

ABAC NEWS

January
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The Official Newsletter of the Auto Body Association of Connecticut

ABAC Donates \$10K to Technical Education *U.S. Senator Richard Blumenthal Attends Ceremony*



Name That Car Contest! Win a \$200 Visa Card - See Page 19

Your Car, Your Choice - Find us at www.abaconn.com

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President's Message

Bob Amendola

To Legislate Or Not?



With mounting frustrations and seemingly minimal change happening throughout the industry, many auto body associations are beginning to seek relief through legislation.

In light of New Hampshire's recently proposed bills, I wanted to focus this article on the pros and cons to proposing legislation as an avenue to improve our industry.

In case you missed it, New Hampshire recently proposed two bills: NH House Bill 664 and House Bill 432. NH House Bill 664 would require an "insurer to reimburse an automobile repairer for all repairs if the repairer follows an original equipment manufacturer recommended collision repair procedures". House Bill 432 "clarifies automobile insurance reimbursement rates for repair of damaged vehicles". At first glance, both bills seemed like a step in the right direction. While we appreciate that both were set forth with good intentions, we have concerns after closer examination.

With regard to NH House Bill 664, our concerns lie within the framework of the bill because creating language that would make an insurer directly obligated to pay an auto body repairer misunderstands the dynamics of the relationship and each party's respective obligations. This is problematic because it suggests that insurers should have a greater degree of control in the repair process, something we have fought for many years. Furthermore, we find NH House Bill 432 to be problematic because it creates a distinction between mechanical and auto body repair work and the reimbursement for the same. We believe it to be misleading and would only further distort the cost of auto body repairs. In response to news of these bills, we proposed alternative language to achieving the same result. For more on this, please see our statement regarding these bills.

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I understand that we are all very frustrated with the speed in which our industry is changing and I certainly recognize legislation as a potential avenue that may be used to help us. However, I believe we must be careful in doing so and we must remember that when we propose legislation, we may inadvertently create ways for third party interests to gain control of our industry.

In theory, any law that protects us would be good but I believe that it would need to be worded properly to avoid opening the door to third parties that would force us to relinquish control of our businesses. As I have said before, the only contract we have as independent repairers is the contract between us and our customer. The contract between the customer and the insurer does not and should not involve us. Improper language within a bill could jeopardize or compromise this.

An alternative to legislation, I believe the first step to changing our industry begins on an individual basis. As an example, we recently had a short pay situation with an insured. Instead of filing in small claims court, we explained everything to the customer and charged them for the difference between what their insurance company paid and what our final bill was. To my surprise, the customer understood the situation and willingly paid the difference. While we may find the opportunity to propose legislation that would be beneficial to us, I believe in taking matters into our own hands.

This is not our fight to fight. We need to maintain the parallel lines Tony Lombardozzi preaches. Insurance companies have to indemnify their insureds and the people their insureds cause damage to. We need to remove ourselves from the situation. It is ultimately the customer's responsibility to be compensated for a loss.

The fight is theirs.

Bob

**Bob Amendola - Autoworks of Westville
President - Auto Body Association of Connecticut**

Where Can I Find OEM Information?

Here are a few links to help you find Collision & Mechanical help along with Position Statements. The list will be growing!

<http://abaconn.org/>

www.OEM1stop.com

<https://www.moparrepairconnection.com/>

<http://owners.honda.com/parts-accessories/parts>

<http://asashop.org/oem-position-statements/>

<http://collisionadvice.com/>

<https://astech.com/>



www.abaconn.org

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“Pulling together for a better future”

The Auto Body Association of Connecticut (ABAC) agrees in concept with reforms that would make the utilization of OEM repair procedures more widely used and reimbursed. Ultimately, however, we have concerns about the framework of New Hampshire’s House Bill 664. Insurance companies are legally obligated to indemnify their insureds or the victims of their insureds. Creating language that would make an insurer directly obligated to pay an auto body repairer misunderstands the dynamics of the relationship and each party’s respective obligations. This is problematic because it suggests that insurers should have a greater degree of control in the repair process, something we have fought for many years. It would be our recommendation that New Hampshire consider language that would achieve the intended result without giving insurers greater and more inappropriate influence in the repair process:

“An auto body repairer shall, whenever feasible, follow original equipment manufacturer recommended collision repair procedures, recommendations, or service bulletins when repairing a motor vehicle.”

