

ALASKA LEGISLATURE COMMITTEE FILES, 2003-2004 8672

11222 SENATE LABOR & COMMERCE

[Fwd: Please support S.B. 27 to require ...rting on pesticides use inpublic areas!]

Subject: [Fwd: Please support S.B. 27 to require reporting on pesticides use inpublic areas!]

Date: Wed, 25 Feb 2004 08:55:12 -0900

From: Senator Con Bunde <senator_con_bunde@legis.state.ak.us>

To: Jane Alberts <Jane_Alberts@Legis.state.ak.us>

Subject: Please support S.B. 27 to require reporting on pesticides use in public areas!

Date: Tue, 24 Feb 2004 22:15:13 -0900

From: irons/rappoport <ponyshed@gci.net>

To: Con Bunde <Senator_Con_Bunde@Legis.state.ak.us>

Hi Con,

I understand that SB 27 is due for a hearing in your Senate labor and Commerce Committee later this week. This is a good bill as it requires companies that use pesticides in public areas, to notify the public when they will be spraying chemicals. As you know, some people can have very serious reactions to such chemicals. For all, we really do not know all the direct and side effects of these chemicals over time. I am also very supportive of the process the bill sets up to track pesticide use and to require companies to pay a fee to register for pesticide use - this should help pay for the program, ensuring that there is public notification. It should also provide a bit of money to the state, and ensure that there is enforcement for responsible pesticide use, and tracking of pesticide use.

Thanks very much for your help on this matter!

Sincerely,

Ann Rappoport, a constituent

17053 Aries Court

Anchorage, AK 99516

Subject: Senate Bill 27 Comments -- Please Distribute to All Labor and Commerce Committee Members

Date: Wed, 25 Feb 2004 12:48:44 -0900

From: Mike O'Meara <momeara@prattmuseum.org>

To: "Jane_Alberts@legis.state.ak.us" <Jane_Alberts@legis.state.ak.us>

CC: "Geran_Tarr@legis.state.ak.us" <Geran_Tarr@legis.state.ak.us>

Hello Jane,

Hope I'm not too late to get the following comments distributed to the Labor and Commerce Committee members before tomorrow's hearing. I spoke with Gary when he was in Homer earlier this week, explaining some of my reasons for supporting this bill and asking him to do the same.

Thanks,

Mike O'Meara

Dear Senate Labor and Commerce Committee:

I urge your support of SB 27. As I understand it, this bill requires registration for commercial pesticide use, reporting to DEC, and public notification prior to commercial open spraying of chemicals. It would assess a \$150 fee for commercial registration (as is done in all other states) providing revenue to offset any costs associated with the program.

States like California have enormous public health and increasing economic problems associated with many years of inadequately monitored and controlled commercial use of pesticides. With a growing use of pesticides in Alaska, it is in our interests to do everything to avoid similar failures here. For example, as we attempt to pump up the marketing of wild Alaska salmon as an organic, uncontaminated product, we need to assure that pesticide use does not taint our fish or the public's perception of its quality. This also holds true for our emerging shellfish farming industry. One of the reasons our state is a major tourist destination is its image as relatively pristine and unpolluted. I'll leave it at that, though there are many other public health and environmental issues that argue for implementation of this bill. It is a rational way to protect the people and various segments of our economy from misuse of potentially dangerous chemicals, with no cost to the state and no real inconvenience to the pesticide industry or its customers. Please support SB 27 -- thanks for considering my comments.

Mike O'Meara, P.O. Box 361, Homer, Alaska 99603 (work phone: 907-235-8635x30)

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CollisionWeek

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Monday, February 3, 2003

OH Appeals Court Denies Class-Action Status in Aftermarket Parts Case

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In a case challenging the use of non-OEM, the trial court's ruling in Augustus v. Progressive Corp. was affirmed by the Court of Appeals of Ohio. The justices said they denied the request for class-action status because individual questions of fact outweighed common questions of fact. The court also ruled that it would be "inconceivable" that an automobile is not returned to its "pre-loss condition" because a non-OEM part is used in making a repair.

In the original case, plaintiff Eric Augustus brought a class action against Progressive and several affiliates alleging they used a company-wide policy that required the use of "imitation parts" in repairing and/or replacing damaged insured automobiles. He also alleged that use of these parts understates the amount necessary to repair the damaged automobile to its pre-loss condition, resulting in a breach of contractual obligation.

Augustus sought certification for: "All persons in the United States insured by a Progressive automobile insurance policy who, within the past 15 years, made a claim for vehicle repairs pursuant to their policy and had imitation crash parts installed on their automobile or who received monetary compensation determined by the cost of such imitation crash parts."

The trial court hearing the case concluded that it could not be certified as a class action because it failed to meet the requirements of Ohio law.

Augustus appealed; however, the appellate court affirmed the lower court's decision, noting that the case failed the most basic requirement under Ohio law to qualify as a class action: that a high degree of commonality exist among class members.

The court found that Augustus failed to address the fact that

specific policy language authorized the use of non-OEM parts to restore vehicles to pre-loss condition. Further, the policies required replacement parts to be "of like kind and quality" and limited liability to the amount needed to repair the damaged property to its pre-loss condition. Also, the policies provided that in returning a vehicle to its pre-loss condition, the insurer may use new, refurbished, used, OEM or non-OEM parts.

The court went on to state that it would be inconceivable that an automobile is not returned to its pre-loss condition because a non-OEM part is used in making a repair.

The Alliance of American Insurers says that the decision to deny class certification is a reasonable ruling that brings an element of common sense to the aftermarket parts debate and the hearing of class actions.

"Granting of this class action would have further coerced insurers from using aftermarket parts, just as Avery v. State Farm, did in 1999," said Kirk Hansen, Alliance director of claims. "Too often the courts let multi-state class actions usurp state regulation of insurance, permitting judges to become de facto regulators of insurance industry practices."

Hansen also noted that the court's reasoning strengthens the insurance contract language permitting insurers to use non-OEM parts in repairs.

"The court's ruling clearly suggests that people are recognizing the fact that generic aftermarket parts are of like kind and quality to OEM parts," he said. "This decision should help the small, but important aftermarket parts industry to flourish."

The case also shows effective administration of the law relating to class actions. "The court correctly realized that the trial of the case would involve different facts for each purported class member. With class members spread all over the country, the court wisely concluded that the case would be unmanageable as a class action," said Joyce Kraeger, an Alliance attorney.

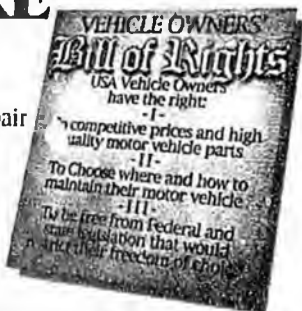
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CARE

What is CARE?

The Coalition for Auto Repair Equality is a national, nonprofit organization representing major companies in the \$200 BILLION-a-year, FIVE MILLION people-strong Automotive Aftermarket.



CARE was formed in April 1991, by a nationwide coalition of aftermarket companies to successfully combat a pro-monopoly, anti-competition, anti-consumer congressional bill known as The Design Innovation and Technology Act of 1991, HR 1790.

CARE'S MISSION

To continue the fight for THE VEHICLE OWNERS BILL OF RIGHTS in Congress and in the State Legislatures

Who is CARE?

Here is a sample of our members.

Advance Auto Parts

jiffylube



Discount Auto Parts

ACKAUTO
CHECKER • SCHUCK'S • KRAGEN

CARQUEST
AUTO PARTS

and thousands of independent small businesses in your community

O'Reilly AUTO PARTS

What is the Aftermarket?

It's a \$200 BILLION a year industry with over 495,000 locations pumping up the American economy!

It's manufacturers, distributors, rebuilders, jobbers, and retailers for parts and service of "motor vehicles" which include: automobiles, light and heavy-duty trucks, motorcycles, recreation vehicles and off-road vehicles such as agricultural and construction equipment, marine engines, all-terrain vehicles and lawnmowers. We touch every facet of your life—everyday!

PEOPLE, PARTS & MANUFACTURING

We're YOUR neighbors and family!

We're the people who also make and sell equipment, chemicals, accessories, body repair supplies and products that enhance your vehicles. Polish your vehicle, get a new paint job, buy a jack — we're here for you!

Facts at Your Fingertips

- Licensed drivers for 1998: over 185 million
- New vehicle passenger car and truck registration for 1998: over 15 million
- Average age of a passenger car in the U.S. for 1999: 9.1 years
- Average age of trucks for 1999: 8.5 years
- Passenger cars in operation as of 1983: over 108 million
- Passenger cars in operation as of 1999: over 126 million
- Light trucks in operation as of 1999: over 74 million
- Light trucks in operation as of 1983: over 38 million
- Average used vehicle sale prices for 1998:
Franchised dealer: \$12,150
Independent dealer: \$7,125
Casual: \$4,195
Difference between franchised sale and casual: \$7,955.
- Average new vehicle sales price for 1998: \$20,700
- Seventy-five to eighty percent of the vehicles on the road in America today are serviced and repaired by the aftermarket.

CARE steers the Automotive Aftermarket in the right direction!

If it deals with motor vehicle parts – it's CARE! Whether its fighting anti-consumer "Design Protection" legislation, promoting clean air through car repair, or opposing taxpayer boondoggle "Vehicle Scrappage" programs – CARE is there! CARE monitors State and Federal legislation that impacts motoring consumers and the aftermarket.



CARE

Coalition for Auto Repair Equality

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MAGNUSON - MOSS ACT

16 CFR § 700.10
16 C.F.R. § 700.10

Page 35

**CODE OF FEDERAL REGULATIONS
TITLE 16—COMMERCIAL PRACTICES
CHAPTER I—FEDERAL TRADE
COMMISSION
SUBCHAPTER G—RULES, REGULATIONS,
STATEMENTS AND INTERPRETATIONS
UNDER THE
MAGNUSON-MOSS WARRANTY ACT
PART 700—INTERPRETATIONS OF
MAGNUSON-MOSS WARRANTY ACT
Current through March 2, 1999; 64 FR 10194**

§ 700.10 Section 102(c).

(a) Section 102(c) prohibits tying arrangements that condition coverage under a written warranty on the consumer's use of an article or service identified by brand, trade, or corporate name unless that article or service is provided without charge to the consumer.

(b) Under a limited warranty that provides only for replacement of defective parts and no portion of labor charges, section 102(c) prohibits a condition that the consumer use only service (labor) identified by the warrantor to install the replacement parts. A warrantor or his designated representative may not provide parts under the warranty in a manner which impedes or precludes the choice by the consumer of the person or business to perform necessary labor to install such parts.

(c) No warrantor may condition the continued

validity of a warranty on the use of only authorized repair service and/or authorized replacement parts for non-warranty service and maintenance. For example, provisions such as, "This warranty is void if service is performed by anyone other than an authorized 'ABC' dealer and all replacement parts must be genuine 'ABC' parts," and the like, are prohibited where the service or parts are not covered by the warranty. These provisions violate the Act in two ways. First, they violate the section 102(c) ban against tying arrangements. Second, such provisions are deceptive under section 110 of the Act, because a warrantor cannot, as a matter of law, avoid liability under a written warranty where a defect is unrelated to the use by a consumer of "unauthorized" articles or service. This does not preclude a warrantor from expressly excluding liability for defects or damage caused by such "unauthorized" articles or service; nor does it preclude the warrantor from denying liability where the warrantor can demonstrate that the defect or damage was so caused.

< General Materials (GM) - References,
Annotations, or Tables >

16 C. F. R. § 700.10

16 CFR § 700.10

END OF DOCUMENT

Cost of Replacement Parts for a 1997 Ford Taurus GL Exceeds \$72,000*

**Manufacturers Suggested
Retail Price: \$18,985.00**

**Cost to Rebuild with OEM
Replacement Parts: \$72,251.60**

**Instrument panel and
dash board components: \$3,446.68**

**Roof panel, reinforcements
and dome light: \$475.89**

**Steering wheel and
column assembly: \$937.45**

**Seats, including frames, pads,
covers and tracks: \$5,132.08**

**Electronic fuel injection
system: \$1,810.00**

**Rear (tinted) heated glass
and moldings: \$1,809.89**

**Engine assembly:
\$3,425.00**

**Rear bumper
assembly \$622.30**



**Front bumper
assembly: \$687.60**

**Rear suspension
and brakes: \$1,921.12**

Exhaust system: \$1,141.32

**Aluminum wheels and caps
(4 tires and a spare): \$1,433.17**

Fuel tank and pump: \$1,025.37

**Front power doors, including glass,
mirrors and trim: \$3,842.83**

**Limited space allows for only some of the prices to be shown in this diagram.
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Alliance
of American Insurers



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Ford Settles Ignition Lawsuit

AP Associated Press

Monday, Aug. 13, 2001

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SAN FRANCISCO (AP) - In a deal that could cost Ford Motor Co. as much as \$1 billion and affect millions of vehicles, the automaker has agreed to settle a lawsuit that alleges its cars and trucks stall.

The agreement ends years of litigation in which a California judge said the Detroit automaker was living in an "Alice and Wonderland" dreamland for denying ignition switches were defective.

The proposed settlement, announced late Sunday, comes four months after Alameda County Superior Court Judge Michael E. Ballachey ordered as many as 2 million vehicles in California recalled as part of a statewide class-action suit in which the judge found that Ford concealed the shabby parts from government inspectors.

Although the case was in California, attorneys said the settlement, if approved by Ballachey, would cover 5 million vehicles nationwide.

"I think this is basically a win for consumers," said Jeff Fazio, a lead attorney in the case against Ford. "It could have been years before the cars were fixed, but with this it could come soon."

Under the announced agreement, Ford said it would replace the ignition devices to all Ford vehicles nationwide that have stalled and have no more than 100,000 miles, which is an estimated 500,000 to 650,000 vehicles in California and an estimated 5 million nationwide.

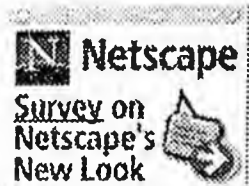
The Detroit automaker denies the ignition devices are defective and stall, but already has settled hundreds of wrongful death, injury and

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other suits in connection to allegations of Ford vehicles stalling.

The suit challenged Ford's placement of the thick film ignition module, which regulates electric current to the spark plugs. In 300 models sold between 1983 and 1995, the module was mounted on the distributor near the engine block, where it was exposed to high temperatures.

Ballachey found last year that Ford was warned by an engineer that high temperatures would cause the device to fail and stall the engine. Ford's own documents show that the company confirmed the problem in internal studies, and could have moved the modul. to a cooler spot for an extra \$4 per vehicle.

The agreement also says Ford will extend all warranties to 100,000 miles for affected vehicles and pay to replace the ignition if it stalls and needs replacing before the new 100,000 mile warranty is up.

The agreement, if approved by the judge, wipes out the judge's recall order of some 2 million vehicles on California's roads that have the ignition device in them.

Ballachey's recall ruling was in the preliminary stages of the case, which was expected to go to trial later this month.

Ballachey said Ford concealed the stalling information from federal safety regulators, who were studying hundreds of complaints about Ford vehicles stalling.

The government found no safety problems with the modules, but a National Highway Traffic Safety Administration official said the government would not have closed the case if Ford had given the agency key documents unveiled in the class-action case.

Fazio said he settled because, under the recall order, it could have taken years, if ever, before the vehicles would have been fixed. That is because Ford had said it would appeal the recall order, which affects all 1983-1995 Ford models in California.

The automaker said judges do not have the same power as does the NHTSA to order a vehicle recall. Under the deal, the vehicles could be fixed or the cost of previous replacements could come as early as next year, Fazio said.

The automaker already is involved in recalling 6.5 million Bridgestone/Firestone tires - standard equipment on Ford Explorers - that are being investigated in connection with more than 100 highway deaths.

On the Net:

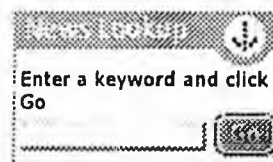
Ford: <http://www.ford.com>

NHTSA: <http://www.nhtsa.gov>

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ALABAMA

**City sues
Ford Motor Co.**

HOOVER — Ford Motor Co. is being sued by the City of Hoover, which says Ford sold its police department defective and unreasonably dangerous cars and failed to inform the city of recommended alterations.

The lawsuit, filed July 26 in Jefferson County Circuit Court, says the Ford Crown Victoria has a design flaw that increases the risk of fatal fires when the cars are struck from behind. The suit says numerous police officers in other states have burned to death or suffered serious burns in such collisions, according to reports in the Birmingham News.

In October 2001, Ford issued a technical service bulletin recommending modifications to its police cars to improve safety in rear-impact collisions. Hoover says Ford failed to notify most police agencies.

FRIDAY AUGUST 7, 1998

CRASH
PARTS

Car parts monopoly

BY STEVEN J. SINKULA

At the very moment that the U.S. Justice Department is pursuing a questionable antitrust claim against Microsoft, a cartel of big automakers is successfully pushing legislation that would effectively grant it the monopoly power that antitrust laws were intended to prevent.

State legislatures throughout the United States are considering or already have passed legislation that effectively restricts competition within the replacement auto parts industry. Specifically, state legislatures are trying to prevent auto insurance companies from offering their customers a policy that would use non-manufacturer replacement parts for accident repairs.

By limiting consumer choice, such legislation not only forces consumers to pay higher car insurance premiums, but also eliminates the competitive incentive for automobile manufacturers to improve the quality and pricing of their parts.

Until the mid-1980s, consumers at auto body shops could purchase new replacement crash parts only from the automobile manufacturer. Manufacturers took advantage of their monopoly position by forcing consumers to pay above-market prices on replacement parts. In response to escalating prices, a new replacement parts market emerged with independent parts manufacturers offering "aftermarket" replacement parts at substantially lower prices.

As a result, the prices of parts subject to competition decreased substantially, usually in the range of 25% to 40%, while prices in noncompetitive markets continued to increase. For example, the noncompetitive price of a front door for the Chevy Caprice increased by 28% from 1982 to 1987. During the same time period the com-

petitive price of a front door increased by 41%.

Competitive forces introduced by independent manufacturers severely eroded the replacement parts monopoly enjoyed by automobile manufacturers. Consequently, the automobile manufacturers looked to preserve their monopoly on replacement parts by pushing for the enactment of federal and state laws to severely restrict or outlaw the use of non-Original Equipment Manufactured (OEM) parts. These political efforts have been accompanied by campaigns alleging that aftermarket parts were of inferior quality and unsafe.

by successfully pushing for anti-competitive legislation.

