

TO: Members of the House Committee on Commerce and
Economic Development

FROM: Rory Whelan, Regional Vice President, NAMIC

DATE: April 19, 2023 --- Public Hearing

RE: **Opposition to Amendments to S. 95** --- Auto
Repair Labor Rate Study & Mandates

The National Association of Mutual Insurance Companies (NAMIC)¹ and its members, thank you for the opportunity to express strong opposition to S. 95 amendments referenced during the April 11, 2023 Public Hearing. We understand the study language will likely change, but we would like to comment on the draft that has been shared prior to the submission date.

This amendments empower and direct the Commissioner of Financial Regulation (“Dept”) to “determine whether Vermont should establish a minimum reimbursement [labor] rate for both first-and-third party automobile insurance claims and, if so, what that rate should be...”²

I. These amendments will increase insurance costs for Vermont drivers.

Vermont has the proud distinction of having the lowest annual full coverage auto insurance premium costs of all 50 states, 47% below the national average.³ That will quickly change if S. 95 is enacted.

By usurping market forces and mandating an arbitrary, inflated auto repair labor rate and new burdensome regulations, Vermont motorists will pay higher deductibles and insurance premiums. Make no mistake, these amendments are the proverbial wolf in wolf’s clothing – one special interest group is seeking to high- jack the Legislature’s rights and duties by seeking to empower a state agency with unprecedented control over commercial agreements that heretofore have well-served Vermonters with low-cost auto insurance.

¹ The National Association of Mutual Insurance Companies consists of more than 1,500 member companies, including seven of the top 10 property/casualty insurers in the United States. NAMIC member companies write \$357 billion in annual premiums and represent 69 percent of homeowners, 56 percent of automobile, and 31 percent of the business insurance markets.

² [Bill Status S.95 \(vermont.gov\)](#) --- Sec. 12a (1)

³ [Average cost of car insurance in April 2023 | Bankrate](#)



II. How the system currently works.

Auto repair shops set their own rates and consumers have the right to choose where their cars are repaired.

Operating in a hyper-competitive environment, many insurance companies have developed streamlined processes in which enhanced services are provided when an insured uses one of the insurer's recommended, or preferred, auto repair shops.

Under the **preferred repair shop model**, insurers negotiate with shops to designate them as preferred shops because they can perform repairs quickly and efficiently and can keep costs low while delivering exceptional service. Insurers designate certain shops as preferred because they meet high standards regarding equipment, training, and service. These shops are typically authorized to begin repairs right away without having to receive approval from adjusters or appraisers. It is because preferred shops can deliver such a high level of service that they are frequently chosen by consumers to perform their repairs. As per the policy contract, a policyholder may choose to have their cars repaired at a non-preferred shop and pay the difference between what the insurer is willing to pay and what the non-preferred shop charges.

III. Insurers are the consumer's advocate.

Insurers have an obligation and interest in repairing an insured's vehicle in an expeditious and cost-effective manner. Inordinate delays are inconvenient to the policyholder and lead to higher insurance costs. For these same reasons, insurers want to make sure repairs are done properly without requiring the vehicle to be serviced again for the same repair. Insurers seek to retain customers by providing lower premiums and high-quality customer service. Insurers and insureds share these common interests; auto repair shops do not. Auto repair shops are not "agents" of the insured, but rather a vendor of the insurer.

While the amendments claim to protect "consumers," another animal idiom comes to mind – "the fox purports to guard the henhouse" --- the fact is, enactment of this measure will enrich a special interest lobby at the expense of the motoring public by driving up deductibles and insurance rates for all Vermonters.

IV. Aftermarket parts drive costs lower for consumers.

This measure further directs "investigations" into insurers' practices regarding commercial agreements and the use of aftermarket auto parts with gross and inaccurate assumptions of market activity, which is unnecessary and will only increase the costs of insurance.

