

# Committee Report

**CONSENT CALENDAR**

**March 2, 2021**

**HOUSE OF REPRESENTATIVES**

**REPORT OF COMMITTEE**

**The Committee on Commerce and Consumer Affairs to  
which was referred HB 310,**

**AN ACT relative to vehicle repairs. Having considered  
the same, report the same with the following resolution:**

**RESOLVED, that it is INEXPEDIENT TO LEGISLATE.**

**Rep. Bonnie Ham**

**FOR THE COMMITTEE**

## COMMITTEE REPORT

Committee:	<b>Commerce and Consumer Affairs</b>
Bill Number:	<b>HB 310</b>
Title:	<b>relative to vehicle repairs.</b>
Date:	<b>March 2, 2021</b>
Consent Calendar:	<b>CONSENT</b>
Recommendation:	<b>INEXPEDIENT TO LEGISLATE</b>

### STATEMENT OF INTENT

This bill establishes a rebuttable presumption that manufacturers' recommendations for scans and calibrations are necessary for vehicle safety and for the restoration of a vehicle to its pre-loss condition. It also makes it an unfair insurance practice for an insurance company, agent, or adjuster to knowingly fail to pay a claim to the claimant or repairer to the extent the claimant's vehicle is repaired in conformance with applicable manufacturer's recommendations or specification. The committee finds that this bill is not needed. There is insufficient evidence to demonstrate that consumers, their agents, insurance companies, adjusters, and vehicle repair shops are unable to negotiate for appropriate pre-loss condition repairs to a vehicle to acceptable safety standards without this legislation.

Vote 18-0.

Rep. Bonnie Ham  
FOR THE COMMITTEE

Original: House Clerk  
Cc: Committee Bill File

## CONSENT CALENDAR

Commerce and Consumer Affairs

**HB 310**, relative to vehicle repairs. **INEXPEDIENT TO LEGISLATE.**

Rep. Bonnie Ham for Commerce and Consumer Affairs. This bill establishes a rebuttable presumption that manufacturers' recommendations for scans and calibrations are necessary for vehicle safety and for the restoration of a vehicle to its pre-loss condition. It also makes it an unfair insurance practice for an insurance company, agent, or adjuster to knowingly fail to pay a claim to the claimant or repairer to the extent the claimant's vehicle is repaired in conformance with applicable manufacturer's recommendations or specification. The committee finds that this bill is not needed. There is insufficient evidence to demonstrate that consumers, their agents, insurance companies, adjusters, and vehicle repair shops are unable to negotiate for appropriate pre-loss condition repairs to a vehicle to acceptable safety standards without this legislation. **Vote 18-0.**

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# Voting Sheets

**HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS**

**EXECUTIVE SESSION on HB 310**

**BILL TITLE:** relative to vehicle repairs.

**DATE:** March 2, 2021

**LOB ROOM:** Zoom

**MOTIONS:** **INEXPEDIENT TO LEGISLATE**

Moved by Rep. Ham

Seconded by Rep. Potucek

Vote: 18-0

**CONSENT CALENDAR: YES**

**Statement of Intent:** Refer to Committee Report

Respectfully submitted,

Rep Keith Ammon, Clerk

HOUSE COMMITTEE ON COMMERCE

EXECUTIVE SESSION ON HB 310

**BILL TITLE:** relative to vehicle repairs;

**DATE:** 3/2/2021

**LOB ROOM:** Zoom

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**MOTION: (Please check one box)**

OTP       ITL       Retain (1<sup>st</sup> year)       Adoption of  
Amendment # \_\_\_\_\_  
 Interim Study (2<sup>nd</sup> year)      (if offered)

Moved by Rep. Ham      Seconded by Rep. Potucek      Vote: 18-0

**MOTION: (Please check one box)**

OTP     OTP/A     ITL     Retain (1<sup>st</sup> year)       Adoption of  
Amendment # \_\_\_\_\_  
 Interim Study (2<sup>nd</sup> year)      (if offered)

Moved by Rep. \_\_\_\_\_      Seconded by Rep. \_\_\_\_\_      Vote: \_\_\_\_\_

**MOTION: (Please check one box)**

OTP     OTP/A     ITL     Retain (1<sup>st</sup> year)       Adoption of  
Amendment # \_\_\_\_\_  
 Interim Study (2<sup>nd</sup> year)      (if offered)

Moved by Rep. \_\_\_\_\_      Seconded by Rep. \_\_\_\_\_      Vote: \_\_\_\_\_

**MOTION: (Please check one box)**

OTP     OTP/A     ITL     Retain (1<sup>st</sup> year)       Adoption of  
Amendment # \_\_\_\_\_  
 Interim Study (2<sup>nd</sup> year)      (if offered)

Moved by Rep. \_\_\_\_\_      Seconded by Rep. \_\_\_\_\_      Vote: \_\_\_\_\_

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**CONSENT CALENDAR?**      X Yes      \_\_\_\_\_ No

**Minority Report?**    \_\_\_\_\_ Yes    \_\_\_\_\_ No    If yes, author, Rep.: \_\_\_\_\_    Motion: \_\_\_\_\_

Respectfully submitted, Rep. Ammon, Clerk

STATE OF NEW HAMPSHIRE  
OFFICE OF THE HOUSE CLERK

1/22/2021 9:55:55 AM  
Roll Call Committee Registers  
Report



2021 SESSION

Commerce and Consumer Affairs

Bill #: HB310 Motion: ITL AM #: \_\_\_\_\_ Exec Session Date: 3/2/2021

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Hunt, John B. Chairman	18		
Potucek, John M. Vice Chairman	1		
Osborne, Jason M.	2		
Ammon, Keith M. Clerk	3		
Abramson, Max	4		
Ham, Bonnie D.	5		
Depalma IV, Joseph	6		
Greeson, Jeffrey	7		
Johnson, Dawn M.	8		
Terry, Paul A.	9		
Bartlett, Christy D.	10		
Abel, Richard M.	11		
Herbert, Christopher J.	12		
Van Houten, Constance	13		
Fargo, Kristina M.	14		
Weston, Joyce	15		
Beaulieu, Jane E.	16		
Burroughs, Anita D.	17		
McAleer, Chris R.			
<b>TOTAL VOTE:</b>	18	0	

# Hearing Minutes

HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

PUBLIC HEARING ON HB 310

**BILL TITLE:** relative to vehicle repairs.

**DATE:** February 10, 2021

**LOB ROOM:** Remote                      **Time Public Hearing Called to Order:** 2:07 p.m.

**Time Adjourned:** 3:27 p.m.

**Committee Members:** Reps. Hunt, Potucek, Ammon, Osborne, Abramson, Ham, Depalma IV, Greeson, Johnson, Terry, Bartlett, Abel, Herbert, Van Houten, Fargo, Weston, Beaulieu, Burroughs and McAleer

**Bill Sponsors:**

Rep. Weyler

Rep. Steven Smith

Rep. Stapleton

**TESTIMONY**

\* Use asterisk if written testimony and/or amendments are submitted.

**Rep Walt Stapleton**, Claremont Ward 3, Sullivan 5

I am a cosponsor. This bill is good for protection against incomplete and inadequate repairs and unfair insurance practices that would enable that. With the complexity of automobiles today, it's important that repairs must be done according to what the engineers have specified. Inadequate repairs endanger our highway travelling public and pedestrians. I'm proud to sponsor because of safety.

