



March 7, 2019

Hon. Matt Lesser, Chair
Hon. Sean Scanlon, Chair
Legislative Office Building, Room 2800
State Capitol Building
Hartford, CT 06106

RE: Support HB 7266 – Amendment Attached

Dear Chairs and Members of the Committee:

On behalf of the Alliance of Automobile Manufacturers (Alliance), I am writing to you today in support of House Bill 7266, legislation to provide additional consumer protection for vehicle owners when seeking insurance-funded, post-accident vehicle repairs. The Alliance is a trade association representing twelve of the world’s leading car and light truck manufacturers, and is comprised of BMW Group, FCA US LLC, Ford Motor Company, General Motors Company, Jaguar Land Rover, Mazda, Mercedes-Benz USA, Mitsubishi Motors, Porsche Cars North America, Toyota, Volkswagen Group of America, and Volvo Car USA.

Today’s vehicles are considerably more advanced than vehicles of only a few years ago. Aluminum, magnesium, and high-strength steel have replaced traditional steel to save weight. To increase occupant safety, vehicle sensors like LIDAR, radar, and high speed cameras are used in many new advanced driver safety systems, as the industry continues its march toward the development of fully autonomous vehicle systems. These examples, combined with other advancements in vehicle technologies, result in an increasingly complex automobile.

It only goes to reason that to fix the cars of today (and tomorrow) one needs repair procedures of today. Accordingly, automakers develop and publish specific procedures to guide the post-collision repair of every new car they sell each year, detailing the proper way to return a vehicle to a safe, roadworthy condition. No other group or company provides anything comparable to the vehicle-specific guidelines to show how to conduct post-collision repairs. Most consumers would expect original equipment manufacturer (OEM) repair practices to be followed even in the absence of any law mandating such behavior. Unfortunately, we have come to understand that deviation from OEM repair procedures is common and widespread.

A new focus has been placed on this issue as a result of a \$42 million verdict in a recent case, *Seebachan v. State Farm Mutual Automobile Insurance Company*, which was handed down in the Texas Eastern District Court in 2017. In this case, it was found that, before the plaintiffs owned their vehicle, it was in a collision and then repaired in a manner not in keeping with the original manufacturer’s repair procedures. This improper repair led the vehicle to be structurally unsound when the plaintiffs’ vehicle was in a subsequent accident. At question during the case was the autobody shop’s decision to deviate from the approved repair procedures to replace the roof panel. While OEM repair procedures called for over 100 separate

welds to be used to reattach the roof, the offending collision shop used an automotive adhesive – essentially glue – to make the bond, something specifically discouraged by the adhesive manufacturer’s warning label. In a collision for a second time, the plaintiffs argued that the improper repair

procedure compromised the structural integrity of the vehicle, trapping the couple in the vehicle, where they both received 4th degree burns over large portions of their bodies.

What was most alarming, however, was that in depositions provided by autobody shop personnel, when asked as to why they did not follow OE repair procedures, they stated that they were substituting insurance company practices for the recommendations of the vehicle's original manufacturer. They further indicated that they felt insurers had the ability to dictate the repair process used, as insurers were the ones who decided how much the shop would get paid to repair the vehicle. In the months since this verdict was released, we have learned this is far from an isolated experience – much more the norm than the outlier. In effect, collision shops are forced to decide between making a proper repair and receiving proper payment for their work.

This is not right. Insurance companies have actuaries to price insurance policies; they do not have engineers who know how to repair today's complex vehicles. Substituting – whether through formal or implied financial pressure – untested repair procedures for OEM repair procedures will only lead to unsafe vehicles on the roadways across the country. Consumers buy insurance to be made whole after an accident; shoddy repairs, designed to get a repair done faster and cheaper, but not done correctly, are not part of the policy.

There is no credible argument to suggest why any repair procedure, other than the one produced by the vehicle's manufacturer, should be followed. In fact, there actually are not any "other" procedures to follow. A shop either follows the technically sound practices established by the OEM or they are not following any approved repair plan. What may have worked for decades, when vehicles were a lot less complicated, simply does not cut it anymore. For a time, "industry" practices may have been sufficient; that time has passed.

Based on our advocacy for this issue in other states, I am aware that some will argue that automaker interest in this issue is only to sell more genuine OEM parts. Essentially asserting that if a law was passed to say OEM repair procedures had to be followed, and then OEM repair procedures included language that stated that only OEM parts could be used, by default it would be prohibited to use an aftermarket part in an insurance-funded repair.

