

STATEMENT OF

**DALE FESTE
DALE FESTE AUTOMOTIVE
HOPKINS, MINNESOTA**

**BEFORE THE
U.S. SENATE COMMITTEE ON
COMMERCE, SCIENCE AND TRANSPORTATION**

**SUBCOMMITTEE ON CONSUMER AFFAIRS, FOREIGN COMMERCE
AND TOURISM**

JULY 30, 2002

GOOD AFTERNOON MR. CHAIRMAN, MEMBERS OF THE SUBCOMMITTEE, MY NAME IS DALE FESTE. I AM PRESIDENT AND OWNER OF DALE FESTE AUTOMOTIVE, A FULL-SERVICE INDEPENDENT MECHANICAL REPAIR FACILITY IN HOPKINS, MINNESOTA. I AM A GRADUATE OF THE UNIVERSITY OF WISCONSIN WITH A BACHELOR OF SCIENCE DEGREE IN INDUSTRIAL EDUCATION.

I SERVED AS A VOCATIONAL AUTOMOTIVE INSTRUCTOR FROM 1970-1980 AND FOUNDED MY AUTOMOTIVE REPAIR BUSINESS IN 1980, SERVICING OVER 4200 VEHICLES PER YEAR. MY FACILITY WAS AWARDED THE TOP SHOP AWARD BY AAA IN 2000 AND 2001. I AM A MEMBER OF THE AUTOMOTIVE SERVICE ASSOCIATION AND SERVE ON THE EXECUTIVE BOARD OF THE AUTOMOTIVE MANAGEMENT INSTITUTE, WHICH PROVIDES BUSINESS MANAGEMENT EDUCATION FOR THE AUTOMOTIVE SERVICE INDUSTRY.

AUTOMOTIVE TECHNOLOGY IS BEING USED TODAY TO SUCCESSFULLY “LOCK OUT” MOTOR VEHICLE OWNERS FROM BEING ABLE TO REPAIR AND MAINTAIN THEIR VEHICLES. WE ARE GRADUALLY LOSING THE VEHICLE OWNER’S RIGHT TO SELECT WHERE THEY HAVE THEIR VEHICLES REPAIRED. THE INDEPENDENT AUTOMOTIVE AFTERMARKET REPAIRS

OVER SEVENTY PERCENT OF ALL VEHICLES. WHEN A VEHICLE'S WARRANTY PERIOD IS OVER, INDEPENDENT REPAIRERS GET THE MAJORITY OF THESE VEHICLES. OUR LABOR RATES ARE LESS, WE HAVE LOWER OVERHEAD AND WE WANT THAT CUSTOMER TO COME BACK IN OUR FACILITY TO HAVE THEIR VEHICLE REPAIRED. WE HAVE ONE INTEREST, AUTOMOTIVE REPAIR. WE DON'T SELL CARS!

PRIOR TO THE 1990 CLEAN AIR ACT AMENDMENTS, THERE WERE SOME IMPORT MANUFACTURERS THAT WERE DIFFICULT AS FAR AS PROVIDING SOME LIMITED INFORMATION BUT GENERALLY THE AFTERMARKET COULD RESOLVE THESE INFORMATION ISSUES. THE CLEAN AIR ACT AMENDMENTS REQUIRED MANUFACTURERS TO DEVELOP THESE NEW TECHNOLOGIES AND COMPUTERS IN AN EFFORT TO LOWER VEHICLE EMISSIONS. DURING THE CLEAN AIR ACT AMENDMENTS' CONSIDERATION, WE BELIEVED WE WERE PROTECTED BY THE FOLLOWING LEGISLATIVE LANGUAGE REFERENCING EMISSIONS SERVICE INFORMATION: NO SUCH INFORMATION MAY BE WITHHELD IF THAT INFORMATION IS PROVIDED (DIRECTLY OR INDIRECTLY) BY THE MANUFACTURER TO FRANCHISED DEALERS OR OTHER PERSONS ENGAGED IN THE REPAIR, DIAGNOSING, OR SERVICING OF MOTOR VEHICLES.

EPA CONTINUED WITH A FINAL REGULATION ON AUGUST 9, 1995 ASSURING REPAIRERS THE SAME EMISSIONS SERVICE INFORMATION AS NEW CAR DEALERS AT A "REASONABLE COST". THIS HAS NOT OCCURRED. AT THIS POINT IN TIME WE DO NOT HAVE ALL EMISSIONS INFORMATION AVAILABLE TO THE INDEPENDENT FOR A REASONABLE COST, AND FOR SOME MANUFACTURERS THIS IS NOT A CONSIDERATION .

IF YOU BUY A VOLVO VIRA TOOL, THE TOOL MADE AVAILABLE TO THE INDEPENDENT REPAIRER, IT WILL NOT ALLOW US TO MAKE A COMPLETE EMISSIONS ANALYSIS OF THE VEHICLE. THE VOLVO DEALER HAS THE VADIS TOOL. THE VADIS TOOL ALLOWS THE DEALER TO MAKE A COMPLETE ANALYSIS OF THE VEHICLE. THIS PARTICULAR EXAMPLE SHOULD NOT REQUIRE A NEW LAW. THE 1990 CLEAN AIR ACT AMENDMENTS AND SUBSEQUENT REGULATIONS SHOULD PROTECT US AND OUR CUSTOMER FROM THIS SCENARIO.