**Rep Herbert**

Q: What is a rebuttable presumption?

A: It appears in statutes relative to liability. It's an expectation or freedom from liability that is rebuttable. For instance, landowners that allow RV/ATV trails through their property they're given a waiver from liability. That's rebuttable unless they do something to endanger those travelling through, the rebuttable aspect would allow someone to sue.

Q: When it comes to car repairs, the intent is to allow independent shops access to repair work, even though the manufacturer claims that a designated dealership must do the repairs, correct?

A: I would say so, but the obligation on the shop is to be familiar with what the manufacturers specification or recalls. It's a moving target. This doesn't preclude independent shops from being able to do repairs.

**Rep Ham**

Q: Is there any age limit, or out-of-warranty limit? Once a car gets very old it's difficult to get it back manufacturers specifications.

A: Old vehicles in 80s/90s there are still good manuals. The focus is for later, newer, complex vehicles. This is where the sensitivity is. New cars have cameras, they can park themselves. It's a high level of complexity. When I come across a problem on my car, I go to YouTube or manufacturers website. Critical to follow manufacturer's recommendation where available.

**Rep Johnson**

Q: This bill requires insurance companies to cover any calibrations that are needed to bring it back to manufacturer's specs, correct?

A: I believe so. There's a tendency to under reward a claim. With these complex vehicles today, calibration is critical – self-driving, self-parking. We want to avoid an insurance company cutting an effort short and compromise safety.

Q: I'm making sure I understand what this bill does. That recalibrations aren't being ignored after an accident.

A: We want to make sure insurance companies aren't shorting a repair and not returning the vehicle to customer safety and quality.

### **Rep Bartlett**

Q: WYB, we've been working on this bill for a number of years, and there will be many after you who can answer these questions?

A: It's an important bill. (Repeats points)

### **Rep Abramson**

Q: Does this bill require OEM parts and not parts from parts cars?

A: The part must meet the specification, regardless of manufacturer. I've used both secondary market parts and OEM parts to repair my car.

Q: What is the co-sponsor's intent with the bill?

A: Repeats same points about quality and safety.

### **Rep Greeson**

Q: Does this bill enable manufacturers to require so many specifications as to put your local repair shop out of business?

A: We're already there with cars requiring special tools, parts, and procedures. The newer the vehicles got the more complex they become.

### **Rep Herbert**

Q to Chair: What is the likelihood that we can fix this bill if we retain it.

Rep Hunt: The autobody shops think the insurance companies are cutting corners on repairs. This bill passed this committee last year.

### **Scott Robertson**

President Automotive Recyclers Association. Owner of Robertson's Salvage. We have GMC truck dealership and body shop. This bill is an OEM repair procedure bill. "applicable manufacturers recommendations" The manufacturers require their vehicles to be repaired with only their parts. This doesn't allow the user to use salvage parts. This limits the customers' choices. Used auto parts help the environment. The crux of this bill is Safety. If so, why just for insurance repairs and not all repairs? Should it be for all repairs if this is truly about safety. Manufacturers put profits above safety. GM waited 10 years for fixing a known defect because settlements were cheaper. I don't think the manufacturer can be trusted.

### **Rep Beaulieu**

Q: Is this the right to repair bill that we heard about in Mass?

A: No, that was to make sure the vehicle manufacturers gave repair shops access to their data. These cars are smart and send data back to the manufacturer. It was about where that data was sent and who had access to it.

### **Rep Abramson**

Q: Recycled parts are almost always OEM parts, correct?

A: Correct

Q: Do repair shops use knockoff parts?

A: Yes, they're called aftermarket parts. New parts made by someone other than the manufacturer.

### **Ken Weyler**

Been working on this issue since 2015. The insurance company would pay one rate for dealers and would expect to pay less to independent shops. Some laws referred to only parts of like-kind and quality. Some parts labeled themselves LKQ. The insurance officials that went out to look at parts were not qualified technicians. The bill was tabled in the Senate last term. This bill would require the insurance companies to repair the car back to manufacturers standards.

### **Rep Greeson**

Q: What happens if a car cannot be repaired to pre-accident condition as determined by the manufacturer but is still safe enough to drive?

A: There was a car accident where the roof was welded on but not to manufacturers spec and it came off and killed someone.

### **George Roussos**

This topic has been around a long time and is a controversial issue. A lot of what's been said is based on a lack of understanding as to how things work today. This is pitted as a battle between auto repair shops and insurance industry. They both want to repair safely and maximize profits. Dealers make more on repairing cars than selling them. As it becomes more complex, small independent shops are having trouble keeping up with equipment and procedures needed to repair. Manufacturers recommendations include some sound and some clearly shouldn't be followed. A manufacturer can recommend what every they want. This bill presumes everything they recommend is correct. For example, you can only use Volvo parts. Or you have to use certified tools. Or only repaired by a certified dealer. The manufacturers prefer to have fewer repair shops to deal with. No check or balance on the part of the insurance company to make sure unnecessary or overly priced repairs aren't required. Rebuttable assumption is a newly devised phrase. Paint and materials are addressed at the end of the bill. If the bill is about safety, what about the last part of the bill that deals with paint and materials? We're talking about costs. Over half the cost to repair a vehicle is paint and materials. Insurance department says this will increase the cost of insurance by 20%. Why would you subject your constituents to increased insurance costs. Two reasons: 1) it's presented the little dealer isn't getting a fair shake from the big insurance company 2) Cars aren't being safely repaired. TX case Wyler brought up about sheet metal. If that's all the evidence you have, that's not enough. It's in the interest of an insurance company to have a satisfied customer. The insurance company stands in the shoes of the person who buys insurance, the insured. If you didn't have insurance and got into an accident, you'd want to get a quality repair at the best price, wouldn't you? In the past, the insurance department has said it opposes this bill because it will increase insurance costs.

**Rep Hunt:** James Fox couldn't be here but his position was neutral.

### **James Hatem**

State Farm insurance. NH largest insurer of automobiles. We've been opposed to this bill and idea since the first day it was introduced a few years ago. Under existing laws, insurance companies are not allowed to steer business to auto repair shops. The customer is free to choose. The insurer is required to pay for the repair, but not more than the fair and reasonable price. Protects the customer and insurance company from being overcharged. An estimate is prepared and then a negotiation happens between the adjuster and repair shop as to scope and price. Insurers know that auto manufacturers have advanced insight into how a vehicle should be repaired. Insurers are the only party (manufacturers, repair shop) looking to keep the price within reason. The governor vetoed the bill two sessions ago because it would raise insurance rates. This bill is inconsistent with safe repairs. The repair shops have the discretion to follow manufacturers repairs. There's some overtone that this bill would allow small body shops to flourish. It may have small benefit to small body shops



but disproportionate effect on large body shops. 10,000 or more OEM procedures in one database. Shows presentation on screen.

### **Andreas Heiss**

Government affairs manager for LKQ for the northeast. We're the leading provider of aftermarket parts nationwide. We have two facilities in NH, Manchester and Londonderry. I'll focus on the scanning and calibration aspect. We've created a company called elite tech a mobile scanning, calibration, diagnostics company. We support ongoing development for technician certifications. This bill is controversial. Limits innovation, competition, and impacts the parts that can be used to repair vehicles. Manufacturers obfuscate their repair procedures to make sure a car is repaired by the manufacturer. This bill would prevent newer aftermarket scanning technology that is more efficient. Aftermarket parts provide better prices, warranties. Without competition for the manufacturers the cost of parts and repairs are going to go up. It's not about safety. If it were then the repair shop would be liable not putting it over to the repair shops.

