

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
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DESCRIPTION

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10/3/03
Date

2003 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1332

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2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1332

House Industry, Business and Labor Committee

Conference Committee

Hearing Date 2-05-03

Tape Number	Side A	Side B	Meter #
2		XX	19.5 -- end
3	XX	XX	0.0 -- end
4	XX		0.0 -- 25.0

Committee Clerk Signature *Judith Hammer*

Minutes: **Chairman Kelsor:** Open hearing on HB1332.

Jack Gillis, Ex. Director, CAPA: I am the author of the Car Book Testified in support of HB1332. (SEE ATTACHED) Please look over the material I am leaving for you. We want to reduce the cost of crash parts to consumers. We want to assure consumers have quality parts. I urge you to vote for competition and quality. I know North Dakotans will want competition and will greatly benefit from passage of this bill.

Rep. Kasper: How does the insurance department determine an independent third party certifier is qualified?

Jack: I believe the bill outlines the specific set of requirements that the insurance department can use to evaluate those certification organizations that present themselves.

Rep. Kasper: What liability potential is there for the NE Insurance Dept and the state of ND if an independent third party certifier is determined in a court of law to have been negligent to have improperly certified parts and there was a terrible accident and law suit?

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Jack: I am not sure what the liability would be. Usually it first goes to the manufacturer. Then it goes to the certifier and they are liable if proven that they did not do their job. I am not a lawyer.

Rep. Kasper : What liability does a company that says it is an independent third party certifier face if found negligent in court of law?

Jack: That entity needs to be held fully accountable and fully liable.

Rep. Ekstrom: What other states have this and what effects?

Jack: This is being introduced around in various states. ND is the first in the USA that specifically has hearings on a bill like it. I don't know what is going to happen. I can say that the insurance departments in Iowa and D.C. are looking at the exact same concept from a regulatory standpoint.

Chairman Keiser: CAPA certifies the parts, so CAPA benefits somehow. How does CAPA separate itself in the certification process? Who does the testing independent from you?

Jack: There are two components to an independent third party certifier. We are required to find an independent validator. Secondly, we ourselves have to comply with certain standards. Last year we were approved by the American National Standards Institute. We have to submit to a rigorous set of standards for certifiers. This process protects consumers so that they are assured quality.

Barbara Ulbrich, State Farm Ins.: testified in support of HB1332.(SEE 5 ATTACHMENTS)

Rep. Kasper: How much do you estimate your rates for ND auto policy owners will go down?

Barbara: I don't think any insurance can guarantee what that number would be. We can guarantee, however, that if this monopoly continues, those rates will keep going up.

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Rep. Thorpe: If this bill passes, when shops go through a parts catalog, can they find enough certified parts to complete a repair job?

Barbara: This bill does not prohibit the use of non-certified parts

Jack Gillis: Excuse me, I think I can answer that question. Insurance companies decide what parts are going to be used. Some use only OE, some will use OE and certified parts, some use the cheapest available. For those insurance companies which use only CAPA certified or certified parts and if there weren't any certified available, the shop's only recourse would be to use the car company parts. If the insurer stipulates to use the cheapest parts, then the insurer wouldn't be getting the benefit of this particular piece of legislation because they wouldn't have the assumption that the parts are of like kind and quality. This forces everybody without requiring it to do the right thing. You are right, there are relatively few certified parts in the marketplace. We trust that will be an incentive to make the parts certifiable. The car company wins, they get the sale.

Barbara: There are some amendments to be introduced that regard notification of certified and non-certified parts.

Chairman Keiser: Yes, they've been handed out. So, in summary, there are three general areas: quality, liability issues and price.

Barbara: We've done lots of tests to determine like kind and quality.

Eileen Sottile, Government Relations Keystone Automotive, appeared in support of HB 1332.

(SEE ATTACHED)

Rep. Thorpe: Keystone's after-market parts, do they meet or exceed the gauge of the metal of manufacturer's parts?

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Sottile: We warranty our parts to be free of defects. They are functionally equivalent of manufacturer's parts.

