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TO:

DATE: March 13, 1981

Representative Joe Hayes  
Pouch-V  
Juneau, AK 99811

FILE NO:

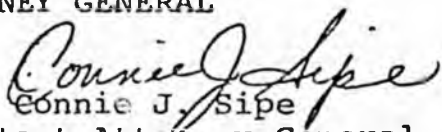
TELEPHONE NO:

279-0429

FROM: WILSON L. CONDON  
ATTORNEY GENERAL

SUBJECT:

Automobile repair problems  
as perceived by the state  
Consumer Protection Office

By:   
Connie J. Sipe  
Assistant Attorney General  
Chief, Consumer Protection  
Section AGO/Anchorage

Putting it simply to start with, automobile repair complaints filed by consumers with our office are, and have been for at least six years, the most numerous, the most persistent, among the most costly, and the least solveable consumer problems that we see. A legislative audit in 1979 helped us identify the extent of this problem: automobile repair complaints were our most numerous complaints, numbering 281 out of 2,229 complaints filed by Alaskans in FY79, 13% of all of our complaints. In FY79, our office was able to obtain a satisfactory resolution for consumers in 39.2% of all the cases we handled, but only approximately 16.5% of automobile repair complaints we handled had any sort of consumer satisfaction as a result of our efforts. This low mediation rate prevails today, even though auto repair complaints are often ones on which our office spends the most time and effort in personal contact with both business and consumer in mediation attempts. 1/

Alaskans are not unique in their problems with auto repair. The Federal Trade Commission has found that auto repair complaints are the number 1 complaint in 49 out of 50 states. The U.S. Comptroller General's Report, January 11, 1980, 2/ cites a 1978 estimate that 20 billion consumer dollars a

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2/ "Public and Private Coordination Needed If Auto Repair Problems Are To Be Reduced."

year are lost in the country on auto repair of 124 million vehicles. The Comptroller's report, based on a study of county, state, federal, and industry, auto repair enforcement and conciliation programs, found the following auto repair problems to be the most common:

(1) faulty repairs, where a problem reoccurs or is not improved at all by repair efforts;

(2) unnecessary repairs, made either through mistaken or incompetent diagnosis, or because of fraud;

(3) unanticipated repair costs, or what's known as the "5 o'clock surprise" when a consumer comes to pick up the car and is asked to pay for unauthorized work or a price in excess of either the formal or informal estimate earlier given.

These are also the most common problems for Alaskans, as well as this fourth:

(4) deceptive repair charges--we are fairly certain that some Alaskans are charged for parts or services which have not been provided at all, or which differ from what was actually provided (e.g., charged for a "new" part when a "rebuilt" was installed).

Also, it should be remembered that the cost of auto repairs is extremely high, not only in terms of cash paid for the repair, but also in terms of lost time and convenience. Many of the repair complaints we see involve charges over \$500.

Alaska does not license auto mechanics nor auto repair shops. A few states do this, but our office would not recommend this step at this time, since the state wishes to stay out of the regulation area. It is often suggested by community business groups that the Consumer Protection Office should seek out and prosecute the "bad apples" in an industry, and through prosecution of those shops or mechanics, create an effective deterrence for the rest of the industry. However, without mechanical expertise on the Consumer Protection staff, or the money to hire objective experts who can assess the repair work which has been done on an automobile, most automobile repair complaints degenerate into "swearing matches" between a consumer and a mechanic.

Representative Joe Hayes  
March 13, 1981  
Page No. 3

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Many states have passed auto disclosure type laws, such as the one that became effective in Alaska January 1, 1977, AS 45.45.130-240. This law requires shops to post signs saying that the consumer has a right to a binding price estimate and the return of all replaced parts, if the consumer so requests before repairs are started. However, experience has shown that this statute appears to have made little difference in the volume or type of repair complaints we receive. The office has repeatedly checked repair shops and found that most of them do post the sign. However, shops and mechanics actively resist giving consumers written estimates. The Alaska law does not state that the estimate given must be "written," so unless the consumer takes one step beyond what the law dictates, and actually asks for a "written" estimate, the shop will usually give a verbal estimate. If the shop is willing to live by a verbal estimate, that is no problem, but in a dispute over what the verbal estimate was, the lack of a written estimate is crucial, and usually fatal to our attempts to mediate the complaint for the consumer.

