



AUTOMOTIVE AFTERMARKET NEWS

Arkansas · Colorado · Iowa · Kansas · Missouri · Nebraska · New Mexico · Oklahoma · Texas · Wyoming



APSA OPPOSED OKLAHOMA AFTERMARKET PARTS BILL

The “Use of Aftermarket Emission and Safety Parts Notice and Consent Act” was recently introduced in Oklahoma adding automotive emissions and safety parts to a list of non-original equipment manufacturers’ parts that repair shops would be mandated to advise their customers that automotive aftermarket parts are being used and receive the customer’s written approval before the installation. This process would have given the customer the false impression that aftermarket parts are inferior. **Passage of this bill could have been devastating.**

APSA strongly opposed the legislation, and with the coordinated efforts of the Automotive Aftermarket Industry Association (AAIA), Motor & Equipment Manufacturers Association (MEMA), NAPA, Carquest and other industry associations and companies, the bill was withdrawn by the bill’s sponsor.

When the “call to action” went out, APSA Oklahoma members immediately went to work with emails and telephone calls to their legislators in opposition of the bill. At no time in the past have APSA members become as involved in an issue; they made their feelings very well known to the Oklahoma legislature and were instrumental in getting the bill pulled.

A special thanks to Jack Volbreck of Remy Corporation, Edmond, OK, who voluntarily spent a considerable amount of time in the Oklahoma Capitol on behalf of Remy and APSA. Jack was in contact with the APSA office daily and sometimes several times a day! He made an invaluable contribution.

The efforts and positive results of the automotive aftermarket industry coming together in response to a very critical legislative issue is a good example of what can be accomplished.

ASSOCIATION MEMBERSHIP DOES HAVE ENORMOUS VALUE.

As a reminder, issues such as these are the reason we ask for and keep our members’ email addresses current— so you can be notified immediately when an issue affects you or your business and your assistance is needed!

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- Association News
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Inserts

- Calendar Brochure & Orderform

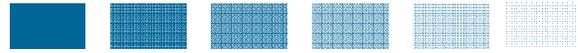


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ASAAA LAUNCHES LEGISLATIVE EDUCATION AND AWARENESS PROGRAM

Aiming to increase the recognition by state policymakers of the major positive economic and consumer benefits generated by the automotive aftermarket parts and service industry, the Alliance of State Automotive Aftermarket Associations (ASAAA), unveiled their national industry education and awareness program (www.asaaa.com) aimed at promoting the importance, quality, value and availability of aftermarket replacement parts and services during AAIA's recent Leadership Days in Arizona.

The ASAAA Legislator Education and Awareness Program, which creates a blueprint whereby state associations and industry companies can implement an educational process, send unified industry messages and use innovative resources in their own State Capitols, has been guided by an advisory team and coordinated by a project manager. The campaign has achieved a number of objectives to date and continues to build on this momentum. In addition, a team of industry experts including representatives from AAIA, AASA, AutoZone, LKQ Corporation and AWDA served to help guide ASAAA in the development of the campaign.

As states are taking the initiative on many legislative fronts, it is becoming more critical than ever for new and returning lawmakers in all states to be educated about the quality, availability and lower cost consumer alternative of aftermarket replacement parts and service. This campaign is geared to help ensure consistency and fairness in the government affairs process and eliminate the misconcep-

tion about the value and importance that aftermarket replacement parts and service play in the American economy.

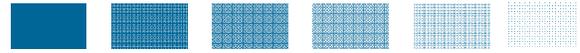
The "ASAAA Legislator Education and Awareness Program" (www.asaaa.com) which was officially launched in January has received generous financial support from ASAAA, Automotive Aftermarket Industry Association (AAIA), Automotive Warehouse Distributors Association (AWDA), the Automotive Aftermarket Suppliers Association (AASA), AutoZone, LKQ Corporation, General Parts, Inc. – CARQUEST, Genuine Parts Company – NAPA, Advance Auto Parts, Robert Bosch Corporation, and Remy Power Products.

APSA was actively involved in the development and roll out of this extremely important program by serving on the ASAAA advisory team.

◆ ◆ ◆ ◆ ◆ ◆ ◆ ◆ ✧ With Sympathy ✧

Joe D. Patrick, 80, passed away April 15, 2012. Joe was a founder of the Chaparrals Car Club and became one of the initial members of the National Hot Rod Association. They hosted the first sanctioned NHRA drag races held in Texas and had members featured in Hot Rod magazine. He was owner and operator of Mack's Auto Supply in Fort Worth for 16 years.

