

Legislative Lowdown



■ **New Jersey** – The New Jersey General Assembly recently reintroduced the so-called “Right to Repair” bill after the 2007 session ended without its consideration. The Alliance of Automobile Manufacturers, the Automotive Service Association (ASA) and the Association of International Automobile Manufacturers (AIAM) are against Assembly Bill 803.

New Jersey had joined Florida, Maine, Massachusetts, Nevada, New York and Oklahoma in rejecting right-to-repair legislation.

Five years ago, the Alliance, ASA and AIAM addressed discrepancies in service information between manufacturers and independent repairers through the National Automotive Service Task Force (NASTF). The associations believe the NASTF, along with the existence of automaker service information Web sites and third-party service information providers, precludes the need for such legislation.

■ **California** – California State Sen. Carole Migden, D-San Francisco, introduced legislation (S.B. 1059) on Jan. 7 that would prohibit an insurance company from requiring that an aftermarket part be used in the repair of a vehicle that is under factory warranty. Insurance companies could be fined \$5,000 to \$10,000 per violation. According to the Collision Repair Association of California, the bill’s main sponsor, S.B. 1059 is aimed at protecting both consumers and repairers when the use of an aftermarket part might void a factory warranty.

The legislation would add “requiring an automotive repair dealer to install an aftermarket part in a vehicle that is under factory warranty” to the current list of unfair claim settlement practices. Under S.B. 1059, an aftermarket part could only be used in a repair paid for by an insurance company if both the repairer and consumer consent.

Connecticut Shops Push Consumer Protection Legislation

The Auto Body Association of Connecticut (ABAC) held a press conference last month at Denya’s Auto Body in Meriden to urge support for stronger anti-steering laws, noting the state Insurance Department has done little to protect consumers from coercive auto insurance company practices.

The ABAC called on the legislature to adopt new consumer protection legislation as proposed by Connecticut Attorney General Richard Blumenthal. Blumenthal’s proposal is stronger than a bill approved in committee during the last session of the legislature. The bill was about to be called for a vote in the full General Assembly when the session ended.

During the press conference, Blumenthal announced his call to the legislature to strengthen Connecticut’s anti-steering laws because existing laws are too easily skirted or ignored by auto insurance companies and even the state Insurance Department.

Steering is the number one complaint of body shops across the nation. They argue that it’s illegal and stifles free market enterprise. Most shops agree that once a consumer has chosen a shop to repair his or her vehicle, all discussion between him or her and the insurer should end. Insurers argue that they have the right and obligation to inform consumers about the advantages of using their preferred network of shops. Some insurers, however, have been known to try to coerce consumers by telling them that taking their vehicles to shops outside their network could result in hefty out-of-pocket costs, delays in the repair or substandard repairs.

“Your car, your choice” ought to be the watchword in auto repair,” Blumenthal said. “Consumers deserve to choose where a car is repaired. No insurer should straitjacket or corral consumers, forcing them to use a so-called preferred shop. This legislation, which I have advocated for years, would preserve consumer choice and industry competition – deterring anticompetitive relationships between certain insurers and auto repairers.”

(continued on page 90)

CIC Meeting Covers Standards, Parts, Patents

Palm Springs, Calif. – Repairers and others allied to the industry gathered at the Collision Industry Conference (CIC) meeting last month to discuss parts procurement, industry standards, insurer-repairer relations, DRP reform and removing the consumer from the repair process.

OEM One Stop, a Web site that offers links to 35 vehicle manufacturers’ repair sites, debuted at CIC. The site, accessible at both www.oem1stop.com and www.oemonestop.com, was created with the goal of providing repairers easier access to OEM repair information.

In looking at the entire parts market, the CIC Parts Committee conducted an on-site survey on OEM, aftermarket, reconditioned/remanufactured and recycled parts, and the results indicated varying expectations industry-wide. SCRS Executive Director Dan Risley also spoke on the ongoing debate over the use of reconditioned wheels.

Eileen Sottile, executive director of the Quality Parts Coalition (QPC) and staff vice president of Government Affairs at LKQ, discussed recent developments regarding Ford’s allegations that aftermarket parts for the F-150 infringe on the company’s patents. Sottile said Ford’s legal efforts reflect the greater interest car manufacturers have shown in patents in recent years.

“We believe this is an incredibly disturbing trend,” Sottile noted. “We see this as the greatest threat to the automobile industry.”

The QPC, citing precedent in the European Union and Australia, wants an amendment to U.S. patent law that would allow the use of matching exterior parts.

