

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2358

**2001 SENATE TRANSPORTATION**

**SB 2358**

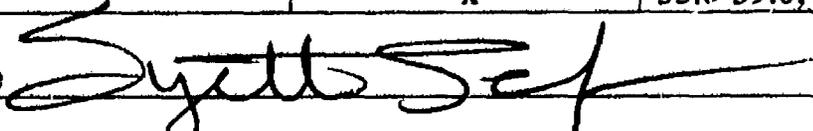
2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2358

Senate Transportation Committee

Conference Committee

Hearing Date 2-2-01;2-8-01;2-15-01;2-16-01

Tape Number	Side A	Side B	Meter #
1	x		0.0-End
1		x	0.0-33.3
2-8	x		15.9-17.5
2-15	x		0.0-5.1
2-16		x	33.0-39.0;48.1-51.8
Committee Clerk Signature 			

Minutes: SB 2358 relates to the use of replacement crash parts in motor vehicle repairs.

**Randy Schobinger:** ( District 3; Supports) See attached testimony and proposed amendments.

**Senator Fischer:** ( District 46; Supports) Supports bill.

**Lane Quandt:** ( Chairman of ND Auto Body's Association's Legislative Committee; Supports)

See attached testimony.

**Senator Trenbeath:** Is it your practice to advise customers of the parts you use?

**Lane Quandt:** Absolutely. There are certain insurance companies that will only put on lower quality parts. We are the ones caught in the middle of the insurance company and the consumer.

**Senator Trenbeath:** For the record, as the proposed bill is written, after-market parts such as starters, alternators, tires, batteries, radiators, etc. are not included in this bill, correct?

**Lane Quandt:** That is correct.

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**Senator O'Connell:** In a lot of cases bolt holes don't line up, is this the types of problems we are talking about?

**Lane Quandt:** Fit, finish, thickness of metal, there are a multitude of problems.

**Elton Christopherson:** ( ND Auto Body Association; Supports) Shows example of defective headlight and states that there is no consistency or standards.

**Neil Krueger:** ( Valley Ford Collision Center; Supports) See attached testimony.

**Dick Hedahl:** ( President of Hedahl's; Supports) He feels like the "seven" year old part of the bill is unfair and also prefers this bill to be an insurance bill, not an automotive bill. He states that his main point is that industry should inform the consumer.

**Scott Heintzman:** ( ND Auto Body Association; Supports) States that ND is one of eleven states that do not have regulations on this issue.

**Terry Wels:** ( ND Association of Insurance and Financial Advisors; Lobbyist #365; Supports) See attached testimony.

**Eileen Sottile:** ( Keystone Automotive Industries, Inc.; Opposes) See attached testimony. She hands out various auto parts comparing original and Non-OEM parts showing Non-OEM parts are of same quality.

**Shaun Miller:** ( President of Fargo Bumper; Opposes) See attached testimony.

**Jim Yost:** ( Dakota Bumper and Body Supply; Opposes) States that his return rate is less than 3% and his non-OEM parts are 40% cheaper than original parts. This bill limits competition and people will lose jobs if this passes.

**Rob Hovland:** ( Center Mutual Insurance; Opposes) Stated that he gives his customers an option to pay higher premiums to get OEM parts. Auto Body owners and employees, insurance

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adjusters, and insurance agents are not paying higher premiums for OEM parts; doesn't that say it all?

**Senator Trenbeth:** You talk about endorsements, what's the language used?

**Rob Hovland:** "If you want to be guaranteed to have use of OEM parts" versus "Like kind of quality"

**Jack Gillis:** ( Executive Director Certified Automotive Parts Association; Director of Public Affairs for the Consumer Federation of America; Opposes) See attached testimony.

**Paul Traynor:** ( Nodak Mutual Insurance; Opposes) They are the largest domestic insurer with over 200 employees in ND. Insurance rates run in cycles. We have been in a 13 year suppression, this is starting to change. Expect approximately a 15% increase in auto rates for ND.

**Patrick Ward:** ( ND Domestic Insurance Company; State Farm Insurance; National Association of Independent Insurers; Lobbyist #281; Opposes) See attached testimony.

**Kent Olson:** ( NDPIA; Lobbyist #70; Opposes) Recommends three years instead of the seven years stated in bill.

**Dean Richter:** ( State Farm Insurance; Lobbyist #408; Opposes) See State Farm pamphlet.

**Leah Coglean:** ( American Insurance Association; Lobbyist #289; Opposes) Opposes bill.

Hearing closed.

Committee reopened on 2-8-01.

Senator Trenbeth gives out a handout. Needs to get amendment yet.

Committee closed.

**Committee reopened on 2-15-01.**

Senator Trenbeth hands out a proposed amendment.

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**Senator Trenbeath motions to accept proposed amendment. Seconded by Senator Mutch. Roll call taken. 4-2-0. Senator Trenbeath moves to Do Pass as amended. Senator Mutch seconds. Roll call taken. 3-3-0. FAILED.**

**Committee reopened on 2-16-01.**

**Senator O'Connell Motions to Reconsider bill. Seconded by Senator Mutch. Voice vote roll call taken. 6-0-0.**

**Senator O'Connell motions to Do Not Pass. Seconded by Senator Bercier. Roll call taken. 3-3-0. FAILED.**

**Senator Stenehjem hands out proposed amendment. Senator Bercier motions to Do Pass as amended. Seconded by Senator Trenbeath. Roll call taken. 5-1-0.**

**Committee closed.**

**PROPOSED AMENDMENTS TO SENATE BILL NO. 2358**

**Page 1, line 14, remove "which is not older than the motor vehicle being repaired with the part"**

**Page 3, line 3, after "new" insert "or recycled"**

**Page 3, line 7, after "new" insert "or recycled"**

**Page 3, line 9, after "new" insert "or recycled"**

**Page 3, line 12, after "than" insert "new or recycled"**

**Renumber accordingly**

**PROPOSED AMENDMENTS TO SENATE BILL NO. 2358**

Page 1, line 8, remove "'insurer" means an insurance company or any person authorized to represent"

Page 1, remove line 9

Page 1, line 10, remove "b." and remove "replacement crash"

Page 1, remove lines 12 through 14

Page 1, line 15, replace "d" with "b"

Page 1, remove lines 17 and 18

Page 1, line 19, replace "f" with "c"

Page 1, line 21, replace "g" with "d"

Page 2, line 2, remove "and obtain"

Page 2, remove line 3

Page 2, line 4, remove "representative"

Page 2, line 7, remove "and Authorization"

Page 2, replace lines 13 through 31 with:

"This estimate has been prepared based on the use of automobile parts not made by the original manufacturer. Parts used in the repair of your vehicle by other than the original manufacturer are required to be at least equal in kind and quality in terms of fit, quality, and performance to the original manufactured parts they are replacing."

Page 3, remove lines 1 and 2

Page 3, line 4, replace "original equipment manufacturer" with "or recycled" and after "the" insert "vehicle"

Page 3, line 6, replace "unless the motor vehicle owner consents at the" with a period

Page 3, remove lines 7 through 12

Page 3, line 13, remove "This section only applies to motor vehicles of a model released in the current"

Page 3, remove line 14

Renumber accordingly











**REPORT OF STANDING COMMITTEE**

**SB 2358: Transportation Committee (Sen. Stenejem, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (5 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). SB 2358 was placed on the Sixth order on the calendar.**

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2001 HOUSE TRANSPORTATION

SB 2358

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2358

House Transportation Committee

Conference Committee

Hearing Date March 8, 2001

Tape Number	Side A	Side B	Meter #
1		x	2,065
Committee Clerk Signature <i>Louisa B. Ford</i>			

Minutes: Rep. Weisz - Chairman announced that all those wishing to appear on SB 2358 there was due to time constraints, each side would be limited to 45 minutes. Note: This was not enforced and the hearing continued from about 10:25 AM and ran until about 12:40 PM and the hearing was held open for late filed testimony.

Rep. Weisz - Chairman opened the hearing on SB 2358 (version 300); A Bill for an Act to create and enact a new section to chapter 51-07 of the North Dakota Century Code, relating to use of replacement crash parts in motor vehicle repairs.

Sen. Schobinger: I am a State Senator representing District 3. District 3 includes most of east Minot including Surrey. A copy of his written testimony and his proposed amendment are attached.

Rep. Thorpe: ( 2532 ) My first question is who are you presenting this bill for?

Sen. Schobinger: I sponsored this bill and the people who support this bill will be up testifying for it.

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**Rep. Thorpe ( 2562 )** Is this presented as a consumer protection bill and is that the theory we are moving forward on ?

**Sen. Schobinger:** The intent of this bill is to allow a motor vehicle owner to consent to before and after market parts before parts are put in the car. It is a policy question.

**Rep. Thorpe:** ( 2612 ) If it is consumers were are protecting where are they, I have not had one e-mail, nor heard one consumer testify for this bill. I would like to know who they are?

**Sen. Schobinger:** There are currently many, many law suits outstanding. Refer to the earlier testimony -- the Illinois case. It is the largest in the country by one of the largest insurance companies in the country as a class action law suit.

**Rep. Thorpe:** ( 2692 ) We are talking about consumers in North Dakota.

**Sen. Schobinger:** The consumers are the policy holders.

**Rep. Thorpe:** ( 2706 ) Have the body shop people been unable to resolve this issue through the Insurance Commissioners Office? Which in my opinion is one of the best insurance commissions in the nation. If this question needs to be resolved why have you and the body shops not brought this to the Insurance Commissioners Office?

**Sen. Schobinger:** This is a policy issue and this is the policy making branch.

**Rep. Thorpe:** ( 2761 ) My experience in the legislature is that when these type problems come up they were handled in the insurance commissioners office and if could not resolve them, then he brought them to us. Is that right?

**Sen. Schobinger:** I respectfully disagree.

**Rep. Thorpe:** ( 2858 ) I don't want to belabor this but if you apparently don't trust insurance companies, the adjusters, the Insurance Commissioners and knowledgeable consumer out there to

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make decisions for themselves about their repairs and before I could even consider this bill I would respectfully need a fiscal note from whatever department that would be handling enforcement of this measure and also explain the overall cost -- you may grin about this but we are talking millions and millions of dollars -- so I would like that fiscal note addressing the impact on the insurance premium payers of this state on 750, 000 or more vehicles registered in this state required to be insured. We also request that the sponsor furnish a realistic number of expected increase in vehicles will cause to travel our roadways without insurance coverage. I would like that figure. Further I respectfully request an analysis of the effects this bill would cause on all the owners and lessee of motor vehicles leased or under long term contract who find themselves in a severe deficit situation due to the great increase in units being totaled out due the associated due the associated increase in estimates through body shops. If you can furnish all that to me I would be happy to look at this bill.

**Sen. Schobinger:** I could make an inquiry and try to find as much as possible of that information--- I would need a copy of your notes -- the questions.

**Sen. Flakoll:** I just want to speak briefly as I believe this to be a consumer friendly bill. I have a handout for you. A copy of that material is attached.

**Rep. Mahoney:** ( 3443 ) Are you saying that the after market parts are inferior.

**Sen. Klakoll:** Yes

**Rep. Mahoney:** ( 3460 ) And that is based on?

**Sen. Fakoll:** I'll let the experts testify to that but if you take a minuscule percentage of being off --take a look a how tight some of these hoods and doors fit --- it can have a phenomenal impact -- and there can follow secondary and tertiary problems associated with because if your doors start

rubbing -- and if a new door causes problems in the rest of the car then you have secondary problems associated with that -- so am I saying that overall they are inferior, -- they are less quality than original parts -- yes.

Rep. Thorpe: ( 3530 ) This could go on for hours -- I have had an occasion to have need of hood installed on the pickup I am driving -- its out here in the parking lot - - I bought it from a GM dealer -- it had the GM wrapping on the outside -- that part number on it -- first when I took it home -- when I unwrapped it there was nothing on that to indicate where the hood came from -- except for a little sticker which was still on it on the inside --- it said it was made in Mexico. I presume GM contracts for products from Mexico and I presume the after market parts are probably bought from the same place. Now that's OEM crude I spent all afternoon washing and sanding that - to get it straight so that I could use it. I don't know if the after market hood would have fit would have been better but at last the new hood wasn't up to my expectations. How are we going tell when that hood is installed by a shop -- how is a person going to know where that hood came from. Whether its OEM or after market ?

Sen. Flakoll: I believe there will be other who will come after me who -- but I believe -- looking at some of the hoods I've seen -- I believe they are stamped inconspicuously so you can identify them and those in the industry have knowledge of where they come from. Now it's a situation where -- are all these other parts terrible -- not necessarily -- but it is just like wearing your seatbelt-- you have a greater chance of safety -- of having what you want to have happen if you are wearing a seat belt - - what I am saying is that you have a greater accuracy in the original parts than you do with something else made from a stamp that was --- what they do is five stamps and they will take an average of those and they say that is the one we're going to use.

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Lance Hagen: I represent the North Dakota Autobody Dealers Association. What we originally drafted and the amendments is what we anticipated would be before this committee. That is the way this bill should have come down. Fortunately Sen. Schobinger and I communicated back and forth --- we were up against a deadline to introduce this bill. WE needed to fix the bill and with the amendments is the bill we wish was before you, but the amendments were stripped in the Senate floor debate. The person I represent before you - - we never had any intention of cutting the recycled parts people out of this bill. I think that a part of this has been overlooked -- it is in section "c" where it gives the definition of a recycled part. Part of that was struck and we should have had recycled in there. We passed this bill over here with the expectation that the amendments like would be in the bill here.

Rep. Weisz - Chairman ( 4097 ) Do you have any data that shows the inferiority the after market parts?

Lance Hagen: Mr. Chairman -- I would like to leave that to the people I .

Rep. Thoreson: ( 4142 ) I believe there were about three different amendments offered in the Senate -- I think from what I have been told you refuted all of them?

Lance Hagen: No -- actually -- I only saw one amendment -- we offered our amendment originally -- that never got moved in committee -- the one before you now -- but I only saw other amendment. I am not aware of three of them. One thing about it though is that this bill is good for economic development in North Dakota -- I think Northwest Airline is appreciative of it -- the newspaper association should be appreciative of it -- so hopefully we can fix this here.

Waynwe Quant . I own a body shop in Minot and I am Chairman of the ND Auto body Association's legislative committee. Our association supports the amendments present by

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**Senator Schobinger. Is important that they get added to the bill. And, it is especially important that the amendments concerning recycled OEM parts get added to this bill. Most of the body shops want to be able to use recycled and salvaged OEM parts in our repairs. I do need to clarify some misconceptions of 2358: this bill does not mandate nor required the use of OEM original equipment parts; -- it only asks that the consumer be made aware of the parts being used and that the consumer consents to any the use of any parts that aren't OEM; Next, this bill is not about body shops versus the insurance industry. We both have the same customers. The problem is that the insurance companies have been sold a 'bill of goods' by the after market parts - crash parts companies. They have been told they will provide parts of comparable and like quality to OEM parts but they are not. If crash parts were consistently as good as OEM there would be no need for this bill. How many would be concerned about Monroe shocks or Champion plugs -- these are know and reputable companies -- with proven names we have come to know and trust but if your vehicle was in an accident how would you feel about a 'profortune' grill installed in car or an 'insure' fender --- and he added a list of other names and parts- - without your knowledge? How many of you have read your automobile insurance policies? And really know that these parts can be used on your vehicle? I wish that all parts were and are created equal but they are not. At the last hearing parts were passed around for you to compare but you can't tell a book by its cover and the look as good but the real test will they fit on the vehicle. I have pictures of vehicles we have worked on since the last hearing and these photos prove my point -- these will be passed around for you look at. After market parts are not equal but there are people here who will tell they are. One thing you need to understand is that the people from the insurance industry, ? KAPPA? And the people who supply and distribute the parts do not have to sit across the desk**

from the consumer -- look them in the eye and say -- we were able to restore vehicle to pre-accident condition and this a quality repair that were are proud of -- we have to do that every day. AT the Senate hearing the statement was made that the body shops wanted to use OEM parts because they can make more profit on higher price parts -- on the contrary -- In fact we would ask the bill would be amended so that we could use recycled parts which in many cases are less than half the after market crash parts. It has also been said this bill would raise insurance but let me quote the consumer's report --most auto insurers endorsed imitation parts because they can be 20 to 65% less expensive than OEM. The companies we survey provided no evidence that those savings were passed on to the policy holders. Another suggestion the idea of a separate insurance policy for those who prefer to use of new or original OEM parts. Robert J. Hunns(sp ?) Council of the national Association of Independent Insurers opposes this law because and I quote " It creates the presumption that competitive parts are of inferior quality". To that I say Amen. I contacted five insurance agencies in Minot that handled the secondary insurance that they now have the OEM policy available and one of those agencies was aware of such a policy. This made it very hard to get a price quote to see the price difference between these policies. To me the OEM policy is the insurance company's way of offering the consumer yet another band aid on the issue of after market crash parts. As you ll know a band aid is no good if it is not placed over the sore. By the same token a two-tiered policy is of a little value if the insurance companies are unaware of I and the consumer doesn't understand. What good is a lifetime warranty on a part that doesn't fit on the vehicle. Until the day that all after market crash parts are equal consistently to that of OEM I feel we need this law. The only reason I am here is for the consumer. Rep. Thorne: ( 5152 ) I took the occasion to go up to Commissioner Poolman's office and asked them

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if they had registered complaints from consumers -- here is the letter I got -- they have not had one --not one complaint. If this is such a big problem for consumers would the Insurance Commissioner had a least one complaint?

Wayne Quant: I believe that the reason they don't have any complaints is because the body shop has taken the effort to get the OEM part and put it on or they have made the adjustments necessary to make the after market part work. We do have to make the customer happy.

Rep. Thorpe: ( 5304 ) I know that you do a fine job -- however, to get at some of the base of what we are doing here -- are new original or after market parts -- when you buy them from your supplier who ever they may be -- you do have mark-up on these parts - right? ( yes we do ) So if the OEM parts are higher you are going to make a few more dollars -- right?

Wayne Quant: Seriously, this not about making trying to make more money on higher priced parts -- it is about fixing the consumer car back to pre-accident condition. I will be very honest with you -- when I helped to introduce this bill--I did not have profit in mind.

Rep. Carlson: ( 5459 ) When a car comes into you that been wrecked -- who picks the parts that are go on that car? You do the estimates for the individual but who picks the parts that are going on there and doing it everyday?

Wayne Quant: There can be various people -- there are time that I will write an estimate -- that has all OEM parts on -- It gets sent to a desk adjuster -- that estimate can come back with after market or non-OEM parts -- it can come back with where the estimate is -- there is also times that an insurance company will make a decision on the type of parts that will be used on that vehicle -- I feel the consumer need to be a part of the decision making so they can be a part of that

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Rep. Carlson: ( 5603 ) We are talking inferior after market parts and terms that I am not all that familiar with -- do you have -- in how many -- in 80 % and 70% -- how many per cent of the cars you fix do you have the say in what parts are going to be used?

Wayne Quant: I would say that right - about 50% of the time we would have the say of what actually 's used.

Rep. Carlson: ( 5705 ) When you get a part and I am trying to remember your original OEM -- but how are you assured that when you get a part -- a new hood for example for my car -- that has a stamp on it -- I don't if its Ford, GM or Chrysler -- that that park wasn't made by someone else in the same shop that was made for the other company that sent you the parts that weren't OEM ?

Wayne Quant: The only assurance that I would have is that it was delivered to me by the GM or Ford dealer -- that it has the GM or Ford stamp into the metal, and in a lot of cases you can tell -- by the quality but I couldn't say for sure that I could tell.

Rep. Carlson: ( 5826 ) So you feel - if you got two hoods and one was an OEM and the other came from which ever one of the companies you listed -- both are made in Mexico -- one had a stamp on it and one didn't -- is there any difference in the thickness of the metal -- or the way they are bent or the way they fit -- what is the inferior parts of these metal works because I've got a letter from a body shop and he said that the way they had to find them in the tin size or the metal -- is that correct or not correct?

Wayne Quant: I guess what I would like to do is read just a little bit of -- just paragraph out of this magazine - "Auto World Weekly" -- this will also answer Mr. Mahoney's question earlier -- "This issue at the heart of these law suits is whether imitation parts are as good as those made by

the vehicle manufacturers. The National Coalition Marketing Institute recently conducted a survey that found that 97% of OEM replacement parts fit vehicles correctly but only 27% of the "KAPPA" certified parts and a mere 13% of non-KAPPA certified parts provided acceptable fit. The survey also found that non-OEM parts generally take longer to install and finish. It found that the installation time to as much as 33%."

Rep. Carlson: ( 6049 ) If you get inferior products or what you feel is inferior -- a hood -- a fender or whatever-- would you or would you not put it on?

Wayne Quant: There are things that make a difference on this --- one, if the customer needs the car the next day or not --- in a perfect world, no I would not put it on. I would want to wait until I could a part that fit correctly -- that my technician wouldn't have to spend an extra hour -- but we are not living in a perfect world.

Ruby: ( 6147 ) How long does a vehicle have to be before there are after market parts available?

Wayne Quant: They can be available as quickly as one year -- the reason that is, is because like the '89 to '98 chevey pickup -- that was the same vehicle for the parts that we are talking about for about the last ten years -- so a lot of times they are available as after market for that vehicle the same year.

TAPE 2 SIDE 1

Rep. Schmidt: ( lost the question in change of tapes. )

Wayne Quant: Rep. Schmidt, the percentage --- what you are saying, right now I would say the percentage is -- what you are saying is they are paying for it themselves, they are not using insurance. The would be -- 5% of our business -- maybe.

Rep. Schmidt: ( 16 ) I used to have a pickup -- after 4 years we just took our collision off our pickup. And when we traded them off I would put anything on there as cheap as possible. Please don't charge me a lot of money to fix it. I figured out I was a lot better off not carrying insurance. So you are talking about saving some serious money are you not?

Wayne Quant: That's true. When you -- when the customer pays for it themselves-- they now have choice of what part is used on the vehicle. I think that is what we are talking about.

Rep. Thoreson: ( 82 ) Do you ask the customer when they come in what kind of parts they want -- whether they want original parts or not -- do you have any kind of conversation with them about that?

Wayne Quant: At this point -- because there really is no regulations -- the customer isn't involved -- of course, we ask them what their preference is -- but we don't have to right now -- there is no disclosure -- That is one thing I would like to point out -- that North Dakota is only one in ten states that has no regulation in after market parts -- that is my answer to Mr. Thorpe's question to Mr. Schobinger.

Rep. Thoreson: ( 152 ) So when you do ask them what is their answer? Do they say they want --

Wayne Quant: I feel that answer depends on the year of the car -- sometimes they will do whatever you feel and what works the best for you.

Rep. Weisz - Chairman ( 194 ) Is it an issue -- you mentioned that -- you are a repair center and you and you repair rather than replace -- do you see that as an issue? Do you feel old parts should be replaced? Should all parts be replaced?

Wayne Quant: Absolutely not. Our business is to repair cars and what's happening so often now is the way vehicles are being built -- many cases the parts have to be replaced. At this point I

would also like say that I have no problem replacing it with a used OEM part. I would definitely do that before I would put an after market part on. We repair as much as we can - yes.

Rep. Weisz - Chairman ( 268 ) If you repair you use some body filler -- that is not original any more -- it is not back to the way it was -- it may look it but it is not.

Wayne Quant: Actually there are vehicles that come from factory that body fill in certain places on them -- and the way our shop does it -- what we try to do is make the repairs so there would be no more than 1/8 inch at the most -- 1/16 inch of filler. We guarantee our work for the life of the vehicle when it comes to repairs.

Rep. Thorpe: ( 295 ) Who pays for the rental fee when the car is in for repairs? The shop or the insurance company?

Wayne Quant: Usually - - it just depends on how the accident happened, if the customer is the claimant -- in most cases the other insurance company responsible for the work will pay -- if the customer needs it -- if it is the customer's fault, if he has rental coverage then his insurance will pay for it -- and if the customer doesn't have coverage then the customer pays for it -- we are not a shop that supplies our cars at no cost.

Rep. Thorpe: ( 360 ) Do OEM parts companies, do they recall any parts like hoods, fenders, hood latches, doors, --?

Wayne Quant: I sure hope they do because if there is problem with them you -- I would want to make sure they are off the market -- if there is a problem with them of course they do --it is like anything else in the country -- radios,--- or whatever there are always recalls.

Rep. Thorpe: ( 404 ) OEM parts aren't state-of-the-art either.

Wayne Quant: OEM are what is made by the manufacturer for that vehicle-- I will tell you from experience in the body shop OEM parts are consistently better than after market.

Rep. Thorpe: ( 471 ) I want to make a technical correction, Ford, GM, Toyota and all the others are assembly plants -- the parts are out sourced and made for them by somebody else are they not?

Wayne Quant: That is correct but they have to meet minimum standards and that the thing - - and that's the problem -- after market parts do not and that the reason we are here today.

Rep. Mahoney: ( 530 ) Do the after market parts do they give some kind of guarantee and do the OEM -- both do they both guarantee their products.

Wayne Quant: We do have someone here today that has all the information on guarantees. I will pass for now.

Scott Heintzman: I am a body shop owner and President of the North Dakota Auto Body Association. A copy of his written testimony is attached.

Rep. Weisz - Chairman ( 891 ) it well after 11.35 AM and we are going to have to limit testimony due to time constraint -- I apology for that we will hear only new information if you have "new" testimony. Then we will go to the opposition testimony.

Neal Krueger: I am the District Manager of the North Dakota Auto Body Association and I manage a collision center in Fargo. He furnish information from CAPA and in the interest of time asked the committee to read the material. Copies are attached.

Rep. Weisz - Chairman ( 1213 ) Do you feel that the-- having the after market industry in there has lowered the price and allows for others to compete? And has lowered the price of OEM parts.

Neal Krueger: Yes that is a true statement.

Rep. Welsz - Chairman ( 1243 ) If this bill passes will the problems go away?

Neal Krueger: The price of OEM parts has been a battle up and down with after market parts and yields a good competitive market with that -- but what you have seen with the body shop industry they have lowered those parts to be competitive but they have also raised there prices on the other ends -- parts that are not crash parts. So they are just cost shifting.

Rep. Kelsch: ( 1278 ) My car is in right now and I know that the customer can ask or has the right to choose but don't they get what they ask for?

Neal Krueger: In my business -- every day people ask for original equipment parts and I can not give them original equipment's parts every day -- there a certain insurance companies that mandate after market parts. You have to use the after market parts. There is not a day that goes by that somebody asks us for original equipment parts and are made to put on after market parts. The customers wishes are not always allowed and sometimes their insurance companies will tell them their policies only allow after market replacement parts. That is why we are so in favor of recycled parts. A recycled part is still an original equipment part.

Rep. Carlson: ( 1411 ) Give me an example of the safety issue f an after market part -- a hood is a hood -- if it doesn't fit quite right I can understand that - - but tell me the safety issue -- I need to understand where you are coming from on the safety side.

Neal Krueger: The safety issue on a hood per se is what you ask there -- there is a study in the consumers report on the Honda -- every body is aware of a few years ago when that issue was in the papers -- the safety of that hood folded differently than the OEM hood did -- there are wrinkle factors in OEM built in and they fold differently in an accident. They can crush

differently. Back in the '70's the hood came through the windshield, now it act like an accordion in a crash because there are wrinkle forms built in that hood. A magazine article showed that after market bumpers caused more damage in crashes than OEM parts.

Rep. Carlson: ( 1516 ) I am trying to understand the after market market -- when they have the specs to build this hood they must have specifications to follow to fit the hood to the vehicle-- do they not take into account the things you are talking about?

Neal Krueger: I believe they do have specs to build those hoods but not all hoods are created equal. What we find in the industry is that when we have an OEM hood we have a better chance of the fitting -- in after market it may fit as well or it doesn't fit -- what we find is the when the technicians and where we have most of the complaints come forward is that hood fit or that fender does not hit the holes -- should we get out our tools to adjust those holes -- what you heard is true these technicians are battling this every day.

Rep. Mahoney: ( 1612 ) You see every where -- like packages that look a like and appear identical to brand name stuff --it has a different label on it at half the price - - is it true that some that carries over into the after market products -- aren't some of these made by the same companies?

Neal Krueger: I don't know that to be true. I can't answer that honestly.

Rep. Weisz - Chairman we will allow one more brief comment -- from someone who supports 2358.

Carl Jacobson: I live and work in the town of Mandan. I am a graduate from Wahpeton. I have been a tech all my life. I worked 17 years in a Ford garage. I am currently working for Ressler's Chevrolet. I have put after market parts career and I have battled with time and time again. It

just doesn't measure up -- take a fender -- you take an after market it doesn't fit we are allowed to take that after market fender off and get another one and if that does fit -- take it off and try again -- the we allowed to put on an OEM -- that's the way we do it in our shop. I find this very frustrating that I am put between the insurance companies and my boss and I have you as a customer. The only way I can get you to come back to my shop is to give you quality.

Rep. Thorpe: ( 1832 ) I have been around this industry for 35 years -- now explain to me how this OEM piece is going to be better for the customer and I am sure you have done it - - ordered a quarter panel --- say its OEM for a Chevrolet car -- the damage is done in the lower corner - or in front of the wheel which ever and in all my travels through the state and I am sure I can go into body shops right now -- you order in the new panel and you will cut out the damaged section and cut out a piece of the new quarter panel and fit in there -- now haw does it make it better for me as a customer?

Carl Jacobson: Actually it wouldn't make it any better but I would choose to replace the whole panel. I use the panel as a template. It is critical to me that is I 'pulled' the vehicle to being square - - that panel is my next object that shows my datum and if I put the fender up there and it doesn't fit -- I can get the line from top to bottom -- its too wide -- too short -- Then I go and order a GM fender. This what they want. I have it pulled now do I have another problem -- with the after market world -- I have no clue on that. I put the fender on --I don't know and then if I am forced out I have to start prying and bending

Rep. Weisz - Chairman ( 2008 ) Just a comment, if any one here has been able to testify they can leave it with the clerk and he will make sure that it gets into the record.

OPPOSITION ON 2358.

Eileen Sottile: I am director of Government Relations for Keystone Industries and ABPA an association of auto parts stores around the country. My first comment is that up until today millions and millions of vehicles have been driving the streets throughout the country without consumer protection. What happens is we don't have a problem. There hasn't been consumers complaining. There is not one state I have walked into where the insurance commissioners office where I have the consumers have identified a problem. This is not a consumers bill. It is mostly the body shops are trying to package it and the car companies helping to -- this a battle truly between the car companies and the after market. All across the country they are proposing legislation similar to this to gain additional market share. This industry is 12 billion dollars. We are talking about a lot of money here. Mr. Ford once he would give all his cars away if he could have the all the parts and service business. If we can sell parts at a lower cost this how we are cut into the car companies business and their profits on parts. The differential in cost on parts is equal to easily be a full 30 -to as much as 60 or 70% - from what their part is to what our part is.