Jerry Howington, 83, passed away March 5, 2012. He worked as parts manager for Ford Dealers and president of the Southeast Texas Parts and Service Sales Club for many years. In 1974, he opened R&R Auto Supply in Orange which is now the only independently family owned auto parts store in Orange County, TX. R&R has been an APSA member for 13 years.



NAPA DALLAS' DISTRIBUTION CENTER MOVES



On May 13th, NAPA - Dallas completed their move from Mesquite, TX, to Coppell, TX. At 161,000 square feet it's the largest NAPA Distribution Center in the system. "It has all of the latest material handling systems and will allow for the growth that we have experienced and will continue to see in this market. It's quite an operation," stated Bob Gant, President/GM of NAPA Dallas-Ft. Worth, now located at 635 Freeport Parkway, Coppell, Texas 75019.

APSA LEGALCARE PROGRAM GROWS

Legal expense estimated savings for APSA members who utilized the **free member benefit** of unlimited legal advice during 2011:

Utilization: 126 callers

Number of Helpline calls: 161

Average time per call: 44 minutes

Total number of calls x Average time per call:
7,084 minutes (118.06 hours)

Average hourly attorney fees: \$185

Helpline callers total savings: \$21,841

Number referred to an attorney: 24
(Referrals receive 25% discount on average

hourly attorney fees of \$185 plus 30 minute free consultation)

Total for free attorney consultation: \$2,220.50

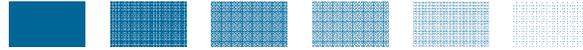
Total estimated hours per referral: 20

Total estimated 25% discount savings on referred attorney fees: \$925

Total savings for referrals: \$22,200

Total estimated savings for APSA members using LegalCare: \$44,041

Legal advice is sought in all areas of law including, but not limited to, family law, insurance, employment law, creditors rights, contracts, collections, business, real property, bankruptcy, elder law, civil rights, criminal law, personal injury, estate planning and tax law.



THE RULES HAVE CHANGED WITH EMPLOYER OWNED LIFE INSURANCE

One of the smartest ways for a business owner to protect the company from the financial loss of themselves or a key employee is to purchase a life insurance policy on the individual. The business owner may also consider buying life insurance to fund the buy out of their company. If they have considered any life insurance on themselves or key employees that are owned by the employer, read on! The rules have changed and many employers are not aware of the new requirements. Are you?

Employer owned contracts were addressed in the Pension Protection Act, which stated that any policy owned by an employer issued after August 17, 2006 will be subject to income tax on the death proceeds; however, where specific employee notice and consent requirements are met (certain exceptions apply) death proceeds can be received income tax-free.

Let's first define an employer owned contract. An *employer owned contract* as defined by the legislation is:

- ✦ Owned by a person engaged in a trade or business (applicable policyholder, as defined by the law)
- ✦ Under which such person, or related person (as defined by the law), is directly or indirectly a beneficiary, and
- ✦ Covering an insured that is an employee of the trade or business of the applicable policyholder on the date the contract is issued.

Basically this defines policies where the business is the owner and beneficiary of the policy. What is not clear is that, under the applicable policyholder and related party definitions, the legislation expands its reach to include individuals and entities such as family members, trusts, and estates.

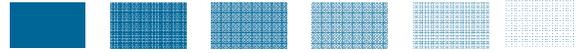
Luckily congress did recognize that this broad definition would impact the many valid uses life insurance has for a business, so it included

several exceptions to the rule. However, the exceptions only apply where the employee receives notice of and consent to the following in writing prior to the policy issue:

- ✦ The applicable policyholder intends to insure the employee's life and specifies the maximum face amount for which the employee will be insured at the time of issue
- ✦ The employee consents to being insured and agrees that such coverage may continued after his/her termination from employment
- ✦ The applicable policyholder will be the beneficiary of the death proceeds paid.