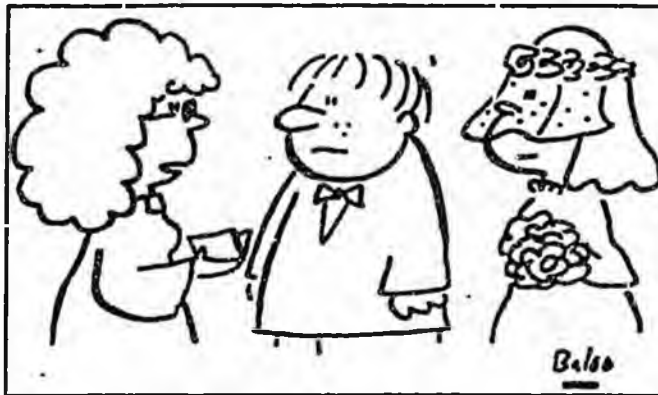
Despite free market advances to eliminate problems involved with aftermarket parts, almost every state has legislation limiting the ability of insurance companies to use them for crash repairs. While most legislation does not completely prohibit the use of aftermarket parts, the restrictive language employed in many of these laws promotes the monopoly of OEM parts.

Specifically, these laws prevent consumers from choosing an insurance package that allows the use of CAPA certified aftermarket parts for crash repairs.

By eliminating insurance options, such legislation forces consumers to pay higher car insurance premiums. Moreover, competition forces each individual company to produce quality parts at a fair market price. With organizations such as CAPA certifying the quality of aftermarket parts, additional pressure will be placed upon auto-

mobile manufacturers to improve both the quality and pricing of their products.

Restricting competition within the aftermarket auto parts industry provides exclusive benefits to automobile manufacturers at the expense of American consumers. Encouraging the development of private inspection agencies such as CAPA — not restrictive legislation — is the proper way to insure that consumers will receive quality auto parts at competitive prices. Unfortunately, the political influence of automobile manufacturers seems to have prevented many state legislators from appreciating the benefits consumers derive from competition within the replacement parts market.



"Before I pronounce you husband and wife, I should tell you something about the side effects . . ."

In 1987, the Certified Automotive Parts Association was founded to allay fears that all aftermarket crash parts are of inferior quality and/or unsafe. The association is an independent, nonprofit organization established to certify the quality of parts used for auto body repairs. CAPA's seal of approval ensures consumers, body shops and insurers that the quality of non-OEM parts is comparable to that of automobile manufacturer parts.

The establishment of and adherence to CAPA standards has greatly enhanced the quality and safety of aftermarket parts. In 1997, CAPA received complaints on only 0.0004% of the 2.5 million parts that it certified. Nonetheless, car manufacturers have been able to maintain the majority of the market share — OEM parts ac-

May 12, 2003



The Hon. Con Bunde, Chairman
The Hon. Ralph Seekins, Vice Chair
The Hon. Bettye Davis
The Hon. Hollis French
The Hon. Gary Stevens

Mr. Chairman and Members of the Senate Labor & Commerce Committee:

Thank you again for the opportunity on Tuesday, May 6th, to testify on SB 32. I would like to clarify a point made in my testimony which may have been misinterpreted: **CARE's member companies, NAPA, Midas, CARQUEST, Jiffy Lube, Schucks, AutoZone and O'Reilly's, do buy their parts from the same companies that manufacture car dealer parts. NAPA is the number two customer of DANA Corp., which also makes the parts for General Motors (which is its number one customer. CARQUEST parts are also purchased at DANA, as well as from Federal Mogul.** This is an important point since SB 32 targets hard parts, which we sell.

Our parts are the same as the car dealer parts, as I testified. And, as previously stated, aftermarket parts cost up to 50 PERCENT LESS than car dealer parts and the aftermarket parts come with better warranties, such as Life-Time or Long-Term warranties, which the car dealer parts do not

Why should the insurers have to offer another warranty (as mandated in SB 32) when our parts already come with them? This is more needless red tape.

Parts history: In 1991, HR 1790, The Design Innovation and Technology Act, was introduced in the U.S. Congress by then-Majority Leader Dick Gephardt (D-MO) and then-Minority Leader Bob Michel (R-IL). The bill gave the car manufacturers and their car dealers a **10 year monopoly on all parts and eventually service.** The car manufacturers spent millions to get this bill passed and lost when it was killed in a Judiciary Subcommittee in the winter of 1992. It was the first time the aftermarket came together regarding legislation.

Because they lost HR 1790, the manufacturers, car dealers and body shops have joined together to have crash parts bills introduced into the states. They believe that because the states move quickly and the states do not interact with one another, that they can peel them off one at a time. So far this has not worked. **Over the years, the following states have out-right killed crash parts bills or allowed them to die in Committee: Alabama, "Alaska", California, Connecticut, Delaware, Florida, Georgia, Hawaii, Indiana, Iowa, Mississippi, **Montana, North Carolina, North Dakota, Pennsylvania, South Carolina, Tennessee, Washington state and Wisconsin.**
(More)

COALITION FOR AUTO REPAIR EQUALITY
119 ORONOCO STREET, SUITE 300, ALEXANDRIA, VA 22314
(703) 519-7555 (800) 229-5380 FAX (703) 519-7747

The Honorable Members of the Senate Commerce Committee
Page 2/May 12, 2003

*****Montana killed two crash parts bills and passed a third, HB 506. A class action was brought against Montana and HB 506 and the court ruled against Montana and the bill on Constitutional grounds: (1) First Amendment Rights. HB 506 prohibited insurers from recommending certain repair shops (2) Interference with Interstate Commerce Laws. Funding that could have been better spent on Montana citizens was instead used to fight and lose and UnConstitutional bill.**

SB 32 also has restrictive speech in it when it states that "insurers may not require, directly or indirectly that a motor vehicle repair shop supply or install an aftermarket crash part unless the use of the part is allowed under (section #) and is equivalent to fit, finish, function..." Since CARE's member companies sell car dealer parts under other labels, our parts are already equivalent to fit, finish, etc., and usually better,

SB 32 is in violation of Federal Law known as the Magnuson-Moss Act, passed in the U.S. Senate in the late 1970s, which prohibits warranties from being tied to repairs. What was very "telling" in last week's testimony was when the car manufacturer spokesman said they disagreed with the provision of "year of manufacture plus three years" because they wanted consent for the life of the car! This proves that this legislation is NOT about quality but about higher profits and directing business to the car dealers. They want life-time warranties.


Also, the use of an aftermarket part CANNOT invalidate any part of a vehicle's warranty. That why the Magnuson-Moss Act was passed.

In conclusion, the testimony I gave on the recent congressional GAO study which summarized that there were so few problems with aftermarket parts that no further action was warranted—was accurate. Also included are the cost of OEM parts for a 1997 Taurus, plus an article on a recent court decision in Ohio on crash parts.

Henry Ford said, "I'll give you the car if you give me the repairs." This money-up philosophy is what has driven the car manufacturers and dealers for generations—not the needs of the consumers.

On behalf of Alaskans who depend on the aftermarket for jobs, car parts and service, please vote NO on SB 32. Thank you.

Sincerely,


Sandy Bass-Cors
Executive Director

800-229-5380 (Sandy@careauto.org)

[Code of Federal Regulations]

[Title 16, Volume 1]

[Revised as of January 1, 2003]

From the U.S. Government Printing Office via GPO Access

[CITE: 16CFR700.10]

[Page 530-531]

TITLE 16--COMMERCIAL PRACTICES

CHAPTER I--FEDERAL TRADE COMMISSION

PART 700--INTERPRETATIONS OF MAGNUSON-MOSS WARRANTY ACT--Table of Contents

Sec. 700.10 Section 102(c).

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parts," and the like, are prohibited where the service or parts are not covered by the warranty. These provisions violate the Act in two ways. First, they violate the section 102 (c) ban against tying arrangements. Second, such provisions are deceptive under section 110 of the Act, because a warrantor cannot, as a matter of law, avoid liability under a written warranty where a defect is unrelated to the use by a consumer of ``unauthorized'' articles or service. This does not preclude a warrantor from expressly excluding liability for defects or damage caused by such ``unauthorized'' articles or service; nor does it preclude the warrantor from denying liability where the warrantor can demonstrate that the defect or damage was so caused.

Eileen A. Sottile

DIRECTOR, GOVERNMENT RELATIONS

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Legislation: "The Monopoly Game"

In the early 1990s, car manufacturers tried to convince the US Congress to pass legislation that would protect them from competition. The response of the US Congress was an emphatic rejection of the proposal.










Without a federally enforced

monopoly, auto makers turned to state legislators to promote their cause.

In the last few years, car companies have found sponsors for legislation and several states have debated legislation that would restrict or modify the use of competitive parts. In the past 2 years alone, 40 bills that would have impacted the use of aftermarket parts were killed. Representatives, when informed on the issues, clearly see there is no reason to pass restrictive legislation and have voted to protect the concept of free enterprise.

When the market is left to itself, it will adjust to consumer demand.

Benefits of Aftermarket Parts to the Consumer...

-  Helps to keep insurance premiums down
-  Provides an inexpensive alternative to high priced car companies' parts
-  Saves consumer's vehicle from being totaled
-  Provides limited lifetime warranties
-  Offers extensive parts distribution-helps repair consumer's vehicle faster
-  Creates competition that is always good for the consumer
-  The Center for Auto Safety, National Highway Traffic Safety Administration, and the Insurance Institute for Highway Safety all agree that aftermarket crash parts are not safety related

THE CONSUMER WINS!!!



Automotive Body Parts Association
9970 NW 89th Court,
Medley, FL 33178
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Fax: 305-863-7567
Email: IPDES@bellsouth.net

The History of the Aftermarket: In search of competition



Meet the \$101,335.55 Toyota Camry*

This 1999 Camry retails for only \$23,263. If repaired with only OEM parts, it would cost more than 4 times the sale price.

*Source: Alliance of American Insurers Study

The Industry

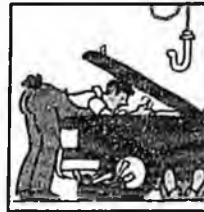
Since the invention of the automobile, car manufacturers assumed they would hold a monopoly on the market for replacement crash parts such as hoods and fenders. After all, consumers had no choice but to purchase their parts from the manufacturers when involved in accidents, and to pay outrageously high prices for simple pieces of pressed sheet metal. It has been estimated that manufacturers were selling parts for as high as 800% profit margins.



As early as 1920, independent manufacturers began producing replacement parts such as batteries, windshield wipers and mufflers (e.g. Midas and Diehard). However, nothing in the collision replacement market has been initiated until 1981.

Competition

In the early 1980s, independent manufacturers started to produce replacement crash parts. Ironically, today some of these manufacturers are also contracted to produce parts for car companies.



Competition from independent manufacturers provided the consumer with alternatives to the high prices of parts. These 'aftermarket parts' sold for 20% - 50% less than the 'original equipment manufacture' or OEM parts. The auto manufacturing industry was livid. Their monopoly was gone!

AUTO MANUFACTURERS' ACTIONS

In order to counteract this loss of revenue, auto manufacturers attacked replacement parts by calling them inferior and unsafe. Where there was no competition—the arrogance of a monopoly prevailed and prices remained high. For example, the cost of a hood was more than the cost of expensive appliances such as a refrigerator with top freezer.

THE RESULT OF COMPETITION

As a result of the increase in the availability of quality aftermarket parts, usage has increased dramatically in auto body shops. Also, due to the birth of healthy competition, OEM parts prices have declined. OEM parts still cost considerably more than aftermarket parts, but they have experienced a drop in prices. Why? Simply put, they want to keep up with the competition. As a consumer, have you ever purchased a generic drug in place of an expensive name brand drug, knowing it will do basically the same thing, and pocketed the savings? That's the same concept behind the sale of aftermarket parts compared to OEM parts. The parts are functionally equivalent, cost considerably less, while the OEM parts cost substantially more.



For example, to rebuild a 1999 Toyota Camry with all OEM parts, it would cost \$101,335.55!!! And that is just for the parts!

Henry Ford has been reputed as having said he would give his cars away if he could have a monopoly on selling replacement parts! Well sorry Henry! The independent aftermarket has created the competition that provides fair market pricing.

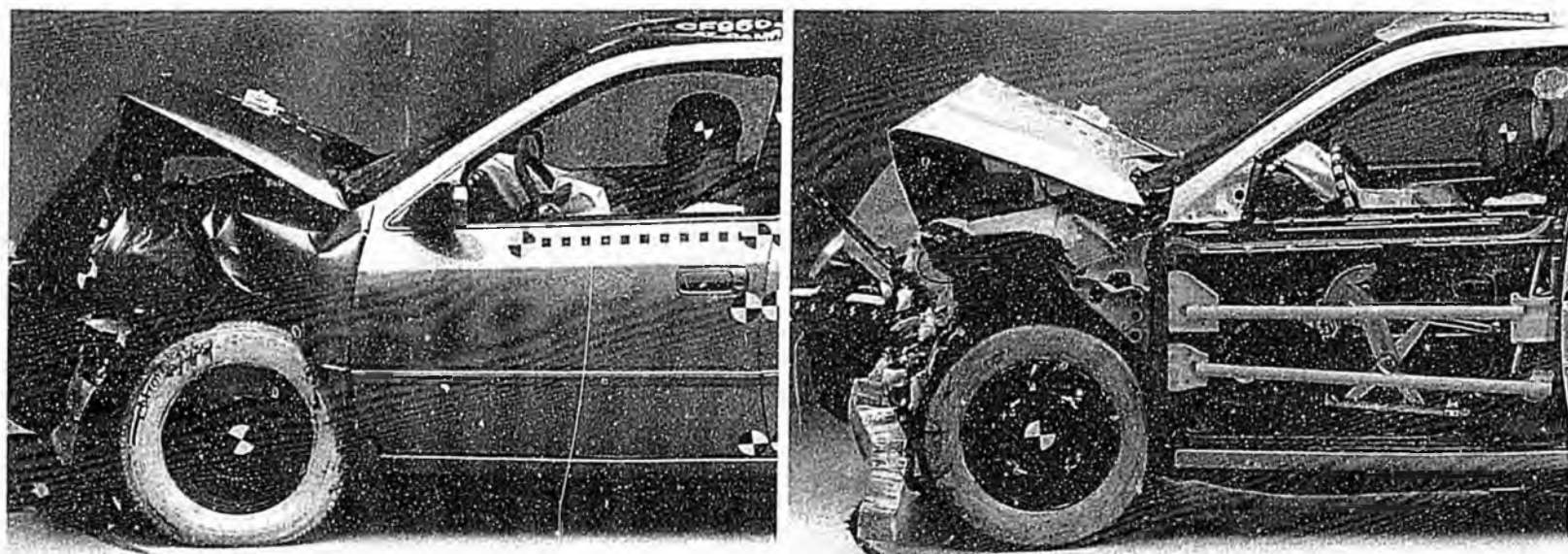


Special issue: cosmetic repair parts

STATUS REPORT

INSURANCE INSTITUTE
FOR HIGHWAY SAFETY

Vol. 35, No. 2, February 19, 2000



Cosmetic repair parts

irrelevant
to safety

If car crashworthiness isn't influenced by whether or not a vehicle's cosmetic crash parts are on the car or removed, then it follows that the source of the parts also is irrelevant to crashworthiness. This is demonstrated in a new test of a Toyota Camry from which the front-end cosmetic parts were removed.

Before detailing the crash test, here's a little background: A car's cosmetic repair parts (often called crash parts) include fenders, door skins, bumper covers, and the like. In the continuing debate about whether such parts from aftermarket suppliers

are as good as cosmetic parts from original-equipment manufacturers, the issue of safety keeps cropping up (see *Status Report*, Nov. 21, 1987). Claims are made that using cosmetic crash parts from sources other than original-equipment manufacturers could compromise safety. But the fact is, the source of the parts is irrelevant to safety because the parts themselves, except possibly the hood, serve no safety or structural function. They merely cover a car like a skin.

"The safety claims are red herrings to try to frighten people. With the possible exception of hoods, there are no safety implications of using cosmetic crash parts from any source," Institute president Brian O'Neill says. Car hoods can affect occupant safety in a crash or even without a crash (see p. 5). But there's no evidence that hoods from aftermarket suppliers fail to perform as well as original-equipment hoods.

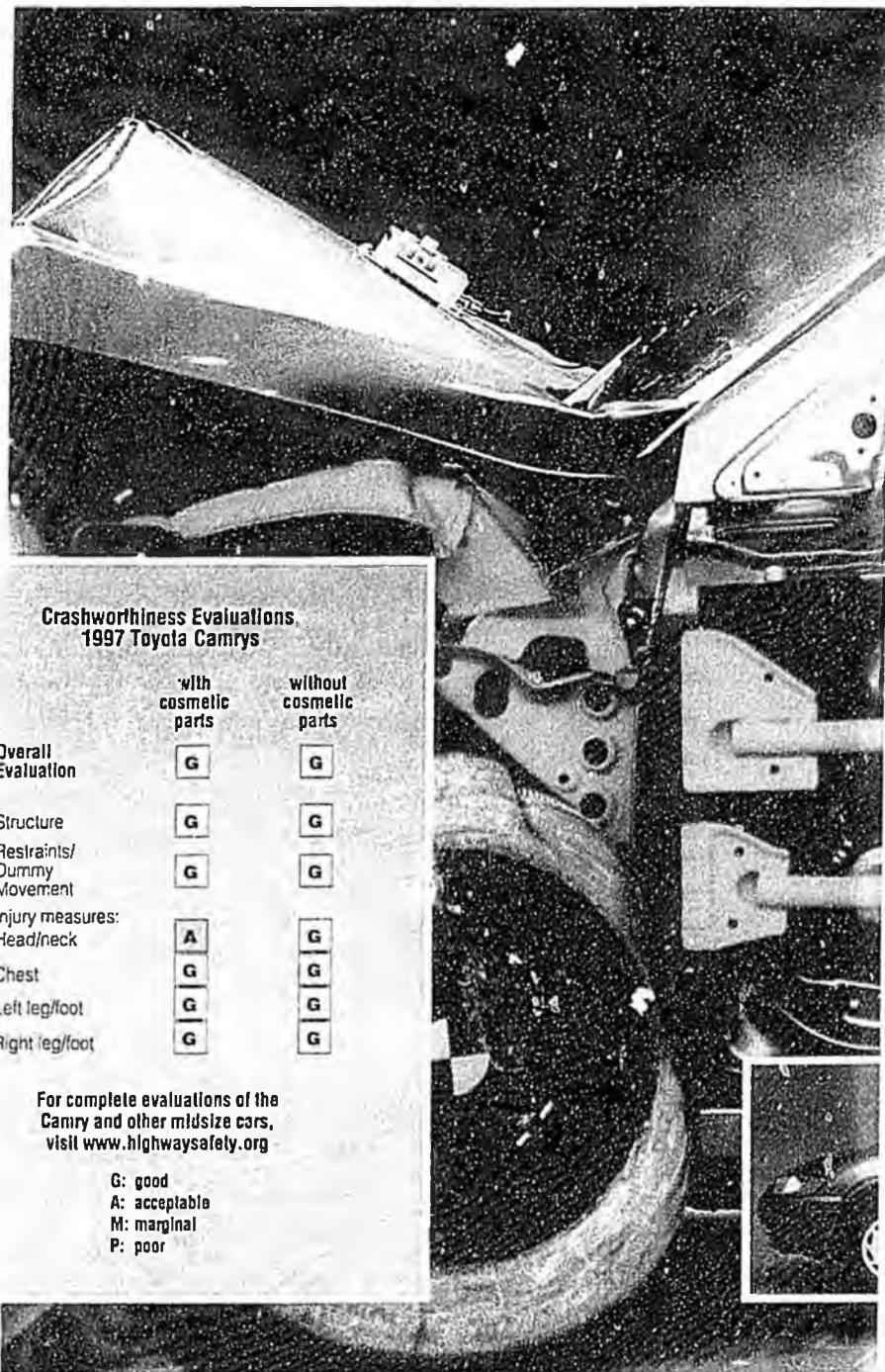
To again demonstrate the irrelevance of safety in the cosmetic crash parts debate—such demonstrations have been conducted before (see p. 4)—the Institute recently tested a 1997 Toyota Camry from which the front fenders, door skins, and front bumper cover were removed. The original-equipment hood was replaced with a certified hood from an aftermarket supplier. The test results then were compared with results involving a 1997 Camry with its original-equipment parts intact.

