

**Democratic Caucus Chairman**

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REPLY TO:

**Harrisburg**



**Senate of Pennsylvania**  
March 23, 1999

**COMMITTEES**

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LEGISLATIVE COMMISSION

**John R. McGinley, Chairman**  
**IRRC**  
14th floor, Harristown 2  
333 Market Street  
Harrisburg, PA 17101

Original: 2001  
Harbison  
Copies: McGinley  
Tyrrell  
Wilmarth  
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Notebook

Dear Chairman McGinley:

I am writing to you, as a member of the Senate Insurance Committee, with respect to regulations that would, if approved, revise the Pennsylvania Code, Title 31, Chapter 62, Motor Vehicle Physical Damage Appraiser Regulation. It is my understanding that any communication from me as a member of the Senate Insurance Committee will be considered if it is presented prior to March 29, 1999.

I respectfully request that you disapprove these proposed regulations.

The proposed regulations as I understand them are anti-consumer for the following reasons:

1. An appraiser may recommend the names of two body shops for repair of the vehicle without a request for such recommendation from the consumer. This could lead to an over reliance on the suggestions/ recommendations of the Appraiser. If the Appraiser's motives are solely to benefit the consumer, the recommendations might be harmless, or perhaps even beneficial. However, if the Appraiser is motivated by anything except the best interest of the consumer, there is a tremendous opportunity for the to abuse the consumer's interests. This is also contrary to the benefits derived from free competition.

2. Aftermarket crash parts the regulations would allow the appraiser to write his or her appraisal based on the use of non OEM crash parts without even a disclosure to the consumer. As I understand it, use of the non-OEM part can adversely affect the consumer's warranty from the manufacturer. Further, if a consumer makes a decision to purchase a particular vehicle because of recognized crash tests, what guarantees are there that non-OEM parts are equal in withstanding crash tests? The consumer might end up with a vehicle that is substantially less safe than the vehicle that he or she purchased.

3. If aftermarket non-OEM parts are a permitted substitutes for manufacturers' parts, the consumer should be given a choice to elect this option after full disclosure of the possible differences in crash durability AND, the consumer should be given a corresponding discount on his or her insurance premiums.

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INDEPENDENT REGULATORY  
REVIEW COMMISSION

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4. These Regs provide that the vehicle owner is responsible for any costs beyond those determined by the appraiser. If the appraiser is employed directly by the insurance company, this can lead to price fixing between the appraiser/insurance company and the body shop of their choice. There should be some means of having an independent appraisal done to establish whether the insurance company is correct in their determination that a cost from a non insurance company selected shop is excessive and therefore, the responsibility of the owner.

5. It seems that these regulations, if approved, could have a significant effect on motor vehicle insurance across the state. I think it is in order to hold public hearings to inform the public of the changes, or at least, require the insurance companies to provide notice of them along with their premium notices before the regulations are approved. I doubt very much that the general public has much, if any knowledge of these proposed changes.

I respectfully request your full and thorough consideration of the points raised above, the information provided by the Pennsylvania Collision Trade Guild and of the implications of these dramatic changes that would take place under these proposed regulations. Thank you in advance for your courtesy in the past and for your thoughtful consideration in this matter. I look forward to hearing from you.

Sincerely,



**Michael A. O'Pake**  
Senator--11th District

Enclosure

CC: Charles A. Tyrrel, Jr.,  
Regulatory Analyst

MAO'P:TWG