company. Ms. Sottile explained that there is no economic incentive to use aftermarket parts because 87 percent of the parts are paid for by insurance companies.

Number 2240

JACK GILLIS, Executive Director, Certified Automotive Parts Association (CAPA); Director, Public Affairs, Consumer Federation of America; and Author, The Car Book, testified in opposition to HB 99 and answered questions from the members. He told the members that CAPA is a nonprofit organization that certifies the quality of parts used for auto body repairs. He reiterated that the association does not make, market, or sell parts; it only establishes standards for competitive non-car-company parts to ensure their functional equivalency to the very expensive car-company parts. Mr. Gillis said he is a consumer advocate who has worked over 13 years on this program to protect consumers from both poor quality and the ravages of the car-company monopoly on aftermarket parts.

MR. GILLIS asked the members to give consumers true choice in the marketplace and protect them from one of the biggest secret monopolies in America, and protect them from poor quality. He explained that 80 percent of the car replacement parts that the members have heard about are only available from one source and that is the car companies. They mark up their replacement parts by as much as 800 percent. Car companies spend millions of dollars to discredit aftermarket parts and scare consumers, co-opt body shops, and coerce state legislatures and regulatory agencies in attempts to protect their monopoly in a thinly veiled attempt to restrict aftermarket parts. Mr. Gillis told the members that this bill is a classic car-company bill and

perpetuates that monopoly by discriminating against the aftermarket parts that Alaskans desperately need. He said what he finds particularly disturbing about this bill is that Alaskans need more choices, and more competition; things cost too much already. He explained that this bill will only drive up the cost of crash repair.

MR. GILLIS explained that as part of the CAPA certification process there is a comprehensive vehicle test, which every CAPA part must go through before it can be certified as a quality part. Of the 1,900 car-company parts that have been tested, about 50 percent of them did not meet CAPA standards for fit, finish, and appearance. He said he would be happy to provide the committee with the details of the study.

MR. GILLIS commented on the safety issue by telling the members that he has been fighting for safer cars for 25 years. Some of the issues he has worked on include air bags, anti-lock brakes, better crash protection, and rollover protection. Mr. Gillis said ironically some of the organizations that he has been fighting hardest against to improve the safety of cars have been the car companies. He summarized that the parts that have been discussed today do not necessarily have serious safety recommendations.

CO-CHAIR MASEK informed Mr. Gillis that the committee is running short of time, and has a copy of his written testimony. She asked if he has something to share with the members that is not included in it.

TAPE 03-18, SIDE B
Number 2380

MR. GILLIS summarized his comments by strongly recommending that the committee oppose the bill because it will only further protect the monopoly that is already costing Alaskans too much.

CO-CHAIR MASEK announced that HB 99 will come before the committee again at another time, and she encouraged Mr. Gillis to testify again, should he have anything to add.

MR. LESSMEIER said that he thinks back 20 years ago when the committee was dealing with the issue of mandatory auto insurance. He explained that at that time State Farm Insurance Company opposed that legislation because of the cost. He pointed out that this bill deals with cost and said everyone can agree that the higher the cost of insurance, the more difficult

it is for everyone to afford it. The situation is such that an individual cannot buy a car without insurance, or buy a home without homeowner's insurance, and that is the issue that is directly presented by this bill.

MR. LESSMEIER told the members that State Farm has been losing money in Alaska in the auto insurance market for the last four or five years. For example, the average paid cost for property damage for 1998 was \$2,093; for the year 2002 the cost had risen to \$2,700. Mr. Lessmeier said the question is how it can be stopped. He said at the moment the auto repair industry is not using aftermarket parts in Alaska or anywhere else, and this legislation would prevent their use in the future. It is important to note that it is not a safety issue. Mr. Lessmeier told the members that they could go through the legal cases and find case after case after case against the automobile manufacturers that deal with safety issues. He said if the members look at the Alaska Bar Association's publication that listed the top ten verdicts in the country, three of them were against automobile manufacturers: two against General Motors and one against Ford. Mr. Lessmeier said he is not aware of any cases that deal with safety issues or injuries that deal with aftermarket parts companies. He said it is important to understand that this is not a safety issue.

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CO-CHAIR MASEK explained that many of the members of the committee must leave for other meetings, so testimony will end. She asked anyone who would like to give further testimony to attend the next meeting on HB 99. [HB 99 was held over.]

ADJOURNMENT

There being no further business before the committee, the House Transportation Standing Committee meeting was adjourned at 3:00 p.m.