We can fit our parts to be functional equivalent. And the customer ask for an after marker, an alternate, -- or what ever you want to call installed on their vehicle -- they are made whole again - it is not until that things are stirred up that it seems to be an issue. Now across the country we have seen legislation like this but there has been some miss information given to you. One of the representatives said the first time he has seen wars until he sees what is happening here. First of all there are not 40 states that require consent -- there simply is not. There is only a hand full and those are being looked at as being problem children in those states. Thirty three states have disclosure. Here in North Dakota you have disclosure on your estimate. Body shops are

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**House Transportation Committee**

**Bill/Resolution Number SB 2358**

**Hearing Date March 8, 2001**

disclosing what they use on the estimates as an economy part. Now we have been told that this is a consumers bill because we need to give the consumers a choice. Yet they are confusing the true policy -- they are suggesting that they are the only one the consumer can invoke a choice and that is at the time of the accident -- an emotional situation and in the body shop. There is no possible way a consumer standing in a body shop is going to sign off on a consent to an authorization form to authorize that body shop to use an after market part or an alternative part under those conditions. There is a very good reason why they lose because the consumer has the choice of \$300 hood or a \$550 hood you got another nickel coming out of their pockets --so if your are given choice you are probably going to clearly going to say 'If we are the consumers getting fleeced quite folly'; but your not given the choice and we don't stand chance. We don't stand a chance because we are not there to be seen for who are -- what we do -- we are not there to tell the consumer that ? Tu lee -- sp? One of our large distributors makes parts for Ford, Mitsubsi, Suzski, Toyota and Keystone and hundreds of other companies whom I stand before and that I represent. We are not there to tell our story. The consent question is one of contract. If someone is shopping for their insurance if they truly want rider preference for OEM parts they can buy a policy for insurance that provides that for them. So this insurance would put designer and specialty parts on their car and pay for them. That is the consumers decision at the time of purchase. Not the body shops. On top of that they are other situations in North Dakota where you are able to get the type of policy you want you to have for your car. Now in addition to some of the information that's been getting to you today I would like to tell you a little bit of our story so that you can understand who we are and where we are coming from . Keystone is the largest crash parts distributor in the country with 3000 employees. There are probably about 700 - 800

thousand jobs around the country who are using our products whom I represent in the parts industry. We are merely an alternative. This industry came about in the 1970's. There was a car companies had an absolute monopoly. What happened is that in that monopoly the prices had gotten very very high. There was enough of a window there for parts distributors there to go to the manufacturers and see if they couldn't buy from them. Now what happens is how our parts actually engineered is that are reverse engineered. We don't have OEM spec to pay for. The part is purchased and measurements are taken , the parts are purchased around the country because not all OEM parts are not created equally. You can see that from all the recalls in recent years. Those parts are fitted to the vehicle. The best fitting parts are the parts out mold is fit from. This is called process manufacturing and it works. It is a very common practice. So those parts don't have all the engineering and design costs. This is one of the reasons why we are able to provide parts of a lower price. Not because they are cheap. Because we don't have the cost that go along with designing the parts. I can assure you that in the last three years none of these bill of this type have passed. That is because it is a bad idea. You would be restricting the market. You would be eliminating jobs. You would be closing this state and many of the companies I am representing -- you would be closing the state because we wouldn't be welcomed here. It is a monopoly bill. This not about consumer choice. Now if there are questions about safety, the insurance institute for auto safety recently did a crash test on a Toyota Camray and a car company's vehicle and they scored the hoods from the car company hood and the after market hood . The after market hood scored higher in a side by side with a video running to record both simultaneously. That video clearly showed and has shown over the years these parts perform exactly the same. There is nothing in the article that which says that these don't perform. I have that article here with me

and they quote it but it is not in there --it is not in there. The Insurance Institute of Highway Safety doesn't have cause. The crash tests in the United Kingdom year after year confirms this. Tests after tests have shown these parts perform exactly the same -- exactly the same way the car company's. The other thing that has been mentioned- - is again that this is a consumers bill -- the spokesmen for Auto Safety supports the use of after market part. The Consumers Federation supports the use of after market parts. Ralph Naders group -- the Public Citizens favor the use of after market parts and to leaving the market place open. All of those are real consumer advocates who believe there is a place in this industry for after market parts. The consumer again are well taken care of with the selection of these parts. Before I spoke a gentlemen from the dealerships said something I have been hearing all over the country -- he said when you put the GM part on and it doesn't fit he assumes it could be his workmanship. He would have to pull the car. He is assuming perfection in with factory made part. If it is an after market part we don't get that same consideration. So it is not that maybe he didn't stretch the car to factory specifications it is the after market part and it couldn't possibly fit. The biggest problem we have is perception and a bias. The reason Midas Muffler is after market and Diehard batteries are after is and other companies are after market is they have been around a lot longer than we have. We don't have the money to compete with what the car companies put out in terms of propoganda to the body shops through their newsletters and trade journals and to consumers. Note: She then held up a series of brochures, posters and ads and described some of them.--

These are put out by the car companies to belittle us because they want to get all that business. They also want the service business. The next thing they want is to build stand alone centers to compete with the after marketers. But if you back up a bit there is nothing wrong with what we

are doing. The alternative parts is a cost effective way to repair your cars. It is OK to have your car repaired in a body shop in what ever way so long as you give your consent. But if you rebuild a 23,000 Camray with OEM parts it costs you \$101,000 with car company parts and designer parts. So if you had a totally dead vehicle they wouldn't destroy that vehicle at the body shop and buy you a new one but they would buy OEM parts and repair for you at a greater cost. The consumers can afford that. It is not in the consumers interest but if the body shop had to buy you a replacement car they would lose. It is the car companies that win again. It is still true today as it was in the 1970's when we don't have a replacement part to compete with them their cost for the part are astronomical. Sometimes up to 700% more than they should be. Some have mentioned the quality and the fit and quoted that 97% of the parts OEM parts fit and that 27% of after market parts fit and that 13% of non certified that fit. That's ridiculous. I represent a company that does 400 million dollars and if only 13% of our product fit I wouldn't be standing here. You can make a study show anything you want it to and I don't know who did that study. We have been in business since 1948. Now there a study has some validity to it. it is called ????. That is a council made up of industry folks, body shops, distributors, manufacturers, insurance adjusters, and we meet quarterly. What we do is with industry specialists who look at cars with original equipment along side cars with after market parts and they have contest to see if they can discern which is which. They score them -- the top three -- in the last three times the after market parts cars scored higher in terms of fit, appearance, finish and acceptability. This is a market place issue it can not be address in a legislative war room -- this is the market place, we have been in business since 1948. We don't have all year parts. It is unlikely that a new vehicle is going to get an after market part on it because it is under warranty.

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House Transportation Committee

Bill/Resolution Number SB 2358

Hearing Date March 8, 2001

Rep. Carlson: ( 3915 ) Just a summary in conclusion that you believe that your parts are neither unsafe nor inferior?

Eileen Sottile: Yes. There is no difference, the General Accounting office is saying all along there is safety issue with after market parts. The General Accounting Office has done studies and back this up.

Rep. Price: ( 3992 ) Would you have any objection to the consumer being told what type of parts are being put in?

Eileen Sottile: No, none. If I may I will past around a factory part and one of ours --it is a headlight assembly for your to compare and the difference in price is between \$60 and \$70.

Rob Hovland: I am the President and the CEO of Center Mutual Insurance Company base in Rugby. We have been existence for about 85 years, we have 28 employees there. We are truly a mutual company and by that I mean the customer is the company. Our policy owners are my boss and there is no one who is driven by a profit. I represent consumers of North Dakota who are policy holders and I am here to strongly oppose this bill. A question was asked up front was about notice. One of the things that I wish would have been ask of the body shop people "Do you provide notice if after marker parts are used?" Absolutely, I don't know of a body shop that doesn't provide notice --they even draft the notices. So I don't thing this is an issue of notice. They are given that right on the bill. That is not the issue. I think the issue is a matter of costs and OEM parts cost more. I have heard the arguments of the proponents four times -- two time in 1999 and two time this session and one of the interesting thing is that conspicuous by its absence is no one says who is going to pay for it. I thing the assumption is that apparently the insurance are going to absorb this cost and not pass it on to the consumer. I have information here and I

hope I can drive home is that it doesn't matter if it is this bill or any other bill which increase our expenses is that all of it is going to be passed on to the consumer. What I have here is a compilation of statistics from the National Associations of Insurance Commissioners and it takes them couple of years to do it and so the statistics are a couple of year old. I did get an update of the 1998 numbers. What I have here is summary of what has happened in the private passenger auto business as far as the physical damage which is what we are dealing here. And where we are at as an industry. I have highlighted a couple of facts. Each of you are now receiving a copy of this. A copy is here attached. To somehow to imply that we are going to absorb this is simply a scare tactic.

Rep. Weisz - Chairman ( 5572 ) How much higher are the premiums actually for the OEM parts policy?

Rob Hovland: The average is about 6%. That's the long answer but we do offer discounts.

Paul Traynor: I will pass around my prepared comments. I am secretary and general counsel for NoDak Mutual. A copy of Mr. Traynor's statement are attached.

Rep. Weisz - Chairman ( 118 - Side 2 Tape 2 ) How many are here who to still want to testify on 2358? We are trying to give you the same amount of time -- we will close the hearing at 12:30 PM. Clerks note: Rep. Pollert later filled in for Chairman Weisz. The hearing continued to about 12.40.

David Hovde: I am here as a consumer-- I am a State Farm Insurance Agent from Minot. No body asked me to come here. I am here on my own as a consumer. I am going to read this -- as a former territory manger for standard motor parts from Long Island, NY . One of the largest manufacturers of automobile replacement parts built to meet OEM specs and a former parts

manager of a Buick-Cadillac dealer and now a State Farm Insurance Agent. For 23 years. I strongly urge you to vote no on SB 2358. It is not a consumer advocates bill. It is the exact opposite. All of us will pay higher insurance premiums because of this bill if allowed to pass. They will be able to charge any amount for those parts and the consumer will pay the difference. The argument that anything less than an OEM part will not fit is a bunch of bologna. Use a little common sense -- a body part is not a precision part like a bearing, valve, electronic ignition, gaskets, water pumps, and the list goes on. If the analogy were true, then we would not need parts stores like Napa, Motor Server, Hedahls, and others because we would have to go to Ford Motor, Chrysler Motors, GM dealers, to get our parts. I believe that competition is good for our economy, its good for our communities. I believe the parts are meeting the quality standards of CAPA -- Certified Automotive Parts Association and are of good quality.

Sean Miller: I am President of Fargo Bumper. We sell after market parts. We have been selling after market parts for 20 years. Our purpose in this industry is to compete against the OEM parts. I feel the we provide the competitive pressure that the OEM manufacturers have to compete against. Our industry comprises only 15% of all available OEM parts. We don't need restrictions on competition. Our warranty in every instance meets the OEM warranty and in some instances our warrantees are better than the OEM's. We oppose this bill because it restricts us to openly compete.

Rep. Weisz - Chairman ( 769 ) How large a percentage of the parts you sell come back to you?

Sean Miller: We have researched this and our return percentage for all reason is about 15%. By all reasons I mean damaged parts, wrong parts, parts shipped in error, and then there are parts rejected by the body shop.

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House Transportation Committee

Bill/Resolution Number SB 2358

Hearing Date March 8, 2001

Rep. Carlson: ( 800 ) there have been concerns brought up about the safety of after market parts.

Have you ever had any problems or involvement in litigation that says what you sold was unsafe and had a problem in a vehicle?

Sean Miller: In the twenty years I have been in business I have never experienced the issue of safety with parts nor have I ever been involved in any litigation.

Ron Nordstrom: Owner of Dave's Auto here in Bismarck. I am here representing the State of North Dakota Auto Recyclers Association. We are a statewide organization. Our reason for being here is to oppose the bill in its present form as it was introduced. Two years ago we were promised we would be included as new or OEM recyclers. We weren't included for whatever reason. It got kicked out. Most of it we believe is political, -- confusion, -- or what it might be. This session were again promised we would not be forgotten and again we are not included. To their credit, Mr. Schobinger did hand out amendments which would include us. We are here to look for promises kept.

Pat Ward: I represent the North Dakota Insurance Companies. Mr. Wards comments were presented in written form -- a copy is attached.

Rep. Pollert - Vice Chairman: We will not be acting on this soon. We will leave the record open for you file late filed testimony for those of you didn't get to testify today.

CLERKS NOTE: There were many late filed documents, several video tapes and some colored brochures filed. An effort was made to include everything in the permanent record. We could not identify the persons in all cases who left materials on my desk after the hearing.

Rep. Pollert - Vice Chairman: Closed the hearing at ( 1175 ) on side 2 tape 2.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2358B

House Transportation Committee

Conference Committee

Hearing Date March 16, 2001

Tape Number	Side A	Side B	Meter #
2	x		2,550
Committee Clerk Signature <i>Lawrence L. Fink</i>			

Minutes: Rep. Weisz - Chairman opened the work session with roll call. Several bills were up for action.

Rep. Price: Introduced for consideration some proposed amendments to SB 2358. A copy of these is attached.

Following explanation and discussion the proposed amendments were approved and carried on a voice.

Rep. Price: I move a 'Do Pass as Amended' for SB 2358.

On a roll call vote the motion failed: 6 yeas 7 nays 1 absent.

Rep. Carlson: I moved a "Do Not Pass as Amended" for SB 2358.

On a roll call vote the motion carried: 7 yeas 6 nays 1 absent.

Rep. Kelsch was designated to carry SB 2358 on the floor.

**PROPOSED AMENDMENTS TO SENATE BILL NO. 2358**

Page 1, remove lines 8 through 14

Page 1, line 15, replace "d" with "a" and after "Recycled" insert "vehicle"

Page 1, remove lines 17 and 18

Page 1, line 19, replace "f" with "b"

Page 1, line 21, replace "g" with "c"

Page 2, line 4, replace "collision" with "damage"

Page 2, line 7, remove "and Authorization Form"

Page 2, line 8, replace "ten-point" with "twelve-point" and replace "collision" with "damage"

Page 2, line 21, remove "manufacturer or"

Page 2, line 22, remove "Ask your insurer or repair facility for specific, written"

Page 2, remove lines 23 and 24

Page 3, line 4, replace "original equipment manufacturer" with "or recycled vehicle"

Page 3, line 6, replace "unless the motor vehicle owner consents at the" with a period

Page 3, remove lines 7 through 12

Page 3, line 13, remove "This section only applies to motor vehicles of a model released in the  
current"

Page 3, remove line 14

Renumber accordingly

Date: 3/16 1st  
 Roll Call Vote #:

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
 BILL/RESOLUTION NO. SB 2358

House Transportation Committee

Subcommittee on \_\_\_\_\_  
 or  
 Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass as Amended

Motion Made By Rep. Price Seconded By Rep. Ruby

Representatives	Yes	No	Representatives	Yes	No
Robin Weisz - Chairman	✓		Howard Grumbo		✓
Chet Pollert - Vice Chairman	✓		John Mahoney		✓
Al Carlson		✓	Arlo E. Schmidt		✓
Mark A. Dosch	✓		Elwood Thorpe		✓
Kathy Hawken		✓			
Roxanne Jensen	✓				
RaeAnn G. Kelsch		✓			
Clara Sue Price	✓				
Dan Ruby	✓				
Laurel Thoreson	✗				

Total (Yes) 6 No 7

Absent 1

Floor Assignment Rep. Kelsch

If the vote is on an amendment, briefly indicate intent:

Date: 8/16  
Roll Call Vote #:

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2358

House Transportation Committee

Subcommittee on \_\_\_\_\_

or

Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Not Pass as Amended

Motion Made By Ry Ca Seconded By Rp Thorp

Representatives	Yes	No	Representatives	Yes	No
Robin Weisz - Chairman		✓	Howard Grunbo	✓	
Chet Pollert - Vice Chairman		✓	John Mahoney	✓	
Al Carlson	✓		Arlo E. Schmidt	✓	
Mark A. Doech		✓	Elwood Thorpe	✓	
Kathy Hawken	✓				
Roxanne Jensen		✓			
RaeAnn G. Kelach	✓				
Clara Sue Price		✓			
Dan Ruby		✓			
Laurel Thoreson	✓				

Total (Yes) 7 No 6

Absent 1

Floor Assignment Rep Kelach

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**SB 2358: Transportation Committee (Rep. Weisz, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO NOT PASS (7 YEAS, 6 NAYS, 1 ABSENT AND NOT VOTING). SB 2358 was placed on the Sixth order on the calendar.**

Page 1, remove lines 8 through 14

Page 1, line 15, replace "d" with "a"

Page 1, remove lines 17 and 18

Page 1, line 19, replace "f" with "b"

Page 1, line 21, replace "g" with "c"

Page 2, line 2, remove "and obtain"

Page 2, remove line 3

Page 2, line 4, remove "representative" and replace "collision" with "damage"

Page 2, line 7, remove "and Authorization Form"

Page 2, line 8, replace "ten-point" with "twelve-point" and replace "collision" with "damage"

Page 2, line 21, remove "manufacturer or"

Page 2, line 22, remove "Ask your insurer or repair facility for specific, written"

Page 2, remove lines 23 and 24

Page 3, line 4, replace "original equipment manufacturer" with "or recycled" and after "the" insert "vehicle"

Page 3, line 6, replace "unless the motor vehicle owner consents at the" with a period

Page 3, remove lines 7 through 12

Page 3, line 13, remove "This section only applies to motor vehicles of a model released in the current"

Page 3, remove line 14

Renumber accordingly

**2001 TESTIMONY**

**SB 2358**

**Testimony on SB 2358**  
**Senate Transportation Committee**  
**Chairman- Sen. Bob Stenehjem**  
**February 2, 2001**

**Replacement Crash Parts**

Good Morning Mr. Chairman and members of the Senate Transportation Committee. For the record my name is Randy Schobinger and I am the state senator representing district #3. District three includes most of eastern Minot including Surrey. I will briefly explain the bill, what it's effect will be, and offer some amendments that were originally intended to be part of the bill.

Senate Bill 2358 is a bill that will extend notification to the owner of a motor vehicle after an accident. It will require consumer notification when parts other than new or recycled replacement crash parts may become part of their vehicle. The key phrase in the previous sentence is "Replacement Crash part". On page 1 line 21 of the bill is a definition of replacement crash parts. It reads, "Replacement Crash Part means a part typically replaced during repair of a damaged motor vehicle, including exterior sheet metal and any plastic component such as a fender, hood, door, bumper system, or related structural component". This definition is important because the most vocal opponents of this bill to this point are not impacted by this bill.

Page 2 of the bill requires a "Notice to Consumer" of the type of replacement crash parts to be installed in their motor vehicle.

At this time I would like to propose amendments for the committee's consideration on page 1 line 14 and on page 3 subsection 4. The first proposed amendment is a housekeeping amendment Page 1 line 14 strikes everything after "licensee". The reason is that by definition a "New original equipment manufacturer replacement crash part" would not be older than the vehicle. The second proposed amendment will insert recycled as a part that can be used as a replacement crash part. Subsection 4 on page 3, assuming the amendments are adopted, states that a repair facility shall use "New" or "Recycled" replacement crash parts unless the motor vehicle owner consents to the use of parts other than new or recycled.

Subsection 5 on page three states that the bill only applies to vehicles seven years old or less and have a gross vehicle weight of 10,000 pounds or less.

Mr. Chairman and member of the Senate Transportation Committee. As you know, the bill is no stranger to this committee. As a matter of fact it was overwhelmingly supported by this body two years ago. I bring this to your attention because it seems the senate was on the right track when it gave favorable consideration two years ago.

On October 4, 1999 a jury awarded policyholders of the nations largest automobile insurer \$456 million for ordering repair shops to use substandard replacement crash parts. The judge in the case subsequently ordered another \$400 million in punitive damages. Mr. Chairman and members of the Senate Transportation Committee. This bill is designed to ensure North Dakota's policyholders won't ever need to become part of a similar class action lawsuit.

Mr. Chairman, As a former member of this committee, I know from experience SB 2358 will be given the time and consideration it deserves.

## SENATE BILL 2358

Mr Chairman and Members of the Committee:

My name is Lane Quandt. I am the manager of a body shop in Minot and the Chairman of the North Dakota Auto Body Association's Legislative Committee.

The first thing I feel I need to do is clarify some misconceptions of this bill.

1. As defined in Page 1 lines 21 thru 24, "Replacement crash part" means a part typically replaced during repair of a damaged motor vehicle, including exterior sheet metal and plastic component such as fender, hood, door, bumper system, or related structural component. This Bill is not concerned with aftermarket parts such as starters, alternators, wheels, batteries, tie rods, water pumps, condensers, and radiators which are typically known as mechanical hard parts.

2. This Bill does not mandate or require the use of O.E.M. parts, it only ask that the consumer be made aware of the parts being used and that the consumer consents to the use of any parts that are Non OEM. (Read Page 3 lines 3-12) Is there anyone here who feels the customer shouldn't have the right to know what kinds of parts are being used to repair his or her car?

If aftermarket crash parts were consistently as good as O.E.M. parts, there would be no need for Senate Bill 2358. But they are not.

How many of you here would be concerned about having Monroe shocks put on your car, or Champion sparkplugs, a Sears Diehard battery, Dayco belts, or G.E. or Sylvania seal beam headlamps. These are proven companies with names we have all come to know and trust. But, if your vehicle was in an accident, how would you feel about having a Profortune grille put in your car, or an Ensure fender, a Jui Li hood, or a Gin Ho Lian radiator support, without your knowledge?

I wish all parts were created equal. But they're not. I wish there was no need for Senate Bill 2358. But there is. I would ask that you please pass it.

Are there any questions?

Thank you for your time and consideration.

Sincerely,  
Lane Quandt  
701-838-7218



MR CHAIRMAN & members of the committee  
My Name is Neil Krueger I manage Valley  
Ford Collision Center in Fargo ~~ND~~.

IN TUES JAN 31ST MINOT DAILY NEWS THERE WAS  
AN ARTICLE ON BILL # 2358. A REPRESENTATIVE  
OF THE HOUSE WAS QUOTED (I DON'T CARE), IF,  
PICK A QUALITY SHOP THEY CAN USE SALVAGE,  
AFTERMARKET, OEM PARTS. THEY WILL DO A QUALITY JOB  
BECAUSE THEY WANT TO MAINTAIN THEIR REPUTATION  
AS A QUALITY SHOP. HE WAS ~~NOT~~ CORRECT ABOUT  
THE SHOPS WANTING TO MAINTAIN THEIR QUALITY  
REPUTATION. THAT IS WHY WE ASK OF YOU  
LET THE CONSUMER KNOW WHICH PARTS WILL  
BE USED ON THEIR VEHICLE. WE CANNOT  
MAINTAIN OUR <sup>Level</sup> QUALITY WITH ~~Some~~ MOST ~~OR~~ NON OEM  
~~REPLACEMENT~~ PARTS.

We spend a considerable amount of

time pre fitting, attempting to make non OEM parts work on our customers vehicles, and when they don't fit the delays begin and ~~to our business level~~ that is when it starts affecting

the consumer & also the insurance company. The process

begins by finding another part be it OEM ~~or salvage~~ or recycled.

WITH THIS ~~loss~~ Downtime Everyone loses Rental cars often

are needed to satisfy the customer. It has been said

that <sup>now OEM</sup> ~~non~~ parts people will guarantee the fit of their product,

They say they will pay additional labor, paint edge time, rental cars.

If this is true sign me up, it sounds to good to be true.

In the last 15 years I have never had a non OEM ~~part~~ <sup>supplier</sup>

pay for a rental car, when I had a ~~part~~ delay related

to ~~an ill fitting~~ <sup>a</sup> ~~part~~ less than acceptable part, thus affecting my quality reputation.

→ Article then St. Tom Suit.

members of committee ~~is~~ is there any Q's

Sent to me from my OEM parts supplier  
of VW, Andi is a letter about Keystone ~~Settlement~~ <sup>Settlement</sup>

And ABRN Article on the Big Lie.

\* February 24, 1995

Re: State Farm Collision Parts Settlement

A class action lawsuit against the State Farm Insurance Company was recently settled in the state of Illinois. State Farm had been accused of engaging in the "unfair, deceptive and highly profitable practice of requiring the use of cheap imitation parts" to repair vehicles belonging to their policy holders.

As many as 80,000 State Farm customers may be covered by the terms of this settlement. The company has mailed settlement notices to all of its Illinois policy holders.

- \* Policy holders who are not satisfied with "imitation" parts used in repairs performed since July 3, 1990 will receive a certificate entitling them to the expedited repair or replacement of those parts, provided they still own the vehicle. Repairs will be performed at no cost, and OEM parts are to be used if the customers so specifies.
- \* A \$ 40.00 per claim cash award will be paid to policyholders who own a vehicle that was repaired prior to July 3, 1990 or to those who have had a repair made but who no longer own the vehicle. Policyholders can receive larger cash settlements if they provide evidence that the use of "imitation" rather than OEM parts cost them more than \$ 40.00, or that it saved State Farm more than \$ 40.00.

This successful class action suit and settlement is not an isolated incident in the ongoing effort to protect collision parts customers. In a decision made in May 1992, a Federal District Court ruled that Keystone Automotive Industries had knowingly and intentionally misrepresented the quality of its parts when it claimed that they met or exceeded OEM specifications. Keystone is the largest distributor of imitation collision parts in the US, and this ruling should convince them to refrain from making false claims of quality in the future. "

\* \* \*

# The Big Lie



Tony Meola  
Editorial Director

In a case you haven't heard by now, the February issue of *Consumer Reports* magazine featured a cover story titled "Shoddy Auto Parts: How To Beat Car Repair Rip-Offs." It's a story worth reading and will, I'm sure, become a prominent fixture in collision repair shop waiting rooms across the nation. It's not that *Consumer Reports* is telling the collision industry anything it doesn't already know. But it is the first time a national consumer publication has taken the time to actually test some of those imitation crash parts the insurance industry is so fond of specifying. The results of those tests mirror what many collision repairers have been saying for years—that claims by insurers describing imitation crash parts as being of "like kind and quality" (LKQ) are yet another example of that curious phenomenon known as The Big Lie.

The *Consumer Reports* story highlights two key findings. The first is that insurers endorse imitation parts because they are less expensive—from 20 to 65 percent less, according to the article—but that no evidence was provided to *CR* editors to prove those savings are being passed along to consumers, if indeed such savings really exist. Because the imitation parts makers are basically cherry-picking the best-selling pieces to reproduce, one also can't help but wonder if the OEMs haven't simply cost-shifted the perceived savings generated

CAPA blasts *CR* for slamming an entire product line based on unsubstantiated statements by collision repairers, unsupported claims by a California insurance company, one allegedly defective hood and a survey of only a small fraction of the millions of CAPA parts out there in the marketplace. It then goes on to challenge much of the *CR* article, citing numerous inaccuracies. The press release is six pages long and arrived too late to make this issue of *ABRN*. We'll run the entire reply next month.

Though this latest black eye for CAPA will be the topic of much conversation in the months ahead, focusing on the inferior quality of CAPA crash parts alone misses the point. The insurance industry spends a lot of money talking about fraud. If, in fact, the parts they are specifying are clearly not LKQ, insurers are just as guilty of committing fraud as the collision shop that knowingly installs an imitation part but bills for OEM. It's time for all parties concerned to tell it like it is. If those parts save money, fine. Give consumers an informed choice and pass those savings on. But if, as the *CR* article says, we are merely shifting the profits from one big industry—automobile manufacturers—to the pockets of another—insurers—then consumers are still being victimized.

Using vague descriptions like "functionally equivalent" to characterize inferior replacement crash parts is, in my opinion,

***If the parts specified are clearly not of "like kind and quality," insurers are just as guilty of committing fraud as the collision shop that knowingly installs an imitation part but bills for OEM.***

by competition in one area deeper into the car. Have you priced a door lately? *CR* also found that the non-OEM crash parts tested were lower quality, didn't fit properly and rusted more quickly.

To be fair, the story points out that some insurers acknowledge the quality problem and prescribe only OEM parts. Other insurers, including the largest companies, claim to rely on CAPA certification as an assurance that the parts they recommend or require in their policies as LKQ are equivalent in form and function to comparable OEM parts. However, the testing done as part of the story seems to indicate that CAPA certification is no guarantee that those parts will be equivalent to OEM specifications.

The article goes into some detail about the testing *CR* performed and outlines the experience of their engineers trying to test fit both OEM and CAPA fenders. That experience is typical of what happens in thousands of collision repair shops every day. In fact, in virtually every test *CR* performed, except a comparison of tensile strength, the CAPA-certified crash parts proved inferior.

As you might expect, CAPA has issued a press release challenging the *Consumer Reports* article. In that release,

ion, deceptive and has contributed to the hostility exhibited toward CAPA parts by collision repairers. As the *CR* story states, a Saturn may be "functionally equivalent" to a BMW, but the two are hardly the same. If a replacement part is being presented to consumers as equivalent to OEM, shouldn't that part perform as advertised? For years, the aftermarket hard parts manufacturers have built their reputations on providing mechanical replacement parts that "meet or exceed manufacturers' specifications." Why not expect the same thing from the crash parts suppliers?

The aftermarket or imitation parts issue is a complicated question that doesn't lend itself to easy answers. There are valid issues raised concerning the impact on competition, costs and cycle time. Unfortunately, the rhetoric surrounding this issue often characterizes both pro and con positions in very hard-line terms, but I don't believe either side wants to see this situation end up in a monopoly for anyone. What I do believe is that the collision industry is calling for higher quality in the replacement parts being specified by insurers. And now that the proverbial feline is running amok, I imagine consumers who read the *CR* article will demand better quality as well.

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Bismarck, ND 58502-5010



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**TESTIMONY SUPPORTING SB 2358**

**By TERRY WEIS**

**February 2, 2001**

**9:00 am**

**SENATE TRANSPORTATION COMMITTEE  
BOB STENEHJEM, CHAIRMAN**

Good morning Mr. Chairman and members of the Senate Transportation Committee.

For the record, my name is Terry Weis and I am here on behalf of the North Dakota Association of Insurance and Financial Advisors, formerly known as the North Dakota Association of Life Underwriters.

Our association has about 700 member insurance agents from all parts of North Dakota who sell Life, Health, Property insurance as well as other financial products.

Our association stands in support of this Bill. We, as agents, would like to see all the companies treat policyholders the same when it comes to crash replacement parts. Consumers are confused because now each company has a different standard for when to use original manufactured parts and when to use after market parts.

We, as agents, are the people that get caught between the company who is paying the claim and our customers whom we have to explain the company's decision on the replacement parts.

I know of a case of an individual who was hit by another vehicle, it was the other person's fault - they had the same insurance company and unbeknownst to him the used car that he purchased, that was only 2 years old, had custom wheel covers. The glass centerpiece in the hubcap was broken in the crash - they were no longer available and the company would not buy a new set of standard hubcaps to put on the car for \$130. He was instead given a \$35 check to replace the value for the glass center in the custom wheel cover that was no longer available. Consequently, he had to drive with a hubcap with the center broken out and the insurance company thought that that was all they were legally liable for.

I personally have hit 2 deer in the last 2-1/2 years with my 1999 Chevy Suburban and I do not believe that it would be proper for someone with a \$40,000 vehicle to be expected to have to put on parts that do not fit.

**I would urge a DO PASS on 2358.**

Thank you for your support, I would be happy to answer any questions you may have.

# Keystone Automotive Industries, Inc.

January 26, 2001

Senator Bob Stenehjem  
Chairman  
Senate Transportation Committee  
North Dakota Legislative Assembly  
600 E. Boulevard Avenue  
Bismarck, ND 58504

RE: North Dakota Senate Bill 2358  
Aftermarket Crash Parts Legislation

Dear Senator Stenehjem:

In business since 1947, Keystone Automotive Industries, Inc. is the nation's leading distributor of aftermarket collision replacement parts produced by independent manufacturers for automobiles and light trucks. Keystone currently services more than 25,000 collision repair shop customers nationwide, some of which are located in your state.

We believe SB 2355:

- proposes an eight year monopoly for the original equipment manufacturers
- indicates that use of aftermarket crash parts will negatively impact the manufacturer's warranty, which is in violation of the Federal Magnuson-Moss Warranty Act
- proposes requirement for body shops to obtain written consent, which delays the repair process and implies a negative safety issue. Aftermarket parts are not safety components on the vehicle, they are cosmetic
- North Dakota consumers will have to pay more for collision repair, making the already rich OEM's richer
- North Dakota consumers will have to pay higher insurance premiums to cover the higher cost of collision repair
- North Dakota risks elimination of many jobs in the auto repair industry if this bill is enacted

I am submitting information from various resources regarding the use of aftermarket parts and would appreciate your consideration of the enclosed as you make this critical decision. Keystone asks you to vote "NO" to SB 2355. Please do not hesitate to call on me if you have any questions.

Sincerely,  
  
Ellison A. Sotile  
Director, Government Relations

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Fargo, ND 58108



Mr. Chairman, Members of the Committee

My name is Shaun Miller; I am the President of Fargo Bumper. I am here to testify in opposition to Senate bill 2358. Fargo Bumper primarily sells Remanufactured Original Equipment parts and New Aftermarket replacement Parts. We are small single store parts businesses who every day competes fairly against a giant parts industry. Our non-OEM crash parts comprise at best 15% of all available OEM crash parts. We don't by any means have all parts for all cars. We support our state, pay our taxes and only ask that we be given an equal business opportunity to sell our parts. This bill if passed as written would certainly threaten our future. We oppose this bill on two main areas

Our first area of opposition is that we feel that this bill is extremely restrictive. Page 3 section 5 of this bill as written and if passed would require that automotive repair shops for a period of 8 years (Current year of manufacturer plus 7) use only New Original Equipment Manufactured parts when repairing or estimating the repair of a vehicle. We feel that 8 years is unjustified, extremely restrictive, and completely unnecessary.

The second area of opposition is that we feel that this bill is anti-competitive. Page 3 section 4 of this bill as written and if passed would require an automotive repair shop to only look towards one type of OEM part and manufacturer when purchasing parts. Price and competitive alternative sources for parts would no longer be of any consideration. This bill as written does not promote fair and equal competition but rather makes a very strong legal attempt to restrict if not eliminate fair competition. We feel that sections 4 and 5 on page 3 should be eliminated from this bill.

