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DRIVING THE AFTERMARKET INDUSTRY

**TESTIMONY SUBMITTED
TO THE
HOUSE COMMITTEES ON CONSUMER AFFAIRS AND TRANSPORTATION
REGARDING
MOTOR VEHICLE OWNERS RIGHT TO REPAIR ACT**

June 2, 2011

I am pleased to testify on behalf of the 23,000 members and affiliates of the Automotive Aftermarket Industry Association in support of passage of right to repair legislation in the State of Pennsylvania. AAIA is a national trade association representing companies that manufacture, distribute, sell and install motor vehicle parts, accessories, service, tool, equipment, materials and supplies. Through its membership, AAIA represents more than 100,000 repair shops, parts stores and distribution outlets, many of which are located or do business in Pennsylvania.

While many of AAIA's members sell to vehicle manufacturers, our membership is primarily focused on the vehicle repair aftermarket, which is everything that happens to a car after it leaves the new car showroom. Our industry is critical to the mobility of Pennsylvania citizens; ensuring the safe, efficient and clean operation of their automobiles. The aftermarket industry is further important to the pocketbook of Pennsylvania car owners. A survey performed for AAIA found that on average, dealers are 34% more expensive than independents for automotive repairs. Independents are also a convenient source of vehicle repair. With about 9,618 independent repairs shops and parts stores in the state, there is an independent repair facility in nearly every town in the State of Pennsylvania. In addition, these shops are supported 750 parts wholesalers.

Our industry is not only important to the states consumers, but to its economy as well. The aftermarket accounts for nearly 82,887 jobs in the state and has total sales of over \$11.7 billion. Clearly, ensuring a healthy independent vehicle aftermarket is good for the state's car owners and for its economy.

Right to repair legislation addresses a critical issue to the future survival of the independent aftermarket: the increasing use of computers on vehicles. Today, nearly every vehicle system from air bags and brakes to tire pressure is controlled or monitored by on-board computers. While these computers provide important benefits in terms of safety, fuel efficiency, clean air and convenience, they also provide the vehicle manufacturer with the ability to control who can perform repairs.

Prior to the extensive use of computers, a technician could repair a vehicle with some basic tools and several repair manuals. Today's technicians not only must have significant access to repair information over the Internet, they also must spend tens of thousands of dollars on diagnostic and repair tools as

well as participate in extensive training in order to understand today's highly sophisticated vehicle systems, diagnose problems, and implement effective repairs. Despite this investment, technicians at independent shops find out, often near the completion of the repair, that some of the information or repair capabilities needed are not available or extremely difficult to obtain from the manufacturer.

The basic concept behind right to repair is that a car owner who spends an enormous percentage of their household savings on the purchase of a new or used vehicle, should have the ability to determine who repairs their vehicle, whether it's the new car dealer or the independent shop. In the current scenario, the car company has all of the power to make that determination.

This is why right to repair legislation has been introduced in Congress and in other states including Connecticut, Massachusetts, New York and Oregon. While the bills vary to some extent, they all require car companies to make available, on non-discriminatory terms, the same tools, information and software that they make available to their franchised dealers. The bills further provide car companies with extensive protection for their trade secrets since the aftermarket only want the repair information and tools, not how they build their vehicles or design their parts and software. The bills further ensure that the relationship between the dealer and the car company relative to warranty work is not impacted. In another words, the car owner would still need to go to the new car dealer for any repair work covered by the warranty.

I want to address two major misconceptions regarding right to repair that the vehicle manufacturers and others opposed to the bill have publicly used in an attempt to dissuade legislators from supporting the legislation.

First, right to repair legislation would not provide blue prints or specifications that will make it any easier for companies that produce aftermarket replacement parts. There are extensive protection for car company trade secrets in the legislation that has been under consideration in Congress and the states. However, the bills state that any information or tools that is made available to new car dealers needs to be made available. The concept behind this provision is that any information that has been made widely available to dealers and their thousands of technicians could not be considered a trade secret. Let me clarify that we are only looking for information and tools; as well as the ability to download information onto on-board computers and to reinitialize vehicle systems after repairs are completed. In short our members want to be able to ensure that our customer's vehicle can be started and operated as the car company had intended.