As stated, repair costs have a direct impact on the cost of insurance coverage, so insurers are interested in identifying ways to ensure the repair process is as cost-effective and efficient as



possible. Aftermarket crash parts – including exterior sheet metal and plastic parts such as fenders, hoods, and door panels – are frequently much less expensive than original equipment manufacturer parts, with no difference in the safety of the repaired vehicle, making their use in repairs beneficial to consumers. This proposal is a thinly veiled attempt by those who profit from the use of OEM repair parts to limit the availability and use of less expensive aftermarket parts when cars are repaired following accidents.

Under Title 16, the Federal Trade Commission (FTC) already regulates the use of used auto parts.⁴ Insurance companies have the knowledge and data necessary to properly analyze a claim based on the fact-specific and fact-sensitive nature of repairs to return properly repaired vehicles to consumers in the most timely and cost-efficient manner possible. Needless legislative interference will limit insurers' ability to assist insurance consumers in securing timely and effective auto repairs and would be an insurance rate cost-driver that could adversely impact affordability of insurance. Moreover, the FTC concluded that “the availability of these parts means vehicles stay in service longer and for a lower price than if consumers had to rely only on new parts from the manufacturer.”⁵

NAMIC believes consumers should have the right to choose whether to have their vehicles repaired using non-original equipment manufacturer parts and opposes legislative and regulatory proposals to prevent that choice by eliminating or restricting the availability of aftermarket parts.

V. These amendments distort the current marketplace.

By requiring the “study” compare labor rates in the neighboring states of New York and Massachusetts, the proposal completely distorts the realities of the differing marketplaces and the contrasting rural nature of Vermont. Vermont is the 2nd most rural state by population (64.9%); NY is 39, MA is 47.6 Why does this matter? Because according to the

⁴ [eCFR :: 16 CFR Part 20 -- Guides for the Rebuilt, Reconditioned, and Other Used Automobile Parts Industry](#)

⁵ [Federal Register :: Guides for the Rebuilt, Reconditioned and Other Used Automobile Parts Industry](#)

These regulations include definitions of used parts, deceptive marketing and representation, and “apply to the manufacture, sale, distribution, marketing and advertising (including advertising in electronic format, such as on the Internet) of parts that are not new, and assemblies containing such parts, that were designed for use in automobiles, trucks, motorcycles, tractors, or similar self-propelled vehicles, regardless of whether such parts or assemblies have been cleaned, repaired, reconstructed, or reworked in any other way (industry product or product). Industry products include, but are not limited to, airbags, alternators and generators, anti-lock brake systems, brake cylinders, carburetors, catalytic converters, differentials, engines, fuel injectors, hybrid drive systems and hybrid batteries, navigation and audio systems, power steering pumps, power window motors, rack and pinion units, starters, steering gears, superchargers and turbochargers, tires, transmissions and transaxles, and water pumps.” Violations, including “misrepresenting industry products as new or misrepresenting the amount of use of an industry product... the identity of anyone who worked on an industry product after it was removed from the original vehicle... the condition of an industry product or the amount of work done to it after its removal from the original vehicle” violates Section 5 of the Federal Trade Commission Act.



Automobile Association of America (“AAA”), the higher cost of labor and expense of doing business in urban areas is a key cost-driver of higher car repair rates.⁷

The one-sidedness of this measure is also illustrated by Sect. 12a (9) which requires the Dept to report the “number and nature” of complaints against insurers without requiring a corresponding enquiry into complaints against auto repair shops.⁸

VI. Conclusion

In short, in these amendments, the auto repair lobby has already written 90% of the proposed “report” and expects the Commissioner to fill-in the 10% of the blanks the auto repair lobby deems fit to justify their higher profits. **If the Committee seeks a fair and balanced study of auto labor rates, it should direct the Commissioner of Financial Regulation to review model studies used in other states, solicit stakeholder feedback, and make options available to the Committee for legislative consideration next session.**

For these reasons, NAMIC and its member companies respectfully ask that you oppose the recent amendments to S. 95. Thank you for your consideration.

⁶ [Most Rural States 2023 \(worldpopulationreview.com\)](https://worldpopulationreview.com)

⁷ [Car Repair Labor Rates Explained | AAA Automotive](#)

⁸ [Bill Status S.95 \(vermont.gov\)](#) --- Sec. 12a (9)