Both Camrys performed with distinction in 40 mph frontal offset impacts. Both earned good crashworthiness ratings according to the Institute's evaluation procedures. This means a Camry that doesn't have any of its front-end cosmetic parts is rated better than most competing midsize cars that still have such parts.

Detailed results of the performances of the Camrys in the offset tests were similar. During each test, researchers recorded measures on the driver dummy to assess the likelihood that people in on-the-road crashes would be injured. These measures were similar. The dummy in the Camry without its cosmetic parts recorded slightly lower results for leg injuries, but the differences were well within the expected range of test-to-test variability.

After each test, researchers also measured intrusion into the occupant compartment. There was slightly more intrusion in the footwell of the Camry without its cosmetic parts (again, the differences were within the range of test-to-test variability), while measurements of instrument panel and A-pillar movement were almost identical.

Control of the crash test dummies and measured steering column movement also were similar. In each test, the dummy's head hit the B-pillar during rebound. Head acceleration from this impact in the Camry without its cosmetic parts was lower.



**Crashworthiness Evaluations,
1997 Toyota Camry**

	with cosmetic parts	without cosmetic parts
Overall Evaluation	G	G
Structure	G	G
Restraints/ Dummy Movement	G	G
Injury measures:		
Head/neck	A	G
Chest	G	G
Left leg/foot	G	G
Right leg/foot	G	G

For complete evaluations of the Camry and other midsize cars, visit www.highwaysafety.org

G: good
A: acceptable
M: marginal
P: poor

Both the original-equipment and aftermarket hoods performed well, buckling as they're designed to do. Neither one was pushed back anywhere near the windshield, so front-seat occupants in real crashes similar to these tests wouldn't be endangered.

"There essentially was no difference in crashworthiness performance. Both Camrys were rated good. The cosmetic parts didn't (continues on p.6)

	Injury measures		
	HIC	Peak gs from hard contact	Maxim compression (mm)
1997 Toyota Camry with original-equipment cosmetic crash parts	470	127	36
1997 Toyota Camry without cosmetic crash parts	582	40	37

Injecting safety into the continuing debate about cosmetic crash parts

Even though safety is irrelevant to the debate about original-equipment versus aftermarket cosmetic crash parts, numerous attempts have been made to inject safety into the controversy. For example:

In a 1999 article entitled "Shoddy Auto Parts," *Consumer Reports* conceded there are "little data on the safety of replacement parts." Without any objective evidence of safety problems, *Consumer Reports* relied on anecdotal evidence, of which the article says "there is enough . . . to raise concern." Yet no convincing evidence was offered.

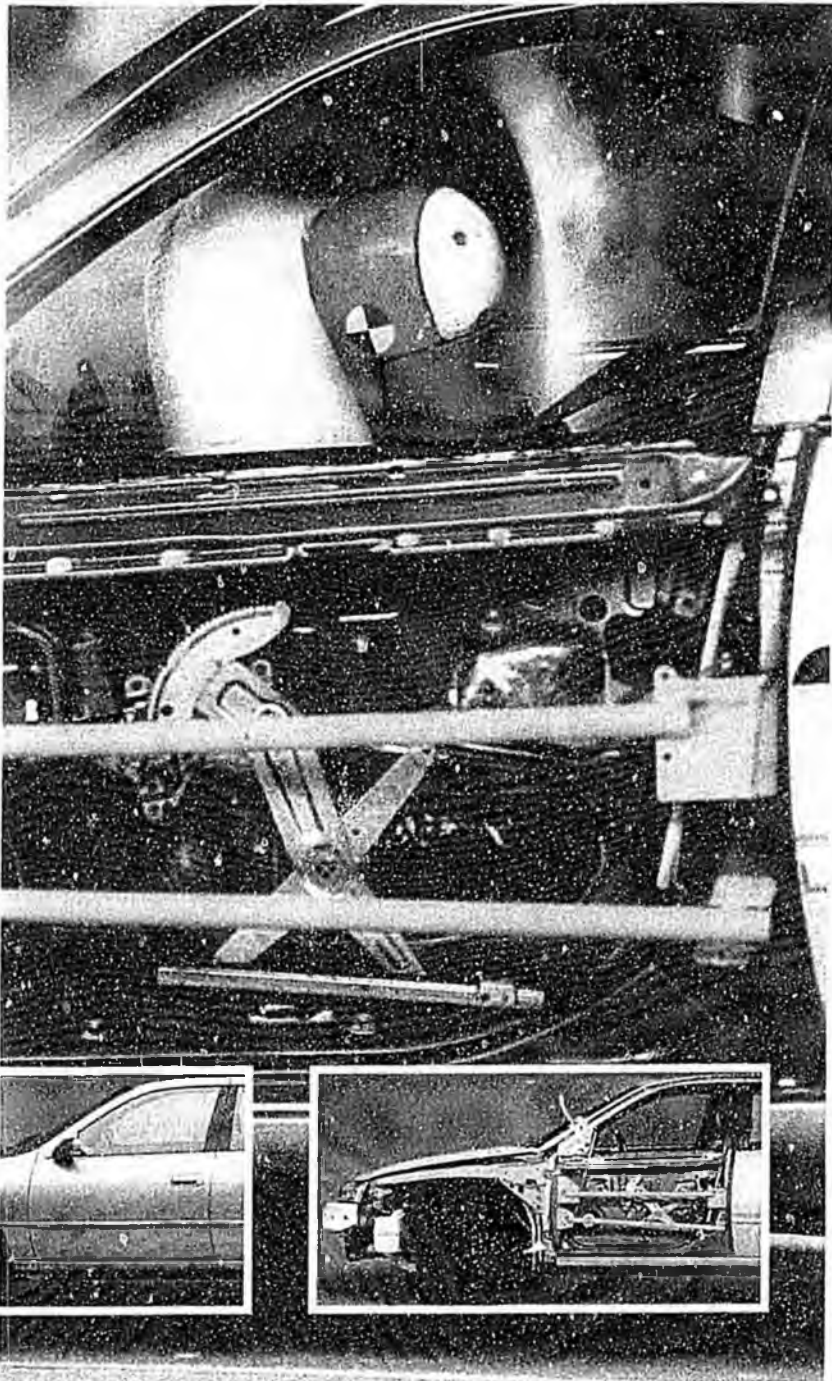
During consideration of legislation on aftermarket crash parts, a 1999 report from the Florida House of Representatives cited *Consumer Reports* extensively as well as the views of automakers. A Ford representative, for example, is quoted as saying "no testing has been conducted to verify that the performance of imitation crash parts . . . in front-end crashes will be compatible with Ford airbag systems . . . Because so little is known about the effect of imitation parts on an airbag system and component integrity, Ford believes genuine Ford crash parts should be used."

This statement was issued despite one from Ford's vice president for environmental and safety engineering, Helen Petrauskas, in 1987. She told Institute president Brian O'Neill that "after a review of the information you provided, as well as other data available to us, we have concluded that, in general, fenders and door 'skins' are components whose design or manufacture is not likely to have a significant effect on vehicle safety."

Still, some car company representatives continue to raise the safety issue. For example, a 1997 General Motors statement said "any deviation in the use of parts not specifically designed to meet the original specifications can compromise the integral balance between the safety systems."

According to a bill introduced last year (but not enacted) in the New York legislature, "the use of genuine crash parts (parts manufactured by or for the company that manufactured the vehicle itself) should be required to assure quality, safe repairs. Studies have shown that some alternative parts create unnecessary safety risks due to improper fitting." However, neither the studies nor details of their findings were specified.

Responsible studies linking aftermarket parts to safety compromises don't exist. And, as *Consumer Reports* conceded, the National Highway Traffic Safety Administration "hasn't been getting complaints about the safety of replacement parts." In fact, the agency responded to a query from U.S. Congressman John Dingell in 1991, noting that "there are no data or analyses available at this time to suggest a safety problem with aftermarket or replacement components." There still aren't.



Rank	Maximum Tibia Index		Steering column movement		Measures of occupant compartment intrusion						
	Left	Right	Upward (cm)	Rearward (cm)	A-pillar movement Rearward (cm)	Instrument panel rear movement		Footwell intrusion			Footrest (cm)
						Left (cm)	Right (cm)	Left (cm)	Center (cm)	Right (cm)	
39	0.57	0.68	5	2	2	3	3	11	12	11	4
36	0.48	0.60	3	4	2	3	3	16	18	13	9

Two crash tests, one 13 years old, show irrelevance of safety to crash parts debate

The recent crash test of a 1997 Toyota Camry into a deformable barrier at 40 mph (see p. 1) isn't the first time the Institute has used tests to show the irrelevance of safety to the cosmetic repair parts debate. When this controversy heated up in the 1980s, the safety-related claim of the moment was that cars repaired with cosmetic parts from aftermarket suppliers might not comply with federal motor vehicle safety standards.

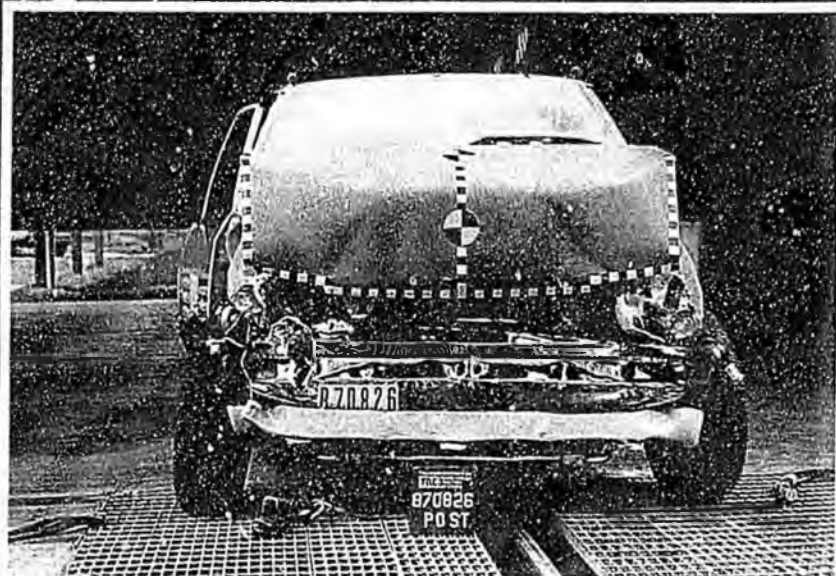
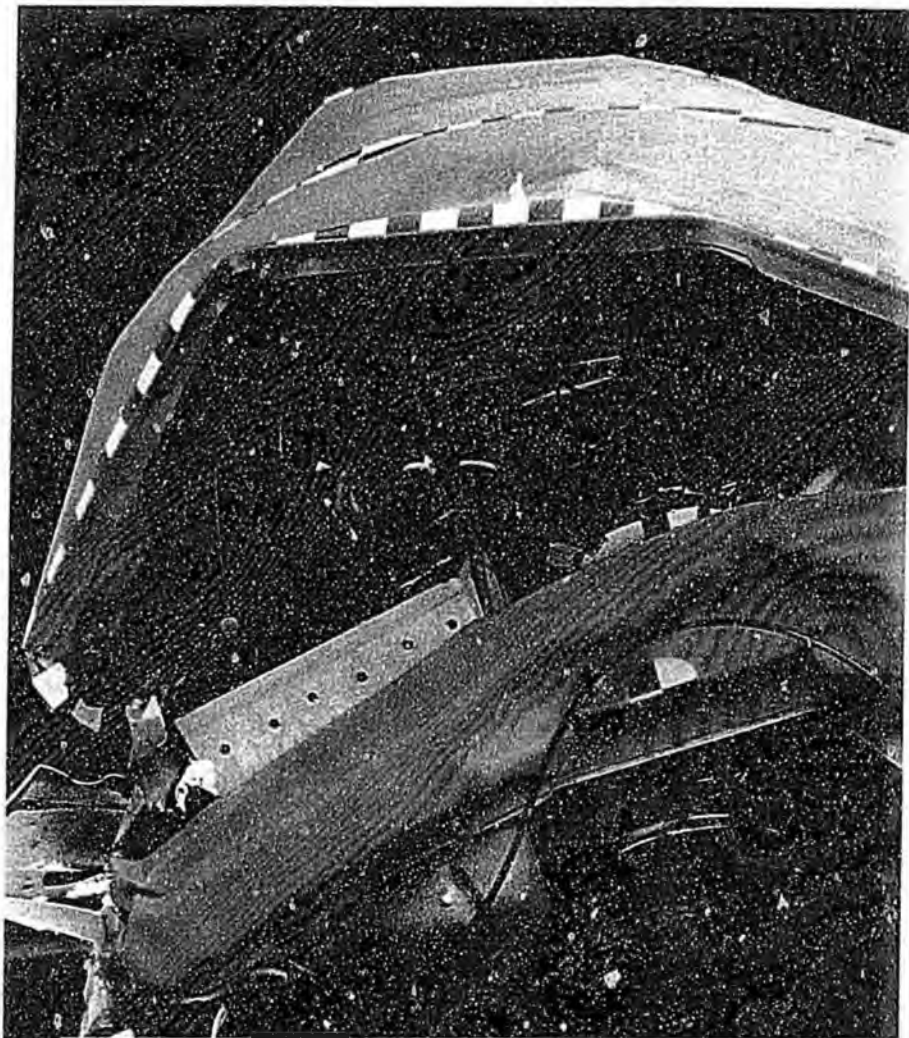
The Institute entered this dialogue in 1987, saying "there's no reason to believe — let alone assume — that cosmetic crash parts significantly influence car crashworthiness." To reinforce this conclusion, Institute researchers demonstrated the point in a crash test.

Ford Escort test: A 1987 Ford Escort was crashed into a rigid barrier at 30 mph to measure compliance with the federal motor vehicle safety standards that specified crash test requirements at the time. Like the Camry, the Escort was crashed without its front fenders, door skins, or grille. The original-equipment hood was replaced with an aftermarket part to measure compliance with federal requirements, according to which the hood must not intrude into the windshield or a defined zone around it in a 30 mph crash.

And the result? The Escort complied with all front-into-barrier crash test performance requirements specified in five separate federal standards. It met these requirements with room to spare. There was no appreciable movement of the steering column. Head injury measures for driver and passenger dummies were far below the threshold used to indicate injury likelihood. Chest and upper leg injury measures also were low. Windshield retention was 100 percent. The hood buckled and didn't intrude into the protected zone. Fuel spillage was zero.

Vauxhall Astra test: The Institute isn't the only research group to conduct such a test. In 1995, England's Motor Insurance Repair Research Centre tested a 1995 Vauxhall Astra from which the fenders and door skins had been removed and the hood replaced with an aftermarket part.

The result of this front-into-rigid-barrier impact at 30 mph was similar to the Escort test. That is, the Astra complied with the same U.S. safety standards. According to the Astra's certification report, "comparison of the test vehicle with a previously tested vehicle of identical type tested to the same standard indicated that the presence of 'non-indigenous' panels had little effect on failure mode, as did the absence of the front outer wing panels and doorskins."



1987 Ford Escort
30 mph federal compliance crash test



Unlike other cosmetic crash parts used in auto repairs, the hoods of cars could influence safety

The hood is the single cosmetic part that could be a source of safety problems. There are two possible concerns.

In the absence of a crash: The first possible concern has nothing to do with performance in a crash. It has to do with whether a hood latch or attachment points could fail while driving and allow the hood to fly up suddenly, obscuring the driver's view. *Consumer Reports* has cited an unverified claim that an aftermarket hood failed in this manner and caused a crash.

A notable absence from the same article is acknowledgement that hoods from original-equipment manufacturers can, and do, have defective latches and/or attachment points that fail in the same manner. Auto manufacturers have conducted 47 safety-related recalls involving original-equipment hoods, mostly because of hood latches and attachment hardware. A total of 6,216,946 vehicles have been recalled. Many cases have involved hoods that flew up, causing some reported crashes.

"Such a large number of safety-related recalls of original-equipment hoods lends perspective to the unsubstantiated allegation in *Consumer Reports* that aftermarket hoods are somehow inferior," Institute president Brian O'Neill notes.

The quality of many aftermarket crash parts used for auto repairs, including car hoods, is evaluated by the Certified Automotive Parts Association (CAPA). "All hood latches and strikers are subject to additional testing," CAPA says, "to evaluate their dimensions, retention, and hardness of core and case." Other than hoods, the parts CAPA certifies aren't safety related. This group doesn't certify parts that are subject to the requirements of federal motor vehicle safety standards.

