TOOLKIT

Protect Your Right to Repair Your Car

Consumers should have the right to choose where and how to repair the products they purchase. However, Americans looking to fix a range of devices today are facing increasing restrictions on access to data, tools, and parts. These challenges are due in part to tactics by manufacturers, including patent misuse, that limit options and drive up prices. Automakers are drastically increasing the number of patents they apply for, roughly 250% in at least one case.

Right to repair is a growing, consumers-first movement in Washington and across the country to protect Americans' ability to choose how to fix and maintain the products they purchase. The SMART Act is one critical measure in the right to repair push. It will put a stop to design patent misuse and allow independent parts manufacturers to offer consumers quality, affordable options for basic car components – like mirrors, fenders, and doors, while maintaining appropriate intellectual property rights for automakers.

Make Car Repair Your Choice is a campaign of the CAR Coalition focused on advancing consumer choice and limiting unfair repair restrictions that hurt small businesses.

Read more to learn about how right to repair, including legislation like the SMART Act, empowers consumers to make the decisions that are right for them.

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Survey Confirms Overwhelming Majority of Voters Want Federal Right to Repair Protections

A national CAR Coalition survey shows strong support for right to repair measures, like the SMART Act, that will protect consumer choice and ensure quality, affordable and safe repair options. Here's what you need to know:

78%

SUPPORT RIGHT TO REPAIR LEGISLATION THAT:

- Allows consumers to choose **where and how to repair their vehicle**
- Reduces design patent enforcement time from **15 to 2.5 years** for collision repair parts, as proposed by the SMART Act
- Makes **vehicle data** more readily available

92% Agree that **consumers should be able to choose** between automaker-branded and aftermarket car parts when making repairs

85% Support **vehicle data being made available** to consumers and any repair shop they choose

ONLY 25% Believe that design patents should be used for **common car items**, like side mirrors or bumpers

A bipartisan coalition in Congress has introduced the **SMART Act** to preserve right to repair by addressing increasingly anti-competitive practices from original manufacturers that limit options for aftermarket repairs.

The **CAR Coalition** is a group of independent automotive parts and repair companies, associations and insurers committed to preserving and protecting consumer choice. Learn more about CAR and its campaign for right to repair legislation at **www.CarRepairChoice.org**.

This survey was conducted October 11 – October 19, 2021 among 1,008 vehicle-owning voters with a margin of error of +/- 3.09% voters.

KEY MESSAGES

The Need for Right to Repair in the Auto Industry

Consumers are facing increasing challenges when it comes to repairing essential everyday products, such as cars and smartphones. Here's a closer look at why right to repair, a growing, consumers-first movement, matters for consumers, small businesses and the environment:

Consumers should have a right to choose where and how to repair the products they purchase.

- Consumers should have the option of buying common car replacement parts like headlamps and side mirrors from independent manufacturers as well as original automakers, but unfair practices – including design patent misuse – has been crowding out competition.
- In July 2021, the FTC unanimously voted to increase enforcement against restrictions that limit consumers' right to repair.[1]

Rising repair prices are squeezing consumers, who are keeping their vehicles for longer than before.

- Repair restrictions are contributing to surging repair costs. According to the U.S. Bureau of Labor Statistics, vehicle repair costs are up more than 60% since 2000.

Repair restrictions hurt small businesses, especially independent auto repair shops, across the country.

- In 2020, 91% of approximately 160,000 independent auto repair shops in the U.S. reported a decrease in revenue.[2]
- According to the Federal Trade Commission (FTC), the number of active business owners fell by 22% from February 2020 to April 2020.[3]

Right to repair benefits both consumers and the environment.

- Expanding access to vehicle repair limits our need to prematurely dispose used cars, cutting down on unnecessary waste.
- Routine car maintenance ensures that vehicles continue to perform optimally[4], with regular "tune-ups" increasing a vehicle's fuel economy by 4-12%.[5]

Unfair tactics, including design patent misuse, restricts choice and drives up prices.

- Traditionally, automakers have used patents to cover overall car designs. In the past 20 years, however, automakers have dramatically increased their use of design patents to cover specific parts – roughly 250% in at least one case.
- Basic replacement parts like headlamps, bumpers and grilles often cost hundreds of dollars more when purchased from an automaker rather than an independent manufacturer.