### **Sandy Blalock**

ARA Automotive Recyclers Association. International membership. We're concerned this bill would have severe anti competitive consequences. We think manufacturers should provide repair procedures, but not ones that prevent consumers from using second hand parts. "Rebuttable" means it's true until someone comes along and says it isn't. No evidence that recycled OEM parts are inferior to new OEM parts. We oppose the paint and materials section of the bill. We ask you to oppose this bill.

### **Rep Abramson**

Q: Could we allow consumers to choose the quality of the hardware?

A: 95% of our recycle business was wholesale (in Arizona) that means many repair shops trusted our recycled parts. Every part I sold came with minimum one year warranty, better than the manufacturers. Vehicles have become more technically advanced every year, that isn't new.

### **Tom Tucker**

Senior director government affairs Autocare Association. We represent the entire supply chain of the auto industry. We oppose the bill. Our main issue is with section E of the bill. When you start talking about manufacturers recommendations and procedures. Does this have anything to do with right to repair? Yes. First fought in MA in 2015. Beginning in model year 2018, vehicle manufacturers must make available any information for download by the tool manufacturers. Today technology is moving faster than regulation and legislation. Secure gateway is a checkpoint that prevents access to a company's network. This bill would require all repairers go through the manufacturers. Business was not flowing at the same rate as before the pandemic. This would hurt small businesses. OEM recommendations always specify OEM parts. Vote no on this bill.

HOUSE COMMITTEE ON COMMERCE & CONSUMER AFFAIRS

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# House Remote Testify

## Commerce and Consumer Affairs Committee Testify List for Bill HB310 on 2021-02-10

Support: 3   Oppose: 0   Neutral: 4   Total to Testify: 1

<u>Name</u>	<u>Email Address</u>	<u>Phone</u>	<u>Title</u>	<u>Representing</u>	<u>Position</u>	<u>Testifying</u>	<u>Signed Up</u>
Fox, James	james.r.fox@ins.nh.gov	2712502	State Agency Staff	Insurance Department	Neutral	Yes (5m)	2/5/2021 2:13 PM
Roussos, George	groussos@orr-reno.com	603.223.9143	A Lobbyist	NH Association of Domestic Insurance Companies	Oppose	Yes (5m)	2/9/2021 3:05 PM
Weyler, Ken	kweyler@aol.com	111.111.1111	An Elected Official	Rock 13	Support	Yes (3m)	2/9/2021 9:21 PM
Robertson, Scott	JR@ROBERTSONPARTS.COM	508.295.9444	A Member of the Public	Automotive Recyclers Association	Oppose	Yes (3m)	2/9/2021 2:44 PM
Heiss, Andreas	arheiss@lkqcorp.com	305.720.1877	A Lobbyist	LKQ	Oppose	Yes (2m)	2/6/2021 6:13 PM
Blalock, Sandy	sandy@a-r-a.org	505.228.0401	A Member of the Public	Automotive Recyclers	Oppose	Yes (0m)	2/9/2021 12:08 PM
Yokela, Josh	josh.yokela@leg.state.nh.us	603.722.0501	An Elected Official	Rockingham 33	Oppose	No	2/8/2021 6:13 AM
Love, Rep.David	davidlove4rep@gmail.com	603.275.9851	An Elected Official	Rockingham 6	Support	No	2/8/2021 8:55 AM
Layon, Erica	erica.layon@leg.state.nh.us	603.479.9595	An Elected Official	Myself	Oppose	No	2/8/2021 9:42 AM
Pageau, Joan	joan@nhaia.com	603.224.3965	A Lobbyist	NH Association of Insurance Agents	Support	No	2/8/2021 3:09 PM
Fennessy, Nathan	nfennessy@preti.com	603.410.1528	A Lobbyist	AIG	Oppose	No	2/8/2021 3:13 PM
Nadeau, Lindsay	lnadeau@orr-reno.com	603.568.1601	A Lobbyist	American Property Casualty Insurance Association	Oppose	No	2/9/2021 3:08 PM
Weikel, Wayne	wweikel@autosinnovate.org	111.111.1111	A Lobbyist	Myself	Support	No	2/9/2021 4:59 PM
Mennella, Alexandra	amennella1@protonmail.com	111.111.1111	A Member of the Public	Myself	Oppose	No	2/9/2021 8:02 PM
Whelan, Rory	rwhelan@namic.org	111.111.1111	A Lobbyist	NAMIC	Oppose	No	2/9/2021 9:08 PM
Rathbun, Eric	ericsrathbun@gmail.com	111.111.1111	A Member of the Public	Myself	Neutral	No	2/9/2021 10:57 PM
Thomas, Nicholas	nicholas.w.thomas@uconn.edu	111.111.1111	A Member of the Public	Myself	Oppose	No	2/10/2021 12:23 AM
Axelman, Elliot	aluaxelman@gmail.com	111.111.1111	A Member of the Public	Myself	Oppose	No	2/10/2021 7:14 AM
Hatem, James	jhatem@nixonpeabody.com	111.111.1111	A Lobbyist	State Farm Insurance Company	Oppose	No	2/10/2021 9:18 AM
Tucker, Thomas	TOM.TUCKER@AUTOCARE.ORG	111.111.1111	A Lobbyist	The Auto Care Association	Oppose	No	2/10/2021 10:02 AM
Chase, Marissa	mchase@nhaj.org	111.111.1111	A Lobbyist	NH Association for Justice	Support	No	2/10/2021 11:58 AM
ploszaj, tom	tom.ploszaj@leg.state.nh.us	111.111.1111	An Elected Official	Myself	Support	No	2/10/2021 12:12 PM

# Testimony





February 8, 2021

Representative John Hunt  
Chair  
House Consumer and Consumer Protection Committee  
LOB Room 203  
107 North Main Street  
Concord, NH 03301

Re: House Bill 310

Dear Chairman Hunt and Members of the Committee:

The Automotive Recyclers Association (ARA) represents the interests of over 4,500 professional automotive recyclers across the United States and in 17 countries internationally. ARA is dedicated to the efficient removal and reutilization of genuine original equipment manufacturer (OEM) automotive parts. ARA is concerned that the language contained in House Bill 310 would have anti-competitive consequences for consumers, professional automotive recyclers, and independent collision repair professionals in New Hampshire and elsewhere.

This legislation would establish a rebuttable presumption that manufacturer recommendations for scans and calibrations are necessary for vehicle repair. ARA is concerned that the reference to "manufacturer recommendations" and its definition referencing other subjective documentation from the automotive manufacturer is an attempt by the manufacturers to push recycled OEM, aftermarket and other replacement parts out of the market.

Over the past ten years, automobile manufacturers have become more aggressive in their efforts to force recycled OEM parts out of the market, releasing position statements, repair specifications and procedures that are often biased and based on weak or no apparent scientific research claiming that recycled OEM parts are inferior to new OEM parts. The proposed language in House Bill 310 is another attempt to do just that.

In addition, references to paint and material guidelines as necessary to restore a vehicle to its pre-loss condition also introduce an element of subjectivity into the repair process that ARA is not comfortable with, as "material" is not defined and could be interpreted to include automotive repair parts.

ARA urges you to consider the impact House Bill 310 would have on consumer choice and the precedent it would set for automotive repairs nationwide. I respectfully urge you to OPPOSE this legislation when it comes before the Committee. I am happy to answer any questions and to discuss our concerns further.

