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NCOIL AFTERMARKET CALL REVEALS LIABILITY AND DISCLOSURE AS KEY TO CERTIFIED AFTERMARKET DEBATE

Albany, New York, October 1, 2002 — An unprecedented September 30 conference call between National Conference of Insurance Legislators (NCOIL) lawmakers and over 25 interested parties revealed that the certified aftermarket crash part debate centers largely on disclosure to consumers and liability against failed aftermarket crash parts.

The two-hour call, convened by a subcommittee of NCOIL's Property-Casualty Insurance Committee, sought clarification on issues surrounding a proposed *Certified Aftermarket Crash Parts Model Act* that, among other things, would deem certified aftermarket crash parts to be suitable replacement parts for vehicles. Representatives of the property-casualty insurance, certified aftermarket crash part, automobile, auto-body shop, and related industries, as well as a state agency, offered input on how best to revise the proposed model act in time for Committee consideration at the upcoming Annual Meeting in San Francisco, California, this November 21 through 24.

Discussion focused largely on written commentary submitted by interested parties prior to the call and was aimed at how the proposed model act would affect competition in the crash-part marketplace, as well as how to fix liability so that a policyholder could have easy recourse should a certified aftermarket crash part fail. The subcommittee directed a number of questions to the feasibility of making an insurer liable in cases where a manufacturer or distributor failed to make good on its guarantee.

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Lawmakers emphasized the need for fair disclosure provisions and debated the pros and cons of allowing a policyholder either 1) to choose the kind of crash part he or she wanted at the time of repair, or 2) to make such a decision at the time of policy selection and enjoy a premium discount if he or she selected aftermarket or certified aftermarket crash parts.

Such a policy selection “menu option,” for one, would be difficult for companies to rate, according to written remarks collectively submitted by the National Association of Independent Insurers (NAII), the American Insurance Association (AIA), the Alliance of American Insurers (AAI), the National Association of Mutual Insurance Companies (NAMIC), State Farm Mutual Automobile Insurance Companies, and Allstate Insurance Companies. Insurers argued, in part, that crash part availability varied daily; that an insured’s selection of certified aftermarket parts, for instance, could not always be met; and that a menu option might expose insurance agents and companies to potential litigation.

Regarding quality concerns, legislators expressed varying degrees of skepticism concerning their ability to determine whether aftermarket crash parts are inferior to their car company counterparts. The subcommittee also challenged the appropriateness of creating more state bureaucracy at a time when state budgets already were stressed. The proposed model act currently would require that independent third parties, such as the Certified Automotive Parts Association (CAPA), certify aftermarket crash parts. States then would be responsible for the manpower and budgets necessary to certify the certifiers.

As they have in the past, legislators inquired as to the specific cost savings that might be passed on to consumers as a result of using aftermarket crash parts, certified or not. Such information was unavailable, interested parties responded, though insurers previously have promised significant savings through the use of less expensive aftermarkets.

NCOIL legislators on the subcommittee include Rep. Rich Golick (GA), chair; Rep. Shirley Bowler (LA); Sen. Steven Geller (FL); Rep. Gini Milkey (VT); Sen. Alan Sanborn (MI); Assem. Ivan Lafayette (NY); Rep. George Keiser (ND); Rep. Phil Montgomery (WI); Sen. Harold Burns (NH); and Rep. Leo Fraser (NH). A list of all those who participated in the call is attached.

A proposed *Certified Aftermarket Crash Parts Model Act*, sponsored by Rep. Bowler, originally was adopted by the Property-Casualty Insurance Committee during the 2001 NCOIL Annual Meeting but, later that day, was returned to the P-C Committee by the Executive Committee, citing a need for more discussion.

The proposed model, as well as a proposed amendment to the model also sponsored by Rep. Bowler, are available for review at www.ncoil.org. The proposed amendment would provide that insurer-guaranteed aftermarket crash parts also were suitable replacement parts for vehicles.

NCOIL is an organization of state legislators whose main area of public policy concern is insurance legislation and regulation. Many legislators active in NCOIL either chair or are members of the committees responsible for insurance legislation in their respective state houses across the country.

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