The SMART Act is a critical part of the right to repair movement. This piece of legislation will reform broken patent laws to ensure consumers have choices for quality, safe and affordable replacement parts, while also maintaining appropriate intellectual property rights for automakers. Join us in calling on members of Congress to support the SMART Act today: https://carrepairchoice.org/take-action

[1] https://www.ftc.gov/news-events/press-releases/2021/07/ftc-ramp-law-enforcement-against-illegal-repair-restrictions
[2] https://www.autoserviceworld.com/91-of-independent-automotive-repair-shops-report-decreased-revenue-study-finds/
[3] https://www.ftc.gov/system/files/documents/reports/nixing-fix-ftc-report-congress-repair-restrictions/nixing_the_fix_report_final_5521_630pm-508_002.pdf
[4] https://biofriendlyplanet.com/eco-friendly-tips/the-environmental-impact-of-car-use-and-maintenance-during-covid-19/
[5] https://seeburgservicecenter.com/services/tune-ups/

Patent 101: Design vs. Utility Patents

Automakers have drastically increased the number of design patents they've applied for over the past 20 years, roughly 250% in at least one case[1], by patenting both the overall look and individual elements of the car, like headlamps and side mirrors. So, what is a design patent? How is it different from a utility patent, which protects an invention? Why does a spike in design patents matter to consumers? Here's a closer look:

A patent is an exclusive right that allows its owners to prevent others from making, selling, or using a product. When used appropriately, patents protect and encourage new inventions and discoveries.

There are two key types of patents granted by government:

DESIGN PATENTS

Design patents protect the visual and nonfunctional appearance of items.

Design patents include clothing, jewelry, computer icons, and even 'rectangles on a screen.'

UTILITY PATENTS

Utility patents protect the functional features of an invention and are often found in innovative sectors, like pharmaceuticals and aerospace.

Utility patents include the telephone, bionic eye, and stealth technology, like the B-2 bomber.

When misused, patents smother competition and drive up prices.

A patent thicket is a web of overlapping patents that act to prevent others, especially small businesses, from entering industries.

Design Patent Applications Are Skyrocketing

Design patents are easier to apply for, and more likely to be approved than utility patent applications, which cost more to file and take more time for the U.S. Patent and Trademark Office (USPTO) to review. From 2000-2019, design patent applications increased by 156% outpacing the 73% growth in utility patent applications.[2] [3]

- Design patents have a **rejection rate of 10%**,[4] [5] while utility patents have a **rejection rate of 80-90%**.[6]
- The average review period for utility patents is approximately **6 months longer** than design patents.[7][8]
- It's **30% cheaper** to apply for a design patent than a utility patent.[9]

These actions reduce competition and limit choice for consumers – making it increasingly difficult for consumers to choose affordable aftermarket parts when repairing their cars. The SMART Act works specifically to address the misuse of design patents in the auto industry.

[1] https://www.youtube.com/watch?v=8qg3t2DnZnk&t=11s
[2] https://www.uspto.gov/web/offices/ac/ido/oeip/taf/us_stat.htm
[3] Denotes utility patent applications of U.S. origin
[4] https://patentlyo.com/patent/2010/01/design-patent-rejections.html
[5] https://www.patenttrademarkblog.com/design-patent-probability-of-success/
[6] https://www.patenttrademarkblog.com/design-patents-vs-utility-patents-differences/
[7] https://www.uspto.gov/dashboard/patents/design.html
[8] https://www.upcounsel.com/how-long-does-it-take-to-get-a-utility-patent
[9] https://www.uspto.gov/learning-and-resources/fees-and-payment/uspto-fee-schedule

CarRepairChoice.org
MAKE CAR REPAIR YOUR CHOICE
CAR COALITION

FACT SHEET

The SMART Act: Restoring Affordable Car Repair Choice

For years, the aftermarket parts industry has provided consumers with choices for critical and affordable replacement automotive parts, like headlamps, side mirrors, bumpers, doors, and more.[1] However, as automakers drastically increase the number of parts-specific design patents they apply for, it's becoming increasingly difficult for the alternative parts industry to compete. This creates higher costs and fewer choices for American consumers. The Save Money on Auto Repair Transportation (SMART) Act will put consumers back in charge, ensuring drivers maintain control of how and where they fix their cars.

What's the Problem?

- Traditionally, automakers have used patents to cover overall car designs, which can and should remain protected by design patents.
- In the past 20 years, automakers have dramatically increased their use of design patents to cover specific parts – roughly 250% in at least one case – which crowds out competition from independent replacement parts manufacturers and repair shops.
- Left unaddressed, current automaker practices could leave consumers with one reality when it comes time to fix their cars: heading to the dealership or other automaker-certified shops, no matter how far or how costly it may be.
- Basic replacement parts like headlamps, bumpers and grilles often cost hundreds of dollars more when purchased from an automaker rather than an independent manufacturer.

The SMART Act would restore access to affordable car repairs and benefit consumers by:[2]

- Changing current design patent law to reduce automakers' window of enforcement from 15 years to 2.5 years for collision repair parts.
- Protecting the alternative parts industry's ability to develop and sell quality, safe and affordable car parts after 2.5 years have elapsed from the date of the automakers' patent.
- Maintain consumers' right to choose from a multitude of brands, prices, and products when repairing their cars.