The last comment I would like to make is that this bill is being portrayed as a consumer protection bill. The sponsors of this bill have been misled to believe that this bill is necessary because there is a huge consumer acceptance problem in the use of all forms of parts other than OEM parts. From Fargo Bumpers experience I can assure you that for over 25 years we have been selling high quality competitively priced parts. These parts have been installed on and used successfully on literally thousands and thousands of consumers vehicles. We feel confident in saying our parts do not have a consumer acceptance problem!

Sincerely

Shaun Miller  
President



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

**Before the**  
**North Dakota**  
**Senate Transportation Committee**  
**on**  
**Senate Bill 2358**

**February 2, 2001**

**My name is Jack Gillis; I am Executive Director of the Certified Automotive Parts Association. I also serve as Director of Public Affairs for the Consumer Federation of America and am author of The Car Book, which is prepared in cooperation with the Center for Auto Safety. I am here today representing the Certified Automotive Parts Association to comment on SB 2358.**

**CAPA is a non-profit organization, which oversees a testing and inspection program that certifies the quality of parts used for auto body repairs. CAPA's goal is to promote price and quality competition in the crash parts industry, thereby reducing the cost of crash repairs to consumers without sacrificing quality. We simply establish standards for competitive parts in order to ensure their equivalency to car company parts and provide consumers, auto body shops, and insurance companies with an objective method of evaluating their functional equivalency. My written testimony includes an in depth overview of CAPA.**

**As a consumer advocate, I have spent nearly 10 years working on this program in order to protect American consumers from a car company parts monopoly. Car companies spend millions of dollars to discredit aftermarket parts, scare consumers, co-opt body shops and intimidate state legislatures into protecting their monopoly with thinly veiled legislation like these bills. This state by state approach has been adopted by car companies and collision repairers because they were unsuccessful achieving the same results on the national level when they tried to alter federal design patent laws in 1993.**

Supporting this legislation will, in effect, promote a monopoly and destroy the free market that North Dakota consumers have traditionally embraced.

CAPA strongly believes that consumers should have the right to have their vehicles repaired to pre-accident condition. We also believe in disclosure, however, if disclosure is important for simple cosmetic crash parts then it should be even more important for complicated and safety related mechanical parts. Interestingly, auto repair shops are against this type of disclosure requirement.

Consumers should also have the right to know that the vehicle warranty will not cover non-car company parts. However, tying the use of an aftermarket part to the voiding of a new car warranty is simply fraud and against Federal law.

What is at stake here is the consumer protection inherent in a truly free and responsible marketplace. What the car companies and body shops are asking this Assembly to do is to attempt to legislate out of business an industry which is forcing them to offer competitive prices. For example, from the time of their introduction in 1983 to 1989, prices for fenders for the Chevrolet Chevette and Honda Accord, which were subject to competition, dropped 44 and 38 percent, respectively, once competition was introduced. During the same period, front door prices, not subject to competition rose 30 and 45 percent for the same two models.

An example of just how over priced car company parts can be is best exemplified by comparing a Ford hood with a combination TV/VCR. A hood for a 1994 Ford Taurus costs almost \$400, and that doesn't include painting, and installation. Comparably, a combination TV/VCR sold by RCA costs around \$200. It is not uncommon for a car company to charge more for a simple stamped piece of than something that requires complex assembly, has thousands of parts, and multiple operations including various buttons and controls, movement of tape into place, electronic programming and a fragile, sophisticated, cathode ray tube. This type of pricing is what happens when the product is controlled by a monopoly. RCA has many competitors forcing it to provide high quality at a low price, Ford does not.

**This bill effectively establishes the car companies as the benchmark for quality.**

**BEWARE.** As a consumer advocate who has spent over 20 years studying automobiles, may I respectfully offer a serious warning: Using car companies as your benchmark for quality is inviting disaster.

Each year, automakers recall millions of vehicles for safety related problems. In fact, in 1995, a record 17.8 million cars and trucks were recalled for safety-related defects -- more cars were recalled than sold. Furthermore, each year autos are the most complained about product sold in the United States. A simple check with the North Dakota Attorney General's office will tell you what your citizens think of car company quality. Yet, this legislation puts you in the position of telling the car owner, "Insist on quality--use only General Motors parts. Insist on quality--use only Ford parts." In fact, in the last 10 years, the U.S. DOT has recalled 2.7 million car company hoods for serious safety problems. By their own estimates, more than 900,000 are still on the road. The North Dakota Legislature ought to beware of using car companies as its benchmark of quality and safety. North Dakota consumers know better.

I'd like to comment on some of the issues of concern to you.

Safety: CAPA certified parts do not have significant safety ramifications--nor are there any federal safety standards for these types of parts. And I should be concerned—I've spent over 20 years of my life fighting for safer cars. Crash tests conducted on the one part that could potentially have safety ramifications (the hood) show that it performs no differently in crash tests than those hoods made by the car companies. Ironically, in a recent attempt to discredit CAPA parts before body shops at a body shop trade show, an organization named Wreck Check conducted an unscientific crash test on a vehicle with a certified fender and hood. While the test was designed to find fault with CAPA certified parts, the sponsors had to publicly acknowledge that the CAPA certified hood and fender performed in the same manner expected of a car company part.

Is there reason to effectively prohibit aftermarket parts because some are bad? No manufacturing process I know of is perfect -- certainly not that of a car company. A recent collision repair demonstration conducted, ironically, to prove that CAPA parts were unacceptable, actually resulted in repairers rating CAPA parts as equal or better than

**car company parts. Not only was this conducted by collision repairers, but it was done in a blind fashion – the raters didn't know which part was which. In the CAPA program, when we discover bad parts, they are decertified and recalled. The car companies do not do this. Nevertheless, would it make sense to force the industry out of business because of mistakes? If that were the case, what would this committee's position be on Ford, GM, and Chrysler whose safety defects force the recall of millions of cars each year? CAPA's standards requiring functional equivalency and quality address the concerns which inspired the concept of a ban of aftermarket parts. CAPA's presence in the marketplace assures the consumer that quality will not be sacrificed in the name of competition. This legislation would essentially take away that assurance.**

**On another note, there are those who would like you to believe that there is something wrong with the fact that CAPA is funded by the insurance industry. This allegation flies in the face of logic. If the insurance industry were trying to force problem parts on consumers, the last thing in the world they would do is establish a non-profit, independent, certification organization that fully complies with generally accepted guidelines for third party certification programs--and hire a consumer advocate to manage it. In fact, the easiest thing insurance companies could do would be to "throw up their hands", use OE only, and pass the extra cost on to consumers. Thankfully, they are not doing that.**

**Additionally, I want to point out that some of the most outspoken critics of the insurance industry, including the Consumer Federation of America, Ralph Nader's Public Citizen, and Consumer's Union, have gone on record in support of CAPA and aftermarket parts--quite an unlikely event if there were something inherently wrong with the insurance industry initially funding such an organization.**

**I know this committee has some concerns about a recent article in Consumer Reports on crash parts. Let me assure you I had the same concerns as a longtime fan of that publication. However, when I looked at the facts behind the article, this is what I found:**

- CU found only one non-car company hood that failed in the last 10**

years. On the other hand, there were 2.7 million car company hoods investigated and recalled by the U.S. DOT.

- Consumers Union has not able to document wide spread problems with non-car company parts. They relied solely on claims of problems by collision repairers.
- CU found no evidence of safety problems with any of the parts.
- CU failed to mention that insurance companies provide full warranties for repairs and rarely, if ever, do consumers need these warranties.
- CU failed to mention that if there were problems with bumpers, it would be at the expense of insurance companies.
- CU sent the best car company parts they found to the repair shop and did not send the best CAPA parts. Nevertheless, the second best CAPA parts did well.

It is clear that this legislative effort is a thinly veiled attempt to provide the car companies with a monopoly on aftermarket parts. Consumer groups are concerned any time a monopoly is protected, and this legislation will go a long way to protect car company monopolies. Americans are not afraid of competition. Nor, I assume, are North Dakota consumers. Yet, the spirit, intent and result of this legislation is to kill competition. CAPA Standards offer a market place solution, rather than a legislated one. Again, I urge you to vote for competition and quality. Thank you for your time.

Following for the record, is a brief explanation of the CAPA program.

#### **THE CAPA CERTIFICATION PROGRAM**

The Certified Automotive Parts Association (CAPA) has a fifteen-member board, which includes representatives from auto body shops, consumer groups, insurance companies, and part distributors. CAPA currently contracts with Entela Labs., Inc., a well respected, independent testing facility, to conduct the testing, inspection, and compliance aspects of the program.

**Replacement body parts that meet or exceed CAPA quality standards for fit,**

materials and corrosion resistance are allowed to display the CAPA seal and are listed in a directory, which is widely available to the crash parts industry.

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. In addition, the manufacturer's quality control system and manual are reviewed for compliance with our quality control standards.

Once the factory has been approved, the company can submit individual parts for certification. These parts are tested for material content, fit, finish, paint adhesion, and corrosion, and are examined to ensure that they include markings identifying the manufacturer and the country and date of manufacture. Finally, sample parts are placed on vehicles to insure an accurate fit. If the part complies with all of the CAPA standards, then the manufacturer is allowed to apply a CAPA Quality Seal to that part-the final step in the certification process. In addition, CAPA has a recall program designed to remove non-conforming parts from the marketplace - a mechanism which car companies do not have in place.

Once the part has been certified, the factory is subject to regular random checks to ensure that the standards are maintained. In addition, there are random checks of parts leaving the factory and in warehouses. CAPA also encourages the users of parts bearing the CAPA seal to file a complaint if they believe the part may not meet our standards. CAPA's random checks and complaint program have led to the decertification of parts which originally met our standards.

The CAPA Technical Committee is made up of experts from a cross section of the industry. This committee performs periodic, in-depth reviews of the standards, refining them as required, to assure the continued quality of aftermarket replacement parts

receiving CAPA certification.

Our standards cover metal and plastic automobile parts, such as fenders, hoods, doors, quarter panels, deck lids, bumper fascias and covers, header panels, and grille opening panels.

All test procedures, where possible, refer to nationally recognized standards, such as those of ASTM and SAE. Each of our standards provides for testing and inspection procedures, with detailed specifications for establishing the quality of the parts covered by that standard. The standards include dimensional checks (form and fit), metallurgical and material analysis (composition, mechanical properties and thickness), corrosion protection (salt spray tests), and construction requirements, as well as identification and certification markings. Form and fit measurements are made using a master checking fixture (specially fabricated for each part) and a part from the original manufacturer. About 4% of crash parts meet our standards.

# CAPA: WHO WE ARE, WHAT WE DO

**WHAT IS CAPA?** The Certified Automotive Parts Association is an independent, third party, nonprofit organization governed by nine directors who represent consumer groups, auto repair shops, insurance companies and parts distributors.

**WHAT DOES CAPA DO?** CAPA develops and oversees testing and inspection activities to certify that non-car company parts used in auto body repairs are the functional equivalent of parts distributed by the car companies.

**WHY IS CAPA NEEDED?** CAPA began in 1988 as a coalition of consumer advocates, insurance companies, repairers and distributors who wanted to encourage competition in the crash-parts industry in order to assure quality and control consumers' costs. Until the 1970's, only the car companies made crash parts, and costs were higher because of their monopoly.

Competition from non-car company manufacturers pushes down costs, but some consumers worry about the quality of non-car company parts. The CAPA certification program identifies which non-car company parts are as good as or better than car company parts they replace.

**HOW DOES CAPA DO THAT?** CAPA sets standards and employs an independent laboratory, ENTELA INC., of Grand Rapids, Michigan, to inspect factories and test parts. Only those parts that meet CAPA's rigid standards display the CAPA Quality Seal and are listed in a directory that is widely available in the auto-repair industry.

**WHICH PARTS DOES CAPA CERTIFY?** CAPA certifies the metal and plastic cosmetic parts that are most commonly damaged in crashes, such as fenders, hoods, door panels, quarter panels, deck lids, pickup beds and sides, bumper covers, side moldings and grilles.

**HOW DOES CAPA MAINTAIN ITS INDEPENDENCE?** CAPA's board represents a variety of interests. Its executive director, Jack Gillis, is a longtime consumer advocate, automobile expert and Consumer Federation of America (CFA) executive. CAPA has a diverse financial base, charging certification fees to parts manufacturers as well as receiving funding from insurance companies. It enjoys the support of such consumer advocacy organizations as CFA, the Center for Auto Safety and Public Citizen. Consumers Union reported that, it too supports to goals of CAPA and the importance of competitive parts. CAPA is modeled after Underwriters Laboratories (URL), which was founded by the insurance industry and now is an independent testing and certification body.

# HOW CAPA CERTIFIES PARTS

Crash-replacement parts that meet the rigid equivalency standards of a 280 + page Quality Standards Manual may achieve certification from the Certified Automotive Parts Association (CAPA), display the CAPA Quality Seal, and be listed in a directory that's on CAPA's website ([www.CAPACertified.org](http://www.CAPACertified.org)) and widely available in the auto-repair industry. Those parts achieving CAPA certification are equal to or better than the car-company parts they replace.

Here's how the process works.

**THE CAPA STANDARDS:** The CAPA Technical Committee -- composed of experts in the quality, repair and parts industries -- sets, reviews and refines standards that CAPA-certified parts must meet. Specifications cover adhesive integrity, coating performance, material composition and properties, mechanical properties, thickness, appearance, corrosion protection, form and fit, weld integrity, fasteners, hardware, production requirements, assembly requirements and quality-control procedures.

**INDEPENDENT EVALUATIONS:** CAPA contracts with an independent validator to ensure that participating manufacturers and their parts comply with the standards. Currently, ENTELA, INC. -an international testing corporation with facilities in North America and Asia - tests parts and inspects plants for compliance with CAPA's Quality Standards Manual.

**FACTORY APPROVAL:** Before a part can be certified, the manufacturer's facilities and manufacturing processes are inspected. ENTELA evaluates the manufacturer's purchasing, tooling, painting, manufacturing, quality-control and inspection processes to ensure they are capable of producing parts to CAPA's standards. No parts may be submitted for testing until the factory and its process achieve complete approval.

**PARTS TESTING:** Samples of the part are tested against the CAPA specifications. Form and fit measurements are made using a master part from the original equipment manufacturer along with either a CAPA-approved checking fixture specially fabricated for the part, or a coordinate-measuring machine in conjunction with a CAPA-approved staging device. In addition, all crash parts must pass a wide battery of material tests staged on an actual vehicle within manufacturer specifications.

**MAINTAINING QUALITY:** Manufacturing facilities and parts are subject to regular random checks by ENTELA. Additionally, CAPA encourages repair shops, distributors, insurance adjusters and consumers to report parts that appear to be out of

compliance (see CAPA's web site). Parts determined not to meet CAPA standards are decertified.

**FOLLOWING RECOGNIZED PROCEDURES:** CAPA operates in accordance with the American National Standards Institute Procedure for Third Party Certification Programs and uses internationally recognized test procedures/standards from the Society of Automotive Engineers, the American Society for Testing and Materials, and the American Welding Society.

May 25, 2000

# THE STATE FARM CASE

**THE CASE:** Class action on behalf of State Farm policyholders in all states except Arkansas and Tennessee and some policyholders in Illinois and California.

**FILED:** July 28, 1997.

**VENUE:** Williamson County Courthouse, Marion, Illinois.

**JUDGE:** Williamson County Circuit Judge John Speroni.

**AT ISSUE:** Did State Farm breach its policyholder contract to restore crash-damaged vehicles to their pre-crash condition.

**PLAINTIFFS ALLEGED:** The contract was violated when State Farm specified use of less-expensive generic crash-replacement parts - such as door panels, hoods and fenders -- that were not supplied by the original vehicle manufacturers. It was claimed that State Farm knew that such parts could not restore vehicles to pre-crash condition, and that it committed consumer fraud by failing to advise policyholders of that fact.

**STATE FARM ARGUED:** The parts it specifies match or exceed the quality of the parts supplied by the original vehicle manufacturers. State Farm policies disclose that generic parts may be used. Before any repair is made with generic parts, the policyholder is notified. State Farm guarantees policyholder satisfaction with the parts, and few policyholders ever complained that the parts proved to be unsatisfactory.

**JURY VERDICT ON CONTRACT VIOLATION:** On Oct. 4, 1999, the jury found for the plaintiffs, deciding in essence that generic parts are incapable of returning a vehicle to its pre-crash condition. Ordered State Farm to pay nearly \$456 million in damages.

**JUDGE'S DECISION ON FRAUD:** On Oct. 8, 1999, Judge Speroni ruled that State Farm had committed consumer fraud and must pay \$730 million in damages.

**AFTERMATH:** State Farm is appealing with the support of both consumer and industry groups. In the interim, it ceased using generic parts.

# WHAT THE STATE FARM CASE MEANS

By creating the impression that non-car company parts are inherently incapable of restoring damaged vehicles to their pre-crash condition, the State Farm case threatens to kill competition and cause repair and insurance costs to skyrocket.

Already, State Farm has suspended use of non-car company parts, pending its appeal. As a result, State Farm paid \$4.8 million more than anticipated for replacement parts in the first month after the change. State Farm expects costs to soar higher as car companies take advantage of their monopolistic position to raise prices. Higher insurance premiums will follow. And no insurance company can escape the fallout.

**NO ONE IS SAFE:** Dozens of insurers specify use of non-car company parts. They, now, are threatened by similar "copycat" suits that are being filed around the country. Another Illinois suit already has been filed against State Farm, CNA, Allstate, SAFECO, Liberty Mutual, USAA and GEICO. Travelers and The Hartford have been sued in a Connecticut court. These suits are sure to expand to parts from such companies as Diehard and Monroe.

**THE \$100,000 TOYOTA:** The Alliance of American Insurers illustrates the high price of car-company replacement parts each year by calculating the cost of producing a new car with them. In 1999, a Toyota Camry LE, retailing for \$23,263, contained \$101,335.55 worth of car-company replacement parts, not counting paint and labor.

**NON-CAR COMPANY PARTS COST LESS:** Non-car company parts cost between 20 and 50 percent less than car-company parts.<sup>1</sup> And the savings can be dramatically higher. In 1996, for instance, Pontiac charged \$216 for a 1995 Grand Am replacement fender that was available from a generic manufacturer for \$59; a replacement hood for a 1995 S10 Blazer cost \$337 when purchased from Chevrolet, \$132 from a non-car company producer.<sup>2</sup> State Farm says use of generic parts saved its policyholders almost \$234 million in 1997 alone.

**CONSUMERS ARE NOT AFRAID OF COMPETITION:** In fact, they expect and demand it. This case, if not overturned, will pave the way for increased crash-repair costs, increased insurance premiums and a monopoly for the car companies. The court has essentially made the car companies the benchmark for quality. But consumers know better. Cars are likely the most complained about and most recalled consumer product we buy. Consumers want more competition, not less.

**COMPETITION CUTS COSTS:** Competition from non-car company parts also holds down the cost of car-company parts. In 1982, Chevrolet charged \$325 for the front nose cover of a newly released 1983-model Camaro. In 1988, when competitors were offering non-car company alternatives, Chevrolet charged \$225 for the part. The same car's door shell, for which there was no non-car company competition, rose in price from \$445 to \$590 during that period.<sup>3</sup> Before competitors began to offer generic crash-replacement parts about 20 years ago, car company markups were as high as 800 percent.<sup>4</sup>

**COMPETITION IMPROVES QUALITY:** Since competition entered the market, the car companies have been forced to improve product quality, offer better warranties and revise their commission-protection systems.

**COMPETITION IS POPULAR:** Competition enjoys widespread support. State Farm's appeal to higher courts, for example, has been supported by such diverse organizations as Public Citizen and the Center for Auto Safety (both founded by Ralph Nader), the Washington Legal Foundation, the Chamber of Commerce of the United States, the National Association of Insurance Commissioners and the National Conference of Insurance Legislators.

**CUSTOMERS ARE SATISFIED:** More than 90 percent of non-car company parts manufacturers guarantee their parts for between five years and the life of the vehicle.<sup>5</sup> If they do not, the insurance company or distributor guarantees the part.

In Indiana, where policyholders must give written consent before non-car company replacement parts can be used, 93.2 percent of State Farm policyholders did so. In a survey of 1,400 State Farm claims in which generic replacement parts were used, fewer than 1 percent of policyholders complained about the quality of the repairs.

Even the repairers who use the parts are satisfied when it comes to certified parts: in the past five years, less than one-half of 1 percent of installers have complained about the parts.

#### **SOURCES**

1. National Association of Independent Insurers.
2. Alliance of American Insurers in the *Journal of Insurance Regulation*.
3. Consumer Reports, quoted in the *Journal of Insurance Regulation*.
4. National Association of Independent Insurers.
5. National Association of Independent Insurers.

May 25, 2000

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February 1, 2001

### Testimony of Patrick J. Ward in Opposition to SB 2358

Dear Chairman Stenehjem and members of the Senate Transportation Committee:

SB 2358 relates to the use of replacement crash parts in motor vehicle repairs.

I represent the North Dakota Domestic Insurance Companies, State Farm Insurance Company, and the National Association of Independent Insurers. All of these companies strongly oppose SB 2358. This bill is anti-consumer, anti-competitive, and has nothing to do with safety. The market should dictate which parts get used, not government. We urge a Do Not Pass.

SB 2358 is a recycled version of SB 2276 from the 1999 Legislative Session.

That bill passed the Senate without opposition in 1999, but was killed in the House.

We object to SB 2358 for many of the same reasons that we did last session.

SB 2358 would give the original equipment manufacturers (OEM) of automobile sheet metal parts a monopoly on the sale of those parts. It would close the door to all competition. This would result in substantial increases in the cost of

**Testimony of Patrick J. Ward In Opposition to SB 2358**

**February 1, 2001**

**Page 2**

such parts and a consequent substantial increase in premiums for motor vehicle insurance.

There is absolutely no evidence to support the argument that the quality of aftermarket parts is any less than the quality of original equipment manufactured parts. In fact, CAPA, the Certified Automotive Parts Association, certifies the quality of parts made by the aftermarket manufacturers. It should also be kept in mind that most of these parts are simply stamped sheet metal. SB 2358 does not attempt to apply to engine, electrical or other automotive parts which are much more complex in their nature and origin. All of us have purchased aftermarket parts such as Sears DieHard batteries, used and recycled starters and other electrical components from auto part stores not knowing who the manufacturer was. Most of us seldom if ever question our mechanic as to the manufacturer of the electrical, computerized, or mechanical parts he or she uses in repairing our vehicles.

SB 2358 as written applies to all vehicles within the past eight years of manufacture which weigh less than 10,000 pounds. It requires the repair facility to disclose each type of replacement part that would be installed and obtain a written authorization from the consumer to perform the repairs. No other state has such far reaching legislation. In North Dakota, a body shop makes a larger markup on an



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**Page 2**

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**February 1, 2001**

**Page 3**

OEM part than an aftermarket part; i.e., the more expensive the part the more money goes into the repairmen's pockets.

We have provided you with a packet of materials including a brochure from the National Association of Independent Insurers. At page 6 of that brochure they illustrate how competition has forced prices to decline, even on OEM parts. For example, a fender for a Toyota Camry which cost \$265.79 for an OEM fender in 1994 by 1996 cost \$143.88. At the same time, a non-OEM fender cost \$209.00 in 1994 and only \$60.00 in 1996. Examples of fenders for other automobiles are also included.

A new Honda Accord costs \$22,365 from the dealer. If built in a body shop with OEM parts, the same car would cost \$68,065.93. (This is a study done by the Alliance of American Insurers). In a previous study, a 1999 Toyota Camry with a sticker price of \$23,763 cost \$101,335 in OEM replacement parts.

This legislation follows an unsuccessful attempt by the auto manufacturers to persuade the U.S. Congress to create a legislated monopoly. Since that time, they have tried to do so through state legislation with assistance from auto body shops.

SB 2358 is not a consumer protection bill. It is a bill which will help stifle competition in the crash parts industry. It will benefit only the large auto makers and

**Testimony of Patrick J. Ward in Opposition to SB 2358**

**February 1, 2001**

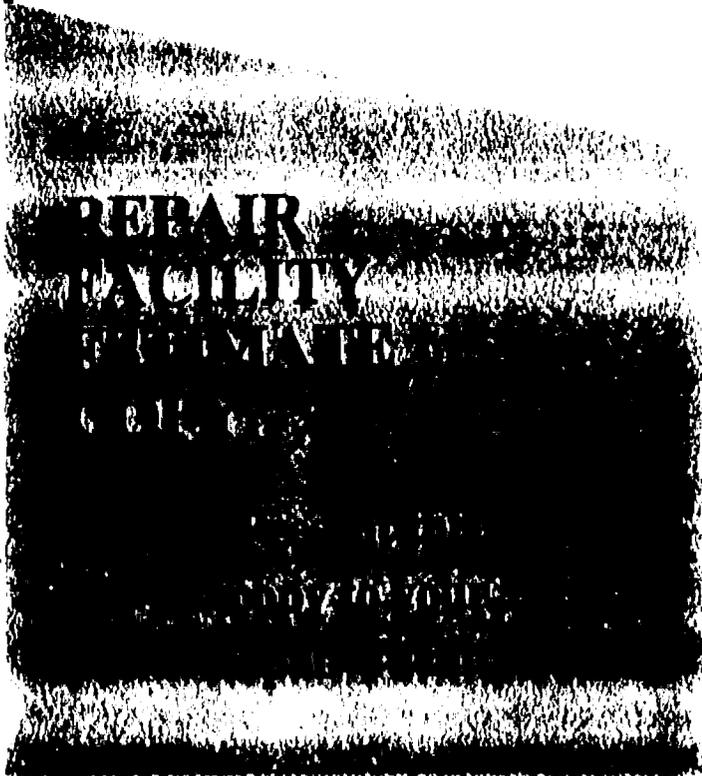
**Page 4**

the few body shops that add a markup onto parts. It will be detrimental to the consumer as it will cause a rise in the cost of parts and a consequent rise in insurance premiums.

We urge you to vote Do Not Pass on this legislation.

# Quality Replacement Parts

State Farm's Promise To You



## AUTO DAMAGE CLAIM POLICY

When you have an auto damage claim we owe, here's what you should know:

- We want you to receive quality repair work.
- We will provide you with a detailed appraisal of damage and cost of repairs.
- You may have your car repaired at the repair facility of your choice.
- If you have no repair facility preference and request our assistance, we will provide you the names of conveniently located quality repair facilities from which you may make a selection.
- The prevailing competitive price is based on prices charged by a majority of the repair market. The repair market is composed of those repair facilities which comply with State Farm Insurance Companies' repair facility criteria in a market area.
- If you select a repair facility which charges prices the same or lower than the prevailing competitive price, we will pay based on that repair facility's prices.
- If you select a repair facility which charges prices higher than the prevailing competitive price, you will be expected to pay the difference.
- The repair facility selected should contact us directly if there are questions about our appraisal.

*Like a good neighbor, State Farm is there.®*

State Farm Insurance Companies  
Home Offices: Bloomington, Illinois

# Quality Replacement Parts

## State Farm's Promise To You

State Farm will guarantee the performance of new Quality Replacement Parts we include in our estimates on claims in which we pay for repairs.

As the world's largest auto insurer, our thousands of agents and claim employees are prepared to deliver the "Good Neighbor" service we promise.

## Satisfaction Guaranteed

- If you authorize repairs by a repairer that we agree upon --
- Using new Quality Replacement Parts that we include in our estimate --
- And we pay for those repairs --

• State Farm promises that you will be satisfied with the fit and corrosion resistance qualities of the outer plastic and sheet metal parts for as long as you own your vehicle. We also promise that you will be satisfied with the performance of all other Quality Replacement Parts for at least as long as the original equipment manufacturer would have warranted its new replacement part --

• **OR WE'LL SEE THAT THE PARTS ARE REPAIRED OR REPLACED TO YOUR SATISFACTION -- AT NO COST TO YOU.**

**Competition Is Vital.** Competition has led to dramatic reductions in the cost of many original equipment manufacturers' replacement parts and has caused significant improvements in their warranties. This results in higher quality at lower costs for the consumer.

**Standards.** Insurance companies, manufacturers of alternative parts, and repair facilities established the Certified Automotive Parts Association (CAPA) in 1989 to set quality standards.

State Farm is very selective when the prices of new alternative parts are used in determining repair costs. Only those parts which meet our very high performance criteria are acceptable. We refer to these as Quality Replacement Parts.

When State Farm prepares a damage estimate, we may include competitively priced, readily available, Quality Replacement Parts or parts provided by the original manufacturer. If we include Quality Replacement Parts, they will be clearly identified as such on your estimate.

**The Choice is Yours.** The final choice as to which parts will actually be used in repairs rests with you, the vehicle owner. If you prefer parts other than those included in our estimate, you should notify your repairer. Should use of those parts increase the repair cost, you will be expected to pay the difference.

**Keeping the Promise.** State Farm keeps the promise of "Good Neighbor" service thousands of times each day as we pay individual claims. Our promise now includes a commitment to your satisfaction regarding new Quality Replacement Parts used in the repair of your automobile.

# Quality Recycled Parts Make Sense

## State Farm's Promise To You

State Farm will guarantee the performance of recycled parts we include in our estimates on claims in which we pay for repairs.

As the world's largest auto insurer, our thousands of agents and claim employees are prepared to deliver the "Good Neighbor" service we promise.

## Satisfaction Guaranteed

- If you authorize repairs by a repairer that we agree upon ...
- Using recycled replacement parts that we include in our estimate ...
- And we pay for those repairs ...
- State Farm promises that you will be satisfied with the fit and corrosion resistance qualities of the outer plastic and sheet metal parts for at least one year or for the duration of the existing vehicle manufacturer's warranty, whichever is longer. We also promise that you will be satisfied with the performance of all other Quality Recycled Parts for at least as long as the original equipment manufacturer would have warranted its new replacement part ...

- OR WE'LL SEE THAT THE RECYCLED REPLACEMENT PARTS ARE REPAIRED OR REPLACED TO YOUR SATISFACTION — AT NO COST TO YOU.

When State Farm prepares a damage estimate, we may include good quality recycled parts, provided they are readily available. This helps hold down repair costs, an obligation we have to our entire policyholder group. If we include recycled (used) parts, they will be clearly identified as such on your estimate.

**The Choice Is Yours.** The final choice as to which parts will actually be used in repairs rests with you, the vehicle owner. If you prefer parts other than those included in our estimate, you should notify your repairer. Should use of those other parts increase the repair cost, you will be expected to pay the difference.

**Keeping the Promise.** State Farm keeps the promise of "Good Neighbor" service thousands of times each day as we pay individual claims. Our promise now includes a commitment to your satisfaction regarding Quality Recycled Parts used in the repair of your automobile.

**SECTION IV - PHYSICAL DAMAGE COVERAGES**

SB 2358  
2/1/01

Loss means, when used in this section, each distinct and identifiable item of or damage to:

1. your car;
2. its equipment which is common to the use of your car as a vehicle;
3. clothes and luggage insured and
4. a detachable living quarters attached or removed from your car for storage. Detachable living quarters includes its body and items usually found in place as a permanent part of the body. You must have told us about the living quarters before the loss and paid any extra premium needed.

**COMPREHENSIVE - COVERAGE D.** You have this coverage if "D" appears in the "Coverages" space on the declarations page. If a deductible applies the amount is shown by the number beside "D".

1. Loss to Your Car. We will pay for loss to your car EXCEPT LOSS BY COLLISION but only for the amount of each such loss in excess of the deductible amount, if any.

Breakage of glass, or loss caused by missiles, falling objects, fire, theft, burglary, explosion, earthquake, windstorm, hail, water, flood, volcanic eruption or vandalism, fire or civil commo-  
 nextort, is payable under this coverage. Loss due to seizure or being hit by a band or an animal is payable under this coverage.

2. We will repay you for transportation costs if your car is stolen. We will pay up to \$16 per day for the period that begins 48 hours after you tell us of the theft. The period ends when we offer to pay for loss.

**COLLISION - COVERAGE G.** You have this coverage if "G" appears in the "Coverages" space on the declarations page. The deductible amount is shown by the number beside "G".

We will pay for loss to your car caused by collisions but only for the amount of each such loss in excess of the deductible amount. If the collision is with another motor vehicle insured with us, you do not pay your deductible if it is \$1000 or less as we pay it.

**Clothes and Luggage - Comprehensive and Collision Coverages**

We will pay for loss to clothes and luggage owned by the first person named in the declarations, his or her

spouse, and their relatives. These items have to be in or on your car. Your car has to be covered under this policy for:

1. Comprehensive, and the loss caused by fire, lightning, flood, falling objects, explosion, earthquake or theft. If the loss is due to theft, YOUR ENTIRE CAR MUST HAVE BEEN STOLEN or
2. Collision, and the loss caused by collision.

We will pay up to \$200 for loss to clothes and luggage in excess of any deductible amount shown for comprehensive or collision. \$200 is the most we will pay in any one occurrence even though more than one person has a loss. This coverage is excess over any other coverage.