Sincerely,

Sandy Blalock  
Executive Director

# Orr&Reno

**George W. Roussos**

groussos@orr-reno.com

Direct Dial 603.223.9143

Direct Fax 603.224.2318

February 9, 2021

The Honorable John Hunt, Chair  
House Commerce and Consumer Affairs Committee  
State House, Room 100  
Concord, NH 03301

***Re: Testimony in Opposition to HB 310***

Dear Representative Hunt and Members of the House Commerce Committee:

Thank you for the opportunity to testify on behalf of our clients, the New Hampshire Association of Domestic Insurance Companies (NHADIC) and the American Property Casualty Insurance Association (APCIA). NHADIC and APCIA member companies write over half the automobile insurance written in New Hampshire.

Our clients believe that the current law governing auto repairs works well for New Hampshire consumers. The law requires that insurers pay the cost of all reasonable and necessary repairs to the vehicle. The law requires that parts be of like kind and quality to original manufacturer parts. The law requires insurers to pay the fair and reasonable price generally charged by repair facilities. Under the law an insured can have his vehicle repaired wherever he or she chooses. If the insurance company appraiser and the repair facility disagree as to the cost of repairs the law provides that the insurer is required to pay the cost of repairs available from any other recognized, competent and conveniently located independent repair shop willing and able to do the repair. Also, if the insured and insurance company disagree about covered repairs or the cost of repair, the insured has the right to arbitration, a process in which the insured and insurer each pick one expert and if they disagree the two pick a third to decide the matter.

As proof that the current system works, consider that there are virtually no complaints from insureds and that New Hampshire enjoys a very competitive market and has the ninth lowest auto insurance costs in the country.

This bill would interfere with the relations between insurance appraisers and repairers. The overwhelming testimony on this bill last year—from the insurance department as well as automobile insurance companies—is that the bill would limit competition and significantly increase the costs of insurance.

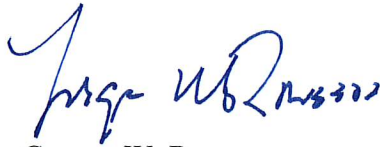
Although some bill supporters have dressed up the issue claiming that the bill relates to automobile safety, this bill is about economics. The suggestion that vehicles are not being repaired safely is not supported by fact. As the insurance department has stated, "the department has yet to find any licensed New Hampshire insurance company that has failed to pay for a safe or necessary repair." (Written testimony, January 28, 2020). Consider that a major part of the bill, and one of the most expensive, relates to paint, clearly unrelated to any issue of safety.

It may be understandable that the proponents of this bill complain that they are not paid enough for the repairs they perform, but we do not believe that is a sufficient reason for the legislature to enact laws that interfere with the relationships between repairers and insurers.

No state has adopted a law interfering with repairer-insurer relationships to the extent HB 310 would do.

We ask you to find this bill inexpedient to legislate.

Sincerely,

A handwritten signature in blue ink, appearing to read "George W. Roussos".

George W. Roussos

GWR/eac

**Archived:** Tuesday, April 13, 2021 2:04:07 PM  
**From:** Tom Tucker  
**Sent:** Wednesday, February 10, 2021 10:10:41 AM  
**To:** ~House Commerce Committee  
**Subject:** Oppose HB 310 Vehicle Repair  
**Importance:** Normal  
**Attachments:**  
NH H310 Vehicle Repairs.docx ;

---

Chairman Hunt and Members of the Committee:

The Auto Care Association is a national trade association comprised of more than 3000 member companies and affiliates that manufacture, distribute and sell motor vehicle parts, accessories, services, tools, equipment, materials and supplies. IN short, we represent the entire supply chain of the automotive industry.

On behalf of the industry, we are writing to express our concern and opposition to HB 310 Vehicle Repair. This bill establishes a rebuttable presumption that manufacturer recommendations for scans, and calibrations are necessary for vehicle safety and that repairers should follow manufacturers recommendations to restore vehicles to its pre-loss condition.

Since there is not a documented procedure for every repair, our concern is this bill would allow vehicle manufacturers to make changes in the OEM repair procedures to require the use of OEM parts for all repairs. This would change the competitive balance in the repair industry. Not only would this legislation create higher priced repair costs for consumers but would also threaten an industry that generates \$381B in annual sales and employs 4.6 million people across the country while contributing 2% to GDP. The aftermarket industry also contributes highly to New Hampshire's jobs market as well as business and commerce. Nearly 14,000 jobs, representing \$2.1B in economic activity and \$950M in wages from more than 4600 business outlets such as manufacturers, wholesale, retail and service will be affected in the state. Aftermarket retailers and automotive recyclers provide residents with affordable options for maintaining and repairing their vehicles.

Additionally, there is no body of research, individual study or any data to support the implication that aftermarket parts are inferior to OE parts. In fact, they are often produced by the same company that produced the original equipment (OE) part but may come in a different box. The only difference is the OE part often costs more than the non-OE branded equivalent, meaning increased repair and insurance costs for consumers. Further, since aftermarket companies have the opportunity to observe the OE part in use, our members often are able to correct problems with the component that were discovered after the vehicle was on the road. Such actions translates' into the ability of aftermarket parts to provide motorist with improved vehicle reliability and safety.

We respectfully urge you to VOTE NO on HB 310 as the unintended consequences for consumers and the negative impact to New Hampshire business would do far more harm than good.

Please do not hesitate to contact me if you have any questions and I can be reached at (240) 856-9846.

Sincerely,

Tom Tucker  
Director, State Government Affairs

**TOM TUCKER**  
Senior Director, State Affairs

Auto Care Association  
7101 Wisconsin Ave., Suite 1300  
Bethesda, MD 20814  
Desk: 240-333-1042  
tom.tucker@autocare.org  
www.autocare.org



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**Archived:** Tuesday, April 13, 2021 2:04:07 PM  
**From:** [Andreas Heiss](#)  
**Sent:** Wednesday, February 10, 2021 9:50:15 AM  
**To:** ~[House Commerce Committee](#)  
**Subject:** LKQ Corporation Opposes HB 310  
**Importance:** Normal  
**Attachments:**  
LKQ Opposes NH HB 310 (Hunt).pdf ;

---

Please see attached testimony in opposition to HB 310 which is scheduled to be heard 2/10/21 at 2:00.  
Thank you.

-Andreas

Andreas Heiss  
Government Affairs Manager - Northeast Region  
LKQ Corporation  
M: (305) 720-1877



**Archived:** Tuesday, April 13, 2021 2:04:07 PM

**From:** [Rory Whelan](#)

**Sent:** Tuesday, February 9, 2021 9:18:47 PM

**To:** ~House Commerce Committee

**Subject:** NAMIC OPPOSITION -- HB 310

**Importance:** Normal

**Attachments:**

[NH HB310 RPW.docx](#) 

---

Dear Honorable Chair Hunt & Members of the House Commerce and Consumer Affairs Committee,

On behalf of the National Association of Mutual Insurance Companies (NAMIC), I respectfully submit the attached memorandum in opposition to HB 310 and kindly request your consideration.

Thank you.