With the number of total losses going up annually, the Vehicle Repairability Committee examined factors driving the crisis, including vehicle design, new technology and substrates, airbags and technician training. Representatives from CCC, Mitchell and Audatex explained how their systems define total losses, and conference participants debated on how many totals actually go through the estimating process. To lower the number of total losses, Greg Horn, vice president of Industry Relations at Mitchell, recommended OEMs keep repairability in mind when designing cars, avoid airbag placement that would destroy instrument panels and the windshield when deploying, offer VIN replacement for full

(continued on page 92)

“ He didn’t move, so I drove into the back of him. When the light turns green, you’re supposed to go and I did. ” – A Framingham, Mass., man to police after being arrested for third-offense drunken driving. Police said the man saw the green light and proceeded, even though the car in front of him was in the way. The man, police said, was confident in his feeling that he had the right of way

(continued from page 10)

frames and consider offering collision kits, citing the success of Honda's Collision Impact Kit program.

While the Database Enhancement Gateway is now operational, Administrator Aaron Schulenburg said the database still needs full support from some information providers. An open-mike session raised several questions regarding estimating information providers: Who owns the estimating information? Do the providers have the right to sell this information? If so, should the shops' identity be removed?

Developing industry repair standards was another topic that generated strong opinions.

"We've got a lot of standards in place, but we don't have standards for repair," said Michael Quinn, co-owner of 911 Collision

Centers. But Tony Molla, vice president of communications at ASE, said one repairer told him, "Standards in this industry will never work unless they're optional."

Business Management Committee member Toby Chess discussed claims compression, which reduces actual "touch time" and offers a model simplifying the complete repair process.

"We're locking up our hands because we're not open to new ideas and changes," he said. Chess also gave a technical presentation on repairing hybrids, extrications involving high-strength steel and the importance of substrate identification.

CIC participants will receive updates on the patent case and other industry issues at the next CIC meeting April 16-17 in Philadelphia.

Web site, www.takingthehill.com, by clicking on the "Auto Refinishing" tab.

Consumer Group Says Insurers Overcharge

The Consumer Federation of America (CFA) alleges in a new study that insurers are maintaining large profits by overpricing policies and underpaying claims. The property/casualty insurance industry continued in 2007 to systematically overcharge consumers and reduce the value of automobile and home insurance policies, leading to record profits, reserves and surplus, the CFA said.

The study estimates that industry surplus was \$687 billion at the end of last year and after-tax returns for 2007 were \$65 billion. The CFA estimates that the redundancy in insurer reserves increased in 2007 and could be up to more than \$80 billion by year-end 2007.

The loss and loss adjustment expense (LAE) ratio for 2007 is estimated to be 66.7 percent, the second lowest in the 28 years studied. Five of the seven lowest loss and LAE ratios in the past 28 years have occurred since 2003. According to the CFA, the pure loss ratio, the actual amount of each premium dollar insurers pay back to policyholders in benefits, was 54.6 cents in 2007.

The CFA also says that insurers have reduced their financial risk by making use of reinsurance and other risk-spreading techniques such as securitization. Insurers have also limited risk, the study notes, by using computer-directed programs designed to systematically underpay claims and limiting coverage and availability.

The Insurance Information Institute (III) responded to the study by saying it "is fatally flawed and grossly distorts the financial position of auto, home and business insurers." The III says that insurer profitability is necessary to maintain high financial strength and credit ratings.

The CFA study criticizes private auto and home insurers, the III says, but actually includes data from government run insurers that sell, among other things, workers' compensation insurance, thereby artificially inflating its figures for industry retained earnings or policyholder surplus.

According to the III, the CFA compounds this error by double counting tens of billions of dollars in surplus on the books of individual insurers and overstates the industry's 2007 claims paying capacity (surplus) by approximately \$160 billion.

Michigan Insurer Changes Its Required Estimating System

Shops in Michigan's Repair Advantage DRP must now change their estimating system if they want to remain on the insurer's program. The Michigan Educational Employees Mutual Insurance Company (MEEMIC), which previously required its DRP shops to use Audatex, now says shops in Repair Advantage must use Mitchell UltraMate, affecting those shops under extended contracts with Audatex. Shops that did not switch systems by Feb. 1 will be dropped from the program.

Ray Fisher, vice president of ASA Michigan, says that MEEMIC made the change to UltraMate in an effort to keep costs down. ASA Michigan unsuccessfully attempted to get MEEMIC to repeal its decision.

Recycled Rides Donates Vehicles

On Nov. 19, 2007, collision repair facilities donated vehicles in communities across the country, successfully piloting the National Auto Body Council (NABC) Recycled Rides program. The vehicles were presented to each recipient family wrapped in a big green bow.

Recycled Rides is a nationwide awareness project in which members of the NABC repair and donate recycled vehicles to fam-

EPA and OSHA Compliance for Automotive Businesses

OSHA has recently placed automotive repair and collision businesses on their planned investigations list. Inspectors are already visiting shops and should be expected all over the country. To save time and money, shops should make sure they are in compliance and review their safety programs before a visit from the inspector. This information packed course will translate the regulations and other information into practical language with supporting easy-to-understand materials.



By completing this \$99 course and mail-in test, participants will earn credits toward the Accredited Automotive Manager (AAM) designation.

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