**Limit of Liability - Comprehensive and Collision Coverages**

The limit of our liability for loss to property or any part of it is the lower of:

1. the actual cash value; or
2. the cost of repair or replacement.

Actual cash value is determined by the market value, age and condition at the time the loss occurred. Any deductible amount that applies is then subtracted.

The cost of repair or replacement is based upon one of the following:

1. the cost of repair or replacement agreed upon by you and us;
2. a competitive bid approved by us; or
3. an estimate written based upon the prevailing price means charged by a majority of the repair market in the area where the car is to be repaired as determined by a survey made by us. If you ask, we will identify some facilities that will perform the repairs at the prevailing competitive price. We will include in the estimate parts sufficient to restore the vehicle to its pre-loss condition. You agree with us that such parts may include either parts furnished by the vehicle's manufacturer or parts from other sources including non-original equipment manufacturers.

Any deductible amount that applies is then subtracted.

**Settlement of Loss - Comprehensive and Collision Coverages**

We have the right to settle a loss with you or the owner of the property in one of the following ways:

1. pay the agreed upon actual cash value of the property at the time of the loss in exchange for the damaged property. If the owner and we cannot agree on the actual cash value, either party may demand an appraisal as described below. If the owner keeps the damaged property, we will deduct its value after the loss from our payment. The damaged property cannot be abandoned to us.

2. repair the damaged property or part, or replace the property or part.

If the repair or replacement results in betterment, you must pay for the amount of betterment, or

3. return the stolen property and pay for any damage due to the theft.

Appraisal under item 1 above shall be conducted according to the following procedure. Each party shall select an appraiser. These two shall select a third appraiser. The written decision of any two appraisers shall be binding. The cost of the appraiser shall be paid by the party who hired him or her. The cost of the third appraiser and other appraisal expenses shall be shared equally by both parties. We do not waive any of our rights by agreeing to an appraisal. If you give us your consent, we may move the damaged property, at our expense, to reduce storage costs during the appraisal process. If you do not give us your consent, we will pay only the storage costs which would have resulted if we had moved the damaged property.

The Settlement of Loss provision for comprehensive and collision coverages incorporates the Limit of Liability provision of those coverages.

If we can pay the loss under either comprehensive or collision, we will pay under the coverage where you collect the most.

When there is loss to your car, clothes and luggage in the same occurrence, any deductible will be applied first to the loss to your car. You pay only one deductible.

**EMERGENCY ROAD SERVICE - COVERAGE H.** You have this coverage if "H" appears in the "Coverages" space on the declarations page.

We will pay the fair cost you incur for your car for:

1. mechanical labor up to one hour at the place of breakdown;
2. towing to the nearest place where the necessary repairs can be made during regular business hours if it will not run.

3. towing it out if it is stuck on or immediately next to a public highway;
4. delivery of gas, oil, lowered battery, or change of tire. WE DO NOT PA FOR THE COST OF THESE ITEMS.

**CAR RENTAL EXPENSE - COVERAGE R.** You have this coverage if "R" appears in the "Coverages" space on the declarations page.

We will repay you up to \$10 per day when you rent a car from a car rental agency or garage due to a loss to your car, which would be payable under coverage D or G, starting:

1. when it cannot run due to the loss; or
2. if it can run, when you leave it at the shop for agreed repairs.

and ending when:

1. it has been repaired or replaced; or
2. we offer to pay for the loss; or
3. you incur 30 days rent, whichever comes first.

Any car rent payable under coverage R is REDUCED TO THE EXTENT IT IS PAYABLE UNDER COMPREHENSIVE.

**CAR RENTAL AND TRAVEL EXPENSES - COVERAGE RL.** You have this coverage if "RL" appears in the "Coverages" space on the declarations page.

1. Car Rental Expense. We will:

- a. pay you up to \$16 of the daily rental charge when you rent a car from a car rental agency or garage; or
- b. pay you \$10 for each complete 24-hour period that your car is not drivable if you choose to not rent a car. You must report to us the period of time that your car was not drivable.

We will pay only if your car is not drivable because of a loss which would be payable under coverage D or G.

This applies during a period starting:

- a. when your car cannot run due to the loss; or
- b. if your car can run, when you leave it at the shop for agreed repairs and ending:

- a. when it has been repaired or replaced; or
- b. (1) when we offer to pay for the loss, if your car is repairable; or

**NON-ORIGINAL EQUIPMENT REPLACEMENT PARTS  
INFORMATION**

Whenever " " appears next to the description of a part which is to be replaced, this  
means:

THIS ESTIMATE HAS BEEN PREPARED BASED ON THE USE OF CRASH PARTS  
SUPPLIED BY A SOURCE OTHER THAN THE MANUFACTURER OF YOUR MOTOR  
VEHICLE. WARRANTIES APPLICABLE TO THESE REPLACEMENT PARTS ARE  
PROVIDED BY THE MANUFACTURER OR DISTRIBUTOR OF THESE PARTS  
RATHER THAN THE MANUFACTURER OF YOUR VEHICLE

This is a preliminary estimate.  
Additional changes to the estimate may be required for the actual repair.

CONTACT THE LISTED CLAIM REPRESENTATIVE IF YOU HAVE ANY QUESTIONS.

Damage Assessed By: Troy Walker

"ALL SUPPLEMENTS REQUESTS REQUIRE PRIOR APPROVAL FOR FOR PAYMENT. FAX ALL SUPPLEMENT REQUEST TO: 1-800-455-9697"

Type of Loss: Collision  
 Date of Loss: 2/ 1/01  
 Deductible: UNKNOWN  
 Claim Number: A - -

Insured: Dean

Mitchell Service: 912487

Description: 1987 Chevrolet Pickup V10  
 Body Style: 2D Pkup 8' Bed 131" WB  
 License: NA  
 OBM/ALT: A  
 Color: Silver

Drive Train: 5.7L Inj 8 Cyl 4WD  
 Search Code: SFF273

Options: 4 WHEEL DRIVE, ALLOY WHEELS, AIR CONDITIONING, POWER STEERING, POWER BRAKES  
 POWER WINDOWS, POWER DOOR LOCKS, TILT STEERING WHEEL, CRUISE CONTROL  
 AM-FM STEREO CASSETTE, AUTOMATIC TRANSMISSION, V8 OVER 6 CYL, 2-DOOR PICKUP  
 FUEL INJECTION

Line Item	Entry Number	Labor Type	Operation	Line Item Description	Part Type/ Part Number	Dollar Amount	Labor Units
1	AUTO	BDY	OVERHAUL	FRT BUMPER ASSY			1.0
2	201870	BDY	REMOVE/REPLACE	FRT BUMPER FACE BAR	**Qual Repl Part	145.00 *	INC
3	207210	BDY	REMOVE/REPLACE	HOOD PANEL	**Qual Repl Part	156.00 *	1.0
4	AUTO	REF	REFINISH	HOOD OUTSIDE			C 3.6
5	AUTO	REF	REFINISH	HOOD UNDERSIDE			C 0.5
6	208190	BDY	REMOVE/REPLACE	COOLING RADIATOR SUPPORT	**Qual Repl Part	155.00 *	5.6 #
7	212680	BDY	REMOVE/REPLACE	R FENDER PANEL	**Qual Repl Part	115.00 *	2.3
8	AUTO	REF	REFINISH	R FENDER OUTSIDE			C 2.3
9	AUTO	REF	REFINISH	R FENDER EDGE & INSIDE			1.0
10	212690	BDY	REMOVE/REPLACE	L FENDER PANEL	**Qual Repl Part	115.00 *	2.0
11	AUTO	REF	REFINISH	L FENDER OUTSIDE			C 2.3
12	AUTO	REF	REFINISH	L FENDER EDGE & INSIDE			1.0
13	AUTO	REF	ADD'L OPR	CLEAR COAT			2.6
14	AUTO		ADD'L COST	PAINT/MATERIALS		332.50 *	

REFER TO THE ATTACHED INFORMATION  
 REGARDING REPLACEMENT PARTS NOT MADE  
 BY THE ORIGINAL EQUIPMENT MANUFACTURER

ESTIMATE RECALL NUMBER: 2/ 1/01 12:29:57 A - -

Estimate Version:  
 Estimate Version:

JAN 01\_A  
 4.6.004

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## Survey of Competition Impact on Replacement Parts

### 1993-1995 Dodge Caravan Minivan

	Non-OEM Part	Original Equipment Part
Hood	\$164	\$315
Front left fender	\$ 97	\$150
Left door shell	*	\$650

### 1995-1996 Chevy Lumina

	Non-OEM Part	Original Equipment Part
Hood	\$310	\$545
Front left fender	\$167	\$272
Left door shell	*	\$952

### 1993-1994 Ford Explorer

	Non-OEM Part	Original Equipment Part
Hood	\$113	\$257
Front left fender	\$ 75	\$158
Left door shell	*	\$640

### 1995-1997 Ford Ranger

	Non-OEM Part	Original Equipment Part
Hood	\$108	\$180
Front left fender	\$145	\$261
Left door shell	*	\$479

\* - Indicates little or no competition

All listed non-OEM parts CAPA-certified. Survey done 4<sup>th</sup> quarter 1998.

Source: State Farm Strategic Resources Department

## WEEKLY SALES OF SHEETMETAL

Report from (12/31/00) week ending Jan 06 01  
to (01/26/01) week ending Feb 03 01

Location from ( ) to [ZZZ]

Item code from [BB-1662GM123 ] to [BB-1662GM1230234 ]

Report ordered by quantity sold

Columns may appear not to total correctly due to rounding.

Loc	Item Code	Item Description	Week Ending	Quantity Sold	Sales Amount
1	BB-1662GM1230126	HOOD;88-00 CHEVY PU	Jan 06 01	2	214.50
1	BB-1662GM1230126	HOOD;88-00 CHEVY PU	Jan 13 01	2	214.50
1	BB-1662GM1230126	HOOD;88-00 CHEVY PU	Jan 27 01	2	214.50
1	BB-1662GM1230131	HOOD 91-4 CAVALIER	Jan 13 01	2	186.00
1	BB-1662GM1230138	92-5 GRAND AM HOOD	Jan 06 01	2	201.00
1	BB-1662GM1230138	92-5 GRAND AM HOOD	Feb 03 01	2	201.00
1	BB-1662GM1230176	94-00 S10 HOOD; 96-8 BRAVADA	Jan 13 01	2	186.00
1	BB-1662GM1230113	HOOD;90-4 LUMINA;COUPE/SEDAN	Jan 20 01	1	226.50
1	BB-1662GM1230115	HOOD;W/O TURBO;CP,SDN;88-96 GRAND PRIX	Jan 13 01	1	210.00
1	BB-1662GM1230124	HOOD;82-94 S10	Jan 06 01	1	78.00
1	BB-1662GM1230124	HOOD;82-94 S10	Jan 13 01	1	78.00
1	BB-1662GM1230124	HOOD;82-94 S10	Jan 20 01	1	78.00
1	BB-1662GM1230124	HOOD;82-94 S10	Jan 27 01	1	78.00
1	BB-1662GM1230125	HOOD;81-7 PU/BLAZER CHEVY	Jan 06 01	1	117.00
1	BB-1662GM1230125	HOOD;81-7 PU/BLAZER CHEVY	Jan 20 01	1	105.30
1	BB-1662GM1230125	HOOD;81-7 PU/BLAZER CHEVY	Jan 27 01	1	117.00
1	BB-1662GM1230126	HOOD;88-00 CHEVY PU	Jan 20 01	1	107.25
1	BB-1662GM1230131	HOOD 91-4 CAVALIER	Jan 06 01	1	93.00
1	BB-1662GM1230131	HOOD 91-4 CAVALIER	Feb 03 01	1	93.00
1	BB-1662GM1230135	HOOD;87-96 CORSICA	Jan 13 01	1	97.50
1	BB-1662GM1230135	HOOD;87-96 CORSICA	Jan 27 01	1	97.50
1	BB-1662GM1230136	HOOD;87-96 BERETTA	Jan 20 01	1	76.00
1	BB-1662GM1230138	92-5 GRAND AM HOOD	Jan 20 01	1	100.50
1	BB-1662GM1230138	92-5 GRAND AM HOOD	Jan 27 01	1	100.50
1	BB-1662GM1230176	94-00 S10 HOOD; 96-8 BRAVADA	Jan 06 01	1	93.00
1	BB-1662GM1230176	94-00 S10 HOOD; 96-8 BRAVADA	Feb 03 01	1	93.00
1	BB-1662GM1230201	93-7 GEO PRIZM HOOD	Jan 06 01	1	141.00
1	BB-1662GM1230202	95-00 CAVALIER HOOD	Jan 06 01	1	0.00
1	BB-1662GM1230202	95-00 CAVALIER HOOD	Jan 13 01	1	0.00
1	BB-1662GM1230202	95-00 CAVALIER HOOD	Jan 20 01	1	136.50
1	BB-1662GM1230202	95-00 CAVALIER HOOD	Jan 27 01	1	167.25
1	BB-1662GM1230209	HOOD 95-00 PONTIAC SUNFIRE	Jan 06 01	1	197.25
1	BB-1662GM1230209	HOOD 95-00 PONTIAC SUNFIRE	Feb 03 01	1	197.25
1	BB-1662GM1230211	HOOD 96-99 SATURN SDN/WAGN	Jan 20 01	1	150.00
1	BB-1662GM1230211	HOOD 96-99 SATURN SDN/WAGN	Feb 03 01	1	150.00
1	BB-1662GM1230219	92-8 OLDS ACERVA HOOD	Feb 03 01	1	210.00
1	BB-1662GM1230227	HOOD 97-00 CHEVY VENTURE/TRANSPRT/SILHOU	Jan 06 01	1	247.50
1	BB-1662GM1230115	HOOD;W/O TURBO;CP,SDN;88-96 GRAND PRIX	Jan 06 01	0	50.00-
1	BB-1662GM1230138	92-5 GRAND AM HOOD	Jan 13 01	0	0.00
1	BB-1662GM1230126	HOOD;88-00 CHEVY PU	Jan 13 01	3	321.75
1	BB-1662GM1230126	HOOD;88-00 CHEVY PU	Jan 27 01	3	321.75
1	BB-1662GM1230202	95-00 CAVALIER HOOD	Jan 20 01	2	334.50
1	BB-1662GM1230115	HOOD;W/O TURBO;CP,SDN;88-96 GRAND PRIX	Jan 20 01	1	210.00
1	BB-1662GM1230125	HOOD;73-88 CHEVY PU/BLAZER	Jan 06 01	1	126.75

507

9

0

2

4

VENTI FINE

WEEKLY SALES OF SUBSTANTIAL

Report from [12/31/00] week ending Jan 06 01  
to [01/28/01] week ending Feb 03 01

Location from [ ] to [SSS]

Item code from [BB-1662GM123 ] to [BB-1662GM1230234 ]

Report ordered by quantity sold

Columns may appear not to total correctly due to rounding.

Item Code	Item Description	Week Ending	Quantity Sold	Sales Amount
2 BB-1662GM1230124	HOOD;82-94 S10	Jan 06 01	1	78.00
2 BB-1662GM1230125	HOOD;81-7 PU/BLAZER CHEVY	Jan 27 01	1	117.00
2 BB-1662GM1230126	HOOD;88-00 CHEVY PU	Feb 03 01	1	107.25
2 BB-1662GM1230128	HOOD;89-91 GRAND AM	Jan 06 01	1	128.25
2 BB-1662GM1230131	HOOD 91-4 CAVALIER	Jan 20 01	1	93.00
2 BB-1662GM1230136	HOOD;87-96 BERETTA	Jan 20 01	1	96.00
2 BB-1662GM1230143	HOOD 87-91 BONNEVILLE	Jan 20 01	1	213.00
2 BB-1662GM1230176	94-00 S10 HOOD; 96-8 BRAVADA	Jan 27 01	1	93.00
2 BB-1662GM1230193	92-6 OLDS CUTLASS COUPE HOOD	Jan 27 01	1	227.25
2 BB-1662GM1230197	95-00 LUMINA HOOD/95-99 MONTE CARLO	Jan 06 01	1	214.75
2 BB-1662GM1230197	95-00 LUMINA HOOD/95-99 MONTE CARLO	Jan 13 01	1	0.00
2 BB-1662GM1230202	95-00 CAVALIER HOOD	Jan 06 01	1	167.25
2 BB-1662GM1230202	95-00 CAVALIER HOOD	Jan 27 01	1	167.25
2 BB-1662GM1230232	99-00 GRAND AM HOOD	Feb 03 01	1	198.75
2 BB-1662GM1230126	HOOD;88-00 CHEVY PU	Jan 06 01	0	25.75
2 BB-1662GM1230126	HOOD;88-00 CHEVY PU	Jan 20 01	0	0.00
2 BB-1662GM1230122	HOOD;73-80 CHV PU/BLAZER	Jan 20 01	1	126.75
3 BB-1662GM1230124	HOOD;82-94 S10	Jan 06 01	1	78.00
3 BB-1662GM1230135	HOOD;87-96 CORSICA	Feb 03 01	1	97.50
			69	2,299.38

7207005  
7207005

Report from [12/31/00] Week ending Jan 06 01  
 to [01/30/01] Week ending Feb 03 01

Location from [ ] to [ZZZ]  
 Item code from [BB-1662CH123 ] to [BB-1662CH123ZZZZZ]  
 Report ordered by quantity sold

Columns may appear not to total correctly due to rounding.

Item	Week	Quantity	Sales
Code	Ending	Sold	Amount
1 BB-1662CH1230109	HOOD 91-2 DODGE CARAVAN	Jan 06 01	1 120.00
1 BB-1662CH1230109	HOOD 91-2 DODGE CARAVAN	Jan 13 01	1 120.00
1 BB-1662CH1230118	HOOD/89-98 SPIRIT/ACCLAIM	Jan 06 01	1 148.50
1 BB-1662CH1230116	93-8 CARAVAN HOOD	Jan 06 01	1 135.00
1 BB-1662CH1230132	HOOD 91-4 DODGE SHADOW W/O ES	Jan 13 01	1 144.00
1 BB-1662CH1230135	93-6 DODGE INTREPID HOOD	Jan 20 01	1 223.50
1 BB-1662CH1230191	91-6 DODGE DAKOTA HOOD	Feb 03 01	1 135.00
1 BB-1662CH1230195	96-8 CARAVAN/T&C/VOYAGER HOOD	Jan 13 01	1 141.00
1 BB-1662CH1230195	96-8 CARAVAN/T&C/VOYAGER HOOD	Feb 03 01	1 141.00
1 BB-1662CH1230195	96-8 CARAVAN/T&C/VOYAGER HOOD	Jan 27 01	1- 141.00- <i>17 26417</i>
2 BB-1662CH1230130	HOOD 87-90 WAGONIER/COMANCHE 91-6	Jan 27 01	1 109.50
2 BB-1662CH1230172	95-9 NEON HOOD W/O BULGE	Feb 03 01	1 127.50
2 BB-1662CH1230187	94-7 DODGE PU HOOD	Jan 13 01	1 261.00
2 BB-1662CH1230195	96-8 CARAVAN/T&C/VOYAGER HOOD	Jan 27 01	1 141.00
			-----
			12 1,806.00
			-----

*CHRYSLER*

WEEKLY SALES OF SUBSTITUTAL

Report from (12/31/00) Week ending Jan 06 01  
to (01/28/01) Week ending Feb 03 01

Location from ( )/to (###)

Item code from (BB-1662FO123 ) to (BB-1662FO123###)

Report ordered by quantity sold

Columns may appear not to total correctly due to rounding.

Loc	Item Code	Item Description	Week Ending	Quantity Sold	Sales Amount
1	BB-1662FO1230121	HOOD 92-9 FORD PU	Jan 20 01	2	234.00
1	BB-1662FO1230117	HOOD;87-91 FORD PU	Jan 06 01	1	164.25
1	BB-1662FO1230117	HOOD;87-91 FORD PU	Feb 03 01	1	164.25
1	BB-1662FO1230121	HOOD 92-9 FORD PU	Jan 27 01	1	117.00
1	BB-1662FO1230124	HOOD;89-94 RGR/BRONCO II/EXPLR	Jan 06 01	1	77.25
1	BB-1662FO1230138	HOOD;84-94 TEMPO / TOPAZ	Jan 20 01	1	124.80
1	BB-1662FO1230139	92-5 FORD TAURUS HOOD RXC SHO	Jan 05 01	1	203.25
1	BB-1662FO1230139	92-5 FORD TAURUS HOOD RXC SHO	Jan 27 01	1	203.25
1	BB-1662FO1230155	94-7 FORD ASPIRE HOOD	Jan 06 01	1	143.25
2	BB-1662FO1230124	HOOD;89-94 RGR/BRONCO II/EXPLR	Jan 13 01	2	154.50
2	BB-1662FO1230119	92-5 MERCURY SABLE HOOD	Jan 13 01	1	234.75
2	BB-1662FO1230124	HOOD;89-94 RGR/BRONCO II/EXPLR	Jan 06 01	1	77.25
2	BB-1662FO1230138	HOOD;84-94 TEMPO / TOPAZ	Jan 20 01	1	124.80
	BB-1662FO1230168	95-7 FORD WINDSTAR HOOD	Jan 13 01	1	0.00
	BB-1662FO1230120	HOOD;89-93 FORD T-BIRD	Jan 20 01	0	0.00
	BB-1662FO1230124	HOOD;89-94 RGR/BRONCO II/EXPLR	Jan 20 01	1-	77.25- ~ 119 1/2
2	BB-1662FO1230161	96-9 TAURUS HOOD	Jan 06 01	1-	132.75- ~ 119 1/2
				-----	-----
				14	1,812.00
				-----	-----

FORD



**FACSIMILE COVER SHEET**  
**State Farm Insurance**  
**Home Offices: Bloomington, Illinois**

<b>Name</b>	<b>Facsimile Phone</b>
<b>TO: Senator Trenbeth</b>	<b>701 328-1997</b>
<b>FR: John Ashenfelter</b>	<b>309 766-4909</b>

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**Date/Time:** February 8, 2001

**Total Pages:** 6  
(including cover page)

Please Contact Brenda White at  
309 766-4914 regarding transmission errors

Here are the NAIC and Nebraska regulations on aftermarket parts. Nebraska does not have a statute on this issue. Iowa has a regulation, but the disclosure is on the policy and not at time of claim.

## AFTER MARKET PARTS MODEL REGULATION

### Table of Contents

Section 1.	Authority
Section 2.	Purpose
Section 3.	Definitions
Section 4.	Identification
Section 5.	Like Kind and Quality
Section 6.	Disclosure
Section 7.	Enforcement
Section 8.	Severability
Section 9.	Effective Date

### Section 1. Authority

This regulation is adopted pursuant to Section [insert reference to the state Unfair Trade Practices Act].

### Section 2. Purpose

The purpose of the proposed regulation is to set forth standards for the prompt, fair and equitable settlements applicable to automobile insurance with regard to the use of after market parts. It is intended to regulate the use of after market parts in automobile damage repairs which insurers pay for on their insured's vehicle. The regulation requires disclosure when any use is proposed of a non-original manufacturer part. It also requires that all after market parts, as defined in the regulation, be identified and be of the same quality as the original part.

### Section 3. Definitions

- A. "Insurer" includes a person authorized to represent the insurer with respect to a claim who is acting within the scope of the person's authority.
- B. "Non-original manufacturer" means a manufacturer other than the original manufacturer of the part.
- C. "After market part" for purposes of this regulation, means sheet metal or plastic parts that generally constitute the exterior of a motor vehicle, including inner and outer panels.

### Section 4. Identification

An after market part that is subject to this regulation and manufactured after the effective date of this regulation shall carry sufficient permanent identification to identify its manufacturer. The identification shall be accessible to the extent possible after installation.

### Section 5. Like Kind and Quality

An insurer shall not require the use of after market parts in the repair of an automobile unless the after market part is at least equal in kind and quality to the original part in terms of fit, quality and performance. Insurers specifying the use of after market parts shall consider the cost of any modifications that may become necessary when making the repair.

**Section 6. Disclosure**

The insurer must disclose to the claimant in writing, either on the estimate or on a separate document attached to the estimate, the following information in no smaller print than 10 point type:

**THIS ESTIMATE HAS BEEN PREPARED BASED ON THE USE OF AUTOMOBILE PARTS NOT MADE BY THE ORIGINAL MANUFACTURER. PARTS USED IN THE REPAIR OF YOUR VEHICLE BY OTHER THAN THE ORIGINAL MANUFACTURER ARE REQUIRED TO BE AT LEAST EQUAL IN KIND AND QUALITY IN TERMS OF FIT, QUALITY AND PERFORMANCE TO THE ORIGINAL MANUFACTURER PARTS THEY ARE REPLACING.**

All after market parts installed on the vehicle shall be clearly identified on the estimate of the repair.

**Section 7. Enforcement**

A violation of this regulation shall be enforced through the state's Unfair Trade Practices Act by the penalties provided for in that Act.

*Notes: A state may wish to consider incorporating the text of this regulation directly into its existing unfair trade practices act.*

**Section 8. Severability**

If any section or portion of a section of this regulation, or its applicability to any person or circumstance is held invalid by a court, the remainder of this regulation, or the applicability of the provision to a person shall not be affected thereby.

**Section 9. Effective Date**

This regulation shall become effective on (insert date).

*Notes: It is recommended that states allow appropriate lead time to comply with this regulation. No regulation should take effect prior to January 1, 1995 at which time it is expected that most parts manufacturers will have had sufficient notice and time to mark their parts for identification.*

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*Legislative History (all references are to the Proceedings of the NAIC).*

*1997 Proc. II 18, 21-22, 20, 125-127, 145-146 (adopted).*

*Nab. Admin. R. 77 210. Ch. 98*

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## Chapter 45

### AFTER MARKET PARTS REGULATION

Section	
001.	Authority.
002.	Purpose.
003.	Definitions.
004.	Identification.
005.	Like kind and quality.
006.	Disclosure.
007.	Enforcement.
008.	Severability.
009.	Effective date.

#### § 001. Authority

This regulation is adopted pursuant to the Unfair Competition and Trade Practices Act, *Neb. Rev. Stat. § 44-1522, et seq.*

#### § 002. Purpose

The purpose of this proposed regulation is to set forth standards for the prompt, fair and equitable settlement of claims to automobile insurance with regard to the use of after market parts. It is intended to regulate the use of after market parts in (automobile) damage repairs which insurers pay for on their insured's behalf. The regulation requires disclosure when any use is proposed of a non-original manufacturer part. It also requires that all after market parts, as defined in the regulation, be identified and be of the same quality as the original part.

#### § 003. Definitions

(003.01) "Insurer" includes any person authorized to present the insurer with respect to a claim who is acting within the scope of the person's authority.

(003.02) "Non-Original Manufacturer" means any manufacturer other than the original manufacturer of the part.

(003.03) "After market part" for purpose of this regulation, means sheet metal or plastic parts which generally constitute the exterior of a motor vehicle, including inner and outer panels.

**§ 004. Identification**

All after market parts, which are subject to this regulation and manufactured after the effective date of this regulation, shall carry sufficient permanent identification so as to identify its manufacturer. Such identification shall be accessible to the extent possible after installation.

**§ 005. Like kind and quality**

No insurer shall require the use of after market parts in the repair of an automobile unless the after market part is at least equal in like, kind, and quality to the original part in terms of fit, quality and performance. Insurers specifying the use of after market parts shall consider the cost of any modifications which may become necessary when making the repair.

**§ 006. Disclosure**

The insurer must disclose to the claimant in writing, either on the estimate or on a separate document attached to the estimate, the following information in no smaller print than 10 point type:

**THIS ESTIMATE HAS BEEN PREPARED BASED ON THE USE OF AUTOMOBILE PARTS NOT MADE BY THE ORIGINAL MANUFACTURER. PARTS USED IN THE REPAIR OF YOUR VEHICLE BY OTHER THAN THE ORIGINAL MANUFACTURER ARE REQUIRED TO BE AT LEAST EQUAL IN LIKE, KIND AND QUALITY IN TERMS OF FIT, QUALITY AND PERFORMANCE TO THE ORIGINAL MANUFACTURER PARTS THEY ARE REPLACING.**

All after market parts installed on the vehicle shall be clearly identified on the estimate of such repair.

**§ 007. Enforcement**

Violations of this regulation shall be enforced through the Unfair Competition and Trade Practices Act, Neb.Rev.Stat. § 44-1222 et seq.

**§ 008. Severability**

If any section or portion of a section of this regulation, or the applicability thereof to any person or circumstance is held invalid by a court, the remainder of this regulation, or the applicability of such provision with a person shall not be affected thereby.

§ 000. Effective date

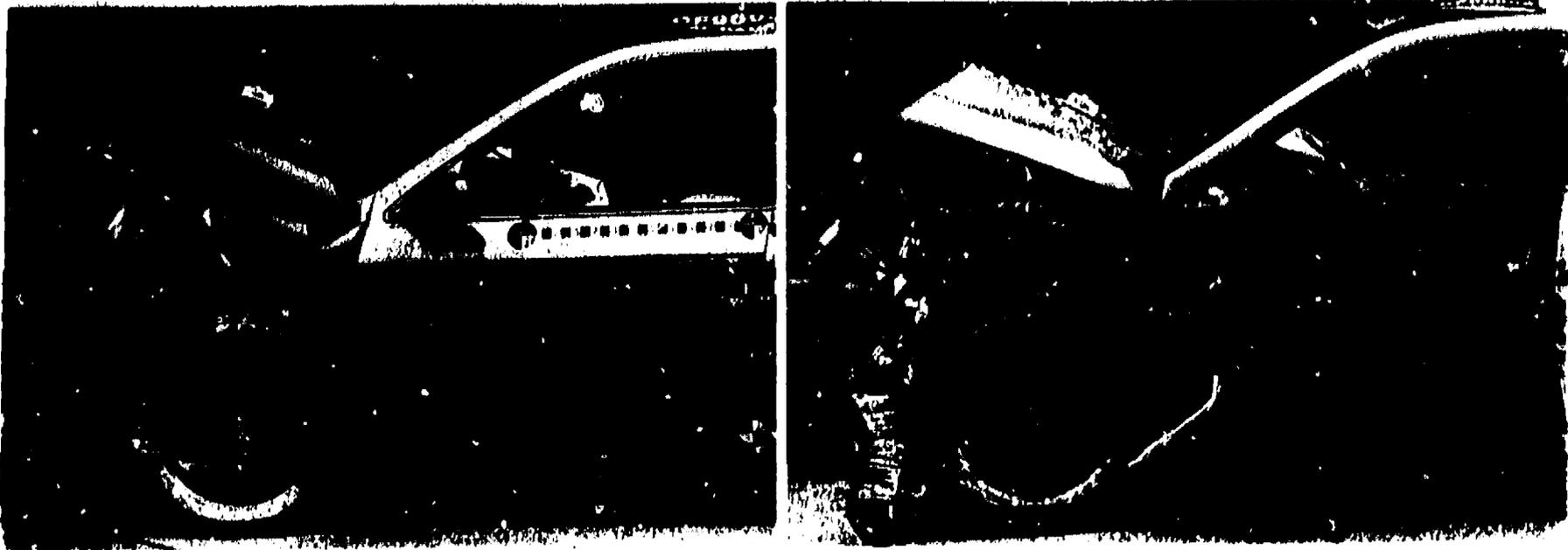
This regulation shall become effective on January 1, 1968.

Special Issue: cosmetic repair parts

# STATUS REPORT

INSURANCE INSTITUTE  
FOR HIGHWAY SAFETY

Vol. 15, 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

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 original equipment parts	Without cosmetic parts
Overall Evaluation	G	G
Structure	G	G
Restraints Dummy Movement	G	G
Injury measure	G	G
Head/neck	G	G
Chest	G	G
Left leg/foot	G	G
Right leg/foot	G	G



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 measure**

	Head	CH
	Push up from hard contact	Maximum nonbreach (mm)
1997 Toyota Camry with original-equipment cosmetic crash parts	127	36
1997 Toyota Camry without cosmetic crash parts	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.



Frontal Intrusion				
	Left	Center	Right	Footrest
	(mm)	(mm)	(mm)	(mm)
	22	11		4
			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.