**Rory Whelan**

Regional Vice President - Northeast

M: 518.312.9287



3601 Vincennes Road | Indianapolis, Indiana 46268  
317.875.5250 | [www.namic.org](http://www.namic.org)

**Archived:** Tuesday, April 13, 2021 2:04:07 PM  
**From:** [Wayne Weikel](#)  
**Sent:** Tuesday, February 9, 2021 5:03:04 PM  
**To:** [~House Commerce Committee](#)  
**Cc:** [Marc Brown](#)  
**Subject:** HB 310 - Alliance for Automotive Innovation Testimony  
**Importance:** Normal  
**Attachments:**  
NH - HB 310 - OEM Repair Procedures - Final Testimony.pdf ;

---

Good afternoon,

Regrettably, I will not be able to participate in tomorrow's committee hearing on House Bill 310. In lieu of participating live, I have provided the attached written testimony for the Committee's consideration.

Please do not hesitate to contact me should I be able to provide any additional information. Thank you.

Regards,

Wayne

**Wayne Weikel**  
Senior Director  
O: 202.326.5550 C: 617.877.7941  
**Alliance for Automotive Innovation**  
1050 K Street, NW - Suite 650, Washington, DC 20001  
[autosinnovate.org](http://autosinnovate.org) - [twitter](#) - [linkedin](#)



**Archived:** Tuesday, April 13, 2021 2:04:07 PM  
**From:** Cole, Ellen A.  
**Sent:** Tuesday, February 9, 2021 4:49:14 PM  
**To:** ~House Commerce Committee  
**Cc:** Roussos, George W.; Nadeau, Lindsay E.; Bresson, Kirsten  
**Subject:** Opposition to HB 310 - vehicle repairs [IWOV-iManage.FID494056]  
**Importance:** Normal  
**Attachments:**  
HB 310.PDF ;

---

Dear Chairman Hunt and Members of the House Commerce and Consumer Affairs Committee:

Attached please find testimony from Attorney George Roussos on behalf of the New Hampshire Association of Domestic Insurance Companies (NHADIC) and American Property Casualty Insurance Association (APCIA) in opposition to House Bill 310, relative to vehicle repairs, which is scheduled for a public hearing tomorrow, February 10th.

Thank you,  
Ellen

**Ellen A. Cole**  
*Legal Assistant*

**Orr&Reno**

**Sustained Excellence for over 70 years.**

45 South Main Street, P.O. Box 3550  
Concord, NH 03302-3550  
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**Archived:** Tuesday, April 13, 2021 2:04:07 PM  
**From:** [Sandy Blalock](#)  
**Sent:** Tuesday, February 9, 2021 3:10:00 PM  
**To:** ~House Commerce Committee  
**Subject:** NH HB310  
**Importance:** Normal  
**Attachments:**  
ARA Letter - NH HB310.docx ;

---

Attached please find my comments regarding HB 310. I will be present to present testimony against this bill as presently written.

***Sandy Blalock, Executive Director***  
***Automotive Recyclers Association (ARA)***  
***9113 Church Street***  
***Manassas, VA 20110***  
***571-208-0428 Ext. 3***  
***505-228-0401 - cell***  
***[sandy@a-r-a.org](mailto:sandy@a-r-a.org)***



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**Archived:** Tuesday, April 13, 2021 2:04:07 PM

**From:** Nadeau, Lindsay E.

**Sent:** Tuesday, February 9, 2021 3:04:18 PM

**To:** ~House Commerce Committee

**Cc:** Roussos, George W.

**Subject:** Opposition to HB 310 - vehicle repairs [IWOV-iManage.FID494244]

**Importance:** Normal

**Attachments:**

NH - APCIA Testimony on HB 310 - auto repair to House Commerce hearing 2-10-21.PDF ;

---

Dear Chairman Hunt and Members of the House Commerce and Consumer Affairs Committee:

Enclosed please find testimony from our client, the American Property Casualty Insurance Association (APCIA) in opposition to House Bill 310, relative to vehicle repairs, which is scheduled for a public hearing tomorrow, February 10<sup>th</sup>.

Please do not hesitate to contact us if you have any questions. Thank you.

Sincerely,  
Lindsay

**Lindsay E. Nadeau**

*Admitted in NH and MA*

**Orr&Reno**

**Sustained Excellence for over 70 years.**

45 South Main Street, P.O. Box 3550

Concord, NH 03302-3550

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Fax: 603.223.9094

[www.orr-reno.com](http://www.orr-reno.com)

**Archived:** Tuesday, April 13, 2021 2:04:07 PM

**From:** [Jessica Andrews](#)

**Sent:** Monday, February 8, 2021 1:47:30 PM

**To:** ~[House Commerce Committee](#)

**Subject:** Letter of Opposition from Automotive Recyclers Association re: House Bill 310

**Importance:** Normal

**Attachments:**

[ARA Letter - NH HB310.pdf](#) 

---

Dear Chairman Hunt and Members of the Committee:

The Automotive Recyclers Association (ARA) represents the interests of over 4,500 professional automotive recyclers across the United States and in 17 countries internationally. ARA is dedicated to the efficient removal and reutilization of genuine original equipment manufacturer (OEM) automotive parts. ARA is concerned that the language contained in House Bill 310, scheduled to come before your Committee this week, would have anti-competitive consequences for consumers, professional automotive recyclers, and independent collision repair professionals in New Hampshire and elsewhere.

This legislation would establish a rebuttable presumption that manufacturer recommendations for scans and calibrations are necessary for vehicle repair. ARA is concerned that the reference to "manufacturer recommendations" and its definition referencing other subjective documentation from the automotive manufacturer is an attempt by the manufacturers to push recycled OEM, aftermarket and other replacement parts out of the market. Please find our comment letter attached.

Thank you for your consideration.  
Jessica

**Jessica Andrews**

Senior Director of Association Operations  
Director of State Government and Grassroots Affairs  
Automotive Recyclers Association  
9113 Church Street  
Manassas, VA 20110-5456  
Ph: 571-208-0428  
Fx: 571-208-0430  
[www.a-r-a.org](http://www.a-r-a.org)

**Archived:** Tuesday, April 13, 2021 2:04:07 PM  
**From:** bruce crawford  
**Sent:** Tuesday, February 9, 2021 4:22:21 PM  
**To:** ~House Commerce Committee  
**Subject:** HB 310  
**Importance:** Normal

---

Dear Chairman Hunt and Members of the Committee,

The Auto and Truck Recyclers Association of New Hampshire membership is composed primarily of small NH based businesses engaged in environmentally friendly recycling of end of life vehicles. In order to sustain the expense of properly preparing these vehicles for recycling, which requires all hazardous materials must be removed from them and recycled or properly disposed of, the income from the sale of recycled parts is necessary. Again, the price of scrap metal does not provide sufficient income to meet these requirements and we must be allowed a market for the recycled parts harvested from these vehicles.

We are opposed to HB 310 in its present form. We do not begrudge the independent auto body and other auto repair shops their right to be compensated for all necessary work required to restore a damaged vehicle to pre event condition, but we strongly object to the lack of language protecting the auto recyclers ability to sell recycled parts and the independent auto repairers ability to make repairs.

Without exception, the auto manufacturers are attempting to monopolize the sale of parts by requiring only new original equipment manufacturers' (OEM) parts, purchased from their franchised dealers, be used for any and all repairs. I would like to remind everyone a recycled auto part is an OEM part.

The auto manufacturers are also attempting to monopolize and steer all repairs to their authorized dealers by requiring specific scanners and tools, most of which are financially out of reach by independent shops, be used. Aftermarket scanners and tools are very dependable and accurate, will service multiple makes and are much more affordable. .