Crash performance: The second possible concern relates to hood performance in crashes — whether they will buckle, as new-car hoods are designed to do, so a hood doesn't get driven back near the windshield. CAPA certifies hoods by ensuring that the same buckle points present in hoods from car companies also are present in the aftermarket hoods it approves.

"Hoods must buckle as they're supposed to, or else safety could be compromised," O'Neill says. "It's obviously not feasible to crash test every aftermarket hood. But in several tests in which original-equipment hoods have been replaced by aftermarket ones, the replacement hoods have performed exactly as they should. This is to be expected because the buckle points are built in."

(continued from p.2) influence the results," O'Neill points out. "Only three other midsize four-door cars we've tested match the Camrys' crashworthiness ratings. In contrast, 10 cars in this class are rated acceptable, 2 are marginal, and 11 are poor. So a Camry without cosmetic parts offers more protection in a serious frontal crash than many competing cars with all cosmetic parts supplied by the original-equipment manufacturers."



These photos, taken after the 40 mph offset crash test, show how well the driver space was maintained in both Camrys. The space was maintained regardless of the presence (top photo) or absence (above) of cosmetic crash parts.



Real issue about cosmetic parts is cost of original-equipment parts, not safety of aftermarket parts

There's no merit to the safety questions that have been raised about cosmetic auto crash parts from aftermarket suppliers. But there's a very big pocketbook issue associated with using repair parts from original-equipment suppliers — they cost a lot more than the aftermarket parts.

The Alliance of American Insurers recently toted up the cost of rebuilding a 1999 Toyota Camry with parts supplied by the car company. The tab came to

\$101,355.55, compared with the Camry's sticker price of about \$23,000. And the cost of the rebuilt car could have been even higher except for markdowns because of competition from aftermarket suppliers. The Alliance's Kirk Hansen, director of claims, points out that "if the aftermarket parts didn't exist, the price of the Camry would be closer to \$200,000."

To demonstrate just how the introduction of aftermarket parts influences the



price of cosmetic parts supplied by the car companies, the Alliance points to a study involving Toyota Camry parts prices. This automaker priced a fender at \$253. In comparison, an aftermarket fender fitting the same car was introduced the next year at \$202. As the price of the aftermarket part came down during the following years, Toyota lowered its price to \$143.

"Opponents of using aftermarket cosmetic parts would like consumers to believe ominous safety consequences will follow from using anything other than original-equipment parts," Hansen says. "But the truth is that the ominous consequences come from using the original-equipment parts, which hit both car owners and their insurers in the pocketbook."

1992 Toyota Camry Fender price comparisons

	Original- equipment	After- market
1992	\$253	none
1993	264	\$202
1994	265	209
1995	259	168
1996	143	60
1997	143	63
1998	143	77
1999	146	56

STATUS REPORT

INSURANCE INSTITUTE
FOR HIGHWAY SAFETY

Special issue

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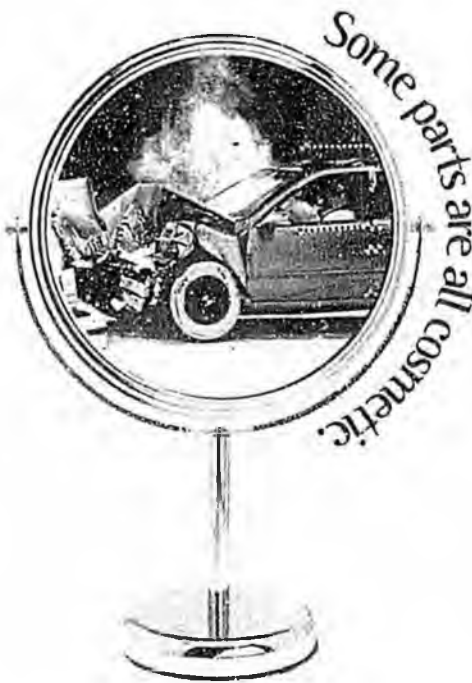
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Vol. 35, No. 2, February 19, 2000

This special issue focuses on the safety of cosmetic repair parts from competing suppliers. Recent special issues have focused on the following subjects:

Graduated licensing	34:10 (1999)
Vehicle compatibility in crashes	34:9 (1999)
Child safety	34:8 (1999)
Neck injuries	34:5 (1999)
Vehicle safety advancements	34:4 (1999)
Pedestrian deaths, injuries	34:3 (1999)
Truck safety	33:8 (1998)
Urban crashes	33:4 (1998)
Crash compatibility	33:1 (1998)
Airbags	32:9 (1997)



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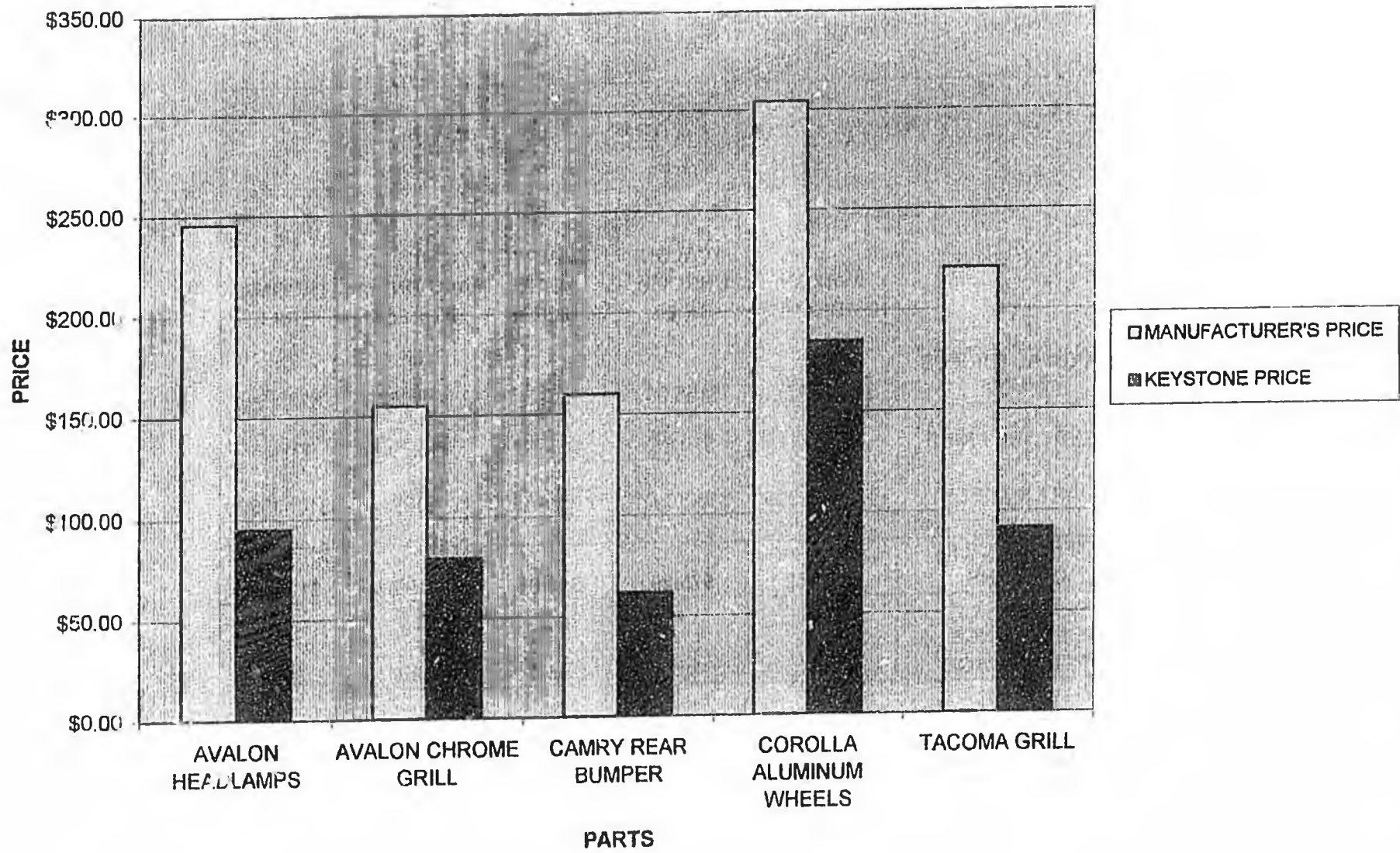
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Amica Mutual Insurance Company	Harleysville Insurance Companies	Pekin Insurance
Amwest Insurance Group	The Hartford	PEMCO Insurance Companies
Auto Club South Insurance Company	Idaho Farm Bureau	The Progressive Corporation
Automobile Club of Michigan Group	Kansas Farm Bureau	The Prudential
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California State Automobile Association	MetLife Auto & Home	Shelter Insurance Companies
Cameron Companies	Middlesex Mutual	State Auto Insurance Companies
Church Mutual	Montgomery Insurance Companies	State Farm Insurance Companies
Colonial Penn	Motor Club of America Insurance Company	The St. Paul Companies
Concord Group Insurance Companies	Motorists Insurance Companies	Tokio Marine
Cotton States	Motors Insurance	USAA
Country Companies	MSI Insurance Companies	Virginia Mutual Insurance Company
Erie Insurance Group	National Grange Mutual	Warrior Insurance Group
Farmers Insurance Group of Companies	Nationwide Insurance	Yasuda Fire and Marine of America
Farmers Mutual of Nebraska	North Carolina Farm Bureau	Zurich U.S.
Fidelity & Deposit	Northland Insurance Companies	

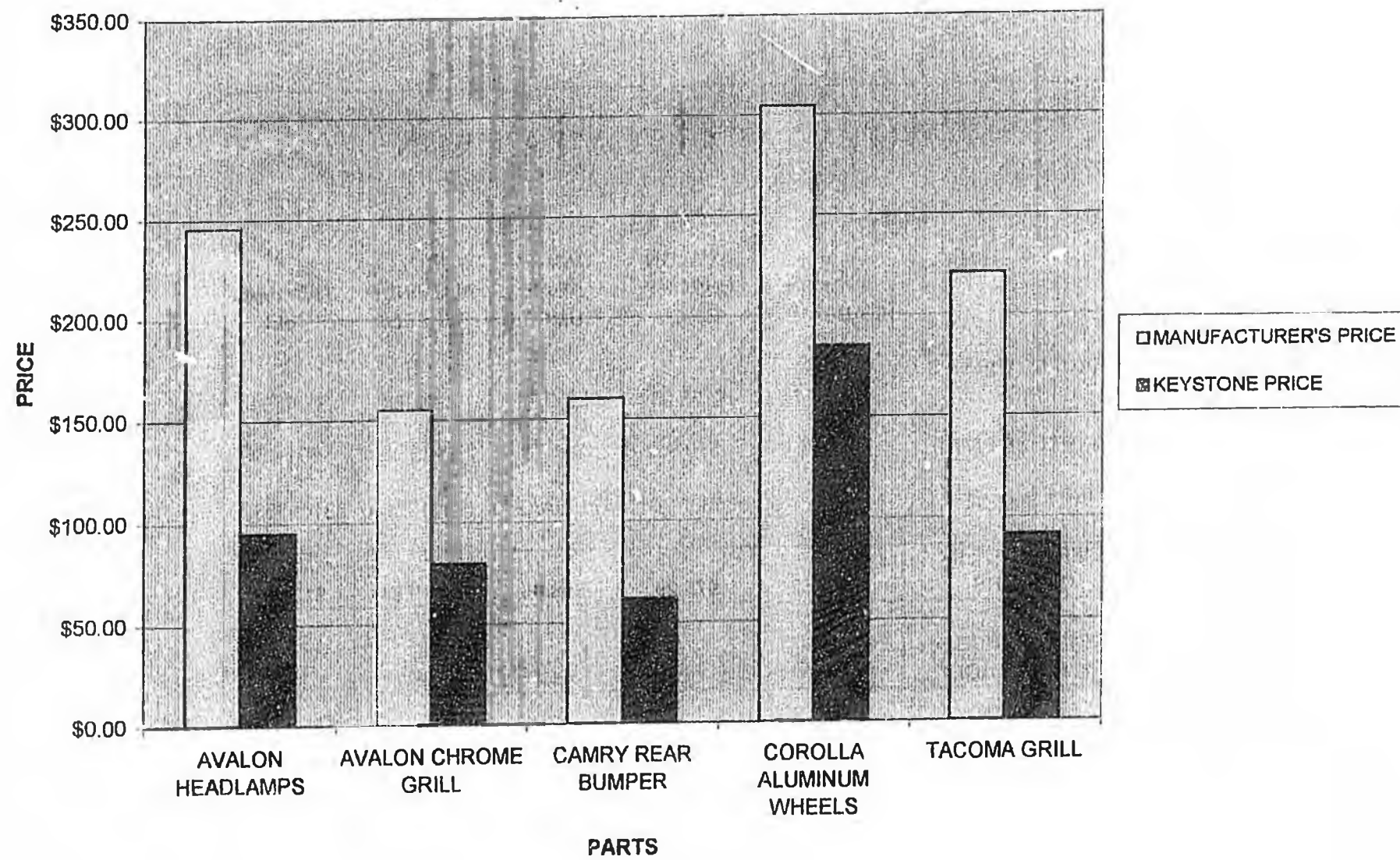
TOYOTA PARTS



Difference in Cost Using Aftermarket Parts vs. OEM Parts

TOYOTA PARTS COMPARISON					
	AVALON HEADLAMPS	AVALON CHROME GRILL	CAMRY REAR BUMPER	COROLLA ALUMINUM WHEELS	TACOMA GRILL
MANUFACTURER'S PRICE	\$245.67	\$155.09	\$159.81	\$304.64	\$220.59
KEYSTONE PRICE	\$95.15	\$79.80	\$61.75	\$185.00	\$91.45
PART NUMBER	8111007010	43100AC010	52159AA900	4261102140	5310035300
DIFFERENCE IN DOLLARS	\$150.52	\$75.29	\$98.06	\$119.64	\$129.14
DIFFERENCE (PERCENTAGE)	61%	49%	61%	39%	59%

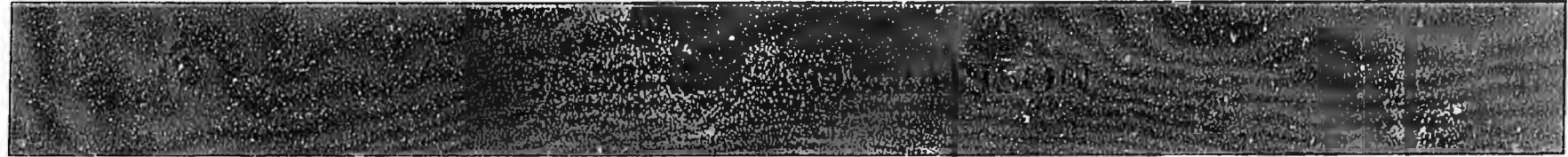
TOYOTA PARTS



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COMPARISON OF PARTS 2001.XLS

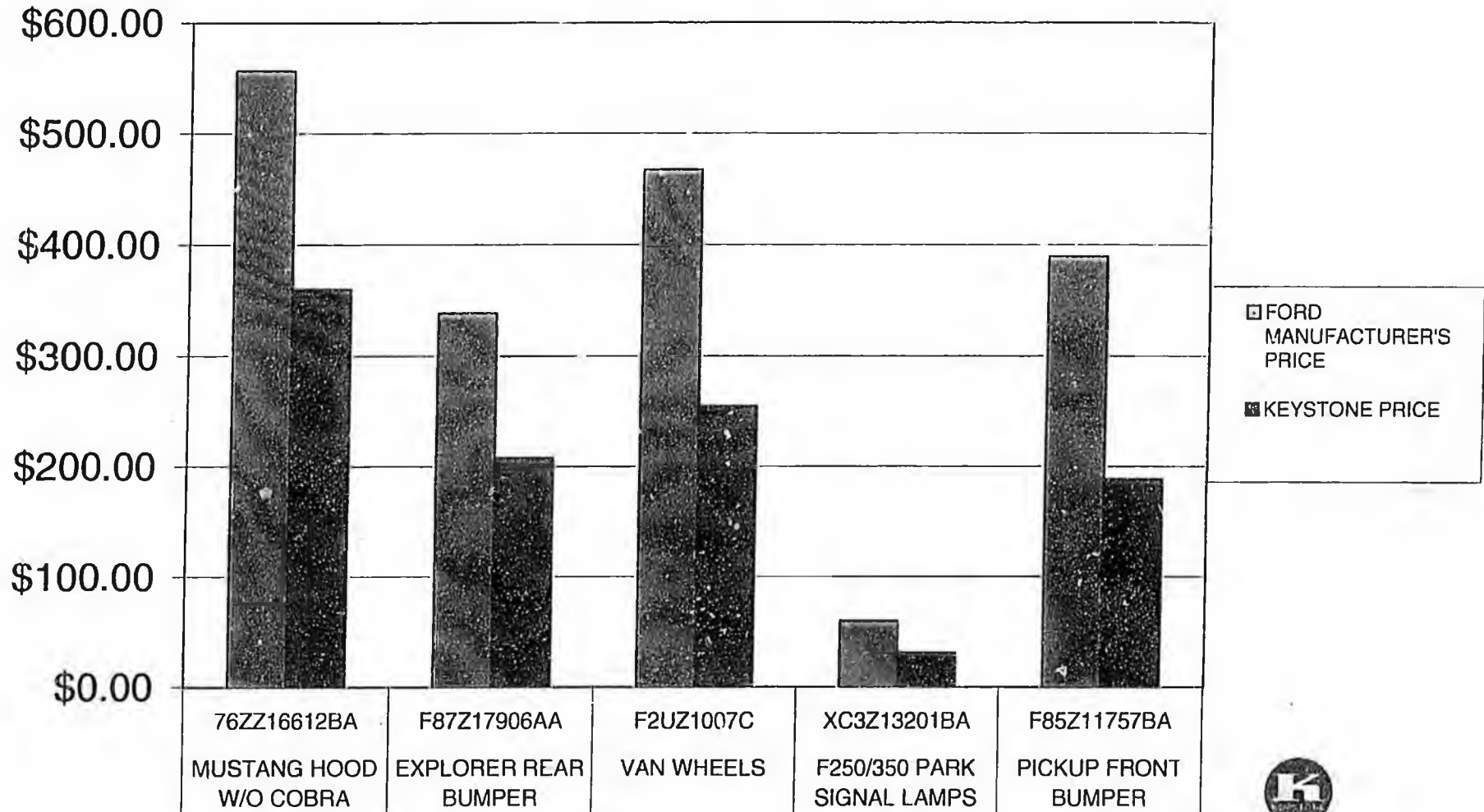


	MUSTANG HOOD W/O COBRA	EXPLORER REAR BUMPER	VAN WHEELS	F250/350 PARK SIGNAL LAMPS	PICKUP FRONT BUMPER
PART NUMBER	76ZZ16612BA	F87Z17903AA	F2UZ1007C	XC3Z13201BA	F85Z11757BA
FORD MANUFACTURER'S PRICE	\$556.60	\$339.07	\$467.23	\$60.00	\$390.00
KEYSTONE PRICE	\$360.60	\$208.00	\$255.00	\$31.45	\$188.75

DIFFERENCE (IN DOLLARS)	\$196.00	\$131.07	\$212.23	\$28.55	\$201.25
DIFFERENCE (PERCENTAGE)	54%	63%	83%	91%	107%



COMPARISON OF FORD PARTS



PARTS



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Monday, March 5, 2001

AAIA Responds to U.S. GAO Report on Aftermarket Crash Parts

A report just issued by the U.S. General Accounting Office (GAO) should be welcome news to the aftermarket crash parts segment of the industry, according to the Automotive Aftermarket Industry Association. The report looked at the safety of aftermarket crash parts and NHTSA's role in regulating this industry segment.