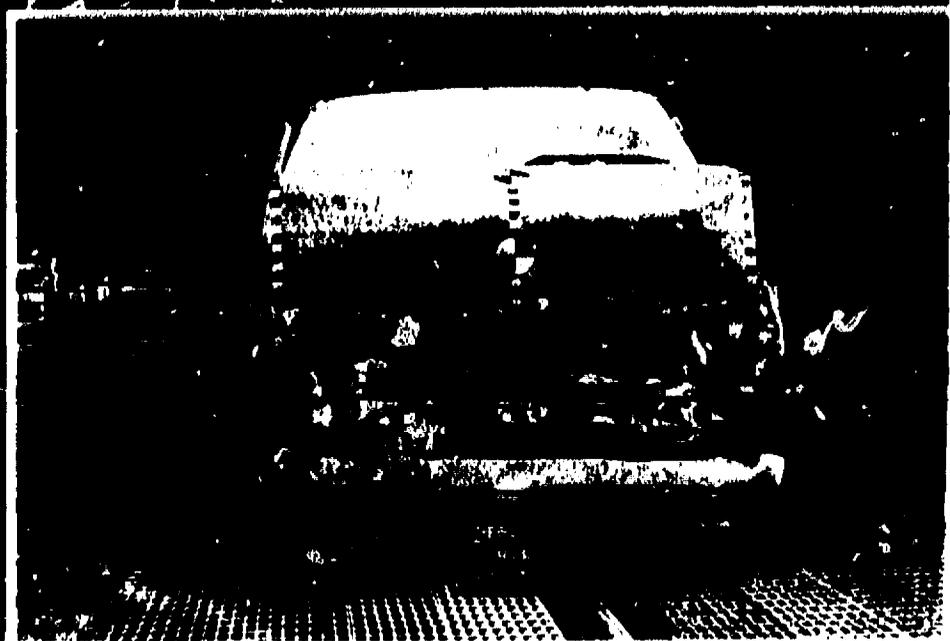
The Institute entered this dialogue in 1987, saying "there's no reason to believe — let alone assume — that cosmetic crash parts significantly influence car crashworthiness." To reinforce this conclusion, Institute researchers demonstrated the point in a crash test.

**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.

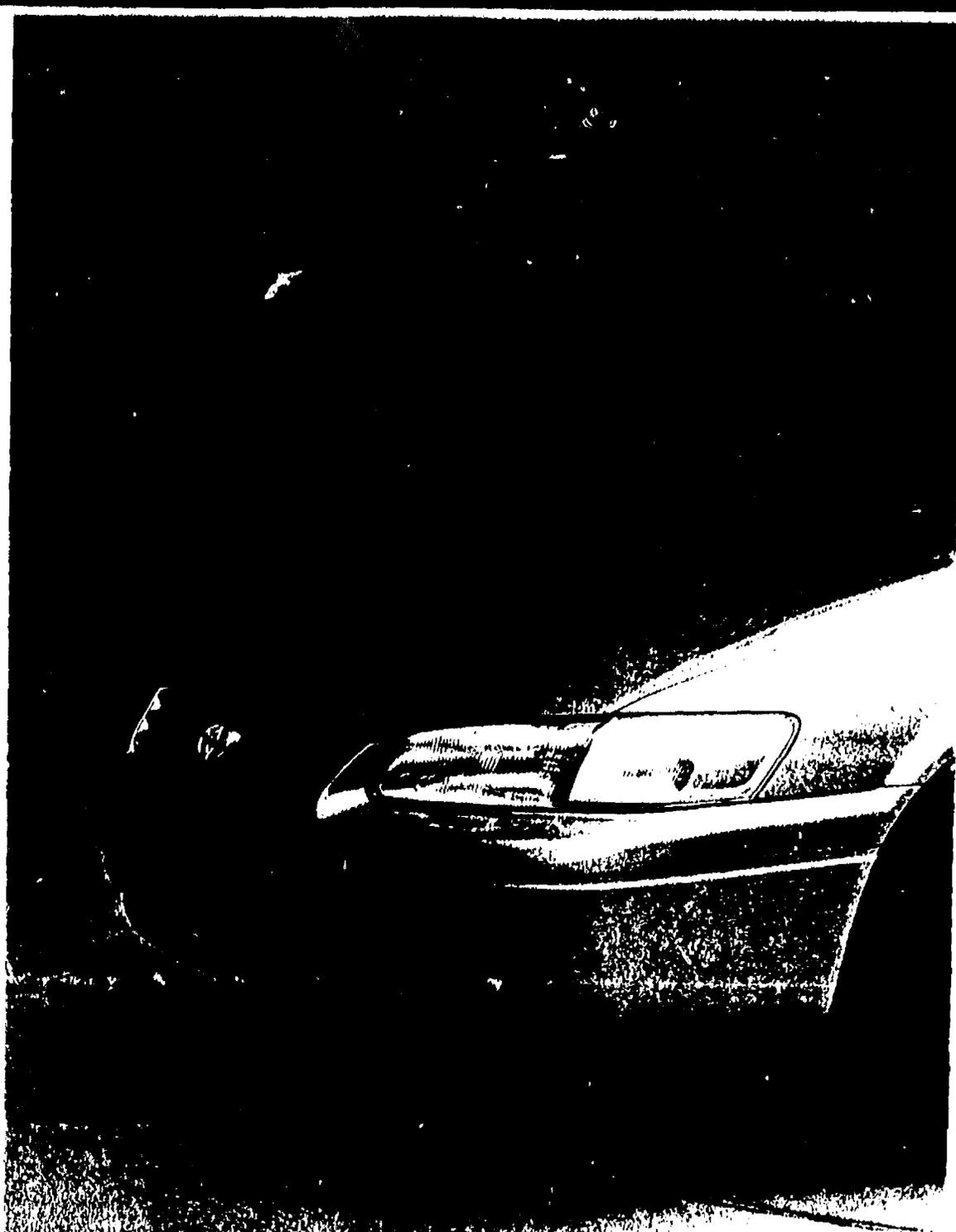
"Hoods must buckle as they're supposed to, or else safety could be compromised," O'Neill says. "It's obviously not feasible to crash test every aftermarket hood. But in several tests in which original-equipment hoods have been replaced by aftermarket ones, the replacement hoods have performed exactly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



Continued from p. 2) influence the results," weill 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



**SALE  
PRICE**  
**\$101,355.55**

**SALE  
PRICE**

**1992 Toyota Camry  
Fender price comparisons**

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

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."

# STATUS REPORT

INSURANCE INSTITUTE

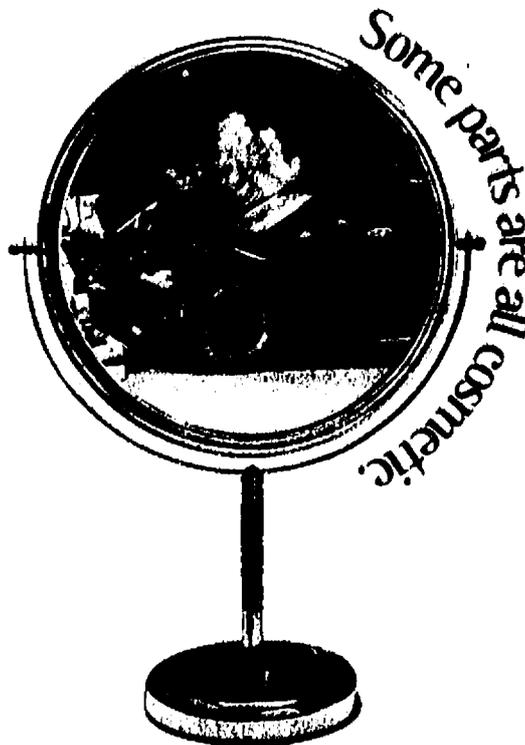
Special issue

1005 N. Glebe Rd., Arlington, VA 22201  
 703/247-1500 Fax 703/247-1588  
 Internet: www.highwaysafety.org  
 Vol. 35, No. 2, February 19, 2000

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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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The Insurance Institute for Highway Safety is an independent, nonprofit, scientific and educational organization dedicated to reducing the losses — deaths, injuries, and property damage — from crashes on the nation's highways. The Institute is wholly supported by automobile insurers:

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 California Insurance Group  
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 Church Mutual  
 Colonial Penn  
 Concord Group Insurance Companies  
 Cotton States  
 Country Companies  
 Erie Insurance Group  
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 Mixors Insurance  
 MSI Insurance Companies  
 National Grange Mutual  
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 Oregon Mutual Group  
 OrionAuto  
 Palisades Safety and Insurance Association  
 Peldin Insurance  
 PEMCO Insurance Companies  
 The Progressive Corporation  
 The Prudential  
 Response Insurance  
 Royal & SunAlliance  
 SAFECO Insurance Companies  
 SFCURA  
 Shelter Insurance Companies  
 State Auto Insurance Companies  
 State Farm Insurance Companies  
 The St. Paul Companies  
 Tokio Marine  
 USAA  
 Virginia Mutual Insurance Company  
 Warrior Insurance Group  
 Yasuda Fire and Marine of America  
 Zurich U.S.

**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 (linked) 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**

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

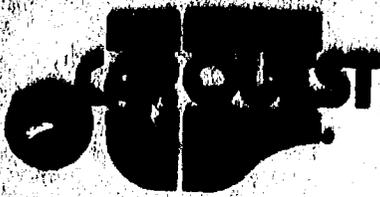
**Front power doors, including glass,  
exterior and trim: \$3,942.83**

**Fuel tank and pump: \$1,625.37**



*\*United space above for only some of the prices to be shown in this diagram.  
Copyright 1997 Alliance of American Insurers*

**ALLIANCE**



# CARQUEST AUTO PARTS

800 East Bowen Ave. - Bismarck, North Dakota 58504 - (701) 258-2330

## NORTH DAKOTA CRASH PARTS BILL (SB2358)

- 1) Crash parts bills have been introduced in 42 states and killed in 42 states. Why does N. Dakota want to pass a bill that every other state thinks is bad?
- 2) Montana killed two bills and third bill, signed into law, HB 506, now has a class action law suit filed against it, the state of Montana and the former Insurance Commissioner.
- 3) Crash parts bills plant the seed of doubt in a motorist's mind and makes him believe that aftermarket parts are inferior. when in fact, many aftermarket parts are made by the same manufacturer as car dealer parts—but aftermarket parts cost less.
- 4) Aftermarket parts come with "long-term" or "life-time" warranties and cost up to 50 percent LESS than car dealer parts.
- 5) National recalls that have made the news on cars and car parts have always been on the Original Equipment Manufacturer parts—not aftermarket parts.
- 6) Low and fixed income people choose aftermarket parts because they are affordable and quality.
- 7) Rural drivers and farmers don't have the luxury or the extra money to spend on car dealer parts that are marked up out of pocket range.
- 8) Aftermarket parts are the same as generic medicines. The same but cost less.
- 9) SB 2358 could easily include "hard parts" because it stated ... "and related structural components."
- 10) Crash parts bills are un-American. They are anti-consumer, anti-competition, and anti-small business.
- 11) SB 2358 is in violation of the Magnuson-Niess Act, passed in the U.S. Senate, which prohibits warranties being tied to repairs.

Box 5010  
Bismarck, ND 58502-5010



(701) 258-9525  
www.ndaifa.org

**TESTIMONY OPPOSING SB 2358**  
**By TERRY WEIS**  
**March 8, 2001**  
**9:00 am**

**HOUSE TRANSPORTATION COMMITTEE**  
**ROBIN WEISZ, CHAIRMAN**

Good morning Mr. Chairman and members of the House Transportation Committee.

For the record, my name is Terry Weis and I am here on behalf of the North Dakota Association of Insurance and Financial Advisors, formerly known as the North Dakota Association of Life Underwriters.

Our association has about 600 member insurance agents from all parts of North Dakota who sell Life, Health, Property insurance as well as other financial products.

Our association stands in opposition to this Bill. We have supported the concept of some parts of this legislation in the past, however, we are concerned with the effect this Bill would have on insurance premiums.

There is no doubt in our minds that this will cause a dramatic increase in the cost of insurance for North Dakotans. This has been a very highly debated issue and it is time for us to realize the effect this bill will have in forcing an increased cost of insurance in this state as has already been documented in other states. This is an unacceptable way to force the consumers in North Dakota to pay higher prices for insurance premiums because of the higher costs of vehicle repairs.

**I would urge a DO NOT PASS on SB2358.**

Thank you for your consideration, I would be happy to answer any questions you may have.

MARCH 8, 2001

HOUSE TRANSPORTATION COMMITTEE  
SB 2358

CHAIRMAN WEISZ AND COMMITTEE MEMBERS:

My name is Jack McDonald. I am appearing today on behalf of the North Dakota Auto Recyclers Association. We strongly support the amendment that's been offered and in addition would like you to consider the amendment we've listed below. We urge you to adopt the amendments regardless of what you do with the bill itself.

You've already heard arguments on behalf of the amendment that would add "recycled" along with "new" parts. That is a very logical change.

However, in looking at the definitions, under subdivision "c", the definition of "new original equipment manufacturer replacement crash part" really includes recycled parts as well that are no older than the car itself. Thus, if you wanted to repair your 96 Jeep hood, and went to a recycler and got the hood from a 96 Jeep, that hood would fit the definition under subdivision "c."

Therefore, the definition of "recycled replacement crash part" under subdivision "d" should be of a part older than the motor vehicle being repaired. In my example above, for instance, if you used the hood from a 95 Jeep to repair a 96 Jeep, than that would truly be a recycled replacement crash part.

We are proposing an amendment to reflect this. Again, we respectfully urge you to adopt the amendments. If you have any questions, I'd be glad to try to answer them.  
**THANK YOU FOR YOUR TIME AND CONSIDERATION.**

PROPOSED AMENDMENTS TO ENGROSSED SB 2358

On page 1, line 16, after the word "vehicle" insert "older than the motor vehicle being repaired with the part."

Renumber accordingly



National Association of Independent Insurers

# Insurance **BACKGROUND**

## **Crash Parts:**

## *Economic Analysis*

### **Background and Overview**

- Generic auto body parts, sometimes referred to as crash parts or cosmetic parts, are sheet metal components such as hoods, fenders and doors, which account for the majority of damage to cars in auto accidents. Hundreds of thousands of accidents involving damage to these parts occur each year. The repair and replacement of these parts is an important source of revenue for auto body repair shops and the parts manufacturers themselves.
- Prior to 1970, auto body repair shops had to buy replacement parts like fenders, door panels and grills only from auto manufacturers. Original equipment manufacturers (OEM) had virtually no competition in this market. Car-makers had a lucrative monopoly, which they have fought to preserve. When independent manufacturers in several countries, including the United States, began making sheet metal replacements, the OEMs found themselves facing some tough competition. Because most of the independently made parts are lower priced, they have helped to bring down the prices of OEM parts. Many states now require the option of generic parts, sometimes called aftermarket parts.
- Despite the obvious cost advantages associated with the use of competitive parts, in a lawsuit against State Farm Mutual Auto Insurance Co. involving the insurer's use of generic parts, an Illinois jury last October found the company liable for \$456 million in damages and an additional \$730 million in punitive damages, bringing the total awards in the case to \$1.19 billion. Although State Farm is appealing, it has discontinued using competitive parts. Other insurers have suspended their use as well.

### **Monopoly: The Impact on the Crash Part Market**

- The verdict in favor of the plaintiffs in the State Farm case is allowing automakers to regain the monopoly they exploited in the past when there was no competition in the market for crash parts business. That a local state court would actually act to eliminate competition in an otherwise competitive market, impose its own views on all US consumers, and grant monopoly power to a small number of corporations is not only unprecedented-it is also anathema to the concept of free and fair competition that is at the core of the United States economy.
- Prices for most goods and services in a modern society are determined in competitive markets through the interaction of supply from sellers and demand from buyers. This presupposes that there be choices available. The State Farm case essentially eliminates competition among sellers in the market for crash parts, effectively granting a monopoly to the manufacturers of original equipment parts. The law of supply and demand does not work to the public's benefit when there is only one supplier.

**What is the Impact of Monopoly?** Most consumers have an instinctive revulsion toward monopoly. Their visceral response to the concept of monopoly shows an intuitive understanding of economic theory. They know as well as economists that monopoly is bad news for them. That monopoly prices are higher than competitive prices makes consumers angry, but higher prices are just one of monopoly's many undesirable effects. Fortunately, economists have studied monopoly for centuries. Its impacts on producers, consumers and the overall economy are well understood. These undesirable consequences of monopoly are the subject of the discussion that follows.

- ***Monopoly Leads to Higher Prices***

Higher prices are the most widely recognized consequence of monopoly. This recognition led the famous 18th century English economist Adam Smith to declare: *"The price of monopoly is upon every occasion the highest which can be got."*

The impact of competition in the parts business is considerable. For example, according to *Consumer Reports*, the cost in 1982 of a nose cover for a 1983 Chevrolet Camaro made by GM was \$325. In 1988, after competitive parts began to appear, the same part cost \$225—a decline of 31 percent.<sup>1</sup> Likewise, the cost in 1992 for a Toyota-manufactured fender for a new 1992 Toyota Camry was \$253. Non-OEM manufacturers began to produce this same part in 1993 for just \$202. By 1996, the price for the Toyota-manufactured part had declined by 43 percent to \$143.88. The competition also affected the price of the generic part, which fell 70 percent to just \$60.<sup>2</sup> Similar examples abound.

Testimony in the State Farm case revealed direct savings of about \$40 per generic part used. This means that the simple choice of a competitive part over an OEM part produced an immediate savings of \$40. Additional savings accrue from the restraining effect that competitive parts have on prices in the crash parts market. In other words, the price of OEM parts would be still higher if it were not for the existence of competition from generic equivalents. These savings amount to \$17 per OEM part and \$36 per generic part.

The elimination of competition from the crash parts business could easily lead to price increases of 50 to 100 percent or more. The higher cost for parts will also lead directly to more cars being declared constructive total losses. This is because higher repair costs create a disincentive to effect repairs. Insurers will simply pay policyholders the actual cash value of the vehicle and, in turn, will have to charge higher premiums to cover the costs of the increased number of total losses. Car owners without collision or comprehensive coverage will suffer from the higher prices as well. Many will be unable to afford to repair their vehicle. Ultimately, more cars will wind-up in the junk yard and they will be junked at a faster rate than would be the case with a competitive crash parts market. Of course more junked autos means more new cars will be purchased to replace them. Hence, automobile manufacturers benefit even if cars are never repaired.

### ***Monopolists Restrict Output***

Monopolists get away with charging so much more for their product because they restrict output. In other words, by deliberately undersupplying the market with their product monopolists create artificial shortages forcing consumers to bid up the price for the limited quantities available. If the manufacturers of OEM parts are successful at eliminating competition from the crash parts business, not only will prices rise but many cars will take longer to be repaired, go entirely unrepaired or, as discussed previously, be unnecessarily declared constructive total losses.

### ***Monopoly Results in Lower Quality Products***

In competitive markets firms compete not only on the basis of price, but also on the basis of quality and service. Under a monopoly situation, product quality would likely suffer. In the case of OEM parts, there would be little incentive for manufacturers to maintain anything other than minimal quality standards.

### ***Monopoly Wastes Valuable Resources***

The combination of higher prices and lower output found in monopolistic markets causes an inefficient allocation of resources. In other words, monopolies waste money. In the case of OEM parts, consumers will be forced to pay more for parts and repairs than under competitive circumstances. This reduces the amount of income that consumers would otherwise have at their disposal to spend on other goods and services.

Because monopoly adversely impacts all consumers, economists often refer to the "social cost" or "deadweight loss" associated with monopoly. These two terms refer to the fact that the misallocation of resources by monopolists invariably leads to a reduction in the standard of living for society as a whole. Evidence presented during the State Farm case provides a vivid illustration of this point.

Testimony during the State Farm case revealed that between 1987 and 1997 the existence of competition in the crash parts market saved State Farm policyholders alone nearly \$1 billion. Because State Farm insured one out of every five cars over this period, the savings to policyholders across the entire industry likely totaled between \$4 billion and \$5 billion. These are considerable sums of money that in the absence of a competitive crash parts market would have wound up in the pockets of OEM parts manufacturers like GM, Ford, Chrysler, Honda and Toyota.

### ***Other Consequences of Monopoly***

Monopolists generate other types losses in addition to those discussed above. Specifically, monopolists also waste considerable resources attempting to preserve their monopoly position in the form of lobbying, litigation, political largess and advertising.

### **Can a Case be Made for Monopoly in the Market for Crash Parts?**

Despite the documented harmful effects of monopolies, they have existed throughout history. Can a compelling case be made for the institution of monopoly in the market for crash parts? The answer is unequivocally no. While there are cases when a monopoly could be deemed to be in the public interest, as the discussion of "natural" monopoly later in this section illustrates, a monopoly in the market for crash part results in an unambiguous economic loss to society.

Historically, monopolies arose for several reasons: ownership or control of a natural resource (such as the OPEC oil cartel's control over most of the world's petroleum supply) or unique managerial talent, a patent or other exclusive right to produce a commodity or use a particular production process (such as might be held by a pharmaceutical company), and government franchise (such as the U.S. Postal Service was until private companies showed that competition could improve even the post office). Economists use the term "pure monopoly" when discussing monopolies of this sort. A pure monopoly is an industry in which there is only one supplier of a product for which there are no close substitutes, and in which it is very hard or impossible for another firm to exist.

In the case of crash parts, close substitutes have been available in the form of generic parts. It is in fact quite easy for other firms to exist since the fabrication of crash parts is a relatively low-tech business. Moreover, manufacturers of OEM parts control no scarce resource or input nor do they hold patents that prevent the manufacture of parts by others. To gain monopoly power, the manufacturers of OEM parts hope to use courts, state legislatures and insurance departments to erect legal barriers that would restrict or eliminate the use of generic substitutes.

Clearly, the crash parts market does not fit the definition of pure monopoly. Pure monopolies are seldom encountered in today's modern economy and antitrust laws are on the books to protect consumers against attempts by corporations to monopolize markets.

Monopoly can also arise in situations where the advantages of large-scale production make it possible for a single firm to produce the entire output of the market at lower average cost than a number of firms each producing a smaller quantity. Economists refer to this situation as "natural monopoly."

Utilities are often considered to be natural monopolies. Because of the tremendous initial investment in plant, equipment and infrastructure, a compelling case can be made that a utility's production is economical only at a very large scale. Natural monopolies, where they exist, are heavily regulated to protect consumers against the harmful impacts mentioned previously. Natural monopoly can also exist when a firm's technological superiority far exceeds that of its potential competitors. IBM and Microsoft temporarily held monopolies under this definition before competitors began to catch up.

The very existence of a low-cost competitive parts market today proves that the crash parts market is not a natural monopoly. Generic parts manufacturers can operate profitably even at a scale of production far below those found at OEM plants. The low-tech nature of crash parts manufacturing eliminates technological superiority as a basis for monopoly as well.

In short, the crash parts market does not fit any definition of monopoly and there is no compelling economic or legal rationale for permitting one to exist, let alone creating one.

### **Conclusion**

Monopolies are a rarity in today's modern economy and for good reason. They bring financial harm to consumers and to society as a whole. Antitrust laws, technological innovation, deregulation and globalization have swept most monopolies into the dustbin of history. The crash parts industry does not fit any definition of natural monopoly nor do the manufacturers of OEM parts deserve protected monopoly status under the law.

The State Farm court decision threatens to bring monopoly pricing for automobile crash parts to every driver in America. If allowed to stand, the verdict will legitimize and validate a transfer of billions of dollars from drivers to automobile manufacturers that has already begun. Keeping competition free and fair in the crash parts market is not just an option, it is the solution.

---

<sup>1</sup>"The War Over Bent Fenders," *Consumer Reports*, April 1989, p. 201.

<sup>2</sup>Bratton, John, C. and Avila, Stephen M., "After-Market Parts: An Analysis of State Regulations," *Journal of Insurance Regulation*, 1999.



National Association of Independent Insurers

# Insurance **BACKGROUND**

## **Crash Parts**

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### **Issue Overview**

Since the invention of the automobile, car manufacturers have enjoyed a virtual monopoly on the production and sale of replacement parts. Profitability was as high as 800 percent, and consumers had no choice but to pay the high prices established by the original equipment manufacturers (OEMs).

It's easy to see why the OEMs want to control the market. There are an estimated 15 million vehicle accidents in the United States every year, with a retail cost of replacement crash parts as high as \$3 billion per year.

During the late 1970s and early 1980s, however, consumers were finally given an option when independent manufacturers began making and selling cosmetic sheet metal auto replacement parts. These competitors priced their parts – often referred to as “generic” parts – at a substantially lower cost than the car makers, sometimes as much as 50 percent less. For example, an OEM fender for a Toyota Camry cost \$253 in 1992, before a comparable competitive part was in production. By 1996, when the generic fender was available for \$60, the OEM price had dropped to \$143.88, primarily to keep pace with the competition.

In response, the auto manufacturing industry began waging a massive legal and public relations campaign to discourage the use of generic parts, claiming they were unsafe and inferior. In response to these continuing attacks, the Certified Automotive Parts Association (CAPA) was established in 1987. Like Underwriters' Laboratories, CAPA's primary goal is to develop and oversee an objective testing and inspection program to certify the quality of parts used for auto body repair.

### **Legislative Efforts**

In the early 1990s, the car makers tried to persuade the U.S. Congress to create a new design protection for sheet metal parts, a move that would have effectively prevented competitors from producing replacement parts. Congress rejected the plan in favor of competition and denied the car makers what would have amounted to a federally enforced monopoly.

Failing in Congress, the car makers turned to state legislation. Over the last two decades, virtually all 50 states have debated legislation that sought to restrict or modify the use of competitive parts – and the debate still goes on. Currently, 38 states have some form of legislative restriction on the use of generic parts. The basis for most of these laws is a requirement for insurers to inform consumers when a generic part is being used in crash repair.

### **Lawsuits**

Most recently, the car makers, have taken their position to the courts. Last year's \$1.2 billion verdict against State Farm Insurance Co. for using generic parts dealt competition a crippling blow. If categorized as a disaster, the State Farm verdict would rank second on the list of 1999's top 10 insurance losses, following only the nearly \$1.5 billion price tag of tornadoes that ravaged the Midwest in the spring.

The long-term outcome of the State Farm decision is still being played out. Many insurance companies, frightened by the outcome, curbed or eliminated their use of generic parts. Meanwhile, several independent studies suggest that the lack of competition will cause OEM parts prices to once again inch up. A recent Canadian study suggests that if generic parts were no longer used, OEM prices would be more than 94 percent higher than their generic counterparts.

### **Summary**

It remains to be seen whether the State Farm verdict will completely eliminate the use of generic parts, and restore the OEM monopoly. More than a dozen state courts have struck down class-action lawsuits claiming that the use of generic parts results in diminished value of vehicles, so perhaps the tide is turning.

One thing is certain, however – and that is without generic parts, the OEMs will reclaim their monopoly on crash repair parts, and consumers will be the ultimate losers.



National Association of Independent Insurers

# Insurance **BACKGROUND**

## Crash Parts:

## *Fact vs. Fiction*

**FICTION:** Generic parts are inferior in quality to those made by original equipment manufacturers.

**FACT:** The Certified Auto Parts Association (CAPA) sets stringent standards for generic replacement parts. CAPA's testing process includes an industry-recognized 500-hour salt spray test to indicate rust resistance. CAPA also tests metal composition, welds, screws, resistance to chipping and scratching, and administers other tests recognized by the Society of Automotive Engineers and the American Society of Testing Materials.

The quality of CAPA-certified generic parts is so high, in fact, that even auto body experts can't tell the difference between them at close inspection. In a recent "blind" test conducted by the Collision Industry Conference (CIC), participants gave generic replacement parts higher marks on fit, finish and acceptability for sale to consumers than their original equipment manufacturer counterparts.

**FICTION:** Generic parts are unsafe.

**FACT:** Whether they are generic or OEM, cosmetic auto body parts do not affect the safety of a vehicle. That is why there are no federal safety standards for any crash parts, except headlamps and the hinges on hoods (to prevent the hood from going through the windshield in a crash). The National Highway Traffic Safety Administration (NHTSA), the federal entity that oversees vehicle safety, decided against setting standards after reviewing the issue because there is no evidence documenting any safety problem related to crash parts, in spite of ongoing efforts by OEMs to discredit the use of aftermarket parts.

Over the years, crash tests performed by the critics of generic parts have shown that these parts perform no differently than OEM parts. CAPA-certified fenders and hoods have been proven safe under the most stringent tests conducted by the Insurance Institute for Highway Safety, which used procedures established by NHTSA, and Allstate's Tech-Cor in Wheeling, Ill. Body shop owners, insurance company representatives, and members of the media have witnessed these tests. In most instances, experts agree that the generic parts performed as well or better than the OEM parts, particularly the hood, which is the only generic part related to safety concerns (all others are cosmetic). On the other hand, many OEM parts have been recalled over the years, in particular hoods and their locking mechanism, which do affect a vehicle's safety.

**FICTION:** Competitive collision repair parts can invalidate OEM warranties on other parts or on the vehicle itself.

**FACT:** When a crash part has to be replaced, any original warranty on that part lapses. The warranty on the rest of the vehicle is unaffected. After the replacement part is installed, the new warranty takes over. Warranties on generic parts are as good as OEM warranties. Furthermore, federal law prohibits manufacturers from basing warranties upon the exclusive use of OEM parts.

**FICTION:** Competitive collision repair parts diminish the value of a car.

**FACT:** Cars that are competently repaired to pre-accident condition should have no diminution of value. However, because the state of the car before the accident is subject to interpretation, repairs should restore it to pre-accident, not "like new", condition.

In fact, the "diminished value" argument in class-action lawsuits is increasingly being dismissed in courts across the country. The court tally of diminished value class action defeats now totals more than a dozen cases in less than two years.

**FICTION:** CAPA parts are made overseas and cause Americans to lose jobs.

**FACT:** Although both generic and OEM parts are manufactured overseas, many of CAPA's certified parts are made in North America. Ironically, auto manufacturers outsource the production of OEM parts – in some cases to the same companies that produce competitive parts. Collision products made domestically include steel and aluminum bumpers, urethane bumpers, reinforcement bars, radiators, condensers, lights, grilles and fenders. The generic parts industry currently represents nearly 30,000 U.S. jobs, including importers, distributors, manufacturers, recyclers, and shippers.

**Mr Chairman & Members of the committee:**

**My name is Neil Krueger. I am the District 9 Representative of the North Dakota Auto Body Association (NDABA) and I manage a collision center in Fargo.**

**I would like to begin with a press release from (ican2000) dated 03/05/01. Press Release # 1**

**In this press release, it talks about warranties on parts. In an article in the Minot Daily news, it also stated that the After-market parts had a lifetime warranty and the OEM parts had 30 to 90 days. This is false. In my testimony, there are copies of several of the OEM warranties, which most have limited lifetime warranties.**

**I would also like to share with you an article from (fuelline) dated 02/23/01 Article # 2**

**In my opinion the reason these tests were inconclusive is because the inconsistency of the AFTERMARKET CRASH PARTS. Once again I feel this proves the need for some type of regulation on the use of AFTERMARKET CRASH PARTS.**

**One of the large insurance companies has agreed to pay \$6.3 MILLION to resolve a lawsuit alleging fraud and breach of contract for their practice of mandating the use of After-market body parts in the repair of their insureds' vehicles.**

**They have further agreed to suspend that practice and to WITHDRAW their support of CAPA(Certified Automotive Parts Association). The settlement included their denial of any wrong doing. Press release # 3**

**According to a Press Release issued by the NAI (National Association of Independent Insurers), this company had apparently concluded it was preferable to pay the 6.3 MILLION than to defend their actions in court and run the risk of having their INTERNAL DOCUMENTS being made public.**

**This lawsuit was filed in October, 1999 shortly after a judge and jury awarded 1.2 BILLION in a similar case. Press release # 4**

**The insurance industry's outcry of " Consumer premiums will increase" has worked well in the past. It has gotten the corporate welfare insurers' wanted. However, state legislators and regulators are now beginning to realize they have been duped by the insurance industry. "We are seeing to it that consumers are also made aware of these insurance industry tactics" says Dennis Howard, founder and Executive Director of the Insurance Consumer Advocate Network. Press release # 4**

**In closing, Senate Bill # 2358 is in the best interest of North Dakota residents. We are only 1 of 11 states that does not have some form of legislation to protect the consumer on the use of After-market parts. As it is now, the consumers' options are limited. If he or she does not want aftermarket parts used on their vehicle, they are asked to call their**

insurance company or the insurance commissioner only to be told that there is no bill in place to protect their consumer rights. Please pass Senate Bill #2358 Thank you.

Any questions?

3/6/2001



**Insurance Consumer Advocate Network**  
**Empowering Consumers Nationwide**

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## **Association of North Dakota Insurers Threatens / Misleads Consumers !**

**Tempe, AZ 03/06/2001 - The Insurance Consumer Advocate Network, an InterNet based Insurance Consumer Advocacy Effort, monitors insurance industry legislative efforts in ALL 50 STATES !**

The North Dakota Legislature currently has a Bill pending [SB-2358] which would protect consumers from the auto insurance industry's ongoing efforts to short-change consumers on the repairs of their damaged vehicles. This Bill puts limitations on the insurance industry's ability to mandate the use of Aftermarket Body Parts. Such parts - [1] Compromise new vehicle factory warranties and - [2] Reduce the resale value of repaired vehicles by Double that of vehicles repaired with Factory (OEM) Parts.

