



National Conference of Insurance Legislators
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**STATEMENT OF STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY
Regarding Proposed Model Act Regarding Motor Vehicle Crash Parts and Repair
NCOIL Property and Casualty Insurance Committee
August 27, 2009**

State Farm Mutual Automobile Insurance Company (State Farm) opposes the NCOIL Proposed Model Act Regarding Motor Vehicle Crash Parts and Repair. We concur with the insurance trade associations' comments that the proposal is unnecessary, anti-consumer, and in violation of the commercial free speech of insurers (see Section 6). Nevertheless, we do note that several years ago the Property and Casualty Committee actually passed on to the NCOIL Executive Committee a certified aftermarket parts model. That model supported the specification of certified aftermarket parts in repairs. State Farm supported that model. The Executive Committee, however, sent the model back to the Property and Casualty Committee for further discussion. As a result, it was never adopted. Unfortunately, the current model only gives passing and insufficient support for the specification of certified parts in Section 4 A. ii. ("Replacement crash parts certified to meet the standards set by an American National Standards Institute (ANSI)-recognized entity *may* be deemed equivalent." Emphasis added.). At the same time, it also unreasonably and in an impractical fashion restricts the use of aftermarket parts in Section 4. As a result, State Farm cannot endorse any provision in the current proposed model.

I. The Proposed Model Is Unnecessary

In 1987, the NAIC adopted its "After Market Parts Model Regulation." It was at the time referred to as "the Tennessee Compromise." Acknowledging the consumer benefits from competition, the model regulation regulated the use of aftermarket parts. The regulation "requires disclosure when any use" of a non-OEM after market part was proposed. It also requires that all aftermarket parts, as defined in the regulation, "be identified and be of the same quality as the original part." According to the NAIC, 23 states have adopted the model or similar legislation/regulation. In addition, according to the NAIC, 14 other states have related legislation. Very few state legislatures even considered this issue in the 2009 sessions since current laws based upon the NAIC model are working effectively. Clearly, the overwhelming majority of states have resolved the notice and disclosure issue while maintaining the consumer's choice and consumer benefits from competitive quality aftermarket parts. State Farm can support the NAIC model without further amendment.¹

If NCOIL, were to use this NAIC model regulation as a base for a model law and were to add the certification language agreed to by the Property Casualty Insurance Committee years earlier, State Farm would support this version of a After Market Parts Model.

II. The Proposed Model Is Anti-Consumer

As aforementioned, State Farm agrees with the comments submitted by the trade associations. For both the parts provisions and the repair provisions, the current model is anti-consumer and restricts rather than expands the consumer's choices. As for the use of aftermarket parts, the consumers' existing need for replacement parts has not diminished. To the contrary, car companies' ability to provide replacement parts is likely to diminish, thus increasing the need for after market or recycled parts. Otherwise, repairers and consumers alike will face more cars being "totaled." That result could be particularly harmful when the consumer has an existing unpaid car loan on the damaged vehicle.

¹ (MDL-891) This NAIC model regulates the use of after-market parts in automobile damage repairs that 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

The consumer has benefited greatly from parts' competition where it exists today. Various consumer groups, such as the Consumer Federation of America and the Advocates for Highway and Auto Safety, have testified in court and in the legislatures of the benefits from quality competitive parts. Those groups acknowledged that parts' competition has prevented monopolistic pricing of replacement parts and improved quality.

Insurance companies and their policy owners have a common interest in prompt, efficient and effective repairs. As the trade associations stated, "As a result, insurers have long supported the consumers' right to choose the repair option that best suits their needs and the "right to know" what options are available to them from insurers." The proposed model actually restricts the options and the ability to disclose those options.

III. The Proposed Model Violates Commercial Free Speech Rights

The trade associations have capably identified the rights of commercial free speech that are denied in the current proposed model. The cases cited illustrate that Section 6 will certainly generate a legal challenge for any state that adopts that provision. As such, the proposed model should not restrict information sharing from the insurer to its policy owner. Consumers should be informed about repair options. An outright prohibition on communication labeled as "anti-steering" does not benefit consumer choice.

Thank you for the opportunity to comment upon the NCOIL Proposed Model Act Regarding Motor Vehicle Parts and Repair. On behalf of State Farm, we look forward to participating in the upcoming conference calls.

Respectfully submitted by,

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