After extensive research that included examining several scientific studies and conducting interviews with more than 40 trade organizations, parts distributors and vehicle manufacturers, the GAO report did not lead to any recommendations for regulatory or legislative restrictions of aftermarket crash parts, said AAIA.

"Although NHTSA has the authority to regulate aftermarket crash parts, it has not determined that these parts pose a significant safety concern and therefore has not developed safety standards for them," the report stated.

"NHTSA has been given greater powers to investigate and recall products as a result of the Firestone tire issue. I'm sure that if NHTSA detected safety problems with aftermarket crash parts, or any parts for that matter, they should and would take action," said Alfred L. Gaspar, AAIA president & CEO. "AAIA has long maintained that there is no evidence supporting car company's allegations of safety problems relating to the use of aftermarket crash parts. We're extremely pleased that the GAO report mirrors our position."

The GAO report including the following comments from NHTSA: "NHTSA has not taken action to regulate aftermarket crash parts because studies conducted to date and other data and analysis do not demonstrate that there are safety-related problems with the parts."

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CollisionWeek

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Tuesday, January 9, 2001

Aftermarket Parts Shine Again at Latest CIC Test Fit

At the most recent Collision Industry Conference (CIC) Parts Demonstration conducted in Orlando, Florida, non-OEM parts again received better overall scores than their OEM counterparts.



The non-OEM parts received an overall acceptability rating of 74.52% while just 57.37% of the judges felt that the OEM equivalent parts would be acceptable to sell to their customers, compared to the original factory parts which scored 78.07%.

In fact, with the exception of the non-OEM side lamp's rating for finish, every non-OEM part rated in this test scored higher than the OEM equivalent for both fit and finish.

The full results of the CIC Parts Demonstration are included below.

Test Vehicle: 2001 Ford F150 pickup

Non-OEM Parts Tested	Manufacturer	CAPA Certified
Non-OEM LF Fender	Gordon	Yes
Non-OEM RF Fender	Yung Shine	Yes
Non-OEM LF Headlamp	TYC	No*
Non-OEM LF Side Lamp	TYC	No*

*CAPA does not certify lamps

Comparative Summary

	Responses	FIT	Finish	Accept
Original LF Fender	28	2.89	3.52	64%
Original RF Fender	27	3.41	3.5	81%
Original LF Headlamp	27	3.37	3.89	88%
Original LF Signal Lamp	27	3.67	3.91	80%
OEM LF Fender	33	2.94	3.36	56%
Non-OEM LF Fender	42	3.4	3.81	61%
OEM RF Fender	44	2.89	3.22	31%

Non-OEM RF Fender	31	3.16	3.56	70%
OEM LF Headlamp	41	3.17	3.59	57%
Non-OEM LF Headlamp	30	3.37	3.64	82%
OEM LF Side Lamp	37	3.51	3.85	85%
Non-OEM LF Side Lamp	29	3.59	3.71	71%
Original Parts	27	3.33	3.71	78.07%
OEM Overall	38	3.13	3.5	57.37%
Non-OEM Overall	30	3.37	3.63	74.52%

Prior to changing parts on the vehicle, the fit of the original parts were rated. Then the original parts were replaced with off-the-shelf non-OEM and OEM parts. Observers were unaware of the type of part they were rating. They were rated 1 to 5, 5 being best. Reviewers were also asked, yes or no, if the parts were acceptable to sell to customers.



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Competitive Replacement Parts

All About Automotive Aftermarket Crash Parts

Issues addressed:

- Safety
- Competition
- Quality
- Magnuson-Moss Act
- Facts vs. Fiction

INSIDE

There Is no safety Issue

The Car Companies' Monopoly

Comparison of Aftermarket and OEM Prices

Aftermarket Parts Testing and Quality

The Magnuson-Moss Act Shows why Aftermarket Parts do not Compromise a Vehicle's Warranty

The Consumer Wins

Why Auto Manufacturers are Terrified of Aftermarket Replacement Parts

Henry Ford has been reputed as having said that he would give cars away if only he could have a monopoly selling replacement parts. This attests to the plain truth that the \$12 billion market is serious business. And the auto manufacturers already control over 80% of

the market. Considering their piece of the pie is so large, no wonder they attempt to use legislative tactics to ensure their monopoly! Auto



Mr. Ford

manufacturers falsely suggest to consumers that all competitive replacement parts

are inferior; they claim that using replacement parts will void a car's



warranty; and they attack the quality, fit, and performance of these parts. They are just plain wrong!

Definitions

Aftermarket parts/Competitive replacement parts: all sheet metal and plastic parts produced by either OEM authorized or independent sources. They represent the majority of damage in auto accidents. Also known as cosmetic parts and 'skin' of the vehicle.

CAPA parts: parts certified by an independent validating lab for the Certified Automotive Parts Association

that meet standards of quality production.

Generic parts: general; not having a trademark or trade name.

OEM parts: original equipment manufacturer. Those parts are actually produced by the car manufacturer or an independent source under contract to the car manufacturer.

Genuine parts: the term car manufacturers like to give to their parts even

though many times they are not the same as those used in the production line. The car companies contract out much of the production of their replacement crash parts to outside sources.



SAFETY

THERE IS NO SAFETY ISSUE

Car manufacturers love to point at safety and claim that aftermarket replacement parts are just not safe and endanger the motorist. This is simply not true.

Aftermarket crash parts are the 'skin' of a car— a car's structural reliability is not affected by these skins, just like our bodies' structural dependability rests not on our skin but on



our bones.

In fact, over the years crash tests performed by highly regarded unbiased safety institutes have proven the safety argument to be without bias.

INSURANCE INSTITUTE FOR HIGHWAY SAFETY AND THE THATCHAM INSTITUTE:

According to the IIHS (an independent organization), "if crashworthiness is not influenced by whether or not a vehicle's crash parts are on the car or removed, then it follows that the source of the parts are also irrelevant to the crashworthiness."^{*}

"The fact remains that for the possible exception of hoods, the parts themselves have no safety or structural function. These parts act like one's skin: they merely cover the car."^{*}

An IIHS 1987 30 mph "federal compliance crash test"^{*} involving the Ford Escort reaffirmed that crash parts do not influence the crashworthi-

ness of a car.

In 1995, an independent crash test was conducted in England by Thatchem, the Motor Insurance Repair Research Center. Thatchem used federal safety tests to prove that a vehicle's cosmetic panels make no significant contribution to the structural strength and safety of the vehicle. The conclusion was "that replacement parts do not affect the safety or structural reliability of vehicles."^{*}

Recently, the IIHS crash tested a 1997 Toyota Camry with an aftermarket hood and a 1997 Toyota Camry with its original parts. The results were compared and the Institute reports that "both earned good crashworthiness rating according to the Institute's evaluation procedures."^{*}

Repeatedly, the Insurance Institute for Highway Safety has stated that safety is simply not an issue. There is no basis on which to claim that safety is at risk.

The IIHS has been testing vehicles for safety and damage for decades - the safety allegations are simply unfounded.

Think about it, why would insurers continue to insure cars if they were deemed unsafe after repairs were made? That would be bad business and risk future claims payments!

Source: Vol 35 No. 2 February 19, 2000; States Report Insurance Institute for Highway Safety

"There is no reason to believe— let alone assume— that cosmetic body parts significantly affect car crashworthiness."

**~ Insurance Institute for Highway Safety President
Brian O'Neill**

The Massachusetts Auto Damage Appraisers Licensing Board

The Board has announced that there is no "scientific evidence" to "support the conclusion that ...aftermarket parts are unsafe"

"... 'skins' are components whose design or manufacture is not likely to have a significant affect on vehicle safety."

Helen Petrauskas (Ford's vice president for environmental and safety engineering)

1987

The National Highway Traffic Safety Administration:

Cosmetic, non-structural auto body parts have no safety ramifications. Crash parts are not safety related.

QUALITY

The Consumer Reports 'Test'

In February of 1999, Consumer Reports (CR) published an article reporting the



failure of aftermarket replacement parts. With an apparent bias, this article failed to accurately report the aftermarket issue and the complexity of our

industry.

The article reported that a repaired hood on a 1998 Honda fractured the windshield. What the report failed to acknowledge is that the repair to the hood had been made in October 1988 - that's a full 10 yrs. prior to the part's alleged failure. In that same year, Ford recalled 1,183,617 of its own hoods—Consumer Reports had only one.

It should be known that the test was not done by an independent lab, but one hired by CR. Their engi-

neers, their body shops and their lab was used in what can only be described as a biased and unscientific test.



- CR did not conduct blind test fits of parts.
- CR only tested 18 of the millions of aftermarket parts.
- No one from the aftermarket industry was present to ensure the investi-

gations were impar-

- CR claimed there was little safety documentation. In truth, they failed to acknowledge the Insurance Institute for Highway Safety, the National Highway Traffic Safety Administration and the DOT information available.

CIC Blind Fit Tests

The Collision Industry Conference (CIC) provides a forum for discussion on national issues that affect various segments of the collision industry.

The Parts/Airbags Committee of the CIC is charged with identifying the issues concerning parts used in collision repair, to make suggestions for improvements and to provide a forum to communicate these issues to involved parties.

In January 1999, and again in October 2000, body shop owners participated in a blind test fit and rated replacement parts as good as OEM parts! The parts were scored on their fit, finish, and acceptability

So, what do these tests prove? Simply put, they prove that aftermarket parts are comparable to OEMs. When bias is removed, replacement parts have

scored as high or higher than OEM parts.

HOW BLIND TESTS WORK:

A blind test means that the participants do not know before-hand which part is aftermarket replacement and which is OEM. Every participant looks at the vehicle with the original parts. Then the parts are placed on the vehicle.

The method used in a blind test eliminates any hidden agenda or preconceived notion regarding the quality of aftermarket parts. The participants have no choice but to be fair - and in being fair, they rated replacement parts similar to OEMs.

Please refer to the article following this page regarding the test fits.

CollisionWeek®

Aftermarket Parts Shine Again at Latest CIC Test Fit

At the most recent Collision Industry Conference (CIC) Parts Demonstration conducted in Orlando, Florida, non-OEM parts again received better overall scores than their OEM counterparts.

The non-OEM parts received an overall acceptability rating of 74.52% while just 57.37% of the judges felt that the OEM equivalent parts would be acceptable to sell to their customers, compared to the original factory parts which scored 78.07%.

In fact, with the exception of the non-OEM side lamp's rating for finish, every non-OEM part rated in this test scored higher than the OEM equivalent for both fit and finish.

The full results of the CIC Parts Demonstration are included below.

Test Vehicle: 2001 Ford F150 pickup

<u>PART</u>	<u>MANUFACTURER</u>	<u>CAPA CERTIFIED</u>
Non-OEM LF Fender	Gordon	Yes
Non-OEM RF Fender	Yung Shine	Yes
Non-OEM LF Headlamp	TYC	No*
Non-OEM LF Side Lamp	TYC	No*

*CAPA does not certify lamps

<u>PART</u>	<u>RESPONSES</u>	<u>FIT</u>	<u>FINISH</u>	<u>ACCEPT</u>
Original LF Fender	28	2.89	3.52	64%
Original RF Fender	27	3.41	3.5	81%
Original LF Headlamp	27	3.37	3.89	88%
Original LF Signal Lamp	27	3.67	3.91	80%
OEM LF Fender33	2.94	3.36	56%	
Non-OEM LF Fender	42	3.4	3.81	61%
OEM RF Fender	44	2.89	3.22	31%
Non-OEM RF Fender	31	3.16	3.56	70%
OEM LF Headlamp	41	3.17	3.59	57%
Non-OEM LF Headlamp	30	3.37	3.64	82%
OEM LF Side Lamp	37	3.51	3.85	85%
Non-OEM LF Side Lamp	29	3.59	3.71	71%
Original Parts	27	3.33	3.71	78.07%
OEM Overall	38	3.13	3.5	57.37%
Non-OEM Overall	30	3.37	3.63	74.52%

Prior to changing parts on the vehicle, the fit of the original parts were rated. Then, the original parts were replaced with off-the-shelf non-OEM and OEM parts. Observers were unaware of the type of part they were rating. They were rated 1 to 5, 5 being the best. Reviewers were also asked, yes or no, if the parts were acceptable to sell to customers.

1/9/01

COMPETITION

In Search of Competition

Free market competition is exactly what our economy is based on. Yet, legislation has been introduced which attempts to restrict the very basis of the thriving aftermarket collision parts industry. In the early 1990s, auto manufacturers tried to get federal legislation passed that would prevent competitors from producing replacement parts. Congress rejected this plan favoring competition. Making no headway in the federal system, auto manufacturers turned to the state legisla-

tures to promote their agenda.

Auto manufacturers are determined to retain their stronghold on this \$12 billion industry by restricting fair competition.



There has been no cause for safety concerns. So the only reason these auto manufacturers want to restrict the production of replacement parts is to maintain their own \$9.6 billion share of the aftermarket collision parts industry.

Their criticism of competitive replacement parts is directly related to their shrinking bottom line.

The OEM Roundtable was formed by the car companies to push legislation that would restrict the aftermarket's ability to compete. Their attempts to create an even bigger monopoly year after year have been squashed—yet the battle continues!!

**"Aftermarket parts have a meaningful place in the repair of an automobile."
~ The Massachusetts Auto Damage Appraisers' Licensing Board (ADALB)**

Auto Manufacturers' Markups

The introduction of competitive replacement parts has benefited consumers by reducing OEM prices.

Before replacement parts were available, car companies had their replacement parts marked up to unreasonable levels.

From 1968-1976 the Federal Trade Commission conducted three investigations on the car company crash parts monopoly. The conclusion was that consumers were paying too much for parts.

With the introduction of competitive crash parts,

OEM's were forced to lower prices by at least 30%.

For example, with no competition, the cost of a Camry OEM fender was \$253. With the introduction of a competitive fender for \$104, Toyota dropped the price of its OEM fender to \$144.



FORD PARTS COMPARISON

	MUSTANG HOOD W/O CO- BRA	EXPLORER REAR BUMPER	VAN WHEELS	F250/350 PARK SIGNAL LAMPS	PICKUP FRONT BUMPER
PART NUMBER	76ZZ16612BA	F87Z17906AA	F2UZ1007C	XC3Z13201BA	F85Z11757BA
ORIGINAL MANUFACTURER'S PRICE	\$556.60	\$339.07	\$467.23	\$60.00	\$390.00
KEYSTONE PRICE	\$360.60	\$208.00	\$255.00	\$31.45	\$188.75
DIFFERENCE (DOLLARS)	\$196.00	\$131.07	\$212.23	\$28.55	\$201.25
DIFFERENCE (PERCENTAGE)	54%	63%	83%	91%	107%

Prices subject to change

Source: Keystone July 2000 Crash Parts Digest and the Mitchell Collision Estimate Guide 2000.

Competition and the Consumer

In the collision repair market, the car companies control 80% of the market. The non-OEM aftermarket makes up about 15%; the last 5% is controlled by the salvage industry.

Increasingly, auto

manufacturers are buying up the salvage market. Their strategy is to control the salvage yards. They encourage the totaling of an accident vehicle.



Restricting the use of competitive replacement parts destroys fair competition and creates a monopoly with cradle-to-grave control by auto manufacturers.

Imposing regulations on competitive replacement parts, manufacturers and distributors could eliminate aftermarket businesses. The resulting monopoly by automakers would mean higher prices charged for auto parts and auto repairs. This would, in turn, lead to higher insurance costs that consumers will be forced to bear.



The \$101,335.55 1999 Toyota Camry

The Cost of Repairs

Even without paint and labor, a 1999 Toyota Camry would cost \$101,335.55 if put back together with OEM parts! This car retails for only \$23,263.

According to Kirk Hansen of the Alliance of American Insurers, the cost of replacement parts has a direct impact on the price consumers pay for auto insurance. This is so because the cost of repairing damaged automobiles accounts for

40% - 50% of insurance premiums. Expensive parts make repairs more costly and, therefore, premiums go up. Often,



vehicles that should be repaired are instead totaled because of the out-

rageous price for repairing with OEM parts.

Aftermarket parts are used for other mechanical repairs such as batteries, oil filters, and tires, yet there is no cause for consumer concern, nor have any objections been made by auto manufacturers to the use of these parts. They still, however, continue to criticize competitive replacement parts that have been proven to have nothing to do with safety. The only

logical explanation for this is that competitive replacement parts are directly related to the auto manufacturers' shrinking profits!

Imagine, for the price of a Ford Mustang hood you can purchase an 18 cu.ft. refrigerator valued at over \$500!

QUALITY

Replacement parts are functionally equivalent to OEM parts. CAPA has been testing and certifying parts since 1987. CAPA uses the same labs that auto manufacturers use to



test their parts—ENTECLA Labs. These labs aid in

the development of standards and the inspection of competitive replacement parts.



Amazingly, the same auto manufacturers who publicly condemn the quality of competitive replacement parts, turn around and present some of our replacement parts

manufacturers with quality awards. One such example is Jui Li, a manufacturing plant in Taiwan, being awarded the 'Ford Preferred Quality Award'.

Some competitive replacement parts manufacturers have been awarded QUALITY AWARDS from OEM manufacturers such as Ford.

