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PLEASE REPLY TO NEW HAVEN

JOHN F. BUCKLEY, JR.
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March 8, 2016

Senator John W. Fonfara
State Representative Jeffrey J. Berger
& Members of the Finance, Revenue and Bonding Committee
Room 3700, Legislative Office Building
Hartford, CT 06106

Re: **SB-335**
AN ACT CONCERNING DOUBLE TAXATION OF BUSINESS-TO-BUSINESS
TRANSACTIONS

Dear Senator Fonfara & Representative Berger:

Please accept this letter in support of Senate Bill 335, An Act Concerning Double Taxation of Business-to-Business Transactions. By way of background, I serve as legal counsel to the Auto Body Association of Connecticut (ABAC). My client and its member shops have been unfairly penalized by a recent Department of Revenue Services interpretation that paint and materials used in auto repair should be taxed twice: once at wholesale purchase and once at retail sale. In addition to being inequitable from a tax policy perspective, this is inconsistent with reasonable regulatory interpretations to the contrary and years of industry practice to the contrary. We support Senate Bill 335 because it will correct a clear injustice in the tax code.

“Sales for resale” are not subject to sales and use tax when they occur in the regular course of business. Paint and materials purchased at wholesale should be considered a “sale for resale”, but thanks to a recent reinterpretation of the tax code, currently they are not. The applicable regulation is DRS Regulations §12-407(2)(i)(M)-1. Subsection (c)(2) states that: “Providers of motor vehicle repair services may purchase certain materials on resale where such property is purchased solely for a particular customer, as long as the charge for such materials will be separately stated on the bill to the customer and tax collected thereon. Examples of such materials include acrylic finishes, enamels, lacquers and paint.” DRS Regulations § 12-407(2)(i)(M)-1.

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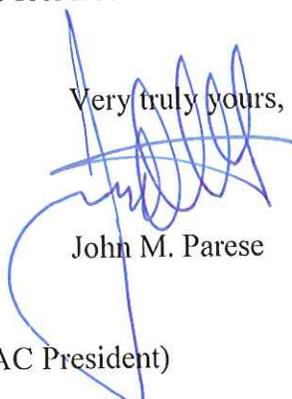
The regulatory framework contemplated tax exemption from wholesale purchase. The matter got confused, however, by modernizations in the way paint is now purchased to repair vehicles. Rather than buying paint for each "particular customer", paint is now purchased in bulk and mixed by computer for each repair. After the precise paint usage is calculated and documented, the consumer is assessed sales tax on the paint used. As pointed out by ABAC President Anthony Ferraiolo, this manner of doing business is more efficient, cost effective and environmentally friendly. Recognizing paint and materials purchased from a wholesaler as "sale for resale" would be consistent with the regulatory framework; and further serve to incentivize businesses to operate more efficiently and more environmentally conscious.

The DRS's new interpretation of the tax code has effectively resulted in the assessment of sales tax on the same product twice. This is fundamentally unfair to the repairer and/or consumer who is now being compelled to pay an effective rate of 12.7% sales tax. The law did not intend for this type of double taxation. The law should be clarified in favor of common sense and historical industry practice, rather than to double the taxation on the same goods.

For these reasons, I respectfully request that SB 335 be passed since it will right a clear wrong and reflect the technological changes within the auto body industry.

Thank you for your work on this bill. If you have any questions or concerns or require anything further from me, please feel free to call me.

Very truly yours,



John M. Parese

c: Anthony Ferraiolo (ABAC President)