The critical first step here is the notice and consent requirements to avoid taxation of death benefits applicable to employer owned life insurance contracts. But, this is not the only requirement imposed by the legislation. The contract must also fall within one of these following exceptions:

- ✦ **Based on an Insured's Status** – this exception states that the income inclusion rule will not apply to employer owned contracts provided the insured was either:
 - An employee at any time during the 12-month period prior to death, or
 - A director, a highly compensated employee, or a highly compensated individual at the time the contract was issued
- ✦ **Based on Who Receives the Death Benefit Proceeds** – the income inclusion rule will not apply to an amount received at the death of the insured to the extent the amount is paid to:
 - An individual, other than an applicable policyholder, which is the designated beneficiary of the insured
 - A family member of the insured
 - The estate of the insured
 - A trust established for the benefit of a family member or designated beneficiary; or
 - Where the policy proceeds are used to purchase an interest in the applicable policy-



holder from such family members, beneficiary, trust, or estate.

So how does the employer abide by all these requirements? They must do an annual reporting of employer owned contracts for each year the contracts are owned. This reporting is provided on IRS Form 8925 and attached to the policyholder's tax return, along with an Acknowledgement and Consent form signed by the insured employee.

THE IMPORTANCE OF WORKER'S COMPENSATION INSURANCE AUDITS

An annual accounting audit is required by all worker's compensation insurance companies to determine the actual exposures that occurred during your policy period to determine your actual cost for worker's compensation coverage since the original quote was based on estimated payroll only. A self audit requires the most basic information compiled by the employer or bookkeeper. Audits are a contractual obligation within the worker's compensation insurance policy and it is common practice that insurance companies add an additional 25% when they have to estimate payroll figures when a business fails to comply to the self audit request.

APSA BUSINESS FORMS AND PROGRAMS

Have you priced your business forms with APSA lately? Let us find out for you if you are saving enough money! We have invoices, statements, checks, envelopes, etc. for most any computer program or can inexpensively custom-create your existing form.

We also have blank, perforated paper for laser invoices: 20# as low as \$11.19 per thousand sheets; and 24# as low as \$13.72 per thousand sheets (2 invoices per sheet, 2,500 sheets per carton).

And get 1,000 #10 window envelopes imprinted with your business name and address for \$55.15 or 1,000 #10 imprinted regular envelopes for \$50.42 (price breaks at 2,500 and 5,000).

Other products include hand stamps, labels, ribbons, tags, carbonless forms, plastic parts bags, engine bags, catalog binders, labor law posters, promotional items like calendars (brochure enclosed), koozies, pens & more.

Quality services offered to members include our Collections, Computer Programs, Credit Card Processing, Electric Purchasing (in Texas), complimentary Hotel Discounts, complimentary Prescription Drug Discount Card, Training (for ASE certification or employee sales training), Uniforms.

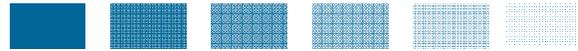
Free services to APSA members are unlimited legal advice and unlimited personnel management advice.

Scholarships are available to family of APSA members and their employees.

New programs being offered this year are the **Cash Management Reloadable Bank/ Payroll Card** that allows employees to have a debit account they can deposit their paycheck into but *can't overdraw!* A **Group 401(k) Plan with Pinnacle/Lincoln Financial** that has *no minimum number of participants* and *no matching requirement!* Low cost **Internet Advertising from Sales Power Media** to drive new sales leads! An **On Hold Messaging system from Works24** that is digital and easy to use! And we have partnered with **Amador of America** to offer the **AutoPoint computer program** to APSA members!

For more information on any of these member benefits or to find out more (such as the extensive legislative work that is done for the benefit of our members and the automotive industry), go to our website at www.apsassociation.com (or just scan our QR code on the front cover of this newsletter!), or call the APSA office at 800-375-2968. You can also request an APSA member packet to have a hard copy on hand for perusing at your leisure!

As always, if you know an automotive business who might be interested in APSA membership, request a member packet to give them or let us know and we'll mail it to them. Your assistance in growing membership helps us negotiate the best programs & prices!!



**"The more corrupt the state,
the more it legislates"**

- Tacitus



RIGHT TO REPAIR BILL APPROVED BY MASSACHUSETTS SENATE

On May 17, the Massachusetts State Senate unanimously passed Right to Repair legislation. The approved bill would require car companies to provide electronic access to all of their repair information and tools using a generic computer and a standardized vehicle interface. The measure also includes safeguards that were added on the Senate floor to protect both new car dealerships and independent repairers, who have long sought a level playing field. The bill now moves to the State House of Representatives where the car companies are expected to continue their strong opposition to the measure.

