



NCOIL Annual Meeting

Oppose Proposed Model Act Regarding Motor Vehicle Crash Parts and Repair

To be considered by the NCOIL Property & Casualty Insurance Committee on July 11, 2009

The Alliance of Automobile Manufacturers supports consumer choice in vehicle repair. Automakers strongly believe that consumers are best protected when they have the right to choose the type and quality of parts to repair their collision damaged vehicle. This proposed model act claims to provide consumers more freedom of choice yet undermines this basic principal by allowing insurers to mandate the use of aftermarket crash parts in collision repair. **We urge you to oppose this flawed model act.**

The Proposed Model Act Regarding Motor Vehicle Crash Parts and Repair:

- ✓ Jeopardizes the consumer's right to choose the type and quality of parts to repair their collision damaged vehicle.
 - ✓ Sets a poor precedent by equating "certified" aftermarket parts to OEM parts.
 - ✓ Creates a liability of exposure for repair shops performing collision repair work.
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Key Points:

- **Consumers should have the right to choose the kind and quality of parts installed on a motor vehicle during collision repair.** However, Section 4 establishes conditions whereby insurers may require use of aftermarket crash parts:
 - Section 4(A)(ii) deems replacement parts certified to meet the standards set by and American National Standards Institute (ANSI)-recognized entity equal to corresponding OEM crash parts. Standards set by ANSI-recognized entities are ***not*** the same as standards set by ANSI. No entity has proven itself capable of delivering equivalent quality non-OEM imitation crash parts to the market.
 - Section 4(A)(iii) acknowledges that non-OEM parts may need to be modified to effect the repair. Modifications should be prohibited without consumer consent and a disclosure of the potential for diminished safety performance. Modifying parts also raises liability issues for repairers – if the part fails, the shop may be held liable.
- **The disclosure and consent requirements proposed in Section 3 of this model act do not adequately protect the consumer or repairer.**
 - Many states have existing laws and regulations that govern the collision-repair industry. Some of those laws provide far greater protection to repair shops and consumers than the proposed model act. This act blurs the lines as to each party's rights and obligations. Thus,

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implementing this act in states that already have some laws governing the issues could be complicated and expensive.

- Identifying the manufacturer or distributor of each aftermarket crash part used in a repair provides no consumer benefit if the entity identified is not the one responsible for warranting the part if it turns out to be defective. The insurer that specifies the part should be directly responsible for warranting the part and then can seek reimbursement from the manufacturer or distributor.
 - Section 3(C) wrongly implies that the insurer has the authority to determine the type of part to be used in the repair of the vehicle. Again, that right should always belong to the vehicle owner. Additionally, this provision conflicts with the disclosure requirement in Section 3(B)(iii). It should not be the repairer's legal obligation to obtain the insurer's consent to the use of certain parts. Implying such an obligation would be problematic in the context of third-party claims or in claims where there is a dispute over coverage.
- **This proposed model act omits two important issues related to collision repair:**
 - This model lacks strong language in favor of the rights of third-party claimants.
 - Any "certifier" of aftermarket parts should be made directly liable and subject to penalties for the certification of non-OEM crash parts that are later shown to be inferior.

Consumers have the right to have their vehicle returned to pre-loss condition. This proposed model act undermines that fundamental right. **We urge you to oppose the Proposed Model Act Regarding Motor Vehicle Crash Parts and Repair.**