CAPA

CAPA oversees a testing and inspection program that certifies the quality of automotive parts used for collision repairs. CAPA ensures that parts meet quality standards for fit, component materials, and corrosion resistance.

Through the CAPA program, consumers, insurers,

and repairers have an objective method for evaluat-



ing the quality of certified parts and their functional equivalency to similar parts

manufactured by automotive companies.

To ensure quality of parts, CAPA tests metal composition, welds, screws, resistance to chipping and scratching and a 500-hour salt spray test.

Contrary to our competitors' statements, competitive replacement parts do not diminish the value of a car. With correct repairs, the car is restored to its "pre-accident" condition. Both the NADA and the Kelley Blue Book, authorities on cars, do not diminish the value of a vehicle based on the use of certain parts.

The CAPA Seal

The Certified Automotive Parts Association provides consumers, collision repairers, and insurers with a means of confirming the quality of auto parts through the CAPA seal.



Aftermarket Parts Do Not Invalidate the Warranty of A Vehicle

The Magnuson Moss Warranty Act

Under the Act, aftermarket parts do not void the warranty of a vehicle. Simply stated, a dealer can-



not worm his way out of a legal warranty simply because the consumer has installed aftermarket

parts. No properly installed part will void the warranty of a vehicle.

What the Act Does Not Allow

There are several prohibitions under the Magnuson-Moss Warranty Act. The Act does not allow implied, "tie-in-sales" provisions, and deceptive or misleading terms.

The following is a sample tie-in sales provision that is illegal:

"In order to keep your new Toyota Avalon warranty in effect, you must use genuine Toyota brand parts. Failure to have scheduled maintenance performed, at your expense, by the Great American Repair Company, Inc., voids the warranty."



Federal law prohibits companies from invalidating warranties for the use of generic/aftermarket parts
Magnuson-Moss Warranty Act

Conclusion

Time and time again, auto manufacturers try to confuse consumers by telling them that the installation of aftermarket parts will void their vehicle's warranty.

One such example is a Nissan ad that 'shows' body shops "How to Install a Genuine Nissan Bumper in Your Customer's Head".

The ad uses propaganda and untruths to coerce customers into using a genuine part. For example, the ad tells body shops to 'inform'

the customer that "lesser quality parts may actually decrease a car's resale value".

After getting the customer furious concerning the aftermarket parts that are installed in his car, the ad concludes by telling the body shop to "sit back and let someone else do the dirty work for a change".

In following their usual contradictory routine, auto manufacturers have also issued statements contradicting their

statements to consumers.

Installation of a non-genuine Ford item...does not, in and of itself, render our warranty void.
- Ford Motor Company *

These are examples of some more statements made by car companies:

Certain changes that you might make to your truck do not, by themselves, void the warranties described in this

booklet. Examples of some changes are: installing non-parts, components, or equipment.

- Car Company

If a part fails due to a defect in material or workmanship not related to an aftermarket product or the labor to install it, (Car Company) would be responsible for covering the failed part."

-Car Company

*Source: www.ican2000.com

THE CONSUMER WINS

The Consumer

WHAT THE AFTER-MARKET INDUSTRY DOES TO AID THE CONSUMER

- **Lower premiums:** With the use of aftermarket parts, insurance companies don't pass on the cost of using OEM parts to consumers in the form of increased premiums.
- **Prices:** Simply put, competition keeps prices down for the consumer.

- **Cycle time:** The availability of aftermarket parts makes cycle time more efficient as customers are usually able to get their cars repaired faster.

- **Prevent a monopoly:** Since the introduction of aftermarket parts, car companies have lowered their exorbitant prices. Aftermarket parts prevent OEM replacement parts prices from skyrocketing.

- **Totaled vehicles:** Using aftermarket parts can prevent a car from being totaled and prevent the consumer from having to pay higher premiums.

- **Better Choice means Better Service:** Many car owners are looking for a cost effective, quality repair to help keep their cars on the road. Aftermarket competition allows the consumer that option.

The consumer, if 'upside down in a lease or purchase', must reach into his pocket to pay off a totaled vehicle, then again, must reach into his pocket for the down payment at the car dealer to purchase the car that will take them to work.

"In spite of increased public acceptance of competitive parts, the auto manufactures continue to oppose their use."

~ Robert Hurns
NAIL

The Collision Repair Centers

- ✓ **Fix cars:** Collision repair centers are able to repair a vehicle with aftermarket parts, rather than having it totaled and receiving no business.
- ✓ **Car companies:** If OEM parts are used, car companies would steer repairs to their own collision repair centers, rather than the independent collision repair centers.

- ✓ **Designer Repair shops:** Car companies would like to stop parts competition as well as repair competition. Recent actions by car companies show their intent to take business away from independent repair shops.
- ✓ **Keeping business:** With the availability of aftermarket parts, collision repair centers aren't idle. Money and business flows in.



"...consumers have an instinctive revulsion to monopoly." [A monopoly's] effects include higher prices, restricted output, limited choice, lower quality, and wasted valuable resources."

~ JOAN CLAYBROOK
(President-Public Citizen)

QUALITY ASSURANCES / OUR MANUFACTURERS:

Many of Our Manufacturers Make Parts for Car Companies Too!

Quality Certification: QS-9000



QS-9000 is a set of Quality System requirements adopted by the automotive industry.

In 1994, Ford, Chrysler and General Motors announced that QS-9000 would immediately replace all previous supplier quality programs.

The QS-9000 system requirements include three sections. Section 1: Common requirements; includes the exact text of ISO 9001 with the addition of automotive/heavy trucking requirements.

Section 2: Additional requirements including those beyond ISO 9001.

Section 3: Customer Specific Sections; contains requirements unique to Ford, General Motors or Chrysler.

Independent manufacturers such as Fey Automotive Products Inc., TYC and Polywheels have achieved QS-9000 Certification

QS-9000:

If it is good enough for the car companies, why not good enough for the aftermarket industry?

Highlighting our Quality Aftermarket Manufacturers

A GREAT EXAMPLE OF QUALITY IS JUI LI, ONE AFTERMARKET MANUFACTURER THAT HAS BEEN IN THE BUSINESS FOR OVER 30 YEARS.

IN 1995, FORD MOTOR COMPANY AWARDED JUI - LI THE "PREFERRED QUALITY AWARD".

What Does This System Mean for Quality?

Registration in the QS-9000 system means that competitive manufacturers can match their activities with those on the international level.

Furthermore, the System puts competitive manufacturers on the same level as those of auto manufacturers. Therefore, if auto manufacturers choose to criticize the process of certification or if they decide to criticize quality, they are, in effect, criticizing their own methods.

The System requires manufacturers to state what they are going to do, and then ensuring they do what they say.

This assures reliability and adherence to the same standards as those set by auto manufacturers.

This international System has been enhanced to meet the needs of the auto industry. It includes key product characteristics, unique testing requirements and validation guidelines.

The emphasis is on continuous enhancement, identification of imperfections and definitions of the appropriate procedures.

Competitive manufacturers have adopted the same standards as auto manufacturers! If auto manufacturers claim aftermarket parts are inferior, then it is only logical to also brand their parts inferior!!

AutoLign is a US based parts producer for car companies. Unique to AutoLign is its exclusive use of OE- style tooling to manufacture products using OE quality raw materials. Parts are made in the USA.

The Automotive Body Parts Association ABPA

There are now more than 220 members of the Automotive Body Parts Association, founded nearly 20 years ago to represent the interests of the distributors, suppliers and manufacturers of alternative collision replacement parts. Collectively, the members of ABPA operate from nearly 350 separate collision parts distribution, bumper sales and recycling facilities in North America. They are also responsible for distributing more than 75 percent of non-OEM aftermarket collision replacement parts sold to the collision repair trade.

The members of ABPA are dedicated to serving the collision repair industry by providing quality replacement parts, dependable service and fair prices. Each subscribes to a Code of Ethics which encompasses high standards of business practice on behalf of its customers and the motoring public.

Facts about this business which the manufacturer, distributor and supplier of automotive collision parts, as well as their respective customers, should continually keep in mind:

- ABPA's members recognize their responsibility to provide the collision repair industry with Quality Products
- ABPA members warranty the products they sell with limited lifetime warranties; in many cases they are better than car companies' warranties.



This information brought to you by the Automotive Body Parts Association

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Testimony of

**Jack Gillis
Executive Director
Certified Automotive Parts Association**



**Before the Alaska Senate Committee on Labor and Commerce
On Senate Bill 32**

May 6, 2003

My name is Jack Gillis, I am Executive Director of CAPA, the Certified Automotive Parts Association. In addition, I serve as Director of Public Affairs for the Consumer Federation of America and I am author of The Car Book, which is prepared in cooperation with the Center for Auto Safety. I am here today representing CAPA in opposition to SB 32.

CAPA is a non-profit organization, which certifies the quality of parts used for auto body repairs. We are not a manufacturing, marketing or sales organization. We simply establish standards for competitive (non-car company) parts in order to ensure their functional equivalency to car company parts.

As a consumer advocate, I have spent over 13 years working on this important consumer program in order to protect American consumers from both poor quality and the ravages of the car company monopoly on aftermarket parts.

I am here today to ask you to give consumers true choice in the marketplace, protect them from one of the biggest secret monopolies America and protect them from poor quality crash repair parts. About 80% of the cosmetic replacement parts needed to repair your cars are only available from one source, the car companies, who mark up their replacement parts by up to 800%.

Car companies are spending millions of dollars to discredit aftermarket parts, scare consumers, co-opt body shops, and coerce state legislatures and regulatory agencies into protecting their monopoly with thinly veiled attempts to restrict aftermarket parts usage. This bill is a classic car company bill. It simply

Jack Gillis, Certified Automotive Parts Association
Before the Alaska House Transportation Committee—May 6, 2003

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perpetuates that monopoly by discriminating against aftermarket parts and prohibiting their use for the first four years of a vehicle's life.

Clearly there are two important issues facing the committee: Protecting consumers from a car company part monopoly and protecting them from potentially poor quality parts. Monopolies do not foster quality or fair prices. In fact, by increasing the car companies monopoly on crash parts, you are providing no incentive for them to improve the quality of their parts. On the other hand, if you foster competition, not only do you encourage fair prices, but also you stimulate quality improvements. Furthermore, if the competition is certified for quality, then you set a quality baseline that protects the consumer from shoddy parts. This legislature needs to foster a market that encourages both competition and protection from poor quality. Part quality certification programs encourage both.

The Certified Automotive Parts Association (CAPA) has such a program. The CAPA Board of Directors includes representatives from collision repair shops, consumer groups, insurance companies and part distributors. Our chair is the former chair of the nation's largest collision repair association.

In order for an aftermarket part to be certified by CAPA, a participating manufacturer must first allow a detailed review and inspection of its factory and manufacturing processes by our independent testing laboratory, which determines compliance with CAPA requirements. We evaluate the tooling, assembly, painting and inspection processes to ensure that the manufacturer is capable of producing aftermarket parts equal to, or better than, car company parts. Each part is then subject to a battery of material, corrosion, weld, and appearance tests. Finally, the part must pass a rigid vehicle test fit.

CAPA has been accredited by the American National Standards Institute (ANSI) as a standards developer, and joins such notable organizations as Underwriters Laboratory, National Safety Council and Society of Automotive Engineers.

Clearly there is a problem with parts quality. Collision repairers do not want to be forced to use poor quality. It's a hassle and it does not serve consumers. What needs to be implemented is a requirement that the less expensive aftermarket part meet minimum quality standards. Phasing-in a quality certification program

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of any third-party independent certifier, like I have described today, will address both the monopoly and quality issue.

I'd like to comment on car company part quality: As part of its comprehensive vehicle test fit process, CAPA regularly conducts test fits of car company brand service parts. Between March 1999 and March 2002, CAPA put 1,907 car company parts through an extensive vehicle test fit and discovered that 50% (954) parts did not meet CAPA standards for fit, finish and appearance. For the record, we will provide the committee with copies of our study and we have also prepared a short video showing some of the things we found.

Even collision repair leaders throughout the United States are saying, "I'm beginning to think that Jack Gillis is right—car company parts have problems."

Regarding the proposals in SB 32. The bill would require written notice or disclosure for aftermarket parts. This is nothing more than a thinly veiled attempt to protect car company profits and deny consumers the extraordinary benefits of competition. The sole purpose of written notice or disclosure is to bias consumers against reasonably priced parts aftermarket crash parts and steer them to the overpriced car company brand parts. Please note that the bill does not require the collision repairer or the insurer to disclose who made such critical parts having to do with steering, braking, or electrical circuitry, only the exterior cosmetic replacement parts.

If the true intention of the bill is to disclose critical information to consumers, then surely it would be important to disclose who makes these vital parts. If disclosure were required in all parts, I would be for it. On the other hand, limiting disclosure to one type of part only serves to bias the consumer against those parts. I am 100% for disclosure if it's intent is to educate and inform. On the other hand, if its intent is to protect a monopoly, then I am against it.

Finally, I would like to make a brief comment on the safety issue. I have been fighting for safer cars for nearly 25 years – fighting for airbags, antilock brakes, better crash protection, and rollover protection – and I can tell you that these parts do not have serious safety ramifications. That's why the Center for Auto Safety and the National Highway Traffic Safety Administration do not consider them to be safety related parts. However, the most powerful evidence of their limited effect on safety is the insurance industry itself. If, in fact, they were foisting unsafe parts on consumers, it would be their own companies who would be

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paying increased bodily injury claims – and that's simply not happening. Say what you will about insurance companies, but one thing they don't like doing is paying a lot of money in claims. Therefore it is illogical that they would be encouraging the use of a type of part that would increase their liability for bodily injury.

To summarize, SB 32 only encourages the continuation of the car company parts monopoly and poor quality. This committee has a unique opportunity to foster, encourage and demand competition—not continue to protect car company monopolies. We all know what happened when the car companies had to compete with the Japanese. Let's force them to step up the competition.

I encourage you to take steps to protect consumers from poor quality parts and the car company monopoly. If you truly want to protect consumers, require that the crash parts used to repair cars meet minimum standards for quality—don't ban competition, encourage it.

Thank you for the opportunity to comment on this bill.

Subject: testimony for 1:30 meeting

Date: Tue, 6 May 2003 12:56:43 -0700 (PDT)

From: Beth Rose <consolbodyworks@yahoo.com>

To: senator_con_Bunde@legis.state.ak.us

Dear Senator Bunde,

Your legislative aide encouraged me to write. My name is Beth Rose and my husband, Ted, and I are the ones who sent the fenders you will be looking at today. We currently own Consolidated Body Works in Anchorage, a mid sized shop. Kenny Miller may be ready to testify about these fenders via phone from Anchorage at the legislative offices as he is the one who purchased them at Consolidated while he was General Manager.

Ted and I really have been pushing for this legislation because we are the ones who see customers coming in having problems with the aftermarket parts on their vehicles. We want consumers to be informed about what they are buying. That's all. I encourage you to go down and touch those fenders, pick them up and feel the weight difference between the two. I urge you to consider which you would like between you and a car that's about to crash into you.

We know that aftermarket parts have a place in this industry. We are not insinuating that that they should not be allowed as an alternative to OEM parts. We are merely saying that shop should be required to inform their customers, that people who are hit in accidents be given the choice to have the type of part they want on their car rather than it be dictated to them. We see this every day: customers who are told by the insurance companies what kind of parts to put on their car, even if they are not responsible for the accident! It is double victimization.

We really don't have anything to gain by this legislation. Our business continues to inform customers and operate as it has been. This is just something that we feel would help our customers and future generations.

Sincerely,

Beth J.L. Rose
Owner, Consolidated Body Works

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same

6220 Rovenna
Anchorage, Alaska 99518

April 30, 2003

To: The Honorable Con Bunde
Committee Chairman
Senate Labor & Commerce Committee
Juneau, Alaska

Re: NAPA Opposes SB 32

Dear Senator Bunde,

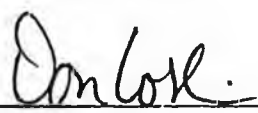
I am a NAPA associate and voter writing to let you know that I, my family, colleagues, friends and customers, are strongly opposed to SB 32. This legislation is a slap in the face to those of us who sell high quality aftermarket parts, who offer the best service and who believe that we are helping lower income motorists by offering them the highest quality parts, at up to 50 percent LESS than the price of car dealer parts. The same companies that produce aftermarket parts manufacture dealer parts. Aftermarket parts already come with lifetime or long-term warranties – which car dealer parts do NOT.

However, the Alaska Senate obviously does not believe that we voters who work in the aftermarket business count as much as those who are car dealers and car company people. SB 32 targets “hard parts” which we sell, and this bill will hurt our businesses enough where we will have to lay off employees.

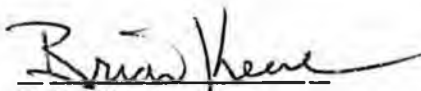
SB 32 is elitist legislation, not something ANY legislator in Alaska should vote for. Furthermore, Senator Seekins should recuse himself from ANY Committee action regarding SB 32. Senator Seekins is the owner of the largest Ford dealership in Alaska and this is a blatant conflict of interest for him.

A “NO” vote on SB 32 is a vote for the hardworking people of Alaska and low-income motorists. Please reply. Thank you.

Sincerely,
NAPA Alaska



Don Loski
General Manager



Brian Keene
Sales Manager



Jason Pugh
District Manager

SENATOR
JOHN J. COWDERY

Anchorage

Committees

Chair: Rules
Chair: Transportation
Chair: World Trade &
State/Federal Relations
Legislative Council



January - May:
State Capitol, Suite 101
Juneau, Alaska 99801-1182
Tel: 907-465-3879
Toll Free: 888-269-3879
Fax: 907-465-2069

May - December:
716 W. 4th Avenue
Anchorage, Alaska 99501
Tel: 907-269-0222
Fax: 907-269-0223

Senator_John_Cowdery@legis.state.ak.us

SPONSOR STATEMENT FOR SB 32

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

Consumers, who seek motor vehicle repairs following an accident, are not; in many cases given full information on the many types of replacement crash parts available to be used in the repair of their collision-damaged vehicles. Some types of replacement crash parts may be of inferior quality or may void the warranty for adjacent parts. Alternative parts can also create unnecessary safety risks due to improper fitting. Despite this, some insurers direct the use or installation of parts other than "original equipment manufactures" (OEM) replacement crash parts without advising consumers of these considerations. While some replacement crash parts are comparable to those manufactured or distributed by the carmaker, the professionals have found others to be inferior to OEM parts in terms of fit, finish, and quality.