Rep. Dosch: Is the warranty for just the part or replacement thereof? How about labor costs?

Sottile: Allowances are made for labor. If distributors send a part out and there is a problem, the labor and incidentals like car rentals are covered on a case by case basis. That's negotiated at the local shop.

Chairman Keiser: Reverse engineering, what is the quality of that? Is the resulting part different? And the hood studies? And the blind tests? Do you have that data?

Sottile: We internally track our quality issues and have only a 2.5% return ratio. I have that information you're asking about and I'll get copies for your committee.

As there was no one else present to testify in support of HB 1332, **Chairman Keiser** called for testimony in opposition of HB 1332.

Jim Kylie requested that attendees who had signed in on the roster but not necessarily with the intent to present either oral or written testimony be allowed to introduce themselves. Car dealers, salesmen, mechanics and auto body repair shop owners from round the state were in attendance.

(SEE ATTACHED COPY OF SIGN IN ROSTER SHEET)

Gary Thune, lobbyist for General Motors, introduced Bill Holden and Bob Clark, employees of General Motors.

Jim Kylie, Manager of State Affairs for Alliance of Automobile Manufacturers, testified that his association opposes this legislation and recommends that the committee reject the proposal. Liability of quality currently lies with parts manufacturers, both OEM and after market

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parts. The Alliance believes that the interest of all parties involved in collision repair including consumers, are best protected when those consumers are fully aware of their replacement options.

Scott Sjol, 1st Vice President of North Dakota Auto Body Association, appeared in opposition to HB 1332, (SEE ATTACHED) He stated that the failure rate for OEM parts is 1 out of 1000. Conversely, the failure for the 25% of the after market parts he uses is 1 out of every 4 or 5. This bill ties repair shops' hands for quality and affects their credibility. HB 1332 will rubber-stamp after market parts to OEM's. If this bill passes, consumer/customer choice is eliminated.

Chairman Keiser: Can you adjust labor costs when you have to make adjustments if and when after-market parts cause problems? Is there a significant difference in engineering standards between certified parts?

Sjol: Absolutely not. We can't adjust labor charges. They're all ready set. Some companies don't really care if a part is certified or not. Yes, there are numerous things that can be wrong with after market parts.

Bob Lamp, representing the North Dakota Automobile Dealers Association, testified in opposition to HB 1332. He expressed concerns about the warranty of these parts as mentioned in the bill. He asked for clarification on who handles dissatisfaction. As for generally accepted guidelines and certified crash parts being updated, he inquired about the guidelines and who monitors that activity regarding the weekly update He stated that there are other conflicting statements within the legislation. The notification section does nothing to inform the consumer on which parts were used in the repair. His chief concern refers to the section that deals with

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leased and financed vehicles. Does legislature want the government to be in the business of regulating commerce?

Steve Schwan, Schwan Pontiac Buick, urged a Do Not Pass on HB 1332. "There are few warranties for non-OEM parts manufacturer, if you can locate the manufacturer after you put them on. We face increased liability by being forced to use non OEM parts because they are of poor quality and lack integrity. The ratio of satisfied customers with OEM parts is nearly 100%. With non-OEM parts, satisfaction diminishes greatly. My main concern is for the customer, the taxpayers of North Dakota."

Rep. Kasper: Have you compared entire costs for repairing extensive exterior damage for a vehicle? Using after market parts versus OEM parts?

Schwan: Non OEM's are cheaper, but there are so many other problems that come along with using them. The damaged titles etc.

Rep. Zaiser: Have you done a dissatisfaction survey? Do you have data?

Schwan: My own customers could provide good data for you. My technicians are the experts.

Rep. Boe: Does using after market parts void manufacturers warranties?

Schwan: I'm not the person to ask that. Maybe someone from General Motors can give you the right answer.

Robert Clark, General Motors, We warrant our vehicles when repairs are made with General Motors parts through our dealers. If done outside our dealership, there's no warranty on those parts or repairs.

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