When a State Legislature begins considering some form of Consumer Protection effort, that impacts the way the auto insurance industry conducts business, the insurance lobby begins applying pressure to kill or dilute the effort. Their typical battle cry takes the form of *"Insurance Premiums Will Go Up !"*

For decades, this form of lobbying effort has been effective among the legislators of various states.

However, over recent years, Legislators have become more savvy about insurance industry practices. Truths about the auto insurance industry have been made public and Legislators have become less susceptible to the insurance industry's *"Spin"* campaigns.

When Legislators are no longer persuaded by the insurance industry's arguments, the industry will then try to *"Spin"* the public. Consumers in North Dakota know Exactly what we mean.

There was a Full-Page Ad appearing in the Sunday edition of virtually every major newspaper in North Dakota yesterday. The old threat of *"Higher Auto Insurance Premiums"* has now been taken to the public. However, when Consumers learn some Truths about the auto insurance industry, the same Truths Legislators have come to learn, then everyone will understand why the insurance industry's threats just don't ring true.

**TRUTH - Auto insurance policies require replacement parts to be of *"Like Kind and Quality"*. Judges and Juries around the country AND the United States General Accounting Office (US/GAO) have looked at Aftermarket Body Parts and determined they are NOT of *"Like, Kind and Quality !"***

**TRUTH - Insurance Companies have known (for years) that These Parts are NOT of *"Like, Kind and Quality !"***

**TRUTH - Warranties on Aftermarket Body Parts take consumers on a trail that leads all the way back to Taiwan !**

**TRUTH - The National Highway Traffic Safety Administration (NHTSA) has No mechanism to**  
[http://www.ican2000.com/news/article\\_detail.asp?article=23&printable=yes](http://www.ican2000.com/news/article_detail.asp?article=23&printable=yes)

03/06/2001

recall or even Track these defective Aftermarket Body Parts (Documented in the US/GAO Report) !

**TRUTH - A. M. Best, the world's most universally acknowledged insurance industry rating authority, has revealed the Property and Casualty (Auto - HomeOwner) insurance industry is 30% Over Reserved. What that means in English . . . Consumers already pay 30% MORE for their Auto - HomeOwner insurance than is necessary !**

**CONCLUSION - Yesterday's Full-Page Ad is mis-leading. Put your pencil to it. Apply the threatened 15% Premium Increase (as quoted in yesterday's Full-Page Ad) and apply it against A. M. Best's "30% Over Reserved" figure (their own experts' figures - not ours) doesn't it seem logical that SB-2358 could be Passed, Consumers could be Better Protected AND the auto insurance industry could still LOWER AUTO INSURANCE PREMIUMS by 15% ?**

# FuelLine

*It's definitely FuelLine for in-depth industry news and a pertinent information source! Why roam*

*The Week of March 06, 2001*

## **Gov't Study Highlights NHTSA's Limited Ability to Identify, Recall Unsafe Aftermarket Parts, Congressional Interest High - Also: Insurers Respond; Fuelline creates link to full report.**

In early January 2001, North Dakota Sen. Byron L. Dorgan took up the effort to determine the safety of aftermarket replacement body parts and recycled air bags commissioned last June by former Rep. Ron Klink (D-PA), who subsequently lost his bid for re-election.

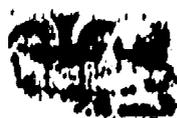
In a January 18, 2001 letter to the head of the U.S. General Accounting Office (GAO), a federal watchdog agency, Sen. Dorgan asked the agency to continue the seven-month investigation with the objective of determining what process, if any, the National Highway Transportation Safety Administration ("NHTSA") has for identifying unsafe aftermarket crash parts and recycled air bags and whether that process needs to be improved. NHTSA is an agency operating as a separate administration within the Department of Transportation and is responsible for administering motor vehicle and highway safety programs.

"I have agreed to jointly sponsor [Rep. Klink's] request," wrote Sen. Dorgan. "Addressing these issues will help the Congress to better understand the issues associated with aftermarket crash parts and recycled air bags. In particular, the objectives of this effort are to provide information on: Safety studies of aftermarket crash parts and recycled airbags; NHTSA's authority over aftermarket crash parts and air bags; and, NHTSA's ability to identify and remove unsafe aftermarket crash parts and recycled airbags from the nation's roadways."

### **Studies Parts Don't Resolve Safety Issues**

The GAO report, not slated for public release until early March, identifies seven studies, five of which relate to aftermarket crash parts, and two to recycled airbags. GAO reports that the five studies—one by Consumers Report, one by Ford Motor Company and three by vehicle insurance companies and related associations—"although useful, do not conclusively resolve the debate over the safety of aftermarket crash parts and recycled airbags because they reach different conclusions and are limited in number and scope."

2/12/2001



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**Court Orders State Farm to  
PAY DIMINISHED VALUE  
( Country Companies Settles )**

Tempe, AZ (02/12/01) - The Insurance Consumer Advocate Network is pleased to announce an Injunction issued by Muscogee County (Georgia) Superior Court which compels State Farm to Pay Diminished Value (the difference between pre-loss and post-repair vehicle resale values) to their insureds and instructs State Farm to "notify" their insureds of their right to be compensated for this damage.

This Injunction was issued on December 01, 2000. State Farm immediately petitioned the Georgia Supreme Court requesting a "stay" on the trial court's Injunction. That request was "denied" by the Georgia Supreme Court on January 12, 2001 with the notation that . . . "All the Justices concur."

In issuing the Injunction, the trial court pointed out that State Farm had admitted (in deposition) they had been collecting premium for Diminished Value coverage all-along !

The Injunction further states . . . "The Court **ORDERS** and **ENJOINS** State Farm to collect, catalog and maintain any information necessary to make a determination as to the amount of any loss for diminution in value sustained by the vehicles of its insureds."

"I-Can" feels it would be appropriate for Consumers to have their opinions considered by the Court before any method for the measurement of Diminished Value is approved.

**INVITATION:** The Insurance Consumer Advocate Network maintains a "Diminished Value Consumer Survey" facility on their web site. Consumers wishing to express their opinion on the subject of Diminished Value are invited to visit that portion of the "I-Can" web site by going directly to . . .

<http://www.ICan2000.com/dvsurvey.html>

**Country Companies Insurance . . .**

. . . has agreed to pay \$6.3 Million to resolve a lawsuit alleging fraud and breach of contract for their practice of mandating the use of After-Market Body Parts in the repair of their insureds' vehicles.

Country Companies has further agreed to suspend that practice and to withdraw their support of CAPA (Certified Automotive Parts Association). The settlement included Country Companies' denial of any wrong doing.

According to a Press Release issued by the NAI (National Association of Independent Insurers) Country Companies had apparently concluded it was preferable to pay the \$6.3 Million than to defend their actions in court and run the risk of having Country Companies' Internal Documents

being made public.

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**Reply-to:** geni@beyondparts.com (Beyond Parts and Equipment)  
**To:** Undisclosed-Recipient;;

According to a story in the February 9, 2001., Bloomington, Illinois Pantagraph, Bloomington, Illinois-based Country Companies will pay \$6.3 million to settle a class-action lawsuit centering on the use of aftermarket parts. The lawsuit was filed in October 1999, shortly after a judge and jury awarded State Farm \$1.2 billion in a similar case.

The settlement affects policyholders who filed claims with CC between 7/1/93 and 2/8/2001, if their cars were repaired with aftermarket (imitation) parts.

In the settlement, CC agreed not to specify imitation parts for repairs or to participate in CAPA.

CC admitted no guilt and expressed the belief that the settlement would raise policyholder rates.

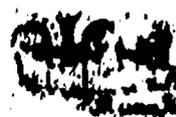
Beyond Parts & Equipment

----- Headers -----

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**Sender:** red-flag-request@beyondparts.com

Press Release # 3

11/18/1999



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## ***I-Can Exposes the Fallacy of "Premium Increase" Threats !***

*Princeton, Ill. Nov 15, 1999 - The Insurance Consumer Advocate Network, an InterNet based Consumer Advocacy effort, has taken a close look at the insurance industry's threats to increase auto insurance premiums if not provided some form of relief through federal or state governments.*

The property and casualty insurance industry has historically pulled out the old "We'll have to increase consumer premiums" threat every time it wants to either fight for (or against) any specific issue that would impact the way they do business.

Often insurers will make good on their threats . . . Not because insurance companies need to increase our premiums . . . but rather because they CAN increase our premiums. Exempt from anti-trust laws, which prevents price fixing in virtually every other industry, the insurance industry is free to conspire to demand whatever corporate welfare it may seek from governmental agencies. Other legal monopolies, such as utility companies, are subject to governmental controls as to what they are permitted to charge. In most cases, insurance companies are not subject to even that level of consumer protection.

*"It has become painfully clear over the past several years that insurance companies do WHAT they do because they CAN do it" says Mark Pierson, President of Princeton Auto Body, Princeton, Illinois.*

Ann Spink, legislative liaison for the Louisiana Collision Association, points to a recent study, done in a joint effort between Risk Management Solutions and Oliver, Wyman & Co and reported in Best News, that shows the Property and Casualty Insurance Industry has \$430 Billion in available capital, but only needs between \$325-\$355 Billion.

*"Do the math" says Spink, "The Property and Casualty Insurance Industry, the very ones threatening to increase consumer premiums, already have at least \$65 Billion in excess surplus. That comes to about 30% MORE surplus than is needed, according to the insurance industry's own experts".*

The recent trial in Marion, Ill. revealed State Farm had accumulated a surplus of \$42 Billion in 1996.

If you apply the apparent industry wide standard of 30% excess surplus to State Farm's admitted 1996 figures, it would appear that State Farm had already collected \$12.6 Billion more in consumer premiums than was necessary. If State Farm insures one-out-of-five Americans as it claims, that means 50 Million consumers have over-paid State Farm by \$12.6 Billion. When you put your pencil to it, State Farm should refund approximately \$252.00 of Excess Premium Charges to Every Policyholder it has.

Even if State Farm were to pay the \$1.2 Billion fraud penalty levied against it, State Farm would still have a projected \$11.4 Billion excess surplus (\$228.00 per policyholder).

The insurance industry's outcry of "Consumer premiums will increase" has worked well in the past. It has gotten the corporate welfare insurers' wanted. However, state legislators and regulators are now beginning to realize they have been duped by the insurance industry. "We are seeing to it that consumers are also made aware of these insurance industry tactics" says Dennis Howard, founder and executive director of the Insurance Consumer Advocate Network.

Per Jack Aigner of the Pennsylvania Collision Trades Guild . . . "That Dog Just Won't Hunt Anymore!"

# WARRANTY & POLICY MANUAL

- **Diesel Engines** — Ford New Holland:
  - 6.6L and 7.8L Engine Components (See footnote b/): 12 months/unlimited miles,
  - 6.6L and 7.8L Ford remanufactured Engines: 12 months/unlimited miles
- **Ford remanufactured Engines and Transmission Assemblies**— See Ford remanufactured parts - Unique Service Part Coverage in this section.
- **Lift Supports** — Motorcraft (See footnote c/): Lifetime limited warranty to original purchaser (Not to be used under the New Vehicle Limited Warranty).
- **Motorcraft Preferred Value Parts** - See Motorcraft Preferred Value Parts - Unique Service Part Coverage in this section.
- **Motorcraft remanufactured Parts** - See Motorcraft remanufactured Parts - Unique Service Part Coverage in this section.
- **Sheet Metal** — Lifelong limited guarantee (as long as original purchaser owns the vehicle) against rust perforation (includes parts, parts allowance, and labor).
- **Shock Absorbers and Struts** — Motorcraft (See footnote d/):

For shock absorbers or struts sold on or after October 1, 1997:

- Private Cars and Light Trucks: Lifetime limited warranty to original purchaser (subsequent owners will get the remainder of 24 month/24,000 mile coverage, whichever occurs first.)
- Other Than Private Cars and Light Trucks: 24 months or 24,000 miles, whichever occurs first.

For shock absorbers or struts sold before October 1, 1997:

- AA, AS, AT, AW, AX Series:
  - Private Cars and Light Trucks: Lifetime limited warranty to original purchaser (subsequent owners will get the remainder of 24 months/24,000 mile coverage, whichever occurs first).
  - Other Than Private Cars and Light Trucks: 24 months/ 24,000 miles, whichever occurs first.
- AJ, AK, AVS Series: 12 months/12,000 miles, whichever occurs first.
- AM Series (Cartridges and Assemblies): 12 months/24,000 miles, whichever occurs first.
- AY Series: 24 months/24,000 miles, whichever occurs first.
- **Spark Plug Wiring Set** (Complete Set) (See footnote c/):
  - Normal Service: Lifetime limited warranty to original purchaser,
  - Severe Service (e.g., Police / Taxi): 12 months or 12,000 miles.
- **Vehicle Security System** (Ford Alarm — Dealer Installed) (See footnote a/): Lifetime limited warranty on parts (contact supplier at 1-800-FORD KEY for parts replacement).
- **Walker Exhaust SDS program** (See footnote d/): Effective November 1, 1993, a Lifetime limited warranty is provided on all Walker replacement mufflers "against rust through, blowouts and defects in material and workmanship for as long as the original purchaser of the muffler owns the vehicle." A 12 month/12,000 mile warranty is also provided on muffler system replacement pipes, accessories and catalytic converters.

## **MOPAR REPLACEMENT OUTER-PANEL SHEET METAL 7-YEAR/ UNLIMITED-MILE LIMITED ANTI-CORROSION WARRANTY**

### **I. WHAT IS WARRANTED**

MOPAR replacement Sheet Metal Panels (outer panels) are warranted against defects in materials or workmanship which cause perforation (inside-out rust-through only) for 7 years/unlimited miles. Panels, which prove defective, will be repaired or replaced at the option of DaimlerChrysler Motors Corporation. This warranty does not cover corrosion due to fire, accident, vehicle abuse, owner negligence or vehicle alteration; corrosion caused by sand, hail, airborne fallout, chemicals, salt, road hazards or stone damage; or surface paint deterioration or corrosion (other than inside-out perforation). This warranty covers the cost of both parts and labor for the replacement of outer-panel sheet metal parts. If an authorized Chrysler, Plymouth, Dodge or Jeep, dealer or its authorized agent installed the parts. Parts only are covered, if the parts were sold over the counter.

### **II. HOW TO OBTAIN MOPAR WARRANTY SERVICE**

Where both parts and labor are covered warranty items, repairs will be made by any Chrysler, Plymouth, Dodge or Jeep dealer at no charge. Where parts only are covered, any Chrysler, Plymouth, Dodge or Jeep dealer will provide replacement parts at no charge. It is recommended that you take your Chrysler, Plymouth, Dodge or Jeep vehicle to your selling dealer or to the dealer who sold or installed your MOPAR part or accessory. However, you may obtain replacement parts or service under warranty from any authorized Chrysler, Plymouth, Dodge or Jeep dealer. Except in an emergency, warranty service for MOPAR panels may be obtained ONLY at an authorized Chrysler, Plymouth, Dodge or Jeep dealer.

### **III. WHAT IS NOT COVERED**

MOPAR warranties do not cover any non-DaimlerChrysler Motors Corporation or non-MOPAR parts, components or equipment, such as a non-MOPAR radio or speed control. These warranties also do not cover the costs of any repairs or adjustments that might be caused by or needed because of the use or installation of non-DaimlerChrysler Motors Corporation or non-MOPAR parts, equipment, materials or additives.

MOPAR warranties do not cover the costs of repairing damage or conditions caused by fire or accident; by abuse, negligence, or misuse (for example, driving over curbs, or overloading or racing the vehicle); by improper adjustment, alteration or failure to maintain the vehicle on which they are installed; or corrosion or damage caused by the use of caustic materials.

MOPAR Limited Warranties do not cover parts installed on a vehicle used for racing or competition, nor do they cover the repair of any damage or conditions caused by racing or competition.

MOPAR Limited Warranties do not cover the costs of repairing or replacing any part due to damage caused by poor or improper maintenance, contaminated fuels, or the use of fuels, oils, lubricants or fluids of a type other than those recommended in your Owner's Manual.

MOPAR warranties do not cover the costs of repairing damage caused by environmental factors or Acts of God. "Environmental factors" include such items as airborne fallout, chemicals, tree sap, salt, ocean spray and road hazards. "Acts of God" include such things as hail, floods, windstorms, lightning, tornadoes, sandstorms and earthquakes.

MOPAR warranties do not apply to parts installed on a vehicle which has had its odometer or emissions systems tampered with or disconnected; or which has been declared to be a total loss by any insurance company, or is rebuilt after being declared to be a total loss; or is issued a certificate of title indicating that it is designated as "salvage," "junk," "rebuilt" or words of similar import.

DaimlerChrysler Motors Corporation will deny warranty coverage without notice if it finds that a vehicle is ineligible for warranty coverage because it has been salvaged or declared a total loss as set forth in the above paragraph.

**MOPAR Limited Warranties do NOT cover any incidental or consequential damages connected with the failure of the part under warranty. Such damages include lost time; inconvenience, the loss of the use of your vehicle; the cost of rental cars, gasoline, telephone, travel or lodging; the loss of personal or commercial property; or the loss of revenue. Some states do not allow the exclusion or limitation of incidental or consequential damages, so the above limitations or exclusions may not apply to you.**

Your warranties can also be restricted by DaimlerChrysler Motors Corporation, as set forth in the New Vehicle Limited Warranty. If your new vehicle limited warranty is restricted by DaimlerChrysler Motors Corporation, coverage under your MOPAR Parts and Accessories Limited Warranties may also be restricted or denied.

**THE MOPAR DIFFERENCE**

**IV. OTHER TERMS**

- a. To the extent allowed by law, any implied warranties, including any implied warranty of merchantability or fitness for a particular purpose, are limited in duration to the duration of these express warranties. To the extent allowed by law, if the parts are installed on a vehicle used primarily for business or commercial purposes, no implied warranties apply. Some states do not allow limitations on how long an implied warranty lasts, so the above limitations may not apply to you.
- b. These warranties are the only express warranties made by DaimlerChrysler Motors Corporation for MOPAR Parts and Accessories. Except where prohibited by law, this warranty is the sole and exclusive remedy.
- c. NO person, including a dealer or employee of DaimlerChrysler Corporation or DaimlerChrysler Motors Corporation, has the authority to vary or change these warranties.
- d. Michigan law governs this warranty to the extent allowed by law. Interpretation of the terms of this warranty must be done using Michigan law.
- e. These Limited Warranties give you specific legal rights and you may also have other rights which vary from state to state.

M O P A R D E P T I E N T S

## GENERAL MOTORS SERVICE REPLACEMENT SHEET METAL LIMITED WARRANTY

General Motors Corporation (GM) warrants to the retail purchaser identified below, that it will either repair or replace, at its option, the replacement sheet metal panel shown below in the event such panel experiences rust-through perforation.

This warranty covers the cost of repair at a GM Dealership or Independent Body Shop including parts and labor regardless of where the panel was originally installed. The warranty begins on the date of purchase shown below and shall remain in effect for as long as the named purchaser owns the vehicle on which the panel was installed.

### THIS WARRANTY DOES NOT COVER:

- Cosmetic or surface corrosion resulting from stone chips, scratches or other causes.
- Damage due to improper installation, alteration, accidents or objects striking the panel.
- Damage from the environment, airborne fallout (chemicals, acid rain, etc.) solvents or cleaning and polishing materials.
- Loss of time or use, inconvenience, or other economic loss.
- Panels installed on vehicles registered and operated outside of the United States and Canada.

The selling Dealer or any other GM Dealer may perform repairs or replacements qualifying under this warranty. Repairs by an Independent Body Shop must be authorized by a GM Dealer.

**The Dealer or Independent Body Shop must be furnished with the purchaser's original sales slip and/or repair order, this warranty (properly completed) and personal identification establishing eligibility.**

PURCHASER _____	DEALER/REPAIR FACILITY _____
ADDRESS _____	ADDRESS _____
CITY/STATE _____	CITY/STATE _____
DATE OF PURCHASE _____	VIN _____
SHEET METAL PART No's _____	

ANY IMPLIED WARRANTY OF MERCHANT ABILITY OR FITNESS FOR A PARTICULAR PURPOSE APPLICABLE TO THESE PARTS IS LIMITED IN DURATION TO THAT OF THIS WRITTEN WARRANTY. THE REMEDY PROVIDED ABOVE IS THE EXCLUSIVE REMEDY UNDER THIS WRITTEN WARRANTY OR ANY IMPLIED WARRANTY.

Some states do not allow any limitation on the duration of an implied warranty or the exclusion or limitation of incidental or consequential damages; the above limitation or exclusions may not therefore apply to you. This warranty provides specific legal rights; you may also have other rights depending on the state or province in which you reside.

**IMPORTANT: KEEP THIS WARRANTY AND ANY SALES SLIPS AND/OR REPAIR ORDERS WITH YOUR OWNERS MANUAL AND OTHER GLOVE COMPARTMENT LITERATURE.**

Direct any inquiries to: General Motors Corporation  
Consumer Relations Department  
3044 West Grand Boulevard  
Detroit, Michigan 48202



### GM Collision Parts

*the feeling is original*



TOOL BOX  
FIND A DEALER

zip code  go >

SERVICE REMINDER  
service reminder >

SHOP ONLINE  
choose a store

#### GENUINE ADVANTAGES OF GM COLLISION PARTS OVER IMITATION PARTS

Only genuine GM Collision Parts provide the safety, look, and warranty protection you expect and deserve.

A number of automotive parts manufacturers try to copy GM hoods, fenders, door panels, and other collision parts. These are offered to body shops as replacements for the original panels your GM car or truck was built with. If imitations do find their way onto your vehicle, they can lead to some unpleasant surprises.

- The safety, composition, and corrosion resistance of imitation parts is unknown. GM has no way to control the material, design, or manufacturing methods used in producing imitation parts.
- The structural integrity of genuine GM Collision parts meets factory original standards. They're made with factory-specified steels and to factory-specified gauge thickness to provide the best durability possible.
- Genuine GM Collision parts are made from rust-resistant, two-sided galvanized steel. A layer of zinc on the outside of our GM sheet metal helps resist surface rust, and a layer of zinc on the inside helps prevent holes, which typically start on inside surfaces.

- Genuine GM Collision parts are made to fit properly and help your vehicle retain its original look. Imitation parts are reverse-engineered so additional holes may be drilled or the parts contorted to make them fit properly. This can cause mismatches in the vehicle's lines and reduce its resale value.
- Imitation parts are not covered under your GM new-vehicle warranty. No General Motors warranty covers liabilities related to the use of imitation parts, or associated GM part or system failure caused by the use of imitation parts.
- If you don't speak up, imitation parts may be used. The only way to make sure that you get genuine GM Collision parts is to insist on them. If your vehicle is involved in a collision, ask your insurance agent and bodyshop representative if your vehicle will be repaired with genuine GM Collision parts. If the answer is yes, then you'll be getting the value, safety, endurance, and peace of mind you deserve.

GM Parts  
THE FEELING IS ORIGINAL

Accessories

Collision Parts

Engines & Transmissions

Motorports

Performance Parts

Restoration Parts

Mr. Chairman and members of the committee,

My name is Scott Heintzman, I am the President of the North Dakota Auto Body Association and also a collision shop owner.

The most important thing about SB 2358 has already been clarified today, But I feel it needs to be repeated. This bill is solely based on protecting the consumer. It is truly about disclosure to the consumer, nothing more. It has been stated by the opponents of SB 2358 that this bill would require the consumer to give the insurance company and the repair shop additional approval to repair their vehicle. I believe a simple "yes" or "no" would do. Currently 40 states have some form of legislation in place that at the very least requires consumer consent. The bill we are introducing is nothing new to lawmakers all over our country.

The opposition has also stated SB 2358 would stifle competition and increase costs to the insurance company which in return the insurance company passes along to the consumer in the form of increased premiums. That's ironic because when the collision shop incurs additional costs during the repair process and attempts to pass them along to the insurance company, we are told that is "just part of doing business".

Opponents have also compared aftermarket parts to generic drugs, so I called my local pharmacy and if aftermarket parts had to pass the very strict testing and guidelines of the Food & Drug Administration they would then finally meet or exceed the quality of the OEM parts. The FDA's testing process is little bit more than applying stickers to a part and declaring it "ok". The articles in the industries major trade journals are seldom kind to the aftermarket parts makers when it comes to testing these parts. Why would a well respected publication such as Consumer Reports dedicate its front page to exposing the dark side of the of these parts in question? One thing that SB 2358 also promotes is the use of OEM recycled parts or salvage parts. OEM recycled parts have always been a very important part of the collision repair industry regardless of how the opponents of this bill distort the truth

The main opponents of this bill declare that SB2358 will raise insurance rates as much as 15%. Is that rate increase from alleged added costs of OEM parts or because they can??? In 1995 SB 402 was passed in West Virginia which restricted the use of aftermarket parts. In the last 5 years rates have not gone up and in fact one of the states largest insurance companies paid out dividends. After talking to a shop owner in WV, they were also promised a rate increase if the bill was passed, it plain and simple didn't happen.

The one thing I would like know is how many people who promote the use of aftermarket crash parts or oppose SB 2358 have ever attempted to install these parts in question. And of those people how many of them install them on a daily basis? The testimony supporting this bill you are hearing today comes from proud residents of North Dakota who deal with the installation of these

aftermarket parts in question every day . It is very easy to say that these parts are an asset to our industry when you are getting paid to say that.

If North Dakota insurers were truly committed to looking out for their customers they would face the cold , harsh, reality that aftermarket parts are costing them millions of dollars in lawsuits and costly delays in the repair process. I don't know how this could be good for a North Dakota consumer.

As a representative of the collision repair industry I challenge all of the opponents of this bill to work together with the collision repair industry to do what's best for the consumer.

Mr. Chairman and members of the committee , I thank you for your time and would also be happy to answer any questions.

Sincerely,  
Scott Heintzman  
President  
NDABA

# Parts Laws State by State

This chart shows the types of parts usage laws in each state. In addition to the District of Columbia, 10 states have no regulations: Alaska, Delaware, Maine, Montana, North Dakota, New Mexico, Nevada, Pennsylvania, South Carolina and Vermont.

State	Disclosure Required	Consumer Consent Required	Estimate Must Identify Non-OEM Parts	Non-OEM Parts Must be of Like Kind and Quality (LKQ)	Non-OEM Manufacturers Must Provide Warranty	Must Explain Effect of Non-OEM Parts on Vehicle Warranty	Requiring Non-OEM Parts Prohibited	Manufacturer Must Label Parts
Alabama	■		■		■			■
Arizona	■		■	■	■			■
Arkansas	■	■	■		■			■
California	■		■		■			■
Colorado	■		■		■			■
Connecticut	■		■		■			
Florida	■		■		■			
Georgia	■		■		■			■
Hawaii	■	■	■	■	■			
Idaho	■		■		■			■
Illinois	■		■	■	■			■
Indiana		■	■		■			■
Iowa			■		■			■
Kansas	■		■		■			
Kentucky			■	■	■			■
Louisiana	■		■		■			■
Maryland	■		■		■			
Massachusetts	■		■		■			
Michigan	■		■		■			
Minnesota			■		■	■	■	
Mississippi	■		■		■			■
Missouri	■		■		■			■
Nebraska	■		■	■	■			■
New Hampshire	■		■	■	■			■
New Jersey	■		■	■	■			■
New York			■	■	■			
North Carolina	■		■	■	■			
Ohio	■	■	■		■			■
Oklahoma	■		■		■			■
Oregon		■	■		■	■		■
Rhode Island	■	■	■		■			
South Dakota	■		■		■			■
Tennessee	■		■		■			■
Texas		■	■		■			
Utah	■		■		■			■
Virginia	■		■		■	■		
Washington	■		■		■			
West Virginia	■		■		■	■		
Wisconsin	■		■		■			■
Wyoming	■	■	■	■				■

Source: National Association of Independent Insurers (NAII), Alliance of American Insurers (AAI) and insure.com's Consumer's Guide to Repair Parts

# Underwriting and Operating Ratios by Line and by State 1997

State	P.P. Auto Liability				State	P.P. Auto Physical Damage			
	Und. Profit		Oper. Profit			Und. Profit		Oper. Profit	
	1997	1993-1997	1997	1993-1997		1997	1993-1997	1997	1993-1997
Hawaii	26.1%	10.0%	24.5%	14.1%	New Jersey	27.2%	25.9%	19.0%	18.3%
California	15.4	9.0	15.0	12.1	Rhode Island	17.2	24.3	12.5	17.2
Texas	11.3	0.6	11.8	5.4	New York	14.8	14.4	10.8	10.7
South Dakota	10.8	-6.4	13.6	2.9	Hawaii	14.7	21.3	10.8	15.2
Utah	8.6	-1.0	10.8	4.7	Alaska	13.4	18.0	9.8	12.8
Alaska	6.4	-3.4	10.1	3.9	Connecticut	13.1	11.5	9.8	8.9
New Mexico	6.1	-3.6	9.6	3.9	Dist. of Columbia	11.7	6.3	9.0	5.6
Colorado	5.8	1.4	9.2	6.6	Oklahoma	11.3	8.2	8.5	6.6
Connecticut	5.8	-0.6	13.3	9.0	Georgia	8.9	12.8	6.9	9.6
Arizona	5.6	-0.4	9.3	5.5	Wyoming	7.8	8.7	6.3	7.0
Wisconsin	5.3	-1.3	10.8	6.6	Maryland	5.8	3.1	5.0	3.3
Minnesota	5.0	0.2	10.2	7.5	West Virginia	5.2	7.8	4.6	6.4
Missouri	3.9	1.2	7.6	6.1	Delaware	5.1	10.1	4.7	8.1
Idaho	3.9	-1.5	8.0	4.7	New Hampshire	4.2	11.9	4.3	9.3
Illinois	3.9	-4.3	9.6	4.5	Pennsylvania	4.2	5.3	4.1	4.9
Dist. of Columbia	3.7	-4.3	9.5	4.8	Illinois	3.8	5.4	3.7	4.9
Florida	3.0	-1.5	7.6	5.2	New Mexico	3.7	10.6	3.7	8.3
Virginia	2.5	1.2	7.6	6.9	California	3.7	6.4	3.8	5.7
Iowa	1.4	-2.1	6.5	4.5	Nebraska	3.5	-3.9	3.5	-1.2
Maryland	1.0	3.0	7.1	8.5	Florida	2.2	-0.8	2.7	0.9
Kansas	1.0	0.0	5.3	5.0	Missouri	2.1	1.6	2.5	2.2
New Hampshire	0.4	-1.0	8.6	7.6	Idaho	1.6	8.0	2.3	6.6
Indiana	0.0	-3.5	5.7	3.6	Oregon	1.5	1.8	2.3	2.5
Mississippi	-0.8	-2.0	3.9	3.5	Kansas	0.8	-1.0	1.7	0.7
North Dakota	-1.0	-6.3	6.0	2.9	Indiana	0.2	1.8	1.3	2.4
Tennessee	-1.1	-4.9	4.4	2.2	Ohio	0.0	4.6	1.2	4.3
Alabama	-1.1	-4.5	3.8	2.0	North Carolina	-0.2	-11.6	1.0	-6.2
Oregon	-1.3	0.4	4.5	5.5	Arizona	-0.5	-1.4	1.0	0.5
New York	-1.6	-6.6	8.0	4.9	Wisconsin	-0.6	2.5	0.7	2.8
Massachusetts	-2.3	4.1	6.4	10.1	Mississippi	-1.1	0.2	0.4	1.4
Washington	-2.3	-2.5	5.3	5.1	Nevada	-1.4	8.8	0.5	7.1
Maine	-2.5	-3.2	6.3	5.6	Tennessee	-1.9	0.0	0.1	1.4
Oklahoma	-2.7	-5.3	2.8	1.5	Alabama	-2.1	4.0	-0.3	3.8
Nebraska	-2.7	-6.4	4.5	2.1	Virginia	-2.2	-1.2	-0.1	0.6
Louisiana	-3.6	-1.7	3.1	4.3	Utah	-2.3	5.2	-0.3	4.7
Pennsylvania	-4.0	-4.4	6.7	6.7	Vermont	-2.5	10.3	-0.2	8.1
Ohio	-4.3	-4.2	3.4	3.8	Kentucky	-2.7	0.3	-0.5	1.5
North Carolina	-4.4	-3.5	2.3	3.2	Montana	-3.0	5.2	-0.7	4.7
Rhode Island	-4.8	3.8	5.6	11.2	Colorado	-3.2	5.7	-0.8	5.0
Arkansas	-4.9	-4.6	1.1	1.5	Arkansas	-3.8	-3.3	-1.3	-0.9
Wyoming	-5.5	-10.4	2.0	-1.2	Louisiana	-4.6	-2.3	-1.8	-0.2
West Virginia	-6.1	-7.7	2.0	1.5	Washington	-5.7	2.5	-2.3	3.0
Georgia	-7.7	-14.5	0.0	-4.1	Texas	-6.7	-2.2	-3.0	0.1
Nevada	-8.0	-13.6	0.5	-2.8	South Carolina	-7.3	-6.7	-3.4	-2.9
Michigan*	-9.2	3.1	13.9	18.3	Iowa	-7.3	-1.3	-3.6	0.5
Montana	-11.4	-10.5	-1.2	-0.6	Maine	-7.8	7.1	-3.8	6.0
Kentucky	-12.0	-14.9	-1.8	-3.7	Michigan	-7.8	-3.7	-3.7	-0.9
Vermont	-14.3	-9.0	-0.6	2.6	South Dakota	-12.9	-7.0	-7.1	-3.2
Delaware	-17.3	-9.7	-3.1	1.9	Minnesota	-14.5	-4.3	-8.1	-1.4
Puerto Rico	-19.7	-14.4	-7.3	-3.8	Massachusetts	-16.4	-6.3	-9.6	-2.7
South Carolina	-24.9	-19.3	-10.2	-6.7	Puerto Rico	-26.3	-13.0	-7.8	0.0
New Jersey	-30.5	-29.7	-6.1	-7.2	North Dakota	-40.0	-24.1	-24.7	-14.3
Countrywide	0.5%	-2.6%	7.3%	5.5%	Countrywide	1.7%	3.9%	2.4%	4.0%

\* Michigan auto liability figures reflect the inclusion of the Michigan Catastrophic Claims Association data. Since assessments and premiums are indistinguishable, profitability results may be misleading due to the difficulty in identifying losses related to MCCA transactions.