We have filed, in the Anchorage office, two lawsuits regarding automobile repair complaints: one for not following the procedures set out in the statute and for the mechanic's self-help repossession of an automobile after a bill dispute, and the other for more serious practices verging on intentional fraud. Again, there are problems with these cases, since we must take them to the superior court, which means a long wait for a trial, and we have hired mechanics as independent expert witnesses. 3/

Our office finds that many auto repair complaints are legitimate and serious. We also know that these may only be the tip of the iceberg, since many consumers do not detect repair problems, do not complain at all, or only complain to the shop, without realizing that the services of our office are available. Also, the law may appear to be stacked against the consumer, since Alaska's lien statutes allow a mechanic to keep an automobile until the consumer pays in full for charges. Thus, when a consumer wants to challenge

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3/ Just finding an auto repair mechanic to testify is difficult, since other members of the industry are understandably very reluctant to testify against each other. Several times mechanics have told consumers or our office that a consumer has been a victim of unnecessary or fraudulent repair by another shop, but will immediately add that he is not willing to put that in writing or to testify to it.

charges made, he or she runs a great risk of losing either the use of the vehicle while s/he takes the matter to court, or the complete loss of the vehicle since the mechanic can sell it for payment after 90 days, without any type of hearing. 4/

#### Recommendations

Other states report that the most effective way to provide monitoring and deterrence of the auto repair industry is to have an undercover car operation. Some states have auto repair experts on staff, as in their motor vehicle division, their mechanic licensing division, or even in their state car fleet repair pools, and do not face the same financial and practical problems of locating experts that our section does.

Undercover or inspection car operations are usually aimed at "target" shops who have had a high number or ratio of serious and unresolved consumer complaints about auto repairs. An expert for the state repairs an automobile to nearly perfect condition, leaving one easily-detected, easily-diagnosed fault. Then the automobile is taken to the target shop or shops, and a written estimate is sought as to the nature of the problem and the cost for repair. The shop is then asked to do the repair, and the car is taken back to the state's experts to check whether the work was properly done, whether unnecessary work was done, or whether in some instances the shop may have charged for work that it did not do at all. Then a civil lawsuit may be brought and the result widely publicized, providing deterrence in the rest of the industry.

This ability, to take cars to shops, is probably the best system for Alaska, rather than licensing or certification. When a consumer believes that unnecessary work has been done on his car, it is usually already too late to prove a legal case, since the state did not see the car before it went into the shop, and hence cannot fully evaluate what was done in the shop. However, having someone on staff, as an investigator, perhaps a retired automobile repair mechanic, or just someone who can develop an expertise in this area, would give this office the ability to pursue repair problems quickly and with technical efficiency.

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4/ In fact, the courts in California have declared a similar California lien statute to be unconstitutional, since the consumer can be deprived of his motor vehicle, partially through the cooperation of the State Motor Vehicle Department in transferring title pursuant to the lien law, without any type of hearing, and without adequate time to guarantee that the consumer can obtain a court hearing.

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

REQUEST  
Bill/Resolution No. \_\_\_\_\_  
Title \_\_\_\_\_  
Requested by Representative Haves Date 2/17/81

II. FISCAL DETAIL

Agency Affected Department of Law  
Program Category Affected Public Protection  
BRU, Program, or Subprogram(s) Affected Consumer Protection  
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES		43.2	46.7	50.4	54.4	58.8
200 TRAVEL		5.0	5.4	5.8	6.3	6.8
300 CONTRACTUAL		11.2	12.1	13.1	14.1	15.2
400 COMMODITIES		4.6	5.0	5.4	5.8	6.3
500 EQUIPMENT		1.0				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		65.0	69.2	74.7	80.6	87.1