The purpose of SB 32 is to protect consumers from the loss of their warranty. SB 32 states that the insurance company must be responsible for maintaining the warranty on a vehicle for aftermarket crash parts when applicable and if used. It also reinforces the consumers' right to have a choice through the consent language to the use of non-OEM parts, during the year of the vehicle's manufacture or during 3 years following that year. The vehicle repair shop must also disclose on the invoice when aftermarket parts are used in making a repair.

Consumers are being shortchanged every time an inferior fender, bumper, hood, radiator, wheel spindle, or steering component is used to repair body damage to a new vehicle. I believe when you buy insurance you have a reasonable expectation you car will be repaired and restored to the condition it was before an accident, without endangering a warranty. Consumers are entitled to this.

A jury in the State of Illinois held State Farm in breach of contract with their policyholders. The policyholders contract was for State Farm to return the damaged cars to pre-accident condition. The lawsuit was a result of State Farm using non-OEM aftermarket parts. State Farm was liable for \$1.18 billion in damages to their policyholders. Thirteen thousand Alaskans were part of this lawsuit.

This bill will allow consumers to consider their options with regard to an insurer's policy on the use of replacement crash parts, especially in newer vehicle's where a manufactures warranty is still in effect.

Fiscal Note to Come

BILL BACKUP

Aftermarket Crash Parts - Insurance Premiums the US General Accounting Office

Tempe, AZ 03/12/2001 - A number of State Legislatures around the country are considering legislation that would provide various forms of Consumer Protection as would relate to the auto insurance industry mandating the use of Aftermarket Crash Parts in the repair of Consumers' vehicles.

Because the insurance industry is regulated on a state level, Aftermarket Crash Parts statutes vary on a state-by-state basis. Following is a breakdown of state consumer protection statutes as quoted from the US General Accounting Office report dated January 2001 and entitled "*Motor Vehicle Safety - NHTSA's Ability to Detect and Recall Defective Replacement Crash Parts Is Limited.*"

NO PROTECTION: The following states have no statute protecting consumers as it relates to an insurance company's ability to mandate Aftermarket Crash Parts . . . AK, DE, ME, MT, NV, NM, ND, PA, SC, VT.

NOTIFICATION ONLY: The following states require only that Consumers be "Notified" that Aftermarket Crash Parts will be used in the repair of their vehicles. Consumers have No Right to object, only the right to be "Notified" of the insurance company's intent to use . . . AL, AZ, CA, CO, CN, FL, GA, ID, IL, KS, LA, MD, MA, MI, MS, MO, NE, NH, NJ, NC, OK, SD, TN, UT, VA, WA, WV, WI.

* **CONSUMER APPROVAL:** The following states require Consumer Consent prior to Aftermarket Crash Parts being used in the repair of their vehicles . . . AR, HI, IN, OH, OR, RI, TX, WY.

BANNED: Insurance companies *Can Not* require the use of Aftermarket Crash Parts in MINNESOTA !

INSURANCE PREMIUMS: In virtually every state that had enacted some form of Consumer Protection Legislation, the insurance and Aftermarket Crash Parts interests had lobbied against such Bills. The primary point they tried to drive home was that such legislation would cause an increase in auto insurance premiums. However, history has shown just the opposite to be true. In almost every state, where some form of Consumer Protection Legislation has been enacted, there have been auto insurance premium rate REDUCTIONS over the past 3 - 5 years.

Probably the most dramatic example to debunk the warnings of premium rate increases would be the experience of Consumers in Minnesota. Auto insurance premium rates have actually gone DOWN since Minnesota virtually Banned the use of Aftermarket Crash Parts. AND . . . on June 12 2000, State Farm Insurance (*the state's leading auto insurer*) supplemented their pattern of Premium Rate Reductions by declaring a "*Premium Refund Dividend*" of \$13.4 Million to be returned to their Minnesota Policyholders.

Premium Rate Patterns in Other States simply *Do Not* support warnings of Premium Rate Increases.

The United States Government Accounting Office report referenced herein can be accessed on the InterNet at www.gao.gov. The report Title is referenced above. The report number is GAO-01-225. The primary focus of this report is directed toward the safety of Aftermarket Crash Parts and NHTSA's ability to "*Track*" and "*Recall*" such parts when found to be defective. While the report determined that evidence on the issue of "*Safety*" was anecdotal and insufficient to draw a conclusion, the report did identify several internal problems within NHTSA which virtually nullify NHTSA's ability to Track and Recall any defective Aftermarket Crash Parts.

The US/GAO study was not intended to specifically address the "*Like, Kind and Quality*" issue as it relates to Aftermarket Crash Parts. However, the report did make one definitive statement as it relates to the auto insurance policy language "*LKQ*" issue. On page # 10 of the report, the US/GAO states . . . "*we saw aftermarket crash parts that were clearly different from their OEM counterparts*".

CONCLUSION: Consumers should have the Right-to-Decide whether Aftermarket Crash Parts are used to repair their own vehicles. Warnings of Premium Rate Increases, found to be groundless in other states, should Not stand in the way of a Consumer's Right to Choose.

**Appendix II
State Legislation Governing Aftermarket
Crash Parts and Recycled Airbags**

Figure 2: State Aftermarket Crash Parts Legislative Provisions as of November 2000

State	Disclosure statement required on consumer's estimate ^a	Consumer consent required ^b	Estimate must identify aftermarket parts ^c	Aftermarket parts must be "of like kind and quality" to OEM parts ^d	Manufacturer's warranty required ^e	Disclosure required about the effect of part's use on vehicle warranty ^f	Insurer cannot require use of aftermarket parts ^g	Manufacturer's identification required on part ^h	No regulation ⁱ
Ala.	■		■		■			■	
Alaska									■
Ariz.	■		■	■	■			■	
Ark.	■	■	■		■			■	
Calif.	■		■		■			■	
Colo.	■		■		■			■	
Conn.	■		■		■				■
Del.									■
Fla.	■		■		■				
Ga.	■		■		■			■	
Hawaii	■	■	■	■	■				
Idaho	■		■		■			■	
Ill.	■		■	■	■			■	
Ind.		■							
Iowa			■		■			■	
Kans.	■		■		■				
Ky.			■	■					
La.	■		■		■			■	
Maine									■
Md.	■					■			
Mass.	■		■		■				
Mich.	■		■		■				
Minn.							■		
Miss.	■		■		■			■	
Mo.	■		■		■			■	
Mont.									■

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Nebr.	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>				<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Nev.									
N.H.	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>				<input checked="" type="checkbox"/>	
N.J.	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>			<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
N.Mex.									<input checked="" type="checkbox"/>
N.Y.			<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>				
N.C.	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>					<input checked="" type="checkbox"/>
N.Dak.									
Ohio	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>			<input checked="" type="checkbox"/>	
Okla.	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>			<input checked="" type="checkbox"/>	
Oreg.		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	
Pa.									<input checked="" type="checkbox"/>
R.I.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>						<input checked="" type="checkbox"/>
S.C.									
S.Dak.	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>			<input checked="" type="checkbox"/>	
Tenn.	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>			<input checked="" type="checkbox"/>	
Tex.		<input checked="" type="checkbox"/>							
Utah	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>			<input checked="" type="checkbox"/>	
Vi.									<input checked="" type="checkbox"/>
Va.	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>			<input checked="" type="checkbox"/>			
Wash.	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>						
W.Va.	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>			<input checked="" type="checkbox"/>			
Wis.	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>			<input checked="" type="checkbox"/>	
Wyo.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>				<input checked="" type="checkbox"/>	
Total	33	8	36	10	27	4	1	23	10

^aSome states require that written repair estimates contain a disclosure statement notifying consumers that aftermarket crash parts will be used in the repair.

^bSome states specify that aftermarket crash parts can only be used after the consumer has signed a written consent for their use.

Auto Collision Repair Parts Quality As Related To Safety

I am pleased to be here in front of a group of people that have the power to effect changes in Alaska law that is becoming more and more important for personal safety on our highways.

My life's work, starting in the early fifties, has been with auto and light truck collision repair. I have been a shop owner, body and frame technician, and shop manager. I have been employed by new car dealers and independent body shops in Anchorage. Experience and training have provided the opportunity for me to learn about collision repair techniques as they are related to SAFETY, with fit and finish being secondary. I am not now working in the body repair industry but after working nearly fifty years, issues remain close to my heart. On many occasions I have been called upon to inspect and evaluate repairs that have been done by others, requests have been from dealers and private parties as well; the inspections were to evaluate repairs for safety issues. When I refer to safety it is for one of two things, will the vehicle be road worthy and is it as safe for passengers as it was when new?

Passenger vehicles are becoming increasingly complex with accent being placed on SAFETY, (More air bags and controlled crush zones) MILAGE, (lighter weight) and SPEED, (more power). It stands to reason that the more advanced the vehicles become the more critical all aspects of collision repair become, including replacement of body panels engineered to be part of the total personal protective unit. Auto body panels are the first line of protection in the event of a crash, air bags are secondary but not less important and are finely tuned to activate and deflate in a split second. It is my opinion that air bag deployment timing could be affected adversely by the installation of body panels that have nonstandard crush rates.

I have brought for your inspection, fender replacement panels for late model Ford f150 pickup trucks. One fender panel was obtained from Cal Worthington Ford and is an "OEM" replacement part, one panel was obtained from Aardvark Co. of Anchorage and is a CAPA certified "after market" replacement panel. My testing and inspection revealed inequities in the NON-OEM panel, some of which follow. I did not "pick and choose" these panels, I called on the phone and these parts were delivered as replacement parts.

These are the inequities that I found in the NON-OEM part.

- | | | |
|-------------------|----|--|
| Rust | 1. | A corrosion test revealed the lack of zinc coating for rust protection. Rust damage may cause the integrity of the panel to be compromised affecting safety. |
| Fit | 2. | Improper fit and alignment of the component panels forming the panel unit. |
| Spot welds | 3. | Spot welds of less than OEM size, fewer assembly welds than OEM, some welds were not attached and some were easily detached with a small pry tool; welds on the OEM part would require a cutting tool to detach. |
| Weights | 4. | Weight of a given steel panel indicates panel thickness so it stands to reason that two panels of similar dimensions should weigh about the same. The NON-OEM panel weighs about four and one half pounds less than the OEM panel, compromising integrity. |

These panels are typical of OEM and NON-OEM replacement parts that I have seen; that is the reason I am here before you today.

Autos and light trucks are engineered with increasing complexity, especially for passenger safety. Even windshield replacement has set standards for material integrity, there again for the total auto unit safety.

I have provided a print of the I-CAR frame repair standards for a Ford pickup to stress again the importance of design engineered crash damage control. Please see page #2 for CRUSH INIATORS.

In my opinion no one should install substandard, (any part of other than manufacturers specifications), replacement parts on any vehicle, even with owner approval as when they sell it, there likely won't be a warning sign in the window that indicates the repair history and possible danger.

In my opinion no one should install substandard, (any part of other than manufacturers specifications), replacement parts on any vehicle, even with owner approval as when they sell it, there likely won't be a warning sign in the window that indicates the repair history and possible danger.

You have the power to effect the lives of many people, please consider this issue with great care.

PS. Something to think about sometime:

I would like to have State control of "totaled" autos sold for salvage. If they are restored, they should be inspected and certified for safety by a licensed inspector before being sold and driven on public roads.

Kenneth H. Miller

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Are you entitled to brand-name repair parts? Know your OEM rights

By insure.com

Your insurance company promises to return your vehicle to its pre-accident condition after you're involved in a crash. Unfortunately, the definition of "pre-accident condition" is hazy at best, and the use of original equipment manufacturer (OEM) parts at repair time could develop into a tug of war involving many players.

You are certainly entitled to demand OEM parts after you crash your car, but your insurance company might not pay 100 percent of the repair bill if you do. What do you do if you're leasing a vehicle? And what do you do if you have to return it in the same condition as when you got it? Companies say non-OEM parts are just as safe and effective as original manufacturer parts. However, several class action lawsuits against major insurance companies call the safety of non-OEM parts into question.

OEM parts are manufactured by the maker of your vehicle. Non-OEM parts, often called aftermarket parts, are made by third-party vendors. Many insurance companies recommend cheaper non-OEM parts for the repair of damaged vehicles because it keeps insurance costs down. The industry sees non-OEM parts as quality replacements that are guaranteed and a perfectly reasonable alternative to OEM parts.

The use of original equipment manufacturer (OEM) parts at repair time could develop into a tug of war involving many players.

"We believe the existence and use of [non-OEM] parts save consumers

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money and ultimately serve them well," says Sharon Frazier, a spokesperson for State Farm Insurance Co. "All non-OEM parts [we recommend] must be Certified Automotive Parts Association [CAPA] certified. CAPA ensures that quality standards are followed in making competitive crash parts and making sure parts bearing the CAPA quality seal are in compliance with these standards."

State Farm encourages its policyholders to go with the non-OEM parts at repair time, and although the company allows you to choose between OEM and non-OEM parts, it discourages OEM usage through its practice of making you pay for the difference in costs.

Progressive Auto Insurance spokesperson Donna Marquard says her company will generally recommend that nonstructural parts, such as fenders, be replaced with non-OEM parts because that allows the company to save money.

However, Progressive's reimbursement practices depend on your policy. "If our policyholder specifically requests that OEM parts be specified on the estimate for all replacement parts, they may do so," says Marquard. "But they may have to pay the cost difference between the OEM part they desire and the non-OEM part we may have specified on the estimate."

How much can this cost you? Insure.com sought quotes for both an OEM rear bumper for a '90 Honda Accord and a non-OEM bumper. The Honda bumper was priced at \$275 and the non-OEM bumper was \$210. If you are a State Farm or Progressive policyholder, you'd have to come up with the extra \$65 for the Honda bumper. An estimate for a 1996 Ford Contour OEM hood was \$585. The aftermarket hood was \$299. You'd have to come up with at least \$286 (not including the tax) to get your Contour fixed with an OEM hood as a Progressive or State Farm customer.

As another example, the Insurance Information Institute's March 1999 report, "Where the Auto Insurance Premium Dollar Goes," says that it would cost \$72,000 to totally repair a 1997 Ford Taurus GL with OEM parts. The Taurus retails for around \$19,000.

Pennies from heaven?

Aftermarket parts are certainly cheaper, but why? In a friend-of-the-court brief, Public Citizen, a consumer-watchdog group founded by Ralph Nader, says, "Non-OEM parts can be sold at reduced rates because their manufacturers do not bear the cost of research, development, advertising, or special packaging . . . [and thus] the cost-savings made through the use of non-OEM parts runs into the hundreds of millions of dollars" for large insurance companies.

Interestingly, non-OEM parts are not encouraged across the board, and whether you'll be pressured to accept them depends on your insurer. At Chubb Insurance Group, for example, the use of OEM parts is *encouraged* whenever possible. According to Cristoph Ritterson, marketing manager for personal lines at Chubb, the company has found that its customers want protection from potential car depreciation, and that means installing OEM parts at the time of repair. "The customer doesn't even need to ask [for the use of OEM parts]. That's what we expect to do," says Ritterson.

Whether you'll be pressured to accept non-OEM parts depends on your insurer.

And unlike State Farm, Chubb doesn't require its policyholders to scrape together the difference between a non-OEM and an OEM repair. "We'll reimburse our customer for 100 percent of the repair bill, regardless," promises Ritterson. "If they want to go with non-OEM parts, they can, but we've found that our customers feel OEM parts are better than non-OEM parts."

Ritterson does note an important trade-off for his company's 100 percent reimbursement for OEM parts: Chubb's auto policies are more expensive than others on the market.

Look before you lease

Choosing not to use OEM parts might cost you a part of your security deposit at the end of the lease.

Your lease company requires the vehicle to be in the same condition when you turn it in as when you began the lease. Both GE Capital Auto Leasing and Provident Auto Leasing Co. forbid their lessees to add any parts that would reduce the vehicle's value. In the case of a Provident lease, you can't replace any parts without Provident's permission. This means that if you're involved in an accident and have to make repairs, you'll likely have to use OEM parts. The question is, will your insurance company pay the full OEM amount?

The answer is not clear. "If we feel that the vehicle cannot be restored to pre-accident condition using non-OEM parts," says Marquard of Progressive, "we write the estimate based on OEM parts." That means you'll be fully covered for repairs to your leased vehicle if you're a Progressive policyholder.

However, if you're a State Farm policyholder and the company feels it

can repair your leased vehicle to its pre-accident condition with non-OEM parts, you're probably going to be in a bind. Your lease might say explicitly that you have to use OEM parts at repair time, or it might imply that OEM parts must be used. If you choose OEM parts, you'll need to come up with the difference between State Farm's aftermarket part estimate and the OEM estimate.

Choosing not to use OEM parts might cost you a part of your security deposit at the end of the lease or you might be charged a disposition fee (typically between \$200 and \$500) when your lease runs out. The reason is that you're obligated to return the vehicle to your dealership in its pre-accident condition.

Safety of aftermarket parts a litigious issue

"Imitation parts may be a serious safety threat."

There are at least five lawsuits pending against insurance companies over the use of non-OEM parts for vehicle repair. State Farm, Allstate, GEICO, Nationwide, and USAA (five of the top 10 auto insurers nationwide) are being sued for, among other alleged no-nos, recommending the use of non-OEM parts.

"Imitation parts may be a serious safety threat," says Steve Mitchell, an attorney with Hagens-Berman, a Seattle-based law firm that brought the lawsuits against Allstate, GEICO, Nationwide, and USAA. "Repair shops call these parts 'Taiwan trash' for a good reason — they have substandard fit, crash resistance, and mechanical operation. In a word, they are dangerous."

Mitchell bases his conclusions on a *Consumer Reports* study from February 1999 that shows non-OEM bumpers and fenders might cause *more* damage to vehicles in crashes than OEM parts.

However, the Insurance Institute for Highway Safety (IIHS), which conducts crash tests, says that non-OEM parts do not degrade the safety of a vehicle involved in a crash. In two separate advisories the IIHS published in 1987, it concluded that "the cosmetic parts used to repair cars are irrelevant to safety" and that "cars without any of these parts at all easily comply with the [frontal-]crash test requirements set" by the government. IIHS stands by its advisories today, saying the information is still "accurate" and "relevant."

The concern about non-OEM hoods is that they won't buckle properly in a crash due to inferior manufacture. Despite the aftermarket hoods' apparent shortcomings, the IIHS predicted that, based on its examinations, non-OEM hoods would buckle correctly during a crash.