Note: Underwriting and Operating Ratios are presented as percentages of earned premium.

Source: NAII, based on data from National Association of Insurance Commissioners, Report on Profitability By Line By State

**TESTIMONY OF PAUL E. TRAYNOR  
SECRETARY & GENERAL COUNSEL  
NODAK MUTUAL INSURANCE COMPANY  
IN THE NORTH DAKOTA HOUSE OF REPRESENTATIVES HOUSE  
TRANSPORTATION COMMITTEE AT THE HEARING OF MARCH 8, 2001,  
CONCERNING SB 2358**

Realizing that the Committee will have received and will receive enormous pressure from proponents and opponents of SB 2358, I will attempt to be brief in my comments and in why I believe, as an attorney for a North Dakota Auto Insurance Company and a North Dakota consumer, that SB 2358 is bad public policy and is anything but what its proponents argue as consumer protection legislation. It is merely an attempt by some in the auto parts industry who enjoy a monopoly on manufactured auto parts to increase their profits at the expense of North Dakota insured drivers and others.

This Bill was heard in the North Dakota House Industry, Business & Labor Committee during the 1999 Legislative Session. It was overwhelmingly killed by the Committee and the full House in the 56<sup>th</sup> Legislative Assembly and deserves the same fate today.

In my testimony two years ago against this Bill, I provided the Committee with examples of what this Bill will do to the respective citizens in their Legislative Districts. That is, it will increase the average cost of automobile insurance per person in North Dakota by 15 percent!

Nodak Mutual Insurance Company is North Dakota's largest Property & Casualty Domestic Company. We are the largest Farm & Ranch insurer in the state. As that book of core business erodes through market forces within the agricultural industry, our

greatest growth is in the Auto Insurance Market. Nodak Mutual Insurance Company employs nearly 200 people within the State of North Dakota. We annually put back over 20 million dollars into the North Dakota economy. We retain nearly 82 Insurance Agents and their families in small rural communities across our state in towns like Carrington, Lidgerwood and we recently opened an office in Center. We are a growing company within our state, having just announced the acquisition of American West Insurance Company of Luverne, Minnesota, a company we will relocate to North Dakota and which we anticipate will employ over 50 North Dakotans in the next two years in new jobs in Fargo, Grand Forks and Bismarck.

SB 2358 stifles competition within the auto repair industry in North Dakota. A similar law was enacted in West Virginia in 1994 and it resulted in a one-year increase in premiums of over 13 percent. West Virginia has seen consistent increases in auto insurance premiums since that law was enacted.

In his History of North Dakota, Professor Elwyn Robinson wrote of the struggles our forefathers in settling this territory had with the large eastern grain monopolies, the banking and insurance monopolies and the railroad monopolies. North Dakota has overcome some, but certainly not all of the effects of those external market forces which served their own monetary interests at the expense of our grandparents and great-grandparents, but the battle against them has been largely won in comparison to those long ago abuses through federal and state regulation and increasing competition. North Dakotans fostered that competition and responded by setting up their own Bank of North Dakota, their own state mill and elevator and by establishing their own small town banks and state domiciled insurance companies.

Members of this Committee, you have a choice today on SB 2358. Are you going to continue to foster competition to the benefit of all North Dakota consumers or are you going to provide a monopoly to a few so they can increase their profits, run small business people out of business and increase costs for all of our citizens? In challenging you on this fundamental point, I ask you one question, given the history of our state and its people: What do you think our forebears would say?

# Memo

**DATE:** February 22, 2001  
**TO:** Laura Kotelman  
**FROM:** Diana Lee  
**RE:** West Virginia – Trends in Collision and Property Damage Liability Claim Severity

Laura, shown below is a table of West Virginia claim severities (i.e., average cost per claim) for collision and property damage liability coverages. Rather than providing you with average premium figures, which reflect claim frequency as well, it is more appropriate to present claim cost information only. A moratorium on after-market parts would not affect how often claims are reported, but only the cost of claims.

The source of this information is the Fast Track Monitoring System, which is a quarterly report prepared jointly by NAI, the Insurance Services Office, Inc., and the National Independent Statistical Service.

WEST VIRGINIA COLLISION AND PROPERTY DAMAGE LIABILITY COMBINED AVERAGE CLAIM COSTS									
	1992	1993	1994	1995	1996	1997	1998	1999	2000*
Claim Cost	\$1,622	\$1,718	\$1,806	\$2,051	\$2,105	\$2,113	\$2,195	\$2,260	\$2,386*
Annual Percent Change	---	5.88%	5.13%	13.57%	3.12%	0.37%	3.91%	2.95%	7.57%*

\* Through 3<sup>rd</sup> Quarter of 2000. Percent change represents first three quarters of 1999 compared to first three quarters of 2000.  
 Source: *Fast Track Monitoring System Reports @4<sup>th</sup> Qtr. 1996 and @3<sup>rd</sup> Qtr. 2000*

The shaded column in the table represents the first year immediately following the moratorium on the use of after-market parts in West Virginia. As indicated above, there was a 13% increase in the average cost per claim, hence affecting premiums. Subsequent years have experienced smaller increases, but they too appear to be on the rise. This trend suggests that if a similar moratorium on competitive repair parts were imposed in North Dakota, then average claim costs would also increase in this state.

Laura, I hope this information is of assistance to you. If I can answer any questions regarding these figures, please don't hesitate to ask.

**National Association of Independent Insurers**  
 2600 River Road, Des Plaines, IL 60018  
 Phone: (847) 297-7800 • Fax: (847) 297-5064

**Certified Automotive Parts Association  
Washington, D.C.**

March 1, 1999

By Fax to 914-378-2900 and Federal Express

Rhoda H. Karpaticin  
President  
Consumers Union  
101 Truman Avenue  
Yonkers, New York, 10703-1057

Dear Rhoda,

As you know, I and many others are very concerned about your recent report on the crash parts market. Not only did Consumer Reports draw a number of unsubstantiated conclusions, but the article contains numerous and serious errors. I have received CR's letter of February 8, 1999 in response to my published response to the article (both are attached). It does not address the issues I raised and, in fact, raises further questions about CR's article.

Given the seriousness of the problems in the article and their profound ramifications, I am asking you to personally review the following issues. I trust that when you review these concerns, you will likely arrive at a far different set of conclusions than were stated in the CR article and will so inform your readers.

1. CR's investigation could only find one non-car company hood in the last 10 years that supposedly was defective. During that same period of time nearly 2.7 million car company hoods were recalled for safety hazards by the U.S. DOT. These are the very same hoods that car companies sell on the aftermarket. Based on NHTSA data, 63% or over one million of these recalled hoods are still on the road. This is a far more serious and well-documented problem than the single non-car company hood you found. DOT has no recalls listed for non-car company hoods.

2. CR ignored the U.S. DOT complaint statistics, which show 1,864 complaints about car company hood problems, many of which resulted in accidents and injury. (I have attached a small sampling of the many letters on file about problems with car company hoods.)
3. CR reported that there is little data on the safety of crash parts. This is not true. After analyzing the complaint database, engineering data, and recall system of the U.S. Department of Transportation, DOT officials told CR that there is no indication of safety problems with non-car company parts. The information provided to CR from the Insurance Institute for Highway Safety showed no safety problems with non-car company parts. IIHS's British counterpart, Thatcham, has conducted crash tests, with similar results (which CAPA offered to give to CR)<sup>1</sup>. Finally, none of the car companies, who clearly have a strong financial incentive to prove otherwise, were able to supply CR with any evidence of safety problems associated with CAPA certified parts.
4. CR's letter of February 8<sup>th</sup> states that "anonymous-brand imitation parts are essentially "invisible" to the complaint and recall system because the parts have no manufacturer's name stamped on them". This is incorrect on a number of fronts. First of all, as CR was told and as is written in our standards, all certified parts must have the name of the manufacturer stamped on the part. Secondly, the NHTSA complaint system DOES indicate whether or not the part was aftermarket or original.<sup>2</sup> And thirdly, CR's assertion that non-car company parts are invisible to the recall system is not logical. If true, it would mean NHTSA is mistakenly issuing car company recalls for parts that were not made by them!
5. CR's letter of February 8<sup>th</sup> claims that the "11-year-old" IIHS crash test "hardly supports the notion that (non-car company) parts are therefore safe and have

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<sup>1</sup> CR's letter of February 8<sup>th</sup>, indicated that I did not mention the Thatcham test -- that is simply not true. In fact, given the reporter's bias against the non-car company parts and the clear results shown by the Thatcham tests, there would have been no reason whatsoever for me to have not mentioned these tests. Now that CR knows about the Thatcham testing, I trust CR is prepared to review it in reference to CR's contention that there is a major safety problem associated with non-car company hoods.)

<sup>2</sup>Our review of this database concludes that the vast majority, if not all, complaints are about car company hoods.

no potential to cause harm". CAPA, of course, has never made such an assertion as to all non-car company parts. But it's curious that CR would highlight this 11 year old, scientifically conducted test since the only problem hood you were able to uncover was also manufactured about 11 years ago.

6. CR repeatedly cited unsubstantiated claims by collision repair shop representatives as the basis for their conclusion that there is a significant quality problem. CR provided no documentation for the various claims made by the collision repairers who, for years, have stated their opposition to competitive parts. CR presented repairers' claims as fact and yet did not explain why these same repairers have dramatically increased their use of CAPA certified (and non-certified) parts over the past 3 years - a contradiction that begs investigation. CR's February 8<sup>th</sup> letter indicates that these statements were backed up by "independent and credible" sources such as EMR and Frost & Sullivan. Given that CR clearly implied that the Center for Auto Safety was biased by virtue of small grants received from insurance companies, why didn't CR report on where these companies obtained their funding? I'm sure CR knows that they receive substantial funds from car companies.
7. CR never reported on what parts distributors said their experience was in supplying the repair industry with non-car company parts. CR's February 8<sup>th</sup> letter indicates that discussions with Stan Rodman and Charles Hogarty were the extent of your interviews with part distributors. In the interview, Mr. Hogarty told CR about his customers' (collision repairers) positive reaction to the parts he sells. (CR limited its report on the Hogarty interview to information about a lawsuit totally unrelated to CAPA.) And CR didn't report any of the information provided by Mr. Rodman regarding the positive experience his members have selling non-car company parts (especially CAPA certified) to collision repairers. Not providing the seller's perspective is significant omission given that CR reports that 70% of these parts they sell are substandard, but each year these distributors sell more and more of these parts to collision repairers.
8. CR cited no evidence from Interinsurance Exchange of the Automobile Club of Southern California to support their claim that non-car company parts have problems of "bubbling, paint flaking off, premature rusting" and "significant problems in the quality and specifications of non-OEM sheet metal." Nor have we been able to obtain this evidence from them. Furthermore, we know of no state consumer agency, attorney general's office or federal government agency, including the FTC or the US DOT, which has any evidence of significant

problems with non-car company parts. Nor did CR report that they found any evidence of such problems in their extensive research on the subject or from their own member database. CR's February 8<sup>th</sup> letter indicated that CR took this insurance company's claims at face value because they told CR "they keep in close contact with a network of 200 repair shops, and the insurer's representatives regularly see the problems first hand in the fields." Yet, CR did not report any information that would explain why the experience of this insurance company was so different from all of the other major insurance companies?

9. In stark contrast to CR's unquestioning acceptance of unsubstantiated claims made against CAPA parts, CR challenged statements made by CAPA proponents. For example, CR dismissed Mr. Ditlow's statement that CAPA parts are better quality than non-CAPA "by virtue of the fact that you set a standard" by saying he had no "compelling" evidence to support his claim. In fact, as described below, CAPA did provide "compelling" supporting evidence to CR. In CR's February 8<sup>th</sup> letter the reporter indicates that he "repeatedly pressed" me as to whether CAPA parts are higher quality than non-CAPA parts, indicating that I repeatedly declined to make that claim. This is simply not true. In fact, on a number of occasions I clearly indicated that "If a manufacturer chooses not to certify their part it is probably because they believe it would not pass, otherwise there would be no reason not to certify." For CR to attribute anything but this claim to me on this subject is simply untrue.
10. CR's claim that "Neither he (Ditlow) or Gillis provided compelling evidence to support that claim" (that CAPA parts are better quality than non-CAPA) ignores CR's own findings that non-CAPA bumpers are substantially inferior in quality. In fact, CR states that "CAPA should certify bumpers," hardly a logical suggestion from CR if there truly was no difference in CAPA certified vs. uncertified products. In addition, CAPA provided CR with a detailed, 232 page manual that outlines a wide variety of requirements for CAPA parts that are simply not required of non-CAPA parts. CAPA also disclosed, on a confidential basis, detailed tests that showed a number of parts that failed to achieve CAPA requirements and are now in the market as non-CAPA. Finally, CAPA provided CR with its list of decertified parts that no longer meet CAPA standards. Most of these parts are still on the market.
11. CR contends in its February 8<sup>th</sup> letter that the lack of complaints is no indication that the parts meet the quality needs of collision repairers. CR chose to ignore the significance of the lack of complaints knowing that each year we distribute

over 60,000 complaint forms, the collision repair industry regularly reprints and makes more complaint form available and we make numerous public requests for complaints to be filed. CR does not justify the inflated claim that 70% of the non-car company parts are unacceptable, but few of the users of the parts take a moment to file a complaint. CR's claim runs so counter to the empirical evidence, that to dismiss the facts based on the comments of one repairer, (even though he is a member of CAPA's board), is shocking.

12. In a preposterous attempt to discredit CAPA proponents, CR clearly implied that the Center for Auto Safety's (CAS) position on crash parts was biased by the insurance companies, but failed to disclose that CU helped found the CAS, that CU selected the executive director and paid his salary for the first 6 years of its history, and that CU also approved the funding of CAS by the insurance industry during those 6 years. CR did not disclose that insurance company funding of CAS has dropped dramatically since CAS became a member of CAPA's board. CR also failed to mention that CAS has taken on the insurance industry in many areas including CAS' successful opposition of weak laws on salvaged vehicles that were supported by the insurance companies, product liability issues, no fault, auto choice, etc. While CR chose to focus on the very minimal funding that the Center receives from the insurance industry, you did not report on how the two industry groups you used as verification of collision repairer claims were funded.
13. Recently, while under oath in a court case, the Ford manager in charge of a competitive crash parts study, indicated that CAPA certified parts often exceeded the performance of the Ford parts. This included corrosion protection. CR chose not to include this information. In CR's February 8<sup>th</sup> letter you stated that the "Ford Study, taken as a whole and reasonably interpreted, does not support our assertion that CAPA parts often exceed the performance of the Ford parts". The only reason this statement is correct is because Ford misrepresented its results in its report. That is why the sworn statements of the manager responsible for the study were so important. There is really nothing "more timely" and "more independent" than the sworn testimony provided by the Ford manager, an outspoken opponent of competitive parts, which indicates that CAPA parts often outperform Ford parts. However, CR chose to ignore these remarkable admissions under oath.
14. In citing an industry sponsored "test-fit" demonstration as evidence of serious problems across the industry, CR failed to indicate that this "test" was done by a mechanic, using limited tools, in the parking lot of a hotel. Experienced

industry professionals were not allowed to observe the fit, nor were car company parts installed to fairly compare the fit! The next time this group conducted the test, it was in a repair shop with proper tools and supervision by all parties. In this second test the CAPA parts were judged acceptable. CR failed to report that the only serious defects discovered in the second test were in the original and replacement car company hoods. CR also failed to report that the Toyota hood latch mechanism exhibited problems so serious that the car company hood had dent marks from being repeatedly slammed down by the owner. CR's February 8<sup>th</sup> letter says there was no replacement OEM hood in the second demo. This is incorrect and I can provide numerous witnesses who observed the OE hood and its problems.

15. CR ignored the best evidence that CAPA's parts were totally acceptable to collision repairers – a blind test in which the identities of the parts were unknown to the repairers. In the third of these collision repairer sponsored demonstrations, when asked to select which parts fit best, the repairers chose the non-car company parts. The test was done in a blind fashion where neither the mechanics nor the judges knew the identities of the parts. CR traditionally relies on such blind tests in its testing to eliminate the bias among testers that a branded product is better than a non-branded product. Given the significance of this type of test and its importance to CR's conclusions, CR could have easily included this information in its nationally distributed press release – especially given the fact that you may have already gone to print with your original conclusions.<sup>3</sup>
16. CR in its "Recommendations" failed to offer the most important consumer advice: Make sure your insurance company is willing to guarantee the repair, regardless of whose parts are used. CR failed to disclose that most major insurance companies guarantee the repair for as long as you own the car. In this way, the consumer gets the benefits of lower priced parts and a guarantee that should anything go wrong, repairs will be made. CR failed to note that while

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<sup>3</sup> Recently, based on data we had available, The Car Book rated the Lazu Trooper as among the best of sport utilities. Shortly after we went to print, David Pittle contacted me and offered additional information regarding the vehicle's performance. At David Pittle's suggestion, we contacted the President of the company asking them not to use our rating data in promotional material and included the information in press releases. We were glad to do this in the interest of providing correct and accurate information. CR chose not to follow the very suggestion it asked us to take in the identical situation.

companies have been offering this guarantee for years, consumers rarely need to use it. If CR's claim of widespread quality problems were true, this would be a very expensive proposition for insurance companies. Apparently, CR never inquired about the warranty experience of those companies who offer guarantees. This guarantee is critical information for consumer's to know and for this reason, alone, should have been included in the CR article.

17. CR reported that CAPA's corrosion test standard was a 500-hour salt spray test. Our salt spray test standard is 1000 hours. CR's February 8<sup>th</sup> letter, you indicate that you were basing your facts on an out-of-date Quality Standards Manual. We indicated, several times, to both of the CR representatives who visited our testing labs, that the manual was revised and that the new corrosion test was 1000 hours. (We can provide witnesses to this if necessary.) As we explained in detail, CAPA uses an industry standard test. The CR corrosion test was different than that normally used by the industry. In addition, CR was unable to find any real world evidence of premature corrosion of CAPA certified parts to substantiate its claims that there exists a corrosion problem.
18. CR claimed that "Last March the Automotive Service Association withdrew its support of CAPA." In documents provided to CR, CAPA provided evidence that ASA has never supported CAPA; it has been the most outspoken opponent of competitive crash parts (along with the car companies); and it has refused CAPA's numerous requests for any public statement expressing support of CAPA. In fact, ASA hosted the largest anti-competitive part demonstration ever held (sponsored by Ford) and they have worked vigorously on the state level to prevent the use of non-car company parts. All of this information was provided to CR in advance of the article. In reference to CR's letter of February 8<sup>th</sup>, it is simply false to state that ASA ever supported CAPA. In spite of what CR attributes to Clark Plucinski, collision repair shops, led by the ASA have always opposed the use of non-car company parts, regardless of whether they are CAPA or non-CAPA. The very concept of ASA supporting CAPA is ludicrous and shows a complete lack of understanding of the violent opposition to the use of non-car company parts by collision repairers.
19. CR reported that an engineer at CAPA's test lab said that OEM parts variations are "perhaps 0.060 inches". At no time did anyone at Entela or CAPA make this statement. Three witnesses at the meeting confirm that this statement was never made. What did transpire at the meeting, which included representatives of Entela, CAPA and two CR employees, was a detailed discussion of the inconsistent nature of car company parts. When one CR representative asked

Rhoda Karpetkin  
March 1, 1999

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what 1.5-mm would be in inches, he was told "about .060 inches". This 1.5mm, however, is CAPA's maximum level of tolerance, not the car company's - a fact that has been clearly explained to CR on a number of occasions and which appears prominently in our standards manual. Furthermore, CR knows from reviewing our standards that we possess a significant number of data points on car company parts. On numerous occasions we told CR that we have discovered variations among the same car company parts that far exceed our +/- 1.5-mm tolerance. CR's February 8<sup>th</sup> letter, again claims that Greg Marshall made the statement that OEM part variations are, at most, 60/1000<sup>th</sup> of an inch. Not only does Greg Marshall adamantly deny making such a statement, but both CAPA Administrator Karen Vail and I adamantly deny that he made such a statement. Such a statement is simply not true and would never have been claimed to be true. In addition, on two occasions during the "fact checking" stage of this article, Mr. Marshall indicated that he did not say this, but the article was not corrected. This is a very serious mistake on the part of CR.

20. CR reported that CAPA's vehicle test fit program would only be for newly certified parts. That is incorrect. On two occasions, the vehicle test fit program was explained in detail to CR and each time we indicated that the vehicle test fit program will be used on any part. CR was also incorrect in stating that current certified parts are not affected by this change unless CAPA receives at least five complaints about the part. As we explained to CR, if a part receives five complaints, it will be removed from the program, not checked on a car! Prior to that time there are numerous occasions when a vehicle fit will be conducted. This policy, too, was explained in detail to CR. CR's February 8<sup>th</sup> letter indicated that reporter's "notes" attributed a quote to me. Those notes are wrong. Not only is the reporter's quote an inaccurate reflection of the facts of the program, but we clearly explained the complete vehicle test fit program to the reporter in a lengthy meeting at our testing facility.

21. CR reported that half of CAPA's funding comes from the insurance industry. This is incorrect. Last year only 38% of CAPA's operating funds came from the insurance industry. Overall, insurance company funding has declined from a full 100% in 1988 to current levels. The decline in CAPA dependence on insurance funding was reported not only to CR but also to CR's fact checker and the offer of the correct percentage was made to CR's fact checker. As was explained to CR, CAPA is modeled after Underwriters Lab, which also was funded by the insurance industry, but is now totally independent. CR considers our insurance funding to be significant enough to include in the article, but

Rhoda Karpauka  
March 1, 1999

Page 9

chose not to report that CAPA is moving quickly towards its goal of reducing its financial dependence on insurance funding.

22. We have not been able to fairly evaluate CR's actual testing. While CR provided us with data from some of the manufacturers, it did not provide us with all of the data.<sup>4</sup> However, we have discovered some very disturbing information from what we have been able to piece together. When CR sent the parts on to a collision repair shop, they chose the best of the car company parts but did not send over the best CAPA parts. In David Pittle's February 28<sup>th</sup> letter to Clarence Ditlow he indicated that CR sent the best of the Ford fenders to the shop. On the other hand CR sent the 2<sup>nd</sup> and 3<sup>th</sup> best of the CAPA fenders over. For the Accord, CR sent the 2<sup>nd</sup> and 4<sup>th</sup> best CAPA fenders. In neither case did they send the best CAPA parts to the repair shop. In the case of the Accord, the 2<sup>nd</sup> best CAPA actually did well against the Accord. CR presented monumental conclusions based on the grossly small sample sizes and stacked the deck against CAPA in the parts that it sent to the repair shop.

23. CR contends that "shoddy parts can cost you a bundle." The only way non-car company parts could cost consumers any more than car company parts would be because they increased repair costs in subsequent accidents or prematurely failed. (They certainly don't increase the cost of the initial repair, they reduce it.) If, in fact, non-car company parts increased repair costs, it would be an expense born by the insurance companies. If this increased cost were real, it would be highly illogical and very uneconomical for insurance companies to use them. Regarding premature failure, again it would be the guarantees of the insurance industry that would be suffering. As CR knows, there are very few (if any) claims against insurance companies for premature failure of these parts. If there were, however, this would be a cost born by the insurance company, not the consumer. CR has no basis for claiming that non-car company parts can "cost you a bundle."

---

<sup>4</sup> When asked for the complete data, we were told that it was CR's policy to only provide manufacturers with the data for their own company. As CR knows we do not manufacturer parts. Nevertheless, CR provided some of the data. Our objective is to determine if non-car company parts are equal in performance to car company parts. We can not do that unless we compare the results from two or more parts. CR's policy of releasing data from certain manufacturers and not others either violates those manufacturers' privacy or makes it impossible to evaluate the results in total.

**Rhoda Karpstein**  
**March 1, 1999**

**Page 10**

We look forward to your response to the many questions raised by your article and February 8<sup>th</sup> letter. From a consumer perspective the current car company monopoly on crash parts is a very serious problem and costly problem for consumers. CR has failed to fairly and accurately report the reality of the situation. As a result, opponents of CU's goal for increased, high quality competition in the crash parts industry are in a very good position to prevent that from happening. We trust that you will maintain your longstanding reputation for accuracy and fairness and explain the real story behind car company parts and their competitive alternatives to CR readers in your next issue.

Sincerely,

**Jack Gillis**  
**Executive Director**

cc:

**David Pittle**  
**Clarence Ditlow**  
**Joan Claybrook**  
**Stephen Brobeck**

**Attachments in Federal Express Package**

**CAPA's Response to CR**  
**CR's February 8, 1999 letter to CAPA**

**TOTAL P. 11**

**SUBJECT: North Dakota Bill SB 2358 - Use of Replacement Crash Parts**

As a former territory manager for Standard Motors Products of Long Island, NY, one of the largest manufacturers of automotive replacement parts built to meet OEM specs, a former parts manager of a Buick Cadillac GM dealer and now a State Farm Insurance agent for the past 23 years I strongly urge you to vote NO on Senate Bill 2358.

This bill is not a consumer advocate bill. It is the exact opposite. This bill will hurt all consumers in the pocket as all of us will pay higher prices for insurance because the OEM Manufactures will have a monopoly on crash parts. They will be able to charge any amount for the parts and the consumers will pay for the difference. The mark up on OEM parts is very high so we are talking Big Dollars to GM Motors, Ford Motors & Chrysler Motors.

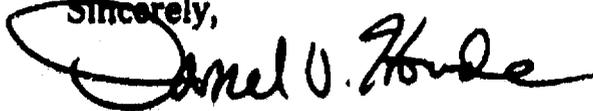
The argument that anything less than OEM crash parts will not fit properly by the body shops is a bunch of baloney. Use a little common sense! A body part is not a high precision part such as a bearing, valves, electronic ignition parts, gaskets, water pumps and the list goes on for parts that are now being made to OEM specs and better than OEM specs offered at your local warehouse parts distributors, etc. If that analogy was true, than why do we need the parts stores like NAPA, Motor Services, Hedahl's, Everson H E Co. and the list goes on. The consumer then would be forced to go to his local GM, Ford or Chrysler Motors for parts. I believe competition is good for our economy. I also believe in freedom of enterprise. Many manufactures of generic parts are meeting the quality standard of CAPA (Certified Automotive Parts Association) and are of good quality.

SB 2358 is not about helping the consumer! It is a bill about big bucks for crash parts and having a monopoly on them. Mr. Body Shop, which would you take if you make 15% on a body part? Example: \$770.00 for a cadillic bumper or would you like 15% on a \$300.00 bumper. Of course you would choose the \$770.00 bumper.

I urge you to use common sense and vote NO on Senate Bill 2358. A bill that will cost the consumer much higher insurance premiums. Give the consumer a choice. He can decide if he wants OEM parts or generic parts.

As an insurance agent who gets paid commission based on amount of premium dollars taken in, I stand to have my own income increased if this bill is passed. Conservative estimates say that auto premiums would increase by at least 15%. Even though this bill would cause my income to go up, I am against it on a fundamental level. I have a responsibility to my customers to do what is best for them. That is why I'm here today.

Sincerely,



Darrel V. Hovde

# Say no to higher auto insurance premiums.

Compared to most states, North Dakota drivers pay almost the lowest auto premiums in the nation, but SB 2358 could change that. SB 2358 is anti-consumer and anti-competition and has the potential to increase your auto insurance bill by as much as 15 percent.

## **This bill mandates higher prices**

SB 2358 would require insurance companies and body shops to repair cars less than eight years old with more expensive auto manufacturer parts. It would also require you to give your insurance company and repair shop additional approvals in order to take advantage of less expensive repair parts.

## **SB 2358 stifles competition -- increases your costs**

Aftermarket parts include hoods, fenders and other cosmetic replacements that are the same quality, but cost substantially less than collision parts produced by the big car companies. SB 2358 would eliminate competition in the parts market and increase claims costs. How does this affect you? This added expense is passed along to you through your insurance premiums. Higher claims costs means higher insurance premiums to you, the consumer.

## **You wouldn't support a bill that abolishes generic drugs**

Aftermarket parts, like generic drugs, are safe and effective. If this bill should pass, it is likely that car repair quality will not improve, but repair costs will go up significantly. And, more vehicles will be totaled due to higher repair costs.

Just as generic drugs were outlawed, fewer people would be able to afford the cost of medicine. Similarly, states with higher auto premiums also have more uninsured drivers.

## **These parts are safe**

The aftermarket parts eliminated by SB 2358 are used for cosmetic repairs only; with the exception of the hood, and tests on aftermarket hoods show they perform as well or better in crash tests than original equipment manufacturer hoods. Plus, the warranties on aftermarket parts are as good as or better than warranties on original equipment manufacturer parts.

North Dakota insurers are committed to working with you and your repair shop to see that you are satisfied with the fit, finish, and quality of repairs.

## **You can influence this decision**

If passed, SB 2358 will cost you money. It will stifle competition in the crash parts industry, which will only benefit the big car companies and the owners of some auto body shops. SB 2358 also poses the threat of costing North Dakota jobs in the used and aftermarket auto parts business if passed. This bill is clearly not in the best interest of North Dakota residents. We urge your immediate support in defeating this legislation.

**Vote NO on SB 2358.**

Sponsored and paid for by the Association of North Dakota Insurers.



218 SOUTH 26TH STREET  
 P.O. BOX 2292  
 BISMARCK, N.D. 58502-2292

Mr. Chairman and Members of the Committee,      PHONE (701) 255-1194      TOLL FREE 1-800-472-2188

I'm Ron Nordstrom, owner of Dave's Auto in Bismarck. I'm here speaking <sup>"Our greatest asset"</sup> ~~on behalf of~~ the North Dakota Auto Recyclers Association, we are a statewide organization of 28 Auto Recyclers.

We are here to oppose SB-2358 as it is currently introduced. As you know 2 years ago this bill was introduced to the Senate, it passed, and subsequently passed to the House and was defeated. Our reason for strong opposition as it is currently written is this: 2 years ago we were forgotten about by the sponsors of the bill, the North Dakota Auto Body Association. After many discussions with their president and members, we were repeatedly told we will not be forgotten, that the bill will be amended to include us. The terminology to be used was "NEW OR RECYCLED" Original Equipment Manufacturer Parts. This legislative session the bill was again introduced as SB 2358. We again were promised we would not be forgotten. Well we were, but to their credit the sponsors did try quite hard at the last minute to amend the bill before the Senate Hearing, Senator Schobinger physically handed them out to the committee members. The final result was the committee recommended to pass without amendments and it obviously passed through the Senate without the amendments. We feel it was because of political confusion and miscommunications at vote time. After this bill was passed by the Senate, we again have had several conversations with sponsors members, their president, legislative representative and even their lobbyist. Again both Mr Quandt and Mr Hagen gave us their word that if this bill does not have the desired amendment that includes us they would have the bill killed.