The SMART Act would maintain appropriate intellectual property rights for automakers by:[3]

- Requiring the alternative parts industry to wait until the end of the 2.5-year patent period to sell similar car parts.
- Upholding the existing patent period that automakers can enforce design patents against other automakers.

The SMART Act is a fair bill that will restore choice, increase competition, and provide relief to consumers. If you agree that consumers deserve affordable options when it comes to repairing their cars, please join us in supporting the SMART Act: https://carrepairchoice.org/take-action

[1] https://carcoalition.com/what-we-do/
[2] https://www.bodyshopbusiness.com/car-coalition-strongly-supports-bipartisan-smart-act/
[3] https://www.bodyshopbusiness.com/car-coalition-strongly-supports-bipartisan-smart-act/

IN THE MEDIA

Right to Repair for Autos is Gaining Momentum

Elected officials, commentators, and advocates on both sides of the aisle are increasingly speaking out about the need to protect consumers' right to repair the products they purchase, including cars. Take a closer look at the recent buzz around right to repair:

- "If you own a product…you don't have the freedom to choose how or where to repair that item you purchased… Denying the right to repair raises prices for consumers, means independent repair shops can't compete for your business."[1]

  – President Joe Biden, remarks before the second meeting of the White House Competition Council

- "American consumers shouldn't have to pay an arm and a leg to repair their devices…Right to repair legislation will introduce more competition, cut down on waste, and empower consumers."[2]

  – Sen. Ben Ray Luján (D-NM), in response to President Biden's endorsement of right to repair

- "As repair costs continue to rise, consumers deserve access to as many auto part repair options as possible. The SMART Act will increase consumer choice, encourage competition, and foster innovation to drive down the cost of expensive repairs."[3]

  – Rep. Darrell Issa (R-CA), statement following the introduction of the SMART Act

- "…The biggest problem is with motor vehicles, whose basic replacement parts such as headlamps, bumpers, and grilles often cost hundreds of dollars more when purchased from an automaker rather than an independent manufacturer… In a small victory for consumer freedom, a bipartisan group of House members led by Darrell Issa (R-CA) have introduced the Save Money on Auto Repair Transportation (SMART) Act."[4]

  – John Fund, a national affairs columnist for National Review and former member of the Wall Street Journal editorial board (National Review –"Right to Repair: A Consumer Movement That Left and Right Should Agree On")

- "Legislators who are interested in supporting American consumers should be eager to advance the SMART Act through the House and Senate…This legislation…presents a rare opportunity for policymakers to reach across the aisle and do what is right for the American people."[5]

  – Horace Cooper, a legal commentator and a senior fellow with the National Center for Public Policy Research (Townhall – "The Commonsense Case for 'Right to Repair'")

- "…The SMART Act is an essential step forward in answering consumers' call for stronger right to repair protections in the automotive repair industry and would serve as an example to other industries."[6]

  – Repair Association, an organization representing over 400 member companies across a variety of industries, in a recent letter urging the U.S. House Committee on the Judiciary to advance the SMART Act

It's no surprise that elected officials are warming up to right to repair given its broad public support. A recent survey of vehicle-owning voters found overwhelming (78%) support for right to repair legislation that protects against design patent misuse in the auto industry and makes vehicle data more readily available.[7] Now it's time for Congress to act. Learn more and get involved: https://www.carrepairchoice.org/take-action.

[1] https://www.whitehouse.gov/briefing-room/speeches-remarks/2022/01/24/remarks-by-president-biden-before-meeting-with the-white-house-competition-council/
[2] https://twitter.com/SenatorLujan/status/1486066002345484293
[3] https://carcoalition.com/wp-content/uploads/2020/07/SMART-release.pdf
[4] https://www.nationalreview.com/2022/01/right-to-repair-a-consumer-movement-that-left-and-right-should-agree-on/
[5] https://townhall.com/columnists/horacecooper/2022/01/17/the-commonsense-case-for-right-to-repair-n2601953
[6] https://www.repair.org/blog/2022/2/5/3n3mhgx4npcel6u9k70smqjnzy8qbk
[7] https://www.carrepairchoice.org/wp-content/uploads/2021/11/MCRYC-Survey-Infographic-National-web.pdf

TAKE ACTION

Tell Congress to Protect Your Right to Repair

Consumers should have the right to choose where and how to repair the products they purchase. However, Americans looking to repair their devices – from cars to smartphones – are facing increasing restrictions on access to data, tools, and parts.

The SMART Act is a critical bill in the growing, consumers-first right to repair movement. By providing consumers with more quality and affordable choices when it comes to repairing their cars, the SMART Act will empower consumers to make the decisions that are right for them.

Tell Congress to protect your right to repair your car: www.carrepairchoice.org/take-action