

**MEMO**

**TO:** Members of the Senate Regulatory Reform Committee

**FROM:** Michigan Retailers Association

**SUBJECT:** HB 4344, remove Sec 7A (G)

**DATE:** March 23, 2016

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Michigan Retailers Association is the unified voice of Michigan's retail industry and represents more than 15,000 stores and ecommerce websites across the state. MRA has strong concerns with language in Sec 7A (G) in HB 4344.

**Anti-competition, anti-free market, anti-customer choice**

Section 7A (G) of HB 4344 H-3 would limit a vehicle repair center to only use parts that meet or exceed Original Equipment Manufacturer (OEM) comparable quality parts as determined by a nationally recognized automotive parts testing agency. This language prevents a consumer from making a decision regarding the parts used to repair his or her vehicle and the associated cost for those repairs. OEM and OEM comparable quality parts are often more expensive and may prohibit a customer from being able to afford the repair.

**Aftermarket parts are the same or better quality than OEM parts**

Requiring only OEM or OEM comparable parts also gives customers and repair shop workers the false impression that aftermarket parts are inferior to OEM parts. Aftermarket parts are made with the same quality, and sometimes better quality, than OEM parts. That's because, in many cases, improvements have been made in design and materials since the car was manufactured. In fact, manufacturers often supply the same parts to car companies and repair facilities, but they are deemed "aftermarket."

**Federal law prohibits warrantors from requiring only branded (OEM) parts**

Sec 7A (G) only addresses parts under the manufacturer's original warranty in an attempt to circumvent the federal statute that governs warranties on consumer products. The Federal Magnuson-Moss Warranty Act of 1975 (15 U.S.C. §2301- §2312) prohibits warrantors from requiring that only branded parts (OEM parts) be used with the product in order to retain the warranty. The amendment language to HB 4344 includes OEM and OEM comparable parts to technically avoid violating the federal statute. However, given the limited number of certified OEM comparable major component parts available, this is a loophole around consumer protection requirements.

**We urge the Senate to remove Section 7A (G) before taking up HB 4344 because it restricts the market and limits consumer choice.**

## The Truth about HB 4344 Sec 7A (G)

- 1.) **This bill only impacts major component parts, which are not sold by retailers.**  
**FALSE:** Auto parts shops do sell and can direct order major component parts. They also sell the peripheral parts that attach or add on to those pieces like the light in the hood and the latch or arm on the hood.
- 2.) **There are national automotive parts testing agencies that test all the major components in the bill.**  
**FALSE:** The Certified Automotive Parts Association (CAPA) does not certify every major component piece listed in the bill, meaning any piece not certified must be replaced with an OEM part since no certified comparable exists. This leads to higher costs for consumers and limits customer choice. A full list of certified parts can be found at [www.capacertified.org/whatparts.asp](http://www.capacertified.org/whatparts.asp).
- 3.) **Original manufacturer warranties only last 2-3 years.**  
**FALSE:** Car manufacturers have varying warranty periods. Depending on the manufacturer, the bumper-to-bumper warranty may be offered for 2-5 years while a powertrain warranty may be offered for anywhere from 2-10 years.
- 4.) **The bill only requires OEM or OEM comparable parts to be used if the part fails and if the part would be replaced under the manufacturers warranty at the manufacturer's expense.**  
**FALSE:** Sec 7A (G) requires the use of OEM or OEM comparable parts during the entire length of the original car manufacturer's warranty period regardless of who is paying for the repair. Parts damaged during an accident that occurs during the warranty period must be replaced with OEM or OEM comparable parts paid for by the consumer or the consumer's auto insurance company.
- 5.) **Car manufacturers would be required to warranty aftermarket parts.**  
**FALSE:** Aftermarket parts have a separate manufacturer warranty – each manufacturer warranties its own parts. The federal Magnusson Moss act simply prohibits the car manufacturer from voiding the entire warranty (on the other OEM parts) for the use of any aftermarket parts.
- 6.) **Auto repair shops only have the customer's safety in mind.**  
**NOT EXACTLY:** This is about money. Repair shops typically markup the price of parts by a flat percentage. More expensive parts have a higher markup than less expensive parts. There is a financial incentive for auto repair shops to insist on only using the more expensive OEM or OEM comparable parts.
- 7.) **Customers can opt-out and choose to use aftermarket parts.**  
**PARTIALLY TRUE:** Yes, customers can request in writing to have a repair shop use aftermarket parts but the burden would be on the customer to know and request that choice. Auto repair shops are not required to inform customers of the choice and most customers would not know they have an option.