The concepts found in HB 310 have come a long way since its inception several years ago, but it still needs further work to satisfy the issues raised by the insurance companies, the NH Insurance Department, the independent auto repairers, and the Auto and Truck Recyclers Association of NH members.

We urge you to hold this bill for further work.

Thank you

Bruce Crawford

--

Bruce Crawford  
603-796-6241  
Executive Director  
Auto and Truck Recyclers Association of New Hampshire

**Archived:** Tuesday, April 13, 2021 2:02:03 PM

**From:** [Rory Whelan](#)

**Sent:** Tuesday, February 9, 2021 9:18:47 PM

**To:** ~House Commerce Committee

**Subject:** NAMIC OPPOSITION -- HB 310

**Importance:** Normal

**Attachments:**

[NH HB310 RPW.docx](#) 

---

Dear Honorable Chair Hunt & Members of the House Commerce and Consumer Affairs Committee,

On behalf of the National Association of Mutual Insurance Companies (NAMIC), I respectfully submit the attached memorandum in opposition to HB 310 and kindly request your consideration.

Thank you.

**Rory Whelan**

Regional Vice President - Northeast

M: 518.312.9287



3601 Vincennes Road | Indianapolis, Indiana 46268  
317.875.5250 | [www.namic.org](http://www.namic.org)

**Archived:** Tuesday, April 13, 2021 2:02:03 PM  
**From:** [Sandy Blalock](#)  
**Sent:** Tuesday, February 9, 2021 3:10:00 PM  
**To:** ~House Commerce Committee  
**Subject:** NH HB310  
**Importance:** Normal  
**Attachments:**  
ARA Letter - NH HB310.docx ;

---

Attached please find my comments regarding HB 310. I will be present to present testimony against this bill as presently written.

***Sandy Blalock, Executive Director***  
***Automotive Recyclers Association (ARA)***  
***9113 Church Street***  
***Manassas, VA 20110***  
***571-208-0428 Ext. 3***  
***505-228-0401 - cell***  
***[sandy@a-r-a.org](mailto:sandy@a-r-a.org)***



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**Archived:** Tuesday, April 13, 2021 2:02:03 PM

**From:** [Jessica Andrews](#)

**Sent:** Monday, February 8, 2021 1:47:30 PM

**To:** ~House Commerce Committee

**Subject:** Letter of Opposition from Automotive Recyclers Association re: House Bill 310

**Importance:** Normal

**Attachments:**

[ARA Letter - NH HB310.pdf](#) 

---

Dear Chairman Hunt and Members of the Committee:

The Automotive Recyclers Association (ARA) represents the interests of over 4,500 professional automotive recyclers across the United States and in 17 countries internationally. ARA is dedicated to the efficient removal and reutilization of genuine original equipment manufacturer (OEM) automotive parts. ARA is concerned that the language contained in House Bill 310, scheduled to come before your Committee this week, would have anti-competitive consequences for consumers, professional automotive recyclers, and independent collision repair professionals in New Hampshire and elsewhere.

This legislation would establish a rebuttable presumption that manufacturer recommendations for scans and calibrations are necessary for vehicle repair. ARA is concerned that the reference to "manufacturer recommendations" and its definition referencing other subjective documentation from the automotive manufacturer is an attempt by the manufacturers to push recycled OEM, aftermarket and other replacement parts out of the market. Please find our comment letter attached.

Thank you for your consideration.  
Jessica

**Jessica Andrews**

Senior Director of Association Operations  
Director of State Government and Grassroots Affairs  
Automotive Recyclers Association  
9113 Church Street  
Manassas, VA 20110-5456  
Ph: 571-208-0428  
Fx: 571-208-0430  
[www.a-r-a.org](http://www.a-r-a.org)



February 10, 2021

Honorable John Hunt  
Commerce and Consumer Affairs Committee  
Legislative Office Building, Room 302  
Concord, NH 03301-4951

## **RE: HB 310, An Act Relative to Vehicle Repair Standards**

Dear Chairman Hunt:

As the Government Affairs Manager for LKQ Corporation in the Northeast I respectfully ask you to **oppose and vote NO on HB 310** which is set to be heard before the House Committee on Commerce and Consumer Affairs on February 10, 2021. The issues in HB 310 have been and continue to be controversial for those involved in the vehicle repair industry. While on its face the bill seems to address vehicle repair procedures as they relate to scanning and calibrations of Advanced driver-assistance systems (ADAS), the use of the term “manufacturer recommendations” inevitably limits innovation, competition and impacts the type of parts that are used to repair vehicles.

With the creation of Elitek Vehicle Services, LKQ is now the largest U.S. provider of mobile, on-site calibrations, diagnostics and programming vehicle services for fleets and auto repairers. LKQ fully supports restoring, repairing and calibrating ADAS systems to proper working order. As a matter of public safety, policy makers should encourage technicians, insurers and vehicle owners to maintain the safety systems on their vehicles by following industry best practices for repair. LKQ supports the ongoing development of professional certifications from Automotive Service Excellence, the primarily accreditation body of professional technicians in North America.

While ADAS is complex, the underlying challenge is not technical in nature. Rather automakers, through mystification and often via monopolistic business practices, create barriers to servicing and repairing their own products. By mandating that repairers in insurance based repairs follow manufacturer recommendations for scanning and calibration, you would be limiting many modern more efficient methods to scan and calibrate vehicles. The recommendations by the Original Equipment Manufacturer (OEM) are often out of date and not revised as newer technologies are created.

In addition, having to follow manufacturer recommendations will often force customers to get their cars repaired at the OEM repair shop rather than the independent repairer. These shops only use new OEM parts meaning that alternative parts are left out of the loop. Recycled and aftermarket parts, often provide consumers the benefit of better warranties, better prices and better availability. Limiting their use creates an unlevel playing field against the alternative parts



industry in favor of the car manufacturers who without competition are free to charge more for their parts making repairs more costly. More costly repairs will likely lead to higher insurance premiums for New Hampshire consumers

LKQ Corporation, an S&P 500 company, is a leading provider of alternative and specialty parts to repair and accessorize automobiles and other vehicles. We offer our customers a broad range of replacement systems, components, equipment, parts and services to repair, calibrate, and accessorize automobiles, trucks, and recreational and performance vehicles. We employ 20,000 people nationwide and operates more than 460 facilities in more than 44 states. LKQ has 27 employees in New Hampshire at facilities located in Londonderry and Manchester, and pays taxes on payroll of more than \$1.2 Million.

As Chairman of the House Committee on Commerce and Consumer Affairs, I hope you will recognize the problems HB 310 creates and the detriments it poses to the independent repair and alternative parts industry and to consumers in New Hampshire. While we agree that a quality repair is paramount for the safety of the driver and passengers when repairing a vehicle, we believe that blindly following OEM recommendations stifles innovation and competition in the auto repair industry. On behalf of LKQ Corporation I ask you to **oppose and vote NO on HB 310**.

Please do not hesitate to contact me if you have any questions. I can be reached at (305) 720-1877.

Respectfully,

A handwritten signature in black ink, appearing to read 'Andreas Heiss', written in a cursive style.