FUNDING (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
GENERAL FUND		65.0	69.2	74.7	80.6	87.1
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
FULL TIME		1.0	1.0	1.0	1.0	1.0
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

These costs reflect the resources to be used to employ an auto fraud investigator (Associate Attorney II, R-19) at Anchorage. The position will be responsible for designing a statewide auto repair fraud program. The position will also be responsible for investigating all major auto fraud complaints and oversee and organize investigative efforts of subordinate staff handling auto fraud complaints of lesser magnitude, \$10,000 will be used to pay for testimony and trial preparation time of auto mechanical and engineering expert witnesses. \$2,800 will be used for purchase of auto repair parts, supplies and services being investigated.

IV. DATE February 18, 1981 PREPARED BY Richard I. Pegues Dir., Div of Admin. Svcs.  
AGENCY Department of Law  
PHONE 465-3605  
Original: Legislative Finance  
cc: Budget and Management  
Prime Sponsor (First Legislator Named)

Fiscal Note Detail--Auto Repair Fraud Investigator

Personal Services

Associate Attorney II, Anchorage

R-19, \$2837X12	=	\$34,044
Benefits at 15.75%		5,362
HI, 150 pu		1,800
ASBS		2,004
		<u>\$43,210</u>

Travel

Air travel to Juneau		
Auto travel to Fairbanks, Mat/Su & Kenai areas		<u>\$5,000</u>

Contractual

Communications \$100 pm		\$1,200
200 hours of expert witness trial preparation and testimony at \$50 per hr.		<u>\$10,000</u>
		<u>\$11,200</u>

Commodities

\$25 per mo. expendables, position costs		\$300
New positions costs for FY 82 only, thereafter these funds will be used to increase resources used to purchase repairs, services, supplies for test auto(s) used in investigative program.		\$1,500
Auto repairs purchased and operating expenses for auto(s) used in connection with auto repair fraud investigations		\$2,800
		<u>\$4,600</u>

Equipment

New position equipment, single time expense		<u>\$1,000</u>
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TOTAL		\$65,010
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STATE  
of ALASKAKUSSTICKER  
MEMORANDUM465-3692  
CONS. PROT.  
JNOTO: Representative Joe Hayes  
Pouch-V  
Juneau, AK 99811

DATE: March 13, 1981

FILE NO:

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March 13, 1981  
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Fiscal Note Detail--Auto Repair Fraud Investigator

*in relation to page 4 - Do not*

Personal Services

Associate Attorney II, Anchorage

R-19, \$2837X12	=	\$34,044
Benefits at 15.75%		5,362
HI, 150 pu		1,800
ASBS		2,074
		<u>\$43,210</u>

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Auto travel to Fairbanks, Mat/Su & Kenai areas	<u>\$5,000</u>

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Auto repairs purchased and operating expenses for auto(s) used in connection with auto repair fraud investigations	\$2,800
	<u>\$4,600</u>

Equipment

New position equipment, single time expense	<u>\$1,000</u>
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TOTAL	\$65,010
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THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

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Bill/Resolution No. \_\_\_\_\_  
Title \_\_\_\_\_  
Requested by Representative Haves Date 2/17/81

II. FISCAL DETAIL

Agency Affected Department of Law  
Program Category Affected Public Protection  
BRU, Program, or Subprogram(s) Affected Consumer Protection  
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

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400 COMMODITIES		4.6	5.0	5.4	5.8	6.3
500 EQUIPMENT		1.0				
600 LAND & STRUCTURES						
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<b>TOTAL</b>		<b>65.0</b>	<b>69.2</b>	<b>74.7</b>	<b>80.6</b>	<b>87.1</b>

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IV. DATE February 18, 1981 PREPARED BY Richard I. Pegues, Dir., Div of Admin. Svcs.  
AGENCY Department of Law  
PHONE 465-3695  
Original: Legislative Finance  
cc: Budget and Management  
Prime Sponsor (First Legislator Named)