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TESTIMONY SUBMITTED

BY

AUTOMOTIVE AFTERMARKET INDUSTRY ASSOCIATION

REGARDING

THE

PROPOSED BILL No. 160: AN ACT CONCERNING THE AVAILABILITY OF AUTOMOBILE  
DIAGNOSTIC CODES

BEFORE THE

COMMITTEE on GENERAL LAW

OF THE

CONNECTICUT GENERAL ASSEMBLY

February 22, 2011

I am pleased to testify on behalf of the 23,000 members and affiliates of the Automotive Aftermarket Industry Association in support of Proposed Bill 160 introduced by Senator Martin Looney. AAIA is a national trade association representing companies that manufacture, distribute and sell motor vehicle parts, accessories, service, tool, equipment, materials and supplies. Through its membership, AAIA represents more than 100,000 repair shops, parts stores and distribution outlets, many of which are located in Connecticut.

While many of AAIA's members sell to vehicle manufacturers, our membership is primarily focused on the vehicle repair aftermarket, that is everything that happens to a car after it leaves the new car showroom. Our industry is critical to the mobility of Connecticut citizens; ensuring the safe, efficient and clean operation of their automobiles. The aftermarket industry is further important to the pocketbook of Connecticut car owners. A survey performed for AAIA found that on average, dealers are 34% more expensive than independents for automotive repairs. Independents are also a convenient source of vehicle repair. With about 1,656 repairs shops in the state, there is an independent repair facility in nearly every town in this state. In addition, these shops are supported by 828 parts stores and 150 parts wholesalers.

Our industry is not only important to the states consumers, but to its economy as well. The aftermarket accounts for nearly 22,000 jobs in the state and has total sales of over \$3 billion. Clearly, ensuring that there is a healthy independent vehicle aftermarket is good for the state's car owners and for its economy.

Proposed bill 160 addresses a critical issue to future survival of the independent aftermarket: the increasing use of computers on vehicles. Today nearly every vehicle system from air bags, brakes to the tires are controlled or monitored by on-board computers. While these computers provide important benefits in terms of safety, fuel efficiency, clean air and convenience, they also have provided the vehicle manufacturer with the ability to control who can perform repairs.

Prior to the extensive use of computers a technician could repair a vehicle with some basic tools and several repair manuals. Today's technicians not only must have significant access to repair information over the Internet, but they also must spend tens of thousands of dollars on diagnostic and repair tools as well as participate in extensive training in order to understand today's highly sophisticated vehicle systems, diagnose problems, and implement effective repairs. Despite this investment, technicians at independent shops find out, often near the completion of the repair, that some of the information or repair capabilities that they need are not available or extremely difficult to obtain from the manufacturer.

This problem has led to the introduction of right to repair legislation in Congress and in several states. The basic concept behind right to repair is that a car owners who spends an enormous percentage of their household savings to purchase a new or used car, should have the ability to determine who repairs their vehicle, whether it's the new car dealer or the independent shop. In the current scenario, the car company has all of the power to make that determination.

The right to repair legislation that is currently under consideration in many states and in Congress requires that car companies make available, at a fair and reasonable cost, the same tools and information that they make available to their franchised dealers. These bills also have provisions to protect the trade secrets of the car companies since the aftermarket only wants the repair information and tools and not how they build their vehicles or design their parts. The bills further ensure that the relationship between the dealer and the car company relative to warranty work is not impacted. Another words, the car owner would still need to go to the new car dealer for any repair work covered by the warranty.

The bill introduced by Senator Looney addresses one part of the problem, that car companies share all of the diagnostic codes with the aftermarket. This is important since without this information an independent shop cannot effectively use the computer to make repairs. However, the bill does not ensure the availability of the diagnostic and repair tools that are now critical to an independent being able to access the on-board computer and affect a repair. Since much of the diagnostic information is now being built into the car company's tools, it is important that all diagnostic and repair tools used by the dealer are available to independents as well.

I am attaching legislation that is now under consideration in the Massachusetts legislature which we support and which will address many of the issues that are important to ensuring competition in the vehicle repair industry.

I want to address two major misconceptions regarding right to repair that the vehicle manufacturers and other opposed to the bill have publicly used in an attempt to dissuade legislators from supporting the legislation.

First, right to repair legislation will not provide blue prints or specifications that will make it any easier for companies that produce aftermarket replacement parts. The bills introduced in other states provide extensive protection for car company trade secrets and the car companies have never been able to point to a provision in any of the current bills that has the potential to violate their intellectual property rights.

The truth is that this issue has no credibility in the real world. Many companies that supply parts marketed by independent companies are produced by the same company that supplies the car company. The box may be different, but the part is the same. Also, due to vehicle technology, our parts manufactures undergo an extensive development process to ensure that the replacement part will integrate with the vehicle's on-board computers. In many cases our members have the ability to monitor the performance of these parts in-use and take action in the design of the replacement part to correct the problem, making the replacement component superior to the OE part it replaces. In any case, the information required to be provided by this bill or any of the right to repair bills introduced would not provide the level of information needed by a parts manufacturers to replicate a car company's part.

Second, the opposition claims that they already provide all of the information and tools that independents need to repair vehicles and the problem that these shops are experiencing are due to the

fact that these shops do not have the expertise or equipment to work on today's vehicles. We find these allegations insulting to the thousands of shops in this state and around the country who provide U.S. car owners with a high level of repairs, at affordable prices and many times in the same day. These independent shops invest tens of thousands of dollars in equipment, training and information to stay competitive with the dealer. However notwithstanding this commitment, are continuing to run into roadblocks every day in attempting to complete repairs. Often these problem involve downloading the latest program update on to a on-board computer or entering the proper code to start a car after a repair has been completed.

We agree that car companies have come a long way in making information and tools available. However much of this progress occurred due to the passage or consideration of legislation on the Federal and state level. In fact, the car companies were forced to make emissions related information available under the Clean Air Act Amendments of 1990 and SB 1146 which was enacted in California. I should add that neither the EPA or the California Air Resources Board have ever had to be involved in an intellectual property dispute as a result of these laws.

The opposition has pointed to the establishment of the National Automotive Task Force (NASTF) to respond to any service information issues. However, NASTF is a one person operation aimed at resolving a big problem. It often takes weeks or months to obtain a resolution from the manufacturer and often that resolution is a response that the information is not available or we are working resolving that issue. A shop that has a car in one of its service bays, needs to have that car repaired the same day or at worst the next day or will lose that business permanently. This may be why the organization is rarely used by independent service facilities.

The reality is that if car companies were already making all of the information and tools available and were fully committed to doing so in the future, they would have nothing to fear from right to repair and certainly not from the legislation before the committee today. However, car companies do fear right to repair, not because of fear that their trade secrets will be exposed, but because it threatens one of the most profitable areas of their current business, parts and service sales. While the profit margins of new car sales are shrinking, the repair part of their business is growing.

While AAIA and its members strongly urge that this committee approve this bill, we also ask that the committee consider amendments that would broaden the scope of this legislation to include all information and tools needed to repair today's and tomorrow's vehicles. This change would help ensure that independents continue to be competitive and that car owners will be able to obtain repairs from the shop of their choice, whether it's the dealer or one of the thousands of independents in Connecticut. AAIA stands ready to work with the committee to help craft this bill.

Thank you for the opportunity to testify. I am available to answer any questions you might have on this very important issue.