

HOUSE BILL NO. 1332

Introduced by

Representatives Wald, Carlson, Keiser, F. Klein, Skarphol

1 A BILL for an Act to create and enact six new sections to chapter 51-07 of the North Dakota
2 Century Code, relating to certified aftermarket crash parts; and to provide an effective date.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1.** Six new sections to chapter 51-07 of the North Dakota Century Code are
5 created and enacted as follows:

6 **Definitions.** As used in section 1 of this Act, unless the context otherwise requires:

- 7 1. "Aftermarket crash part" means a motor vehicle replacement part, manufactured by
8 other than the original equipment manufacturer, for any of the nonmechanical parts
9 made of sheet metal, plastic, fiberglass, or of similar material which generally
10 constitute the exterior of a motor vehicle, including an outer panel, hood, fender,
11 door, trunk lid, and any exterior covering of bumpers but not including a window or
12 hubcap. These categories may be expanded as new certification standards are
13 developed by an independent third-party certifier.
- 14 2. "Car company" means a motor vehicle manufacturer or distributor that produces or
15 markets, under its own name, crash parts for use in motor vehicles that it
16 manufactures or distributes under its own name.
- 17 3. "Certified aftermarket crash part" means an aftermarket crash part for which a
18 certification has been issued by an independent third-party certifier. The
19 manufacturer, distributor, or the insurer, or any combination, shall warranty a
20 certified aftermarket crash part as being equivalent to or exceeding the part placed
21 on the vehicle during initial assembly in terms of fit, finish, quality, and
22 performance.

4. "Insurer" means an insurance company and any person authorized to represent the insurer with respect to a claim and who is acting within the scope of the person's authority.
5. "Noncar company" or "independent manufacturer" means a manufacturer or distributor that produces or markets, under its own name, crash parts for use in motor vehicles that it does not manufacture or distribute.
6. "Repair facility" means a motor vehicle dealer, garage, body shop, or other commercial entity which undertakes the repair or replacement of those parts that generally constitute the exterior of the motor vehicle.

Independent third-party certifier. An independent third-party certifier is a certifying entity that:

1. Is not owned, operated, or maintained by any car company or noncar company manufacturer of aftermarket crash parts;
2. Conforms to all generally accepted guidelines for independent, third-party certification and standard setting programs;
3. Has adopted written standards containing conditions to be fulfilled by a manufacturer of crash parts;
4. Tests or contracts with an independent testing organization that tests crash parts, using suitable equipment and techniques;
5. Administers its certification program in a nondiscriminatory manner regarding any manufacturer or supplier of crash parts;
6. Provides a system to determine that certified parts continue to equal or exceed the parts placed on the vehicle during initial assembly in terms of fit, finish, quality, and performance and, failing to so conform, to decertify and advise crash part users of withdrawals of certification for any of these parts;
7. Provides mechanisms for quickly receiving inquiries and promptly resolving disputes that arise under the program in regard to consumers, insurers, or repair shops;
8. Provides a means of identifying each certified crash part and provides a system of security that guards against misuse of the identification;
9. Provides updated lists of certified crash parts on at least a weekly basis;

10. Provides the insurance department and the public with an annual report underscoring any significant developments, problems, or changes relating to certification procedures or requirements; and

11. Is registered and approved by the insurance commissioner as an independent third-party certifier.

Use of certified aftermarket crash parts. A noncar company aftermarket crash part that is used to repair a motor vehicle and is certified is presumed to be of like kind and quality.

Notification. In all instances the written estimate prepared by the insurer or the repair facility, or both, must identify the manufacturer of each part so long as that manufacturer can be identified by automated processes or through the manufacturer's warranty. A notification must be attached to, or included in, the estimate and must contain the following information in no smaller than twelve-point type: "This estimate has been prepared based on the use of crash parts supplied by the manufacturer of your vehicle or certified aftermarket crash parts supplied by an independent manufacturer. All aftermarket crash parts used in the preparation of this estimate are warranted by the manufacturer or distributor of the parts and/or an insurer for which the estimate was written."

Leased and financed vehicles. A person may not impose any penalty upon an individual leasing or financing a motor vehicle that repairs the vehicle using certified aftermarket crash parts.

Registration and approval. Each applicant registering for approval by the insurance commissioner for status as an independent third-party certifier shall file an application with the insurance commissioner. The applicant shall attest to and provide supportive evidence of the qualifications. Within thirty days of the filing of the application, the insurance commissioner shall review the application and authorize or deny the application based upon the fulfillment of the qualifications.

SECTION 2. EFFECTIVE DATE. This Act becomes effective on January 1, 2004.