



VIA EMAIL

Chairman
S. BECKER
Nissan

November 4, 2010

President
M. STANTON

The Honorable Ruth Teichman, Chair
NCOIL Property-Casualty Committee
Room 236-E Kansas State Capitol
300 SW 10th Avenue
Topeka, KS 66612-1504

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Dear Chairperson Teichman:

The Association of International Automobile Manufacturers, Inc. (“AIAM”)¹ remains opposed to the proposed Motor Vehicle Crash Parts and Repair (“Model Act”) which will be considered by the NCOIL Property-Casualty Committee at the NCOIL Winter Meeting in Austin this month.

The issue of aftermarket crash parts, including consumer disclosure and consent for the use of non-original equipment manufacturer aftermarket crash parts, is of great importance to consumers and to AIAM and its member companies. Original equipment vehicle manufacturers and suppliers invest substantial time and resources in designing parts and industry support programs for vehicle repair and parts replacement. Vehicle performance following a collision and restoration to pre-loss condition is an issue every AIAM member company regards with the utmost seriousness. Building high quality new cars and replacement parts helps ensure that consumers have the opportunity to maintain the performance and safety characteristics of the vehicle throughout its useful life.

Because of these significant factors regarding aftermarket crash parts, AIAM respectfully reaffirms our opposition to the proposed Model Act for the following reasons:

The Model Act is anti-consumer and anti-business

- **§3.H:** Requiring vehicle repairers to show consumers a copy of *each* invoice for parts used is unnecessary and patently unfair. Repair shops may be invoiced for parts for many different vehicles in which case there would not be a single invoice to show a customer. Further, deleting discounted

¹ AIAM is a trade association representing 15 international motor vehicle manufacturers who account for 40 percent of all passenger cars and light trucks sold annually in the United States. Nationwide, international automakers have invested over \$43 billion in U.S.-based production facilities, have a combined domestic production capacity of 4.2 million vehicles, directly employ over 80,000 Americans, and generate almost 600,000 U.S. jobs in dealerships and suppliers nationwide.

pricing information from the invoice could be viewed as a lack of transparency by the consumer.

- **§4.:** While consumers would be directly affected by poor quality parts, they are also likely to suffer if their options are legislatively restricted – and the Model Act would restrict consumer options by allowing insurers to require that policy holders use parts other than OEM parts for repairs. AIAM does not believe that consumers can give their informed consent to the use of “certified” aftermarket crash parts without a full disclosure regarding the uncertainties associated with the process of certifying aftermarket crash parts. Consumers may be without sufficient knowledge to accept a quality and/or cost option that may not be in their best interest.
- **§4.A.ii.:** With the amendments included in this version of the Model Act, warranty responsibility for aftermarket parts in the Model Act shifts from the insurer to the manufacturer or distributor of the parts. AIAM believes the Model Act must require that consumers be notified that OEM warranties on new vehicles and factory parts do not include coverage of new aftermarket parts in most instances. Additionally, OEM new vehicle warranties do not cover failure of, or damage caused by, non-OEM parts. In this instance, the consumer would have no protection should the replacement part cause damage to other parts of the vehicle that were not part of the collision repair.
- **§4.A.iii.:** If this provision is deleted as proposed, the insurer would have no responsibility to pay the cost of modifications to make the aftermarket part fit. And, as stated above, the consumer would have no protection should the replacement part cause damage to other parts of the vehicle that were not part of the collision repair.
- **§5.:** The parts identification/marketing section of the Model Act would require all aftermarket and OEM parts supplied by a repair facility to have manufacturer identification. However, for example, in California if an insurer does not require aftermarket parts, OEM parts used in the repair do not need to be marked (CCR §2695.8(g)(4)). Under the Model Act, OEMs would be required to change current business processes so their crash parts, including inventories, could continue to be used in certain repairs.
- In addition to these major issues, we have technical concerns regarding some of definitions in Section 2 that describe the different types of crash parts.

The Model Act is unnecessary

In our view, the Model Act is simply not necessary to protect consumers. Approximately 40 states already have laws providing for consumer disclosure and/or consent for the use of non-OEM aftermarket crash parts. Similarly, approximately 40 states have laws governing the use of crash parts, covering issues related to the identification of parts on estimates, manufacturers’ identification on parts, warranties by aftermarket suppliers and other related provisions. In view of this involvement by the states, AIAM believes that model legislation in this field is not heeded.



NCOIL rejected Model Acts in 2002 and 2005 that contained many provisions similar to those in the current version. In 2005, NCOIL adopted a resolution endorsing competition in the collision repair industry, warranty of parts by insurers and consumer disclosure of reimbursable parts by insurers. This resolution stands on its merits and provides sufficient guidance to the states without the need for any additional model legislation.

Thank you for considering our opposition to the proposed Model Act. If you have any questions or need additional information, please contact Gordon Fry, AIAM's Director of State Relations, at (703) 247-2112 or gry@aiam.org.

Sincerely,



Michael J. Stanton
President and CEO

cc: Members of NCOIL Property-Casualty Committee
Members of NCOIL Executive Committee
Candace Thorson, NCOIL Deputy Executive Director