Andreas Heiss  
Government Affairs Representative  
LKQ Corporation

Cc: Henry Veilleux



February 10, 2021

Hon. John Hunt, Chair  
House Committee on Commerce and Consumer Affairs  
LOB Room 302  
New Hampshire State Capitol  
107 North Main Street  
Concord, NH 03301

**RE: Support HB 310 – An Act Relative to Safe Vehicle Repairs**

Dear Chairman Hunt:

On behalf of the Alliance for Automotive Innovation, I am writing to you today to express our strong support for House Bill 310, legislation designed to protect consumers from substandard collision repairs that could jeopardize passenger safety. Formed in 2020, the Alliance for Automotive Innovation is the singular, authoritative, and respected voice of the automotive industry. Focused on creating a safe and transformative path for sustainable industry growth, the Alliance for Automotive Innovation represents automakers producing nearly 99 percent of cars and light trucks sold in the U.S., original equipment suppliers, as well as other automotive technology companies.

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.

In order to fix the cars of today (and tomorrow), one needs the 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 appropriately 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, *Seebach 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. When 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 4<sup>th</sup> 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. In effect, collision shops are forced to decide between making a proper repair and receiving proper payment for their work.

This is not right. 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, is not what consumers expect or deserve when they buy insurance policies.

There are countless interwoven policy issues in and around the post-accident, insurance-funded repair of vehicles - from the labor rates paid by insurers, to use of non-OEM parts; from the market distortions created by DRP programs, to rental and storage rate abuses. It is frequently hard with these issues to identify one discrete problem to address, and apply a suitable solution, as there are often compelling arguments on each side. That is not the case here.

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.

I am aware that some who have a vested financial interest in seeing more knock-off aftermarket parts placed on a consumer's vehicle have asserted that these repair procedures are only a means for automakers to sell more genuine, quality parts. Essentially their argument asserts that, were a law to pass that stated OEM repair procedures had to be followed, and then OEM repair procedures said only OEM parts could be used, by default a repairer would be prohibited from using an aftermarket part in an insurance-funded repair.

It is true that Auto Innovators' members believe all consumers would be best served by using OEM parts on their vehicle. These are the parts designed and tested in the same manner as the original parts on the vehicle. But that is not the issue we argue on this bill. Rather, this legislation is about safety and the 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 – as offered in previous sessions, 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 RSA 407.

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, our association and its members implore you to consider moving HB 310 favorably, and prohibiting 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.

Finally, I have to take this opportunity to address arguments raised in previous years by the insurance industry, asserting that the passage of such legislation would yield higher insurance rates. In pressing this argument, they seem to misunderstand the point that they are making our argument for us, not presenting a valid counterargument. If repair costs go up subsequent to the passage of a bill requiring proper and safe repairs to be conducted, that serves to prove that proper and safe repairs were not always being conducted prior to the passage of the bill. Simply put, there would be no change in repair costs if proper and safe repairs were already being performed.

For years, the insurance industry has tried to play both sides of the safety issue. Insurers fund the Insurance Institute for Highway Safety (IIHS), which is famous for crash testing vehicles and grading each model's performance. The IIHS dangles the possibility of a higher grade on crash performance as an inducement for automakers to build ever safer vehicles. The auto industry has responded by developing advanced vehicle safety systems, such as emergency braking, blind-spot monitoring, and lane monitoring. These systems run on high-tech sensors that monitor the world around a vehicle to help avoid a crash. As a result, when these vehicles are eventually in an accident, even if it is a less frequent occurrence, there are more components to replace and calibrate than were found in a vehicle of just a decade ago. Insurers seemingly ignore this reality and lament year-over-year increases in the average cost of a repair. They cannot have it both ways.

Thank you in advance for your consideration of our views. Auto Innovators 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 [wweikel@autoalliance.org](mailto:wweikel@autoalliance.org).

Respectfully submitted,



Wayne Weikel  
Senior Director, State Government Affairs

## **Alliance of Automobile Manufacturers**

### **Suggested amendment to House Bill 310**

Amending Section 1 (b) 3 to read as follows:

(3) If a calibration was not performed or not completed successfully, inform the consumer electronically or in writing that the vehicle should be taken to a vehicle manufacturer's certified dealership, a qualified automobile glass company, repair facility, or other qualified repairer capable of performing the calibration of an advanced driver assistance system that meets or exceeds the manufacturer's recommendations or specifications.

Inserting after Section 1 (e), the following new clause:

(f) Notwithstanding any statements or recommendations contained in an 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 RSA 407-D:3-a, or succeeding statute.

February 9, 2021

Honorable John Hunt  
Chairman, House Commerce and Consumer Affairs  
107 North Main Street  
Concord, NH 03301

Chairman Hunt:

The Auto Care Association is a national trade association comprised of more than 3000 member companies and affiliates that manufacturer, distribute and sell motor vehicle parts, accessories, services, tools, equipment, materials and supplies. IN short, we represent the entire supply chain of the automotive industry.

On behalf of the industry, we are writing to express our concern and opposition to HB 310 Vehicle Repair. This bill establishes a rebuttable presumption that manufacturer recommendations for scans, and calibrations are necessary for vehicle safety and that repairers should follow manufacturers recommendations to restore vehicles to its pre-loss condition.

Since there is not a documented procedure for every repair, our concern is this bill would allow vehicle manufacturers to make changes in the OEM repair procedures to require the use of OEM parts for all repairs. This would change the competitive balance in the repair industry. Not only would this legislation create higher priced repair costs for consumers but would also threaten an industry that generates \$381B in annual sales and employs 4.6 million people across the country while contributing 2% to GDP. The aftermarket industry also contributes highly to New Hampshire's jobs market as well as business and commerce. **Nearly 14,000 jobs, representing \$2.1B in economic activity and \$950M in wages from more than 4600 business outlets such as manufacturers, wholesale, retail and service will be affected in the state.** Aftermarket retailers and automotive recyclers provide residents with affordable options for maintaining and repairing their vehicles.

Additionally, there is no body of research, individual study or any data to support the implication that aftermarket parts are inferior to OE parts. In fact, they are often produced by the same company that produced the original equipment (OE) part but may come in a different box. The only difference is the OE part often costs more than the non-OE branded equivalent, meaning increased repair and insurance costs for consumers. Further, since aftermarket companies have the opportunity to observe the OE part in use, our members often are able to correct problems with the component that were discovered after the vehicle was on the road. Such actions translates' into the ability of aftermarket parts to provide motorist with improved vehicle reliability and safety.

We respectfully urge you to **VOTE NO on HB 310** as the unintended consequences for consumers and the negative impact to New Hampshire business would do far more harm than good.

Please do not hesitate to contact me if you have any questions and I can be reached at (240) 856-9846.

Sincerely,

Tom Tucker  
Director, State Government Affairs

**HB 310**

*Auto Repair Mandates Legislation*

**STATEMENT OF OPPOSITION**

*To the New Hampshire House Commerce and Consumer Affairs Committee*

February 10, 2021 Public Hearing

The National Association of Mutual Insurance Companies (NAMIC)<sup>1</sup> and its members, thank you for the opportunity to express strong opposition to House Bill 310 and urge you find the bill inexpedient to Legislate.

