

STAND. COM. REP. NO.

2645

Honolulu, Hawaii

MAR 02 2018

RE: S.B. No. 2243
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Ninth State Legislature
Regular Session of 2018
State of Hawaii

Sir:

Your Committee on Commerce, Consumer Protection, and Health,
to which was referred S.B. No. 2243 entitled:

"A BILL FOR AN ACT RELATING TO MOTOR VEHICLE REPAIRS,"

begs leave to report as follows:

The purpose and intent of this measure is to prohibit motor vehicle insurers from charging insureds an additional fee for repairs made with original equipment manufacturer parts if the vehicle manufacturer recommends original equipment manufacturer parts.

Your Committee received testimony in support of this measure from Kraftsman Auto Body, Automotive Body and Painting Association of Hawaii, Tony Group Collision Center, Hawaii Automobile Dealers' Association, and eleven individuals. Your Committee received testimony in opposition to this measure from the Department of Commerce and Consumer Affairs, National Association of Mutual Insurance Companies, Property Casualty Insurers Association of America, Hawaii Insurers Council, GEICO, and LKQ Corporation. Your Committee received comments on this measure from State Farm Mutual Automobile Insurance Company and one individual.

Your Committee finds that crash parts are those motor vehicle replacement parts that constitute the visible exterior of the vehicle and that are repaired or replaced as a result of a motor vehicle collision. Your Committee further finds that existing law



requires insureds and claimants to pay the difference between the cost of cheaper aftermarket crash parts and the original equipment manufacturer's crash parts. According to testimony received by your Committee, crash parts were originally cosmetic in design, so it was reasonable to use cheaper aftermarket crash parts that fit and looked like the original equipment manufacturer crash parts. However, for today's newer motor vehicles, many crash parts are no longer merely cosmetic and are engineered and crash tested as part of a complex safety system.

Your Committee additionally finds that when a vehicle is involved in a collision and repairs are required, the best way to ensure that the vehicle will retain and fulfill all crash requirements is to follow original equipment manufacturer repair standards and use only new, original manufacturer crash parts. Your Committee notes that original manufacturer crash parts are subjected to rigorous crash tests by motor vehicle manufacturers' internal departments, government agencies, and independent organizations that conduct additional crash assessment tests.

Furthermore, according to testimony received by your Committee, original equipment manufacturers of motor vehicles use many different types of materials and joining methods during production of a body shell for a motor vehicle. These materials work in unison with the rest of the vehicle to deliver the level of safety, driving performance, and appearance expected for the product. However, it cannot always be confirmed that equivalent materials are used to produce aftermarket crash parts.

Your Committee has amended this measure by:

- (1) Clarifying that insured consumers must be offered a choice of a like kind and quality crash part of an equal or better quality than the original equipment manufacturer crash part;
- (2) Specifying that an insured consumer who chooses the use of an original equipment manufacturer crash part that affects the insured consumer's crash avoidance or safety systems shall not be required to pay the additional cost for repairs using that original equipment manufacturer crash part;



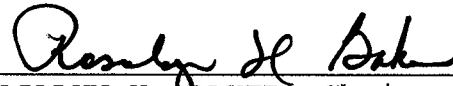
- (2) Clarifying that an insured consumer, rather than an insured or claimant, is required to pay the additional cost for repairs that use original equipment manufacturer crash parts that do not affect an insured consumer's crash avoidance or safety systems, unless the vehicle manufacturer's warranty has required that original equipment manufacturer crash parts be used in the repair or if the use of a like kind and quality crash part would void an existing manufacturer's warranty or the insured consumer's vehicle lease agreement;
- (3) Requiring like kind and quality crash parts to carry a guarantee in writing regarding the quality and equivalent performance in a vehicle's crash avoidance and safety systems of the like kind and quality crash parts;
- (4) Requiring a repair provider to provide an insured consumer with the costs for the original equipment manufacturer crash part and the like kind and quality crash part for any authorized collision repair, including the cost markup for each crash part;
- (5) Specifying that the requirements for crash parts apply to vehicles that are five years old or newer, as of the date of the collision;
- (6) Clarifying that "like kind and quality" means having an equal or better quality than the original equipment manufacturer crash part and performing at least as well as the original equipment manufacturer crash part in a crash avoidance and safety system test;
- (7) Inserting an effective date of July 1, 2050, to encourage further discussion;
- (8) Inserting a sunset date of July 1, 2023; and
- (9) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.



Your Committee notes that this amended measure ensures that an insured consumer who wishes to have a vehicle repaired, after a collision, with an original equipment manufacturer crash part that affects the vehicle's crash avoidance or safety systems cannot be charged an additional cost for repairs made with that original equipment manufacturer crash part.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection, and Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2243, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2243, S.D. 1, and be placed on the calendar for Third Reading.

Respectfully submitted on
behalf of the members of the
Committee on Commerce, Consumer
Protection, and Health,



ROSALYN H. BAKER, Chair



