

**Motor & Equipment Manufacturers Association**

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June 2, 2016

The Honorable Rick Snyder  
Governor, State of Michigan  
State Capitol  
P.O. Box 30013  
Lansing, Michigan 48909

RE: Opposition to House Bill 4344

Dear Governor Snyder:

On behalf of the more than 1,000 members of the Motor & Equipment Manufacturers Association, I am writing to express our opposition to House Bill 4344, and respectfully request your veto of this legislation when it reaches your desk.

We believe the current language in the bill discourages the use of Aftermarket and Remanufactured parts in maintaining and repairing vehicles, and if signed into law would have serious consequences on our industry and consumer's ability to have choices with respect to how to have their vehicles repaired and maintained.

In addition, the bill sets a bad precedent and is inconsistent with consumer protections in the Magnuson-Moss Act of 1975. Specifically, section 7B (C) of the bill, would make it illegal to "fail to honor a warranty on a new part by replacing it with a used part or replacing it with a rebuilt or remanufactured part that does not meet original equipment quality, standards, or specifications, or that does not comply with the warranty repair requirements of the warrantor." This section appears to apply to all repairs, including non-warranty related, and would favor Original Equipment (OE) parts, harming suppliers of non-OE parts whose products are of equal or better quality than original parts. This would also cause a dramatic increase in the cost of repairs to consumers, as the cost of OE replacement parts are significantly higher in price than those aftermarket replacement parts. As such, it would also give Original Equipment Manufacturers (OEMs) a reason to argue that non-OEM parts should not be used for maintenance purposes.

The Magnuson-Moss Act was passed in 1975, and reflects language to make sure that vehicle manufacturers did not use their warranties (whether required by law or not) to undermine competition in the marketplace. The language provides that "no warrantor of a consumer product may condition his written or implied warranty of such product on the consumer's using, in connection with such product, any article or service (other than an article or service provided without charge under terms of the warranty) which is identified by brand, trade, or corporate name...." This language is specifically designed to permit independent parts manufacturers to sell in the aftermarket without the vehicle owner risking the loss of his warranty rights. It has



been strongly enforced by the Federal Trade Commission to make sure that warranties cannot be voided because of the use of aftermarket parts, and to preclude restrictions on the consumer using such parts.

Furthermore, there is no mandatory third party certification requirement for those aftermarket parts. Neither the Environmental Protection Agency (EPA) nor the National Highway Traffic Safety Administration (NHTSA) require third party part certification. Existing federal policy is that the component manufacturer self-certifies that the aftermarket part will not cause the vehicle to violate safety standards, or to have a safety defect, or to have cause the vehicle to exceed emissions standards. The language in section 7G of MI House Bill 4344 undermines the concept that there should be free competition in the aftermarket, starting on the day of the sale of the vehicle, unless the original vehicle manufacturer is going to provide the part free of charge. Moreover, the third party certification process contemplated in subsection (C) undermines the self-certification concept that has been instrumental in the federal safety and emissions regulations of automotive parts. Consequently, this section does not appear to accomplish any significant Michigan public policy, but does undermine Michigan's interest in promoting free competition in the automotive aftermarket. There is no evident benefit to compensate for this loss of public policy support for freedom of competition.

The Federal Trade Commission (FTC) has intervened in State proceedings on several occasions in order to implement the pro-competitive, pro-aftermarket provisions of the Magnuson-Moss Act. We recommend that your office confer with the FTC, as well as the Michigan Trade Commission and Michigan Attorney General to obtain their input on the anticompetitive impact of the legislation.

## **About MEMA**

The Motor & Equipment Manufacturers Association (MEMA) represents vehicle suppliers that manufacture and remanufacture components and systems for use in passenger cars and heavy trucks providing original equipment (OE) to new vehicles as well as aftermarket parts to service, maintain and repair over 256 million vehicles on the road today. Suppliers are the largest employers of manufacturing jobs in the U.S. directly employing over 734,000 Americans with a total employment impact of 3.6 million jobs, and over 102,000 in the state of Michigan. A list of our members with facilities in Michigan is attached to this letter.