This legislation will result in undue burdens on New Hampshire's motorists and economy, including:

- **Increased costs to consumers** --- Higher claim costs resulting from coverage mandates (and/or inflated repair dollars) will ultimately be borne by New Hampshire motorists well beyond this time of economic uncertainty resulting from COVID-19. Insurers are required by law to charge rates that are adequate to cover expected payouts to claimants. Limiting insurers' ability to perform necessary and reasonable cost utilization will lead to higher premiums and facilitate opportunities for fraud. Additional disruption, delay, and possible costs may be added to the system given possible litigation over the terminology and/or approach contained in this bill.
- **Limiting competition** --- By further extending the auto body repair laws to prohibit repairs that deviate from the procedures, instructions, etc. issued by a "manufacturer," consumers will be left with fewer choices and less control.
- **More totaled cars** --- this inflexible enforcement mechanism may lead more vehicles, especially older ones, to be totaled because manufacturer's procedures for that vehicle may be outdated or simply too expensive. When vehicles with minimal or cosmetic damage are deemed total losses, there is an increase in economic, energy, and resource waste. In that case, a total loss situation will also cause extra hardship on many consumers who are forced to deal with the expenses related to an unwarranted car replacement they did not anticipate.
- **Delays in getting vehicles back to drivers** --- The definition of "manufacturer procedures" references several different kinds of manufacturer communications ranging in formality, including "manufacturer's written procedures, specifications, tolerances, and other technical requirements or instructions with respect to repairs." The bill assumes that the operations involved always are included in the manufacturer procedures and that they are outlined accurately in such materials – this is not always the case. Moreover, manufacturers' repair procedures may change over time, especially in the case of recalls. This lack of certainty will lead to delays.

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<sup>1</sup> The National Association of Mutual Insurance Companies is the largest property/casualty insurance trade group with a diverse membership of more than 1,400 local, regional, and national member companies, including seven of the top 10 property/casualty insurers in the United States. NAMIC members lead the personal lines sector representing 66 percent of the homeowner's insurance market and 53 percent of the auto market.





- **Consumer confusion** --- The bill does not contemplate some of the acceptable and appropriate kinds of adjustments or disputes that may occur in the claim and negotiation process. For example, the insurer may not be obligated to pay for the repairs for the simple reason that its insured is not responsible or liable for the accident and the resulting vehicle damage or that some of the vehicle damage for which repairs are being sought pre-existed the accident. With respect to paint and materials, it puts the matter of determining whether to accept third-party guidelines with the repairer (who may choose to limit those it uses). Also, the bill does not require that such guidelines be published, leaving room for significant confusion.
- **Creates an unlevel playing field** --- For example, consider the lack of a just mechanism to resolve disputes. Rather, by placing its language under Title XXXVII, section 417:4, (2) the bill appears to make any resistance by an insurer to the actions of a repairer (a third-party business that is not a party to the contract of insurance) an unfair insurance practice. Such expansion and designation are significant changes we believe merit careful consideration. To create a strict unfair practice when payment is not made to a claimant or repairer to the extent the vehicle is repaired in conformance with applicable manufactures procedures (3) ignores the fact that there may be valid reasons to withhold payment. It does not seem conducive to a healthy business climate to allow one party to seek a regulatory option against another to force payment. Moreover, there does not appear to be a reasonable way for an insurer to question determinations made by repairers without risking a regulatory penalty. This legislation ignores the various types of factors that should go into an assessment of whether repair costs as stated by the repair garage are reasonable. In addition to parts, a review of labor/time and approach provide useful check on the system. These appropriate negotiation items seem to be missing here. If the repair was done in accordance with some manufacturer procedure, the bill seems to foreclose the possibility of an insurer challenging a bill as excessive, regardless of whether it is justified. The implication may be that demanded amounts simply must be paid. Again, ultimately New Hampshire consumers will bear the burden of these unnecessary, inflated costs.

For these reasons, NAMIC and its member companies ask that you consider the potential adverse impact this bill could have on motorists and the auto insurance market in New Hampshire and reject this legislation. Thank you for your consideration.

\* \* \* \* \*

Respectfully Submitted,  
Rory Whelan  
Regional Vice President, Northeast  
National Association of Mutual Insurance Companies

Bill as  
Introduced

HB 310 - AS INTRODUCED

2021 SESSION

21-0436

11/08

HOUSE BILL           **310**

AN ACT               relative to vehicle repairs.

SPONSORS:         Rep. Weyler, Rock. 13; Rep. Steven Smith, Sull. 11; Rep. Stapleton, Sull. 5

COMMITTEE:       Commerce and Consumer Affairs

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ANALYSIS

This bill establishes a rebuttable presumption that manufacturer recommendations for scans and calibrations are necessary for vehicle safety and for restoration of a vehicle to its pre-loss condition, and makes it an unfair insurance practice for an insurance company, agent, or adjuster to knowingly fail to pay a claim to the claimant or repairer to the extent the claimant's vehicle is repaired in conformance with applicable manufacturer's recommendations or specifications.

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Explanation:       Matter added to current law appears in ***bold italics***.  
Matter removed from current law appears ~~[in brackets and struckthrough.]~~  
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Twenty One*

AN ACT relative to vehicle repairs.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1 1 New Paragraph; Unfair Insurance Practices; Vehicle Repair Standards. Amend RSA 417:4 by  
2 inserting after paragraph XXIII the following new paragraph:

3 XXIV. Vehicle Scans, Calibrations, and Painting.

4 (a) There shall be a rebuttable presumption that manufacturer recommendations for  
5 scans and calibrations are necessary for vehicle safety and for restoration of a vehicle to its pre-loss  
6 condition. No insurance company, agent, or adjuster shall knowingly fail to pay a claim to the  
7 claimant unless such presumption has been rebutted by evidence that the scan and calibration are  
8 not necessary for vehicle safety and to restore a vehicle to its pre-loss condition.

9 (b) If the vehicle is equipped with an advanced driver assistance system, an automotive  
10 glass company, repair facility, or insurer informing, approving, or conducting glass repair or  
11 replacement shall:

12 (1) Prior to approving or performing glass repair or replacement, inform the  
13 consumer if a calibration of that system is required and if such calibration will be performed;

14 (2) If performing such calibration, meet or exceed the manufacturer's  
15 recommendations or specifications; and

16 (3) If a calibration was not performed or not completed successfully, inform the  
17 consumer that the vehicle should be taken to a vehicle manufacturer's certified dealership, a  
18 qualified automobile glass company, repair facility, or other qualified repairer capable of performing  
19 the calibration of an advanced driver assistance system that meets or exceeds the manufacturer's  
20 recommendations or specifications.

21 (c) If the vehicle is equipped with an advanced driver assistance system, an automotive  
22 glass company, repair facility, or insurer informing, approving, or conducting a scan or calibration  
23 for motor vehicle repairs or replacement:

24 (1) Shall not be limited to tooling or equipment dictated or recommended by the  
25 manufacturer's recommendations for scans and calibrations.

26 (2) Shall calibrate an advanced driver assistance system meeting or exceeding the  
27 manufacturer's recommendations for scans and calibrations.

28 (d) If a repairer does not accept a paint and materials estimate proposed by an insurer,  
29 there shall be a rebuttable presumption that estimates based upon independent third party paint  
30 and material guidelines used by the repairer are necessary to restore a vehicle to its pre-loss  
31 condition. No insurance company, agent, or adjuster shall knowingly fail to pay a claim to the

1 claimant unless this presumption has been rebutted by evidence that the paint and material  
2 estimate is not necessary to restore a vehicle to its pre-loss condition.

3 (e) In this paragraph, “manufacturer's recommendations for scans and calibrations”  
4 means a manufacturer's written procedures, specifications, tolerances, and other technical  
5 requirements or instructions with respect to scans and calibrations.

6 2 Effective Date. This act shall take effect 60 days after its passage.