In essence, charges made by the vehicle manufacturers that aftermarket parts manufacturers aim to steal car company secrets through this legislation possesses zero credibility in the real world. Many companies that supply parts marketed by independent companies are produced by the same companies that supply the car company. The box may be different, but the part is the same. Also, due to vehicle technology, our parts manufacturers undergo an extensive development process to ensure that the replacement part will integrate with the vehicle's on-board computers. In many cases, our members have the ability to monitor the performance of these parts in-use; take action in the design of the replacement part to correct a problem with the original equipment (OE) part; and produce a replacement component superior to the OE part it replaces. In any case, the diagnostic and repair information required to be provided by this bill would not provide anywhere near the level of sophistication needed by parts manufacturers to replicate a car company's part.

Second, the opposition claims that they already provide all of the information and tools that independents need to repair vehicles. They argue that these shops experience repairs barriers due to the fact that they do not have the expertise or equipment to work on today's vehicles. We find these allegations insulting to the thousands of shops in this state and around the country who provide car owners with a high level of repairs, at affordable prices and many times in the same day. These independent shops invest tens of thousands of dollars in equipment, training and information to stay competitive with the dealer. Notwithstanding this commitment, these shops are continuing to run into roadblocks every day in attempting to complete repairs. Often these problems involve downloading the latest program update onto an on-board computer or entering the proper code to start a car after a repair has been completed.

We agree that car companies have come a long way in making information and tools available. However much of this progress came forth after to the passage or consideration of legislation on the Federal and state level. In fact, the car companies were forced to make emissions related information available under the Clean Air Act Amendments of 1990 and SB 1146, which was enacted in California. I should add that neither the EPA nor the California Air Resources Board have ever been involved in an intellectual property dispute as a result of these laws.

The opposition has pointed to the establishment of the National Automotive Task Force (NASTF) to respond to any service information issues. However, NASTF is a one person operation that is tasked with resolving problems around the Nation. It often takes weeks or months to obtain a resolution from the manufacturer and often that resolution is a response stating that information is not available or we are working to resolve that issue. A shop that has a car in one of its service bays, needs to have that car repaired the same day or at worst the next day or will lose that business permanently. This may be why the organization is rarely used by independent service facilities.

The reality is that if car companies were already disclosing all information and tools needed for repair and were fully committed to doing so in the future, they would have nothing to fear from right to repair and certainly not from any of the bills that are under consideration by Congress or state legislatures around the country. However, car companies do fear right to repair, not because of any possibility that their trade secrets will be exposed, but because it threatens one of the most profitable areas of their current business, parts and service sales. While the profit margins of new car sales are shrinking, the repair sector of their business is growing. According to the National Automobile Dealers Association (NADA), even though dealership parts and service department sales comprise just 11.8 percent of typical dealer's total sales, it contributes 48 percent of the total operating profit. New car sales make up 60 percent of total sales, but only contribute 35 percent of total profit.

Third, car companies claim that right to repair would threaten security on vehicles but requiring them to disclose secret immobilizer codes that would make it easier for them to steal vehicles. However, car companies already provide these codes to independent shops and locksmiths through the Security Data Release Model which permits them to safely make immobilizer codes available, while also permitting law enforcement to track who is requesting and using the codes. However, most manufacturers do not use this system for their own dealer network. This has led to the establishment of several car theft rings where dealer employees have been caught selling the codes to those looking to steal high end late model vehicles. If the manufacturers were interested in actually preventing theft of their vehicles, one would think that the manufacturers would take action to protect the codes that they provide through their dealer network. However, that is definitely not the case. The aftermarket is committed to

ensuring the security of our customer's vehicles; and we are willing to consider working through the SDRM system in order to obtain key code information.

In conclusion, while we all would prefer that the right to repair issue be addressed on the federal level, it appears unlikely due to strong opposition from the politically powerful car company lobbying efforts. Therefore, states are taking a more critical role in working to ensure that their car owners have access to a competitive vehicle repair market. I hope that Pennsylvania will join this important effort that will help ensure the competitive future of the State's small repair businesses as well as provide for affordable and convenient repairs for car owners now and into the future.

Thank you for the opportunity to testify. I am available to answer any questions you may have on this very important issue.