GEICO spokesperson Greg Marsh says that his company uses non-OEM parts unless there is a safety issue involved. Marsh would not comment further on the issue because of the ongoing lawsuit.

Choose your parts wisely

States that do not require non-OEM part disclosure

Alabama
Alaska
Arizona
California
Delaware
Washington D.C.
Hawaii
Iowa
Maine
Montana
New Mexico
North Dakota
Pennsylvania
South Carolina
Texas
Vermont
Washington

Source: National Association of Insurance Commissioners

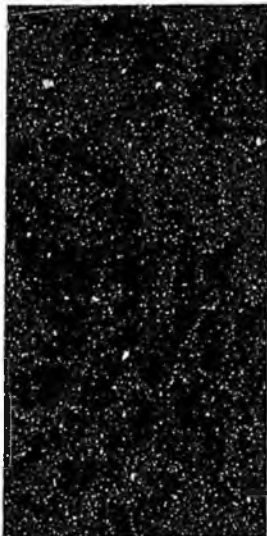
Consider whether you're going to trade-in or sell your vehicle before making a decision on using OEM parts. "If you're buying a Mercedes, you're buying it, in part, for the craftsmanship," says Ritterson of Chubb. "Who's going to want to buy a Mercedes with non-Mercedes parts?" Dealers routinely check the crash history of a vehicle to see what kinds of parts were used in its repair, according to Ritterson. Your resale or trade-in value might be hurt if non-OEM parts are used.

By the same token, you don't want to buy a patch-work vehicle from a dealer, so the onus is on you to check the vehicle's crash history if you're suspicious of its condition. Web sites like Carfax.com and Vhronline.com will run the vehicle history for \$25. Although you won't be able to see whether or not the vehicle was repaired with OEM parts, you will be able to see if the vehicle has been damaged and repaired in the past.

Know, too, that you have the right to ask for OEM parts whenever you've been involved in a crash. Most auto policies say the insurance company will return your crashed vehicle to its pre-accident state

with parts of "like kind and quality." Policies generally don't exclude the use of OEM parts (although your insurance company might not repair vehicles with OEM parts as standard practice), so don't be shy about insisting. In addition, some states do not require insurers to disclose to policyholders their use of non-OEM parts. It's important to know that in these states, you *have* to ask.

Aftermarket parts do help to keep auto insurance costs down. So if you're not concerned about keeping your vehicle free of imitation parts, you're likely doing yourself and your neighbors a favor in the long run. "Increased use of [aftermarket] parts would trim billions off the cost of the nation's auto insurance bill," according to the Insurance Information Institute's 1999 report on where your auto insurance premium dollars go. The group says that around 72 percent of all repairs are done with OEM



parts.

Last updated May 2, 2001

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GMSPO COLLISION PARTS POSITION STATEMENTS REGARDING COLLISION REPAIR

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WARRANTIES:

General Motors' vehicle factory warranties transfer when repairs are complemented with new genuine GM parts. The use of used salvage and/or imitation/counterfeit parts is ~~not covered by the GM factory transferable limited warranty on that part and all adjoining parts and systems which are caused to fail by these parts~~.

USED SALVAGE:

GM is an environmentally-conscious corporate citizen. We understand the merits of recycling and have initiatives underway within the Corporation that promote it. Additionally, we are concerned about our customers and maintaining GM vehicle image, value, functional and safety systems, and transferable factory warranties. Since GM does not warrant used salvage parts, we want to make sure consumers are aware of the consequences of having used salvage parts installed on their vehicles. At this time, we believe there are no systems or process in place to regulate the quality of used salvage parts in the market. Therefore, we are concerned about improper use of used salvage parts, i.e., wrong application as well as use of damaged materials.

DIRECT REPAIR PROGRAM (DRP) / PREFERRED PROVIDER OPTION or ORGANIZATION (PPO):

GM supports policies and programs which ensure GM vehicle owners' rights to have their vehicle repaired to pre-accident condition at the location of their choice. We support focus on issues of consumer protection which lead to customer retention for all those involved in the repair process. Acceptable DRPs and PPOs allow consumers to choose where to have their vehicle repaired, are open to any body shop that can perform proper, timely and cost-efficient repair; allow use of new OEM parts and materials to maintain vehicle factory warranties; disclose in writing to the consumer when non-new OEM parts are to be used; and secure the consumer's consent for use of non-new OEM warranted parts.

IMITATION PARTS:

GM does not support or recommend the use of any imitation part. Many independent OEM studies have documented the lesser quality of imitation repair parts. Use of imitation parts diminishes the value of the vehicle at resale. Also, studies have proven that the OEM replacement parts are designed to meet defined quality, safety and appearance specifications that are not replicated on imitation parts. Imitation parts are not covered by the GM factory transferable limited warranty on that part and all adjoining parts and systems which are caused to fail by these parts.

LEGISLATION:

We support legislation that requires the use of new genuine parts during the OEM factory warranty period, as well as written disclosure and consent of the consumer if imitation, aftermarket or used salvage parts are used. (Note: West Virginia passed such a law in 1995.)

SUPPLEMENTAL INFLATABLE RESTRAINT SYSTEMS (SIR):

Due to the critical nature of the design of Supplemental Inflatable Restraint Systems (SIR), GM

does not support the use of any used salvage or imitation parts for repair. Only new genuine GM warranted parts should be used in repair.

GENERAL MOTORS' POSITION ON THE INSTALLATION OF STOLEN OR USED SALVAGE AIR BAG SYSTEMS AND COMPONENTS

Due to the critical nature of the design of Supplemental Inflatable Restraint Systems (SIR) aka air bag systems, GM does not support the use of any stolen, used salvage, or imitation parts for repair. Only new genuine GM warranted parts should be used in repair.

Proper operation of the Supplemental Inflatable Restraint Systems (SIR) system requires that any repairs to the vehicle return it to the original production configuration and performance. Never use SIR parts from another vehicle. The reasons for this policy and practice within GM include the following:

Occupant Protection

Air bag system components are carefully developed and specifically tuned to interact in a precise fashion that produces optimum performance. Corresponding SIR system components from other models may appear similar from the outside, may even fit the vehicle, but different internal elements or calibration may result in degraded restraint performance.

Regulatory Compliance

All GM vehicles are designed and built to meet or exceed all applicable motor vehicle safety standards. Use of SIR components other than those specified could result in degraded occupant protection performance and a vehicle configuration that no longer meets applicable safety standards. A repair establishment that renders a regulated safety system inoperative violates the Safety Act and becomes liable accordingly.

Reliability

SIR components are designed, manufactured and installed to assure reliable performance for the life of the vehicle. Reuse of salvage components brings into question the conditions under which the components were obtained and stored prior to use. Components could have been damaged or stored under unfavorable conditions that could compromise performance on reliability.

In summary, new GM parts remain General Motors' recommendation on collision repair involving air bag systems and components. These new parts are consistent with the vehicle factory warranty and extended warranty programs which the customer has paid for either in the price of the vehicle or as a separate service contract. The air bag system can best be returned to designed and tested production standards when new original equipment parts are used.

GM stands behind its warranties and requests written indemnity to be on file when shops install used salvage air bag systems or components. Such disclosures, as well as written warranties on used salvage parts ensures the proper accountability for current and future vehicle owners.

General Motors Approved: December 2, 1997
General Motors Corporation
100 Renaissance Center
P.O. Box 431301
Detroit, Michigan 48243-7301

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Subject: Senate bill #32

Date: Wed, 30 Apr 2003 10:34:20 -0800

From: "Natalie Elliott" <naelliot@gpi.com>

Reply-To: <natalie.elliott@gpi.com>

To: <senator_con_bunde@legis.state.ak.us>, <senator_ralph_seekins@legis.state.ak.us>, <senator_bettye_davis@legis.state.ak.us>, <senator_hollis_french@legis.state.ak.us>, <senator_gary_stevens@legis.state.ak.us>

Jan

April 30, 2003

Hon. Members of the Committee
Senate Labor & Commerce
Juneau, Alaska

RE: CARQUEST OPPOSES SB 32

Dear Senator(s):

As aftermarket associates, voters and taxpayers, my family, friends and I are insulted and taken aback that the Alaska Senate would try to push through an anti-competition, anti-low income motorist, and anti-aftermarket bill that would only add to the economic problems of Alaska if it passes.

We at CARQUEST made our voices heard on HB 99 in the Alaska House Transportation Committee and that bill was pulled. SB 32 should die as well. The whole basis for both HB 99 and SB 32 is wrong. Aftermarket parts are manufactured by the same companies that manufacture car dealer parts. The only difference is in the price and our better warranties! Aftermarket parts cost up to 50 percent LESS than car dealer parts and aftermarket parts come with life-time or long-term warranties, which car dealer parts do not.

SB 32 is in violation of Federal Law know as the Magnuson-Moss Act, which prohibits warranties from being tied to repairs. SB 32 targets "hard parts," which we sell, and turns a blind eye towards the needs of lower income motorists. This bill is a political hot potato.

Furthermore, Sen. Seekins is the owner of the largest Ford dealership in Alaska and should therefore recuse himself from ANY Committee actions on SB 32. Otherwise, his participation in SB 32 is conflict of interest.

Please vote NO on SB 32. Please reply to my letter. Thank you.

Sincerely,

Natalie Elliott
3001 Alder Circle
Anchorage, Alaska 99508



Keystone Automotive Industries, Inc.

April 28, 2003

Senator Con Bunde, Chairman
Senate Labor & Commerce Committee
State Capitol, Room 506
Juneau, Alaska 99801-1182

Memorandum *Opposing* Senate Bill 32

Dear Senator Bunde:

I am writing this letter as Director of Government Relations for Keystone Automotive Industries and as the Co-chair of the Government Affairs Committee for the Automotive Body Parts Association (ABPA) and to ask you to oppose SB 32.

In business since 1947, Keystone Automotive Industries, Inc. is the nation's leading distributor of aftermarket collision replacement parts produced by parts manufacturers who, in some cases, also supply the car companies with crash parts. Keystone employs 3,200 people nationwide who service more than 25,000 collision repair shop customers across the country.

There are more than 210 member companies of the ABPA occupying more than 415 separate collision parts distribution, bumper sales, recycling facilities and manufacturing plants. Collectively, we are responsible for distributing more than 75 percent of non-OEM aftermarket collision replacement parts sold to the collision repair trade in the U.S. and Canada.


SENATE BILL 32: (Currently in the Labor & Commerce Committee)

- ***Insurer cannot mandate use of aftermarket parts for 4 years unless insured consents.***
 1. *This creates an unlevelled playing field for the aftermarket industry and gives car companies a competitive advantage!*
 2. *This legislatively mandates a 4- year monopoly for car companies!*
 3. *This bill gives aftermarket a black eye!*
 4. *This raises suspicion of consumers if they have to give consent to an aftermarket crash part the same way they give consent to a surgical procedure.*
 5. *Despite the cost savings, there is no incentive for consumers to pick aftermarket parts since the insurance company is paying the bill.*

- ***Suggests that use of aftermarket parts used in repair may invalidate warranty by manufacturer of part being replaced.***
 1. *The warranty on the original part would be replaced with that of the aftermarket part warranty.*
 2. *The aftermarket parts have better warranties than the original manufacturer parts.*
 3. *Aftermarket parts do not invalidate the warranty on vehicle; this would be a direct violation of the Federal, Magnuson-Moss Warranty Act!*

This bill if passed, will affect over 3,000 aftermarket employees in Alaska. On behalf of Keystone and the ABPA, we ask you to vote **"NO"** to **SB 32!**

Sincerely,



Eileen A. Sottile
Director, Keystone Government Relations
Co-chair, ABPA Government Affairs Committee

Enclosure

SB

43

Alaska State Legislature

Out of Session:
PO Box 531
Golovin, Alaska 99762
(907) 443-5599

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State Capitol, Suite 510
Juneau, Alaska 99801-1182
(800) 597-3707
(907) 465-3707
(907) 465-4821 Fax

SENATOR DONALD C. OLSON

DISTRICT S

SPONSOR STATEMENT

SB 43, Extend State Medical Board

Alakanuk
Ambler
Anaktuvuk Pass
Atkasuk
Barrow
Brevig Mission
Browerville
Buckland
Chevak
Deering
Diomedea
Elim
Emmonak
Gambell
Golovin
Hooper Bay
Kaktovik
Kiana
Kivalina
Kobuk
Kotlik
Kotzebue
Koyuk
Mekoryuk
Mountain Village
Newtok
Nightmute
Noatak
Nome
Noorvik
Nuiqsut
Nunam Iqua
Pitka's Point
Point Hope
Point Lay
Savoonga
Scammon Bay
Selawik
Shaktolik
Shishmaref
Shungnak
St. Mary's
St. Michael
Stebbins
Teller
Toksook Bay
Tununak
Unalakleet
Wainwright
Wales
White Mountain

This is the year for the legislative sunset review of the Alaska State Medical Board's operations and activities. I introduced SB 43 to extend the life and function of the board based on a satisfactory performance audit and my own experience.

The Legislative Budget and Audit Report (#08-20017-02) concludes that the board "has carried out its responsibilities in a manner consistent with statutes, good administrative practice, and the public interest." The report further recommends that the board's termination date be extended for another eight years.

In my own view, I expect there will be a greater necessity for the board's licensing function in the near future to serve both the medical community's expansion needs and the substantial replacement anticipated from the retirement of senior professionals. Indeed, last year the legislature modified the state's locum tenens law specifically to better recruit and retain medical personnel essential for the future health care of the Alaskan population.

I respectfully urge your favorable consideration of SB 43.

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES

Audit Report

DEPARTMENT OF COMMUNITY
AND ECONOMIC DEVELOPMENT
STATE MEDICAL BOARD
SUNSET REVIEW

August 15, 2002



Audit Control Number:

08-20017-02

Division of Legislative Audit
P.O. Box 113300, Juneau, Alaska 99811-3300

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

DIVISION OF LEGISLATIVE AUDIT

The Legislative Budget and Audit Committee is a permanent interim committee of the Alaska Legislature. The committee is made up of five senators and five representatives, with one alternate from the Senate and two from the House. The chairmanship of the committee alternates between the two chambers every legislature.

The committee is responsible for providing the legislature with audits of state government agencies. The programs and activities of state government now cost more than \$6 billion a year. As legislators and administrators try increasingly to allocate state revenues effectively and make government work more efficiently, they need information to evaluate the work of governmental agencies. The audit work performed by the Division of Legislative Audit helps provide that information.

As a guide to all their work, the Division of Legislative Audit complies with generally accepted auditing standards established by the American Institute of Certified Public Accountants and with government auditing standards established by the U.S. General Accounting Office.

Audits are performed as mandated by Alaska Statutes or at the direction of the Legislative Budget and Audit Committee. Individual legislators or committees can submit requests for audits of specific programs or agencies to the committee for consideration. Copies of all completed audits are available from the Division of Legislative Audit's offices in Juneau, Anchorage, or at our web site <http://www.legis.state.ak.us/legaud/web/default.htm>.

BUDGET AND AUDIT COMMITTEE

Senator Gene Therriault, Chair
Senator Dave Donley
Senator Lyman Hoffman
Senator Randy Phillips
Senator Jerry Ward
Senator Gary Wilken (alternate)

Representative Hugh Fate, Vice Chair
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Representative Reggie Joule
Representative Ken Lancaster
Representative Eldon Mulder
Representative Bill Williams (alternate)
Representative John Davies (alternate)

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FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SB 43
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: DCED
Title An Act extending the termination date of the BRU Occupational Licensing (117)
State Medical Board Component Occupational Licensing
Sponsor Senator Olson
Requester Senate Labor and Commerce Component No. 2360

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services	389.5	389.5	389.5	389.5	389.5	389.5
Travel	33.8	33.8	33.8	33.8	33.8	33.8
Contractual	301.4	301.4	301.4	301.4	301.4	301.4
Supplies	5.0	5.0	5.0	5.0	5.0	5.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	729.7	729.7	729.7	729.7	729.7	729.7

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (1156)	729.7	729.7	729.7	729.7	729.7	729.7
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other 1156- Receipt Supported Services	729.7	729.7	729.7	729.7	729.7	729.7
TOTAL	729.7	729.7	729.7	729.7	729.7	729.7

Estimate of any current year (FY2003) cost: 729.7
Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal: X

POSITIONS

Full-time	5	5	5	5	5	5
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The bill extends the State Medical Board to June 30, 2011. In accordance with AS 08.03.020, funding is extended one year following the termination date allowing the board to conclude its affairs. The information above identifies dire expenditure and revenue information included in the FY 2004 Operating Budget request. New funds are not required to implement this bill.

Prepared by: Jennifer Strickler, Administrative Manager Phone (907) 465-2144
Division Occupational Licensing Date/Time 2/21/03 4:57 PM
Approved by: Edgar Blatchford, Commissioner Date 2/21/2003
Agency Department of Community & Economic Development

REPORT CONCLUSIONS

In our opinion, the termination date for the State Medical Board should be extended. The regulation and licensing of qualified physicians and other health care professionals is essential to protecting the public's health, safety, and welfare. State health care consumers rely on the diligence of the board and staff to promote the provision of quality healthcare.

The board serves this public interest by establishing minimum educational and work experience requirements that individuals must meet to become licensed physicians, osteopaths, podiatrists, paramedics and physician assistants. The board further serves this public interest by investigating complaints against licensed professionals and taking disciplinary licensing action when appropriate. The board has satisfactorily carried out its responsibilities in a manner consistent with statutes, good administrative practice, and the public interest.

AS 08.03.010(c)(12) requires the State Medical Board be terminated on June 30, 2003. Under AS 08.03.020, the board has a one-year period to administratively conclude its affairs. Based upon our review of the State Medical Board's operations and performance over the past three fiscal years, we recommend the legislature extend the board's termination date to June 30, 2011. While such an extension exceeds the maximum period suggested in statute, it is within legislative discretion.¹

The 1995 legislature, consistent with the recommendation set out in our previous sunset report on the board, extended the State Medical Board's termination date eight years. In our view, this was done because of the manner in which the board had operated, and reflected the confidence the legislature had that the board was acting in the public's interest.

Consistent with the last sunset review, we have not identified any significant deficiencies in the manner in which the board has been operating. Accordingly, we again recommend that the legislature consider extending the termination date for eight years, to June 30, 2011.

¹AS 08.03.020 (c) states:

A board scheduled for termination... may be continued or reestablished by the legislature for a period not to exceed four years unless the board is continued or reestablished for a longer period... [emphasis added]