While Alliance members absolutely believe all consumers would be best served by using genuine OEM parts on their vehicle – parts which have been designed and tested in the same manner as the original parts on the vehicle – that is not our fight on this bill. This legislation is about safe and proper repair of all vehicles after a collision. To show that our intentions on this are true, I have attached to this testimony a proposed amendment, which would stipulate that, regardless of any language contained in an OEM repair procedure to the contrary, the use of replacement parts in an insurance-funded repair shall be governed by solely by Connecticut's existing law on the subject, Chapter 700, Section 38a - 355.

The reality is that the average consumer does not have the expertise or the ability to monitor and approve the post-collision repairs conducted on today's automobile. Such situations are the exact circumstances calling for government intervention. As such, the Alliance and its members implore you to consider moving HB 7266 favorably with the Alliance's proposed amendment, and prohibit an insurance company from requiring the use of any repair specifications or procedures that are not in compliance with repair procedures recommended by the original manufacturer. It is a simple solution for a serious problem.

Thank you in advance for your consideration of our views. The Alliance and its members are committed to help in any way to see such legislation pass in the year ahead. If I can answer any questions or provide any further information, please do not hesitate to contact me at 202-326-5550 or wwikel@autoalliance.org.

Respectfully submitted,



Wayne Weikel
Senior Director, State Government Affairs

Attachment – Draft Amendment

Alliance of Automobile Manufacturers suggested amendment to House Bill 7266

Striking Section 1 and inserting in place thereof the following:

Section 1. (NEW) (Effective October 1, 2019) Notwithstanding any provision of the general statutes no insurer licensed to issue policies of automobile insurance providing bodily injury, property damage liability, comprehensive, or collision coverages shall condition payment of a claim to the insured or to any person conducting a collision repair based upon the utilization of any repair procedure or specification that does not conform to the original equipment manufacturer's documented procedures, specifications or allowable tolerances of such vehicle year, make, model, and trim level. If a repair procedure or specification from an original equipment manufacturer includes a directive to conduct a scan, calibration, or diagnostic test of vehicle electronic systems before or after the commencement of repairs, such directive shall be considered as a required part of the repair procedure.

Notwithstanding any statements or recommendations contained in the original equipment manufacturer's repair specifications or procedures relative to the use of original equipment manufacturer parts, governance of the use of parts in the course of an insurer-funded repair shall be solely dictated by Chapter 700, Section 38a – 355 of the Connecticut state code.



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Automaker Trade Associations Release Policy Statement Calling for All Collision Repairs to Follow OEM Repair Procedures

(WASHINGTON – January 16, 2019) Auto industry trade groups representing virtually all automakers selling cars and light duty trucks in the United States released a policy position statement today underscoring the importance of all post-collision vehicle repairs being conducted in accordance with the repair procedures issued by the vehicle’s original equipment manufacturer (OEM).

The statement, released by the Alliance of Automobile Manufacturers and the Association of Global Automakers, said that OEM repair procedures follow service and structural engineering practices that have been tested by the manufacturer through crash simulation, actual crash testing, and real-world validation of the repair methodology. They also say that following such procedures is even more important now that cars have become so technologically advanced.

“There was a time when a basic understanding of autobody repair would allow a repairer to fix 9 out of 10 vehicles that come into a shop. That time has passed.” said Wayne Weikel, Senior Director of Government Affairs for the Alliance of Automobile Manufacturers. “If a collision shop is going to fix the cars of today, they cannot use the repair procedures of yesterday. The only way to repair today’s vehicle is by following the OEM recommended repair procedures on every repair.”

Automakers also emphasized that the auto repair procedures are readily available to auto shops through numerous online outlets.

“Automakers have gone to great lengths to make repair procedures available to the public,” said Steve Gehring, Vice President, Vehicle Safety and Connected Automation, for the Association of Global Automakers. “These procedures were developed to ensure the vehicle is safely returned to pre-crash condition, with a confidence that advanced driver safety systems are calibrated correctly to help avoid the next crash.”

“ASA has made the use of OEM repair procedures by collision shops a top policy priority. All parties in the collision repair process have a stake in repairs being made correctly by following OEM repair procedures which includes vehicle scans. Following these recommended procedures should be a practice that is performed on every vehicle and all parties to the repair, consumers, insurers and shops assume that it will be done. We look forward to working with our team members to move OEM repair procedure policy forward across the U.S.”, stated Roy Schnepfer, ASA Chairman of the Board.

Previously, the Alliance of Automobile Manufacturers and the Automotive Service Association had announced plans to actively push state legislation to mandate the use of recommended OEM repair

procedures in all post-accident, insurance-funded vehicle repairs, as a result of the \$42 million verdict in the Seebachan v. John Eagle Collision handed down in Texas in 2017.

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