Meanwhile, the Massachusetts Right to Repair Coalition continues to collect the final 11,000 signatures that will be needed to place the right to repair measure on the Nov. 6 ballot should the House fail to act. The coalition must turn those signatures in to the Secretary of State by early July. The latest information on the Massachusetts Right to Repair bill can be found at www.massrighttorepair.com.

U.S. DISTRICT COURT RULES AGAINST NLRB "AMBUSH"

Employers were handed a victory against the National Labor Relations Board (NLRB) on May 14 when the U.S. District Court for the District of Columbia ruled for the Coalition for a Democratic Workplace (CDW) and the U.S. Chamber of Commerce in their lawsuit challenging rules which governed the timing of workplace elections. AAIA, as a member of the CDW, was a party to this lawsuit, which contended that the NLRB lacked a quorum

when it approved the rules, since only two members participated in the vote on the measure.

It is widely accepted that the board, now consisting of three Democrats and two Republicans, may simply vote again to adopt the rule changes. However, three of the current members were appointed by President Obama in January, while Congress was recessed, and the constitutionality of those appointments is the subject of another CDW lawsuit. The validity of a new board action on the election rule changes would likely be challenged as well.

The court's decision can be viewed here:

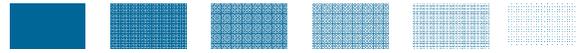
<http://myprivateballot.com/wp-content/uploads/2012/05/US-District-Court-Decision-Ambush-Elections.pdf>

FTC TO INCLUDE PUBLIC COMMENTS IN REVIEW OF USED AUTO PARTS GUIDES

The Federal Trade Commission (FTC) is seeking public comments on the costs, benefits, regulatory and economic impact of the Used Auto Parts Guides as part of its review of all of the organization's rules and guides, according to the Automotive Service Association (ASA).

ASA said the FTC's "Guides for the Rebuilt, Reconditioned and Other Used Automobile Parts Industry" were initially issued to prevent unfair and deceptive marketing practices regarding used motor vehicle parts and assemblies.

The guides include details regarding misrepresentations about a part's condition and its former use, and suggest that pre-used parts should be clearly identified in advertising and



packaging. The guides also include language that describes the treatment that parts are mandated to receive before they can be labeled as “rebuilt” or “remanufactured,” ASA said.

The FTC’s guides were last revised in 2002, which included an updated list of commonly rebuilt or reused parts for cars, ASA said. Comments to the FTC on the guides must be submitted by Aug. 3, and will be made available to the public online at [ftc.gov](http://www.ftc.gov). Instructions for filing a comment with the FTC regarding its Used Auto Parts Guides can be found at <http://www.ftc.gov/os/2012/05/120514usedautopartsguidefrn.pdf>.

HR 3889 Filed in the United States Congress

By Darrell Issa (R-California) and Zoe Lofgren (D-California)

TO AMEND TITLE 35, UNITED STATES CODE, TO PROVIDE FOR AN EXCEPTION FROM INFRINGEMENT FOR CERTAIN COMPONENT PARTS OF MOTOR VEHICLES

Promoting Automotive Repair, Trade, and Sales (PARTS) Act

Under current law, a design patent lasts for 14 years from the date it is issued.

As such, if a car company has a design patent on a particular collision repair part, it gives the car company a 14-year monopoly that could be used to prevent an aftermarket manufacturer or distributor from making or selling a part covered by the design patent. If the car company succeeds in enforcing its design patent through an ITC Section 337 complaint, a general exclusion order could be imposed banning importation of infringing parts for the remaining life of the 14-year design patent. Alternatively, if the car company succeeds in enforcing its design patent through a patent infringement action in federal district

court it would effectively **prohibit the aftermarket manufacturer or distributor** from making or selling that part in the U.S. for the remaining life of the 14-year design patent and the car company potentially could collect damages for past infringement

The PARTS Act would effectively reduce the monopoly period to 30 months (instead of 14 years under current law) during which an aftermarket manufacturer’s or distributor’s sales of collision repair parts or use of such parts would constitute an act of infringement of a car company’s design patent. It should be noted that such a proposal would not, *per se*, ban the sale or distribution of the parts, it would simply limit to 30 months (from 14 years under current law) the period of potential design patent infringement by aftermarket manufacturers and distributors for selling infringing collision repair parts.

In addition, the proposal likely would start a 30 month “shot-clock” on the car company’s period of monopoly “ticking” as soon as a particular car model (containing the design-patented part at issue) is introduced anywhere in the world. Moreover, the proposal would specify that the act of infringement would be the sale or use of the part, not the manufacturing, testing, marketing, or pre-sale distribution. Thus, such acts would not constitute acts of infringement even during the 30-month period.