We must remind everyone that we only oppose this bill as currently written, not in it's entirety. If this bill does pass as currently written, it will very easily close several Auto Recycler throughout our state. Body parts are a substantial portion of our sales. The members of the NDABA are our customers and our friends. We do really understand their frustration with poor quality aftermarket parts and insurance company's forcing them to use these parts. They obviously are so tired of fighting suppliers of aftermarket parts, and the insurance companies, they feel that they need a law. That's not our problem, but the result is we cannot take one single chance that we will be forgotten again, whether it be due to lack of amendments, political confusion etc. It just doesn't matter, if this bill passes as it is written, the NDABA will lose suppliers, friends and jobs in their own shops, along with members in our organization.

**"USED AUTO AND PICKUP PARTS IS OUR BUSINESS"**

Transmissions, Alternators, Starters, Late Model Repairable Cars, Sheet Metal, Engines, Radios, Wheels, and Radiators

Dave's Auto is a wholly owned subsidiary of Ron's Auto Recycling, Inc.

March 8, 2001

Mr. Jack Zaleski  
Editor, Editorial Page  
The Forum  
Fargo, ND

Dear Mr. Zaleski,

On February 20, 2001 the North Dakota Senate passed Senate Bill 2358 that would make original equipment crash parts - fenders, hoods, grills and bumpers made by the car manufacturers - mandatory in the repair of vehicles involved in accidents unless the customer consents to the use of what are called aftermarket parts. This new rule would apply to cars 7 years older or newer. The bill's primary sponsor, Sen. Randy Schobinger, says the bill only gives consumers "some power over how their wrecked car gets fixed." You agreed on February 17th, quoting from the Minot Daily News, saying, "Schobinger has a good consumer protection bill." "It deserves to be passed because consumers deserve to have their wrecked car fixed with the best parts that are available." In fact, Sen. Schobinger's bill is not a consumer protection bill. It is bad legislation for consumers. If passed by the House of Representatives and signed by Governor Hoeven the law would force consumers to buy more expensive parts for any car 7 years old or newer with no guarantee of quality and eventually automobile insurance rates will increase. This cannot be what the North Dakota legislature really wants. It cannot be what North Dakota consumers want.

I am Executive Director of the Certified Automotive Parts Association, known in the industry as CAPA. Also, I am the Director for Public Affairs for the Consumer Federation of America. For nearly 12 years I have been working on the CAPA program to protect American consumers from a car company monopoly on parts. CAPA provides consumers with a choice - a high quality, less expensive CAPA certified part over the more expensive uncertified car company part. We oversee a testing and inspection program that certifies the quality of parts not manufactured for or by the car companies and used in auto body repair. We simply establish standards for competitive parts in order to insure equivalency - equal if not better - to car company parts. CAPA's goal is to promote price and quality competition in the after market crash parts industry, thereby reducing the cost of crash repairs to consumers without sacrificing quality. We are modeled after UL who certifies all electrical equipment in the country. The existence of after market parts saves American consumers \$800 million each year by providing an alternative to parts only made and sold by the car companies who have been known to mark up their part prices by as much as 300 percent. The existence of CAPA ensures that consumers also have a high quality alternative to these expensive car company parts.

What is at stake here is the consumer protection inherent in a truly free and responsible marketplace. North Dakota consumers support choice through competition not the monopoly the car companies and body shops are hoping to achieve with this legislation. An example of just

An example of how over priced car company parts can be is best exemplified by comparing a Ford Taurus hood with a combination TV/VCR. A hood for a 1994 Ford Taurus costs almost \$400, and that does not include painting and installation. Comparably, a combination TV/VCR sold by RCA costs about \$150. This kind of pricing does not make sense and is what happens when the product is controlled by a monopoly. This legislation will kill competition, strengthen the car company monopoly and increase prices. It should be stopped.

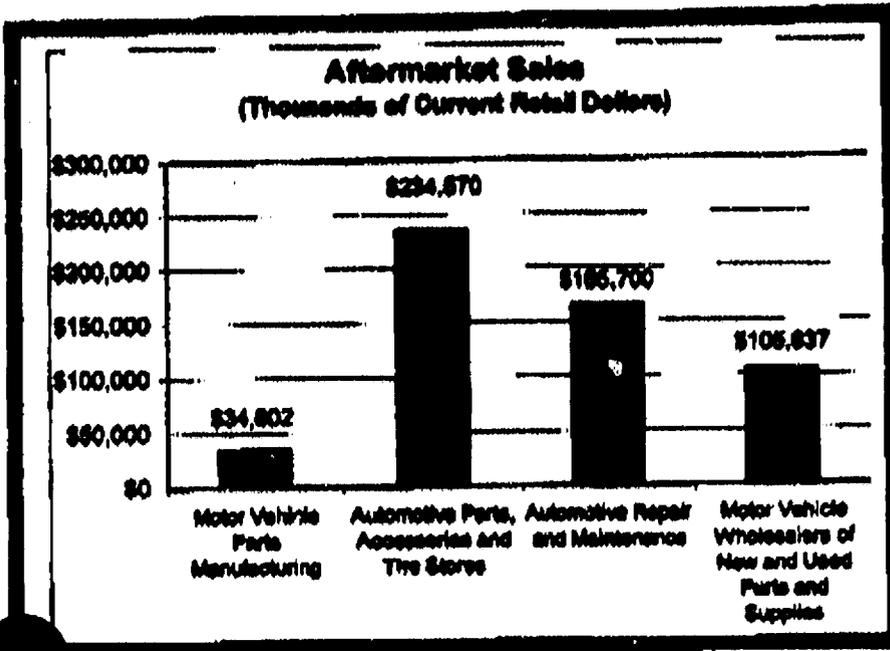
Sincerely,

Jack Gillis  
Executive Director

**Please save our jobs!!!**  
**KEYSTONE AUTOMOTIVE INDUSTRIES - NAPA -**  
**FARGO BUMPER - CARQUEST- DAKOTA BUMPER**

**Please Oppose SB 2358 -**  
**'The Monopoly Bill'**

**SB 2358:**



☞ Proposes an eight year monopoly for the original equipment manufacturers

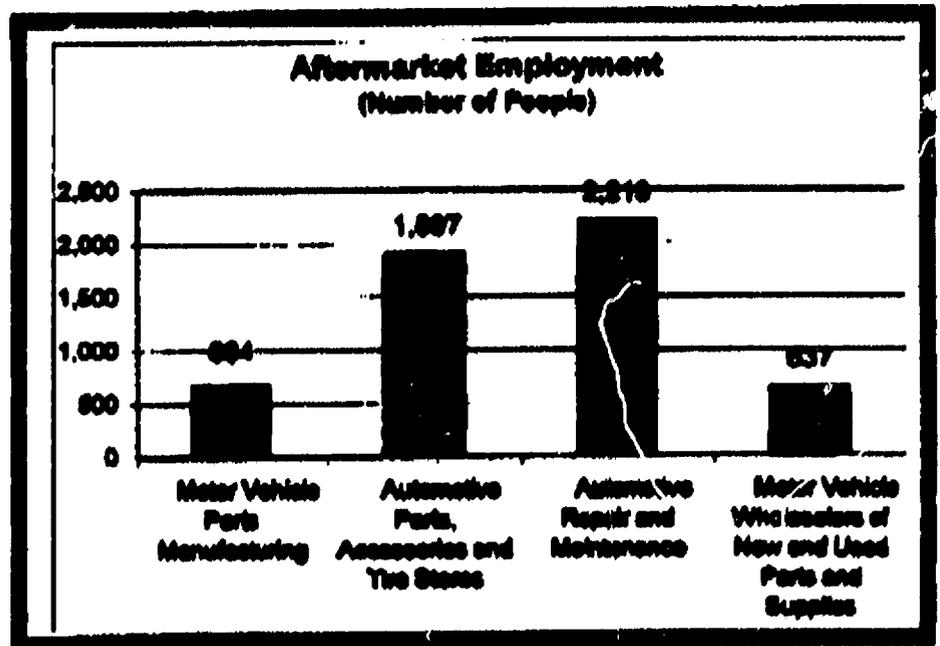
☞ Indicates that use of aftermarket crash parts will negatively impact the manufacturer's warranty, which is illegal according to the Federal Magnuson-Moss Warranty Act

☞ Proposes requirement for body shops to obtain written consent, which delays the repair process and implies a negative safety issue. Aftermarket parts are not safety components on the vehicle, they are cosmetic.

☞ North Dakota consumers will have to pay more for collision repair, making the already rich OEM's richer

☞ North Dakota consumers will have to pay higher insurance premiums to cover the higher cost of collision repair.

☞ North Dakota risks elimination of as many as 5,000 jobs in the auto parts and repair industry if this bill is enacted.



**Testimony on SB 2358  
House Transportation Committee  
Chairman- Rep. Robin Welsz  
March 8, 2001**

**Replacement Crash Parts**

Good Morning Mr. Chairman and members of the House Transportation Committee. For the record my name is Randy Schobinger and I am the state senator representing district #3. District #3 includes most of eastern Minot including Surrey. I will briefly explain the bill, what it's effect will be, and offer amendments, some of which were originally intended to be part of the bill and others that offer a compromise.

Senate Bill 2358, simply stated, is a bill to allow the owner of a motor vehicle to consent before after-market crash parts become part of their vehicle. It will require consumer notification when parts other than original replacement crash parts may become part of their automobile. The key phrase in the previous sentence is "Replacement Crash part". On page 1 line 21 is a definition of replacement crash parts. It reads, "Replacement Crash Part means a part typically replaced during repair of a damaged motor vehicle, including exterior sheet metal and any plastic component such as a fender, hood, door, bumper system, or related structural component". This definition is important because it excludes what is commonly referred to as hard parts. These parts include oil filters, tie rods, radiators and any other part that is not crucial to the structural integrity of the automobile.

Page 2 of the bill requires a "Notice to Consumer" of the type of replacement crash parts to be installed in their motor vehicle.

Subsection 4 on page three states that an insurance company may not require the use of after-market parts without the motor vehicle owners approval.

Subsection 5 on page three states that the bill only applies to vehicles seven years old or less and have a gross vehicle weight of 10,000 pounds or less.

At this time I would like to propose amendments for the committees consideration. The amendments are mostly housekeeping but also show that we are willing to compromise with the opponents of this bill.

The first change on page 1 line 9 substitutes the word damage for collision. Claims are most often referred to as "damage repair claim" rather than "collision repair claim".

The second change on page 1 line 14 strikes everything after "licensee". The reason is that by definition a "new original equipment manufacturer crash part" would not be older than the motor vehicle being repaired.

The third change on page 2 line 7 removes the requirement that an authorization form be attached to the "Notice to Consumer" form.

The fourth proposed change on page 3 ensures that recycled parts can be used when a body shop repairs a damaged motor vehicle.

And finally Mr. Chairman we're willing to compromise on the age a vehicle must be before after-market parts may be used without consent. The current bill requires seven calendar years before the current calendar year. Our amendment will lower it to five.

On October 4, 1999 a jury awarded policyholders of the nations largest automobile insurer \$456 million for ordering repair shops to use substandard replacement crash parts. The

judge in the case subsequently ordered punitive damages bringing the total judgment to 1.1 billion. Mr. Chairman and members of the House Transportation Committee. This bill is designed to ensure North Dakota's policyholders won't ever need to become part of a similar class action lawsuit.

Mr. Chairman, At this time, if there are no questions, I would like to turn it over to the professionals who deal with this issue every day.

## SENATE BILL 2358

Mr. Chairman and Members of the Committee:

My name is Lane Quandt. I am the manager of a body shop in Minot and the Chairman of the North Dakota Auto Body Association's Legislative Committee.

The first thing I feel I need to do is clarify some misconceptions of Senate Bill 2358.

1. As defined in Page 1 lines 21 thru 24, "Replacement crash part" means a part typically replaced during the repair of a damaged motor vehicle, including exterior sheet metal, and plastic components such as fenders, hoods, doors, bumper systems, or related structural components. This Bill is not concerned with aftermarket parts such as starters, alternators, wheels, batteries, tie rods, water pumps, air and oil filters, condensers, and radiators which are typically known as mechanical hard parts.

2. This Bill does not mandate or require the use of O.E.M. parts. It only asks that the consumer be made aware of the parts being used and that the consumer consents to the use of any parts that are Non-OEM. (Read Page 3 lines 3-12). Is there anyone here who feels the consumer shouldn't have the right to know and choose what kinds of parts are being used to repair their car?

3. This Bill is not about the body shops versus the Insurance Industry. We both have the same customers. The problem is that the insurance companies have been sold a bill of goods by the aftermarket crash parts companies. They have been told that they will provide parts of like kind and quality to OEM, but they are not!

If aftermarket crash parts were consistently as good as O.E.M. parts, there would be no need for Senate Bill 2358. But they are not!

How many of you here would be concerned about having Monroe shocks put on your car, Champion sparkplugs, a Sears Diehard battery, Dayco belts, Fram oil and air filters, or G.E. or Sylvania seal beam headlamps. These are proven companies with names we have all come to know and trust. But, if your vehicle was in an accident, how would you feel about having a Pro-fortune grille put on your car, or an Ensure fender, a Tong Yang hood, or a Gin Ho Lian radiator support, without your knowledge? How many of you have read your automobile insurance policy and know whether or not these parts can be used on your vehicle?

I wish all parts were created equal. But they are not! I wish there was no need for Senate Bill 2358. But there is!

At the last hearing for this bill, the manufacturers and suppliers passed around aftermarket and OEM parts to show you that they look the same, but remember you can not judge a

book by its cover, and the same is true for aftermarket crash parts. They may look as good, but the real test is will they fit on the vehicle? I have photos to prove my point. It may be of interest to you that these are photos of vehicles we have worked on since the Senate Hearing on Feb. 2<sup>nd</sup>. (Show photos) Mr. Chairman and Members of the Committee, aftermarket crash parts are not of like kind and quality, although there are some here who would like you to believe that they are.

I would like to ask that you please listen to the people that have to work with these parts and the consumer's vehicles, everyday. One thing that you must understand is that the people from the insurance industry, CAPA, and the people who supply and distribute aftermarket parts, do not have to sit across the desk from the consumer, look them in the eye, and say "We were able to restore your vehicle to pre-accident condition, and this is a quality repair that we are proud of." We auto body repair people have and need to be able to do that everyday.

At the Senate Hearing a statement was made that body shops want to use OEM parts because they can make more profit on the higher priced parts. On the contrary, in fact we would ask that the Bill be amended so that we can use recycled (used) OEM parts, which in many cases are less than the aftermarket crash parts. It has also been said that this Bill would raise insurance rates, but let me quote Consumer Reports. "Most auto insurers endorse imitation parts because they can be 20 percent to 65 percent less expensive than OEM. But the companies we surveyed provided no evidence that those savings are being passed on to policyholders."

Another suggestion was the idea of a separate insurance policy for those who prefer the use of OEM parts, but this will bring on a whole new set of problems. In fact in Maryland they are trying to pass a law, which would allow insurers to offer the option of purchasing additional coverage for the use of new original equipment manufactured parts. Robert J. Hurns, counsel of the National Association of Independent Insurers, of which, I am sure, many in this room are members, opposes this law because he says and I quote "it creates the presumption that competitive parts are of inferior quality" and to that I say AMEN BOB!!! I think you will find it interesting that I contacted the five insurance agencies in Minot that handle the particular insurance, who said they now have the OEM policy available, and not one of the agencies contacted was aware of such a policy. This made it very hard to get a price quote to see the price difference between the policies. To me the two-tiered or OEM policy is the insurance companies way of offering the consumer yet another bandaid on the issue of aftermarket crash parts. And as you all know a bandaid does no good if it isn't placed over the sore. By the same token, a two tiered or OEM insurance policy is useless if the agents are unaware of it and the consumer doesn't understand it, and really, what good is a lifetime warranty on a part that doesn't fit the vehicle? We don't need any more bandaids. We only have one sore, the inconsistent quality of aftermarket crash parts. Until the day that the quality of all aftermarket crash parts is consistently equal to that of OEM the consumers of North Dakota deserve this law.

I am ~~not~~ here to make more profit on higher priced parts.

I am ~~not~~ here to create monopolies.

I am ~~not~~ here with hopes of raising insurance rates.

The only reason I am here is for the consumer, who trusts that we will put their vehicle back to pre-accident condition. I am here for the consumer who deserves to know and choose what kinds of parts are being used to repair their car. And you can help by passing Senate Bill 2358.

I would be happy to answer any questions.

Thank you for your time and consideration.

Sincerely,  
Lane Quandt  
701-838-7218

**AMENDMENTS**  
**S.B. 2358**

Page#1-Line #9....the insurance company with respect to a motor vehicle damage  
~~collision~~ repair claim.

Page#1-Line#14...licensee, ~~which is not older than the motor vehicle being repaired with~~  
~~the part.~~

Page#2-Line#7....The following "Replacement Crash Parts Notice". ~~And Authorization~~  
~~Form"~~

Page#3-Line#3&4...If a motor vehicle requires repair by a repair facility, a repair facility  
shall use new or recycled original equipment manufacturer replacement.....

Page#3-Line#7....time of the repair to the use of parts other than new or recycled  
original equipment

Page#3-Line#9....use of parts other than new or recycled original equipment  
manufacturer replacement crash

Page#3-Line#12...than new or recycled original equipment manufacturer replacement  
crash parts.

Page#3-Line#14...calendar year or in the five ~~seven~~ calendar years before the current  
calendar year.

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Ship UPS

Sen. Flakoll

State Farm Knew of Bad Parts?

Memos: Insurance Firm Knew of Inferiority

By Michael Pearson  
The Associated Press

MARION, Ill., Aug. 18 — Even as State Farm was sending brochures to its customers touting imitation auto-body parts as equal to the factory originals, executives were circulating memos calling their quality into doubt, according to documents presented in a lawsuit against the insurance giant.

"I am being told that the quality issue is significant and is receiving negative 'feedback' from repairers and customers," a State Farm claims executive wrote in a 1993 memo presented during testimony Tuesday by Tim Ryles, a former Georgia insurance commissioner who now serves as an insurance consultant.

Plaintiffs in the class-action lawsuit claim that State Farm's policy requiring the use of inferior, lower-cost imitation parts when available breaks its contract to restore a policyholder's car to its pre-loss condition.

Some Say they Wear Quicker

Critics of aftermarket parts, which are modeled on more expensive factory originals but made without factory specifications, say they often fit poorly and wear rapidly. About 20 percent of State Farm repair jobs specify aftermarket parts, according to the company.

The lawsuit, which covers the potential claims of 5.5 million current and former State Farm policyholders, also accuses State Farm of consumer fraud for failing to disclose problems with the parts.

Bloomington-based State Farm denies the allegations.

The documents presented Tuesday show internal concern over aftermarket parts started shortly after State Farm began requiring their use in the mid-1980s.

A 1986 study for State Farm questioned the quality of

SUMMARY

State Farm executives were reportedly circulating memos calling car part quality into doubt even as customers were told the parts were equal to factory originals.

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Some things just don't fit right

## HELPERS

some parts, a theme repeated almost yearly in documents presented Tuesday.

### Plastic Parts Faulted in 1993

In 1993, an executive cited problems with poorly fitting bumper covers, plastic parts that don't match manufacturer quality and an imitation truck hood equipped with safety latches that will not hold.

"This presents an obvious safety problem," the memo said of the hoods.

In opening statements Monday, State Farm attorneys said there is no evidence that aftermarket parts pose any safety threat.

In a 1997 memo written shortly after the case was filed, State Farm attorneys urged the insurer to stop using imitation sheet metal parts, saying the cost of settling lawsuits over their use soaked up any savings they might provide.

State Farm spokesman Bill Sirola said the documents reflect the company's leading-edge efforts to bring aftermarket parts up to the level of factory parts, not an effort to conceal their flaws.

State Farm is the nation's largest auto insurer, covering one of every five autos on the road. ■

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March 8, 2001

### Testimony of Patrick J. Ward in Opposition to SB 2358

Chairman Weisz and members of the House Transportation Committee:

SB 2358 relates to the use of replacement crash parts in motor vehicle repairs.

I represent the North Dakota Domestic Insurance Companies, State Farm Insurance Company, and the National Association of Independent Insurers. All of these companies strongly oppose SB 2358. This bill is anti-consumer, anti-competitive, and has nothing to do with safety. The market should dictate which parts get used, not government. If you pass this bill, insurance premiums in North Dakota will go up substantially. We urge a Do Not Pass.

SB 2358 is a recycled version of SB 2276 from the 1999 Legislative Session. That bill passed the Senate without opposition in 1999, but was killed in the House. We object to SB 2358 for many of the same reasons that we did last session.

SB 2358 would give the original equipment manufacturers (OEM) of automobile sheet metal parts a monopoly on the sale of those parts. It would close

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**Page 2**

the door to all competition from aftermarket parts. This would result in substantial increases in the cost of such repair parts and a consequent substantial increase in premiums for motor vehicle insurance, of as much as 15%. WV passed a similar statute in 1994 with a 4 year OEM provision. Average costs per claim increased by over 13% in WV in 1995.

There is absolutely no credible evidence to support the argument that the quality of aftermarket parts is any less than the quality of original equipment manufactured parts. These parts are safe and less expensive. Most people cannot tell them apart from OEM parts. In fact, CAPA, the Certified Automotive Parts Association, certifies the quality of many parts made by the aftermarket manufacturers.

It should also be kept in mind that most of these parts are simply stamped sheet metal. SB 2358 does not attempt to apply to engine, electrical or other automotive parts which are much more complex in their design, operation, and functionality. All of us have purchased more complex aftermarket parts such as Sears DieHard batteries, Midas mufflers, Champion spark plugs, used and recycled starters and other electrical components from auto part stores not even knowing or caring who the manufacturer was. Most of us seldom if ever question our mechanic

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**Page 3**

as to the manufacturer of the electrical, computerized, or mechanical parts he or she uses in repairing our vehicles. Why should we worry about sheet metal parts? Quality body shop mechanics will do quality work. Insurance companies will work with body shops to find parts that fit and look nice. There have not been many complaints to the Insurance Commissioner's office.

SB 2358 as written applies to all vehicles within the past eight years of manufacture which weigh less than 10,000 pounds. It requires the repair facility to disclose each type of replacement part that would be installed and obtain a prior written authorization from the consumer to perform the repairs. No other state has such far reaching legislation.

In North Dakota, a body shop makes as much as a 25% markup on parts. An OEM part is often three to six times more expensive than an aftermarket part; i.e., the more expensive the part the more money which goes into the repairmen's pockets. That is the real reason the body shops support this bill!

\*\*\*\*\*

I have a client in the lumber business. His wood is much better than the wood at Menards. Many builders and carpenters buy from him even though his wood is more expensive. Should we also pass legislation requiring insurers to use local

**lumber companies wood for house repairs because some people think it is better?**

**Why not outlaw generic drugs? Generic groceries?**

\*\*\*\*\*

**Many car insurance policies provide that the insurer may use aftermarket parts but will guarantee fit, quality and finish of repairs to the customer's satisfaction. For example, a standard State Farm policy says:**

**We will include in the estimate parts sufficient to restore the vehicle to its preloss condition. You agree with us that such parts may include either parts furnished by the vehicle's manufacturer or parts from other sources including non-original equipment manufacturers.**

\*\*\*\*\*

**Most insurers provide rental cars during the time needed for repairs. If for some reason a non-OEM part will not work, insurers use and pay for OEM parts. Many non-OEM parts have better warranties than OEM parts.**

**We have provided you with a packet of materials including a brochure from the National Association of Independent Insurers. At page 6 of that brochure they illustrate how competition has forced prices to decline, even on OEM parts. For example, an OEM fender for a Toyota Camry which cost \$265.79 in 1994 by 1996 cost \$143.88. At the same time, a non-OEM fender cost \$209.00 in 1994 and only \$60.00 in 1996. Examples of fenders for other automobiles are also included.**

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A new Honda Accord costs \$22,365 from the dealer. If built in a body shop with OEM parts, the same car would cost \$68,065.93. (This is a study done by the Alliance of American Insurers). In a previous study by AAI, a 1999 Toyota Camry with a sticker price of \$23,763 cost \$101,335 in OEM replacement parts.

This legislation follows an unsuccessful attempt by the auto manufacturers to persuade the U.S. Congress to create a legislated monopoly. Since that time, they have tried to do so through state legislation with assistance from auto body shops as front men.

SB 2358 is not a consumer protection bill. (Consumers are not complaining about aftermarket parts.) SB 2358 could cost the average consumer hundreds of dollars annually in additional premiums. It is a bill which will help stifle badly needed competition in the crash parts industry. It will benefit only the large auto makers and a few body shops. It will put people who sell replacement parts out of business.

We urge you to vote Do Not Pass on this legislation.

Mr. Chairman & Members of the Committee:

My name is Elton Christopherson. I am an independent body shop owner in Williston & a board member of the ND Autobody association.

Senate Bill 2358 represents solid consumer protection.

The way the law is written now, aftermarket parts may be used on any vehicle, whether it's a 2001 or a 1991. Car owners should have the option of choosing whether OEM or Aftermarket parts are used when repairs are done. Consumers should not be forced to ~~use~~ <sup>suffer for</sup> inferior, non-fitting parts. Aftermarket parts simply do not have the quality required to put the vehicle <sup>back</sup> into "pre-accident" condition. Until such parts are produced with quality

similar to original equipment parts, there is a  
need for this bill.

In the best interests of North Dakota drivers,  
Senate Bill 2358 needs to be given a unanimous  
"do pass" recommendation.

## Leo Penner Collision Center Manager in Mirot

The Chairman & members of the House Transportation Committee I am here to testify on behalf of Senate Bill 2358. I had the personal experience of working with an aftermarket ~~part~~ hood this past weekend and found it to be of very poor quality.

#1 problem was that rust was already forming under the primer coat.

#2 the spot welds that hold the top and bottom panels together were not of same size or quality as OEM part.

#3 Hood didn't fit without putting shims under back of hinges to make it line up with fenders & also had to bend the outside corners of hood to fit the front part of the fenders.

#4 We as owners and technicians are not reimbursed for the time we spend making these parts fit.

I have been in the collision industry for over 30 yrs and I have never been happy with the way A/market parts fit or are finished for corrosion protection.

I had the opportunity to see a Chev. pickup that was involved in a front on collision and the A/market fenders split wide open on the spot welds which caused the fenders to go back over the doors and, in the door sash.

I would think the insurance industry would prefer to use OEM parts due to the potential liability associated with A/market parts.

In closing I feel the customer should have the choice to choose OEM or A/market parts to fix their vehicle. Our job is to return their vehicle to pre accident condition.

## Questions to ask your Insurance Agent and Body Shop

When your vehicle has been damaged and needs repair, you will most likely work with your insurance agent and an automotive body shop. It is important for you to ask questions of these people to be certain that the repairs will be made to your satisfaction.

### Questions to ask your insurance agent

- Is their adjustment estimate based on Original Equipment Manufacturer (OEM) parts or new imitation parts?
- What determines like, kind, and quality of the replacement parts?
- Will my vehicle be repaired to pre-accident condition?

### Questions to ask your Body Shop

- Do they make a policy of using only new, genuine OEM parts?
- Is their second choice used OEM parts or imitation parts?
- Under what circumstances do they vary from that policy?
- Will the shop guarantee the parts and the repair?



## To keep your vehicle's body in shape, exercise your rights

This pamphlet has been created to help you make informed decisions should your vehicle need repair. The intent was to accurately portray some of the differences between genuine GM parts and imitation parts.

When choosing a body shop to repair your GM vehicle, beware of claims that promise "quality replacement



parts" and "like, kind and quality." In deciding what parts should be used to repair your vehicle, consider the hidden costs — future repairs, reduced resale value and risks to passenger safety — you may have to pay.

Shop around. Ask questions. And, most importantly, exercise your right to the assurance that your vehicle will be restored to its pre-accident condition.

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800 6809301

## Auto Body Repair What You Need To Know

How your vehicle gets repaired due to corrosion or after an accident — and what it costs — makes more than just you and the body shop. The cost and quality of replacement parts can vary dramatically, depending on where they come from and how they are selected.

If your repairs are being paid for by an insurance company, your agent and the carrier have an interest in keeping the cost of repair to a minimum.

Some companies decide arbitrarily what they will pay for a given repair to a given vehicle. And, body shops are often caught in the middle when the consumer wants the vehicle repaired to pre-accident condition and the insurance company won't pay the full cost.

As the consumer, you have a right to know how your vehicle is being repaired and how the replacement parts will affect your vehicle's appearance, performance, safety and resale value.

This pamphlet is designed to help you make an informed decision regarding repairs to your GM vehicle.

# Genuine GM vs. "Imitation": There's a Real Difference!

Three Important areas that Make the Difference

## Quality



When your vehicle has been damaged, you want to be certain that it is restored to its original condition. The best way to ensure this is by insisting that repairs be done using genuine GM replacement parts.

All genuine GM replacement parts have the same quality as the original factory parts, because they are produced with the same tooling, stamping and materials — and are engineered to the same exacting standards — as the originals. Imitation parts are not manufactured to GM specifications and standards, and may be produced with inferior materials.



Details are an important element of quality replacement parts. In the top photo, a genuine GM replacement header for a Cadillac shows the proper location for the antenna hole and correct shape for the parking light bezel. The imitation part in the lower photo has no antenna hole, and the parking light bezel is the wrong shape. To fit these problems, the repair specialist would have to cut or drill the part to make it work, exposing bare metal, which could lead to corrosion problems.

Some manufacturers imitate GM's process, but often take shortcuts which can result in misalignment or weakening of the part. This can impair the structural integrity of the vehicle and impact passenger safety.

These quality issues also can affect the performance and resale value of your car, truck or van.

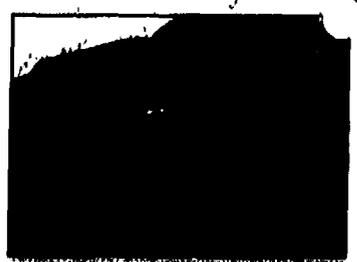
## Alignment

One major area of difference between imitation parts and genuine GM replacement parts is found in alignment.

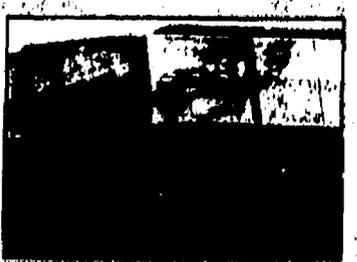
Because imitation parts are not manufactured to GM's specifications or tolerances, they often will not fit properly. Repair specialists may have to drill additional mounting holes or otherwise alter the part to make it fit. This can affect both appearance and performance, as well as lowering the vehicle's resale value. Also, the cost savings of the cheaper part may be lost in the additional labor required to make it fit.

This series of photos demonstrates typical alignment problems encountered with imitation parts. The lenses are used to show mounting hole alignment. With the genuine GM part, all lenses are in the "daisy" position — indicating proper alignment. The imitation part, however, has so badly misaligned that none of the bolts could be inserted, leaving the lenses in the "top" position.

With genuine GM parts, there is never a question of fit. On critical surfaces, our quality control machinery can check for deviations as minuscule as two ten thousandths of an inch. Fenders, for example, are put on a fixture that quickly provides over 150 exacting dimensional checks. Also, our parts are manufactured to have the same reinforcement points as the originals, guaranteeing strength.

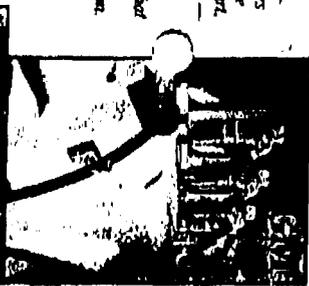


GM



Imitation

Above: This shot shows a contour error you can see from two feet away. This is a character line that runs the length of the car. You can see that there will be a misalignment at the front edge of the door.



Side View



Side View



Front View



Front View

## CORROSION RESISTANCE

All General Motors, critical surfaces, the fenders and hoods, are built with special galvanized metal which provides superior corrosion resistance. We design our cars and trucks to withstand the worst weather and remain free of surface corrosion for at least five years, and to meet performance for at least ten years.

The corrosion-free zone of protective treatment in these cars comes from the laboratory work done at our Corrosion Technology Center at Warren, Mich., to test our vehicles in some of the world's harshest weather conditions. At the Warren facility, you can put a car through ten years of aging in a matter of months.

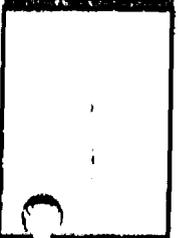


GM



Imitation

Because of the superior corrosion resistance of our galvanized metal, the results of corrosion testing conducted in 1982.



Front End/hood surface finish



Front End/hood surface finish