

By Mr. Fennell of Lynn, petition of Robert F. Fennell and other members of the General Court relative to ensuring the safety of consumers who purchase auto crash parts. Insurance.

The Commonwealth of Massachusetts

In the Year Two Thousand and One.

AN ACT RELATIVE TO ENSURING THE SAFETY OF CONSUMERS WHO PURCHASE AUTOMOBILE CRASH PARTS.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 Chapter 90 of the General Laws, as appearing in the 1996 Offi-  
2 cial Edition, is hereby amended by striking out section 34R and  
3 inserting in place thereof the following section:—

4 Section 34R. (a) Definitions.

5 As used in this section, the following words shall have the  
6 following meanings:

7 “Crash part”, motor vehicle parts of sheet metal or plastic that  
8 constitute the visible exterior of the vehicle, including inner and  
9 outer panels, which are to be replaced as the result of a collision.

10 “Original manufacturer part”, any part of a motor vehicle,  
11 including, but not limited to, crash parts, that was designed and  
12 manufactured by or under the authority of the manufacturer of  
13 said vehicle and authorized to display the trademark of said orig-  
14 inal manufacturer.

15 “Non-original manufacturer part”, any part, including, but not  
16 limited to, crash parts that is not an original manufacturer part.

17 (b) Whenever the replacement of a crash part is necessary for  
18 the repair of a motor vehicle, any insurer or repairer, or agent  
19 thereof, shall prepare a written estimate of the cost of such repairs  
20 which shall clearly identify each major replacement crash part to  
21 be used as either an original manufacturer part or a non-original  
22 manufacturer part; and, further, said estimate shall clearly state  
23 the cost of each non-original manufacturer replacement crash part

24 specified for use and the cost of the equivalent original manufac-  
25 turer part. Said estimate shall provide the means by which the  
26 vehicle owner or lessee, or agent thereof, may express his election  
27 in writing for an original manufacturer part to be used in lieu of  
28 any specified non-original manufacturer part. The vehicle owner  
29 or lessee, or agent thereof, shall confirm each such election by  
30 writing his initials in a space provided on the estimate that clearly  
31 corresponds to the original manufacturer part so selected.

32 (c) No replacement crash part installed on a motor vehicle  
33 shall alter or impair said vehicle's operational safety or compli-  
34 ance with state or federal safety standards in effect at the time said  
35 vehicle was manufactured.

36 (d) A replacement crash part installed on a motor vehicle shall  
37 be warranted by its manufacturer for a period of time at least  
38 coterminous with that of the existing manufacturer's warranty on  
39 said vehicle; and, further, no replacement crash part shall alter or  
40 impair said vehicle's existing manufacturer's warranty.

41 (e) If the use of a non-original manufacturer crash part violates  
42 paragraph (c) or (d) or section 2-314 or 2-315 of chapter 106, or  
43 such part has been decertified, the party specifying said crash part  
44 shall, after the manufacturer and supplier have had a reasonable  
45 opportunity to cure, replace said defective crash part with an origi-  
46 nal manufacturer crash part at no additional cost to the vehicle  
47 owner or lessee. The difference in cost between the specified non-  
48 original manufacturer part and the original manufacturer part ulti-  
49 mately used, in addition to any incidental costs incurred in such  
50 replacement, shall be borne by the party that specified such defec-  
51 tive non-original manufacturer part; provided, however, that  
52 nothing herein shall prohibit such specifying party from obtaining  
53 indemnification or contribution from the manufacturer or supplier  
54 of such defective crash part.

55 (f) The repairer shall, on the customer's repair order or repair  
56 certification form, identify by name the manufacturer and supplier  
57 of any non-original manufacturer crash part used in making the  
58 actual repairs. All non-original manufacturer crash parts shall bear  
59 a permanent identification specifying the manufacturer and  
60 country of origin.

61 (g) No insurer or repairer, or agent thereof, shall make any  
62 false, deceptive or unsubstantiated representations regarding non-

63 original equipment manufacturer parts, including, but not limited  
 64 to, their quality, effect on any manufacturer's motor vehicle war-  
 65 ranty or their effect on compliance with state or federal safety  
 66 standards. Any representations regarding non-original equipment  
 67 manufacturer parts shall be made in writing on the consumer  
 68 notice and authorization form provided in paragraph (i).

69 (h) No repair may commence unless the vehicle owner, lessee  
 70 or agent thereof has affirmatively authorized the use of non-orig-  
 71 inal manufacturer crash parts or has requested that any or all crash  
 72 parts to be replaced be so replaced with original manufacturer  
 73 parts. The insurer or repairer shall clearly state in writing that the  
 74 additional cost of using an original manufacturer part to replace a  
 75 crash part for which a non-original manufacturer part has been  
 76 specified in the estimate shall be borne by the vehicle owner,  
 77 unless it is determined that the specified non-original manufact-  
 78 urer part is not of like kind and quality as the comparable original  
 79 manufacturer part.

80 (i) Attached to any such estimate that specifies non-original  
 81 manufacturer crash parts for use as replacement parts shall be the  
 82 following notice and authorization form, printed in not less than 10-  
 83 point type, to be signed by the vehicle owner:

#### 84 CONSUMER NOTICE & AUTHORIZATION FORM

85 This repair estimate is based in part on the use of replace-  
 86 ment parts that are not supplied by the original manufacturer  
 87 of the damaged parts in your vehicle. Warranties, if any,  
 88 applicable to these replacement parts are provided by their  
 89 manufacturer or supplier rather than the manufacturer of your  
 80 vehicle.

91 Insurer/Repairer Comments: \_\_\_\_\_  
 92 \_\_\_\_\_  
 93 \_\_\_\_\_  
 94 \_\_\_\_\_

95  
 96 Repairs on your vehicle will not commence unless you  
 97 have completed and signed this form. By signing in the space  
 98 provided below, you are stating the following:

99           1. I have reviewed and understand this notice and any  
100 comments provided herein by the insurer/repairer with regard  
101 to the quality of the replacement parts specified in this esti-  
102 mate that were not supplied by the manufacturer of my  
103 vehicle.

104           2. I was given the opportunity to have any or all of the  
105 damaged parts in my vehicle replaced with parts supplied by  
106 the manufacturer of my vehicle, and I further understand that  
107 I am responsible for the difference in cost between the part  
108 that I selected and the part specified in this estimate, unless it  
109 is determined that the specified part is not of like kind and  
110 quality as the comparable part supplied by the manufacturer  
111 of my automobile.

112           3. The Automobile Damage Appraiser Licensing Board,  
113 established pursuant to section 8 Chapter 26 of the General  
114 Laws, in a report to the Comissioner of Insurance, deter-  
115 mined that aftermarket parts are not of like kind and quality  
116 as compared to original equipments parts and that after-  
117 market parts may compromise the safety of the vehicle if it is  
118 in a subsequent accident.

119           Date: \_\_\_\_\_ Signature: \_\_\_\_\_

120           (j) Failure to comply with the provisions of this section shall  
121 constitute an unfair or deceptive trade act or practice pursuant to  
122 the provisions of chapter 93A.