Also, the PARTS Act makes conforming changes in the design patent statute’s damages section (35 USC 289), clarifying that statutory damages for design patent infringement do not apply to acts that are not considered infringing under the PARTS Act.

Finally, the PARTS Act would become effective 90 days after enactment and apply to design patents issued prior to, on, or after the date of enactment.

APSA strongly supports the passage of HR 3889.

**"Nearly all men can stand adversity, but if you want to test a man's character, give him power."
-- Abraham Lincoln**



Association News



WELCOME NEW MEMBERS!

Amador of America, Inc., Memphis, TN
Bayless Auto Supply, Fairfield, TX
Springfield Clutch & Gear, Inc., Springfield, MO



MEMBERSHIP ANNIVERSARIES

5 YEARS

Monroe Auto Parts—Coleman, TX
Superior Motor Parts—Santa Fe, NM
Tippit's Garage—Houston, TX

10 YEARS

Aftermarket Auto Parts Alliance, Inc.—San Antonio, TX
Automotive Driveline Supply, Hurst, TX
Don Woodruff Auto Supply, Weatherford, TX
Parts Co.—Valentine, NE
R&T Automotive—Taylor, TX
Rick's Auto & Ag Supply—Corning, IA

15 YEARS

A-Plus Parts & Salvage—Wichita, KS
Alignment Service & Repair—Wichita, KS
Arkansas Auto Air Co.—Little Rock, AR
Bob Goertz Auto Repair, Inc.—Hutchinson, KS
Bromley Parts & Service—Little Rock, AR
Hackman Paint & Supply—Little Rock, AR
Hodges Heavy Duty—Russellville, AR
Kansas Auto Repair, Inc.—Newton, KS
Kelso Supply, Inc.—Magnolia, AR
Larry Smith's Auto Supply—McCrary, AR
Northwest Automotive, Inc.—Rogers, AR
Spurgin's Southern Auto Supply—Mena, AR
TPS Auto Parts, Inc.—Texarkana, TX

20 YEARS

Boyd's Auto Parts—Norman, OK
Don Hardy Race Cars, Inc.—Floydada, TX
Intersection Sales & Service—Nazareth, TX
Minco Auto Supply—Minco, OK
Sailors & Sons, Inc.—Falls City, NE
Trend Auto Supply, Inc.—Lindsay, OK

25 YEARS

Austin Performance & Specialty Equipment, Inc.—Austin, TX
Broadway Machine—Oklahoma City, OK
Chris's Supply Auto & Farm—Crescent, OK
Cosand Automotive LLC—Burr Oak, KS
Cronk's Auto Supply—Laverne, OK
Liter's Automotive & High Performance—Nevada, MO

30 YEARS

ABC Auto Parts—Longview, TX
Arlington Automotive Machine Shop—Arlington, TX
Frost Automotive, Inc.—Gallatin, MO
Haines Auto Supply, Inc.—Oskaloosa, IA
Northwest Distributors, Inc.—Hays, KS
7-11 Auto Supply—Sweetwater, TX

35 YEARS

Allen & Kerber Auto Supply, Inc.—La Porte, TX
Automotive Machine Shop—Baytown, TX
B&C Auto Parts, Inc.—Bartlesville, OK
Carl's Auto Supply—Comanche, TX
D&C Parts—Oologah, OK
Engine Parts and Supply—Pampa, TX
Industrial Engine Service—San Antonio, TX
Junction Automotive Supply—Junction, TX
Springfield Clutch & Gear, Inc.—Springfield, MO

40 YEARS

Chalk's Truck Parts—Houston, TX
City Auto Supply—Hondo, TX
4-M Parts Warehouse—Cleburne, TX
Tishomingo Motor Sales, Inc.

45 YEARS

Milam Auto Supply—Cameron, TX

50 YEARS

City Auto Parts—Fredericksburg, TX
Main Auto Supply, Inc.—Uvalde, TX
Quality Motor Parts Corp.—Bloomfield, IA

60 YEARS

Briley Auto Supply—Meridian, TX
Herbort Auto Supply, Inc.—Fredericksburg, TX
O.D. Kenney Auto Parts—Slaton, TX
San Antonio Brake & Clutch Service, Inc.—San Antonio, TX