WE THOUGHT THE LEGISLATIVE LANGUAGE AND THE 1995 REGULATION WOULD SUFFICE IN PROTECTING OUR INDUSTRY. THEY HAVE NOT. THERE ARE 178,000 INDEPENDENT REPAIRERS NATIONWIDE. WE ARE SMALL BUSINESS PERSONS IN COMMUNITIES ACROSS THE NATION. WITHOUT SERVICE INFORMATION, WE WILL HAVE TO CLOSE OUR DOORS. AS THE 1996 AND NEWER VEHICLES COME OUT OF WARRANTY, THEY ROLL INTO OUR FACILITIES. IF WE CAN NOT REPAIR THEM, WE HAVE TO

SEND THEM TO THE NEW CAR DEALER. THIS IS SEVENTY PERCENT OF AMERICA'S FLEET NOT UNDER WARRANTY.

UNFORTUNATELY, THIS LACK OF INFORMATION IS NOT LIMITED TO EMISSIONS. MANY OF THE NON-EMISSIONS SYSTEMS ARE NOW BEING TIED INTO THESE VEHICLE COMPUTERS. SOME OF THESE ARE SAFETY ITEMS AND ARE CRITICAL IN THE REPAIR OF OUR CUSTOMER'S VEHICLE.

IN APRIL OF THIS YEAR, MY CUSTOMER BROUGHT IN A 1996 DODGE GRAND CARAVAN WITH THE AIR BAG ILLUMINATOR LIGHT ON. WE WERE UNABLE TO ACCESS ANY TROUBLE CODES TO DIAGNOSE THE SYSTEM. WE HAD TO SEND OUR CUSTOMER TO THE NEW CAR DEALER EXPLAINING THAT THE DEALER WAS THE ONLY PLACE THAT COULD ACCESS TROUBLE CODES FOR THE AIR BAG SYSTEM. THE AIR BAG ALONG WITH OTHER SYSTEMS IN THE VEHICLE SHOULD NOT BE COMPROMISED IN ANY WAY. REPAIR INFORMATION SHOULD BE OPEN AND AVAILABLE FOR ALL REPAIRERS TO PROTECT THE CONSUMER. ALTHOUGH THE TOOL HAS BEEN FINALLY MADE AVAILABLE TO THE INDEPENDENT REPAIRER BY THE MANUFACTURER, THE SOFTWARE DOES NOT INCLUDE SAFETY ITEMS.

MY FRIENDS IN THE COLLISION REPAIR INDUSTRY FACE THE AIR BAG SITUATION MANY TIMES EACH WEEK. IT IS NOW ONE OF THE MORE EXPENSIVE SYSTEMS IN THE VEHICLE TO REPLACE IN A COLLISION

REPAIR. THESE COLLISION FACILITIES WILL IN AN INCREASING NUMBER OF CASES HAVE TO DELAY THEIR REPAIR BY SENDING WHAT SHOULD BE A FULLY REPAIRED VEHICLE TO THE NEW CAR DEALER TO HAVE THE AIR BAG SYSTEM FINISHED. THIS WILL NOT ONLY CAUSE A SIGNIFICANT DELAY FOR THE CUSTOMER BUT ALSO ADDITIONAL RENTAL CAR COSTS TO THE CONSUMER AND THE INSURER.

THESE ARE JUST A FEW EXAMPLES OF WHAT WE FACE AS INDEPENDENT REPAIRERS. WE DO NOT DESIRE TO STEAL SENSITIVE INFORMATION TO MANUFACTURE PARTS OR VEHICLES. CONGRESS REVIEWED THIS ISSUE AT LENGTH DURING THE 1990 CLEAN AIR DEBATE AND DETERMINED THAT WE WERE AN INDUSTRY WORTH TRUSTING AND SAVING. THAT'S WHY THE LAW MANDATED THAT WE RECEIVE THE SAME INFORMATION AS THE NEW CAR DEALER.

SENATOR WELLSTONE'S BILL, SENATE BILL 2617, ASSURES THE REPAIRER EMISSIONS AND NON-EMISSIONS INFORMATION. IT MAKES SURE THAT AS STATE GOVERNMENTS, UNDER FEDERAL DIRECTION, TEST THESE VEHICLES IN CRITICAL NON-ATTAINMENT AIR QUALITY STATES THAT WE HAVE THE INFORMATION TO REPAIR AND MAINTAIN THOSE VEHICLES IN AN EFFORT FOR CLEANER AIR. SENATOR WELLSTONE'S LEGISLATION PROMISES THE VEHICLE OWNER THAT THE SAFETY SYSTEMS IN THAT

VEHICLE HAVE BEEN REPAIRED WITH THE MOST ACCURATE AND TIMELY
INFORMATION AVAILABLE IN THE MARKETPLACE.

INDEPENDENT REPAIRERS SUPPORT SENATE BILL 2617.

THANK YOU.