Our members lead the way in developing advanced, transformative technologies that enable safer, smarter and more efficient vehicles, all within a rapidly growing global marketplace with increased regulatory and customer demands. Ultimately, about two-thirds of the value of today's vehicles come from suppliers. MEMA represents vehicle suppliers through the following four divisions: Automotive Aftermarket Suppliers Association (AASA), Heavy Duty Manufacturers Association (HDMA), Motor & Equipment Remanufacturers Association (MERA) and Original Equipment Suppliers Association (OESA).

## Aftermarket and Remanufacturing Industries

The U.S. automotive light vehicle aftermarket is a \$246.7 billion industry that includes manufacturing, remanufacturing, distribution, retailing, and installation of all vehicle parts, chemicals, tools, equipment, and accessories. Most automotive aftermarket maintenance and repair work takes place in independent repair shops or at vehicle manufacturers' dealerships. There is also a significant "do-it-yourself" market, which comprises individuals who perform their own vehicle repair and maintenance.

With the average age of U.S. light vehicles (passenger cars and pick-up trucks) at 11.5 years, the owners of these vehicles often demand cost-effective solutions for their maintenance and repair needs.<sup>1</sup> As such, the independent aftermarket (e.g. independent repair shops and local repair technicians) has about 70 percent of the service bay capacity to maintain and repair passenger vehicles. In contrast, new vehicle dealers only represent about 28 percent of the service bays.<sup>2</sup> Therefore, consumers have come to rely on the independent aftermarket to provide both quality repair parts and related services.

Remanufacturing is as a standardized industrial process by which previously sold, worn, or non-functional products are returned to same-as-new, or better condition and performance. Examples of remanufactured components in the industry include engines, transmissions, alternators, starters, brakes, turbochargers, steering and suspension components, and electronic control modules. Remanufacturing preserves the value of the original manufacturing – including material and energy costs and investments in capital and labor – which recycling alone cannot do. Remanufacturing saves 85 percent of the energy and material used to manufacture equivalent new parts, making it a sustainable and economically viable response to increased global trade pressures, resource scarcity and rising energy costs.

State governments are increasingly recognizing the benefits of remanufacturing. In 2012 California and Michigan prioritized the use of remanufactured parts and components in their vehicle fleets, and Pennsylvania did so in 2007. New York State in 2000 provided a tax credit for remanufacturing companies, and passed legislation in 1998 encouraging the purchase of remanufactured goods. Connecticut and Texas also passed legislation in 1999 promoting the purchase of remanufactured products.

At the Federal level, there is growing support for the benefits of remanufactured motor vehicle parts and components. Last year Congress passed S. 565, The Federal Vehicle Cost Savings Act, which was signed by the President ([Public Law 114-65](#)) on October 7, 2015. This Act directs all federal agencies to encourage the use of remanufactured vehicle components in maintaining the federal vehicle fleet, and defines remanufactured vehicle components as having been "returned to same-as-new, or better, condition and performance by a standardized industrial process that

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<sup>1</sup> Source: IHS, July 29, 2015.

<sup>2</sup> New vehicle dealers represent about 14 percent of the total automotive service outlets in the U.S.

incorporates technical specifications (including engineering, quality, and testing standards) to yield fully warranted products”.

### **Conclusion**

The legislation discourages the use of Aftermarket and Remanufactured components in vehicle repairs, and in doing so will have a negative impact on Michigan companies, sales, and jobs. In addition, consumers will have fewer repair choices presented to them, resulting in higher prices for parts needed for their vehicle repairs. We urge you to veto this legislation in support of the Michigan aftermarket industry and to preserve consumer choice in recognition of the high-quality and cost-effective repair options for their vehicles.

We appreciate your consideration of this request. Please contact Tom Lehner at (202)-312-9253 or [tlehner@mema.org](mailto:tlehner@mema.org) if you have any questions. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "S Handschuh". The signature is fluid and cursive, with a long horizontal stroke at the end.

Steve Handschuh  
President and CEO

Attachment: AASA and MERA companies in Michigan