The reimbursement for the identified services is something an insurer would already be legally obligated to do. The reimbursement structure contemplated in the original draft language suggests that an insurer would owe a duty to directly indemnify a repair facility when, in fact, that duty is actually owed to its insured or the insured’s victim. Thus, it makes no sense to legislate a duty to make direct payment from an insurer to an auto repair facility, which is the primary basis for our objection.

The ABAC also has concerns with New Hampshire’s House Bill 432. This bill gratuitously draws a distinction between “mechanical” and “auto body” repair work and the reimbursement for the same. This distinction is misleading and would only serve to further distort the cost of auto body repairs. Why would New Hampshire seek to legislate that mechanical repairs be worthy of being paid that amount which is “normally and reasonably charged ... to retail consumers who are not using insurance coverage,” but that same standard would not apply to auto body repair? That’s like saying: we support efforts by insurers to illegally conspire to suppress fair market rates for auto body repair, but not for mechanical repairs. Once again, it makes no sense.

As to the final section of the bill that refers to paint and material reimbursements, our objection is the same. We support efforts by repairers to be paid on a more fair basis, but legislating a direct reimbursement from an insurer to a repairer contradicts the dynamics of the relationship and puts insurers in a greater position to influence how vehicles are repaired – something that is harmful to consumer safety and to quality repair.

The Illusive Markup (Reboot)



This article was previously published several years ago, but the issue of the illusive markup has once again reared its ugly head. As I previously wrote, there isn't much guidance in the traditional resources that I look to (e.g. statutes, regulations, case law, administrative reports, etc.). Here's what we know, however. A "markup" is the difference between the cost of a good or service and its selling price. A markup is added to the total cost incurred in order to create a profit. Customarily, when a repairer is caused to pay for services on a job, whether due to sublet repairs, purchasing parts, paying a tow bill or otherwise employing precious capital, the repairer generally charges a reasonable markup. This right does not appear to be well defined in any particular statutes or caselaw, but instead seems to find its strength in custom and common sense. As such, problems periodically arise.

For example, can an auto body repairer who does not own a tow truck, markup the two tow bills following a nonconsensual tow (i.e. First Tow: scene to tow yard, Second Tow: tow yard to auto body shop)? I am unaware of any formal opinions or ruling on the matter, but my sense would be that a repairer should be able to mark up both tows. I happen to think it's unreasonable to expect a repairer to put out and risk its own precious money for free. Would an insurance company – or any other service professional – offer you that same courtesy? Of course not. Or how about the markup secondary to a sublet repair or on parts sold to the shop on discount? Again, I happen to think, as part of a reasonable profit, you should be permitted a reasonable markup.

Consider this scenario. You send a customer's vehicle out for a front-end alignment. You take two technicians out of the shop to deliver the car, and then again to pick it up. You write a check out of your business account to pay for the alignment. You bear the responsibility of record keeping, as the DMV requires that you keep those records for at least two years. You will eventually need guidance from your accountant on the tax implications of the transaction. And, if your customer refuses to pay you, you're stuck. Is it fair that you do all this for free – with no markup? Of course not. Yet some of our friends in the insurance business think you should do all of this for free. Believe it or not, you're not the only victim here.

Consider the tax implications and revenue loss to the State of Connecticut. You pay significant tax on markups. Thus, when insurers refuse to pay markups, they are not only taking money out of your pocket, they are also taking tax revenue from the State. Where's the outrage from our friends at Revenue Services?

Ultimately, when an insurer refuses to pay your markup, you always have the right to retain the vehicle (pursuant to your artifice lien rights) or otherwise bring a claim against the customer or third-party tortfeasor (by assignment) under the theory that your bill is reasonable and necessary to restore the vehicle to pre-loss condition. But holding a vehicle hostage and/or bringing suit is not always an ideal option.

So, here's what I'm proposing. If you have a problem getting reimbursed a fair and reasonable markup, let me know about it. Send me an e-mail with as much detail as you can. I will collect this data and work with the ABAC toward addressing our collective options.

I hope you found this lack of information helpful.

John M. Parese, Esq. is a Partner with the law firm of Buckley Wynne & Parese and serves as General Counsel to the ABAC. Buckley Wynne & Parese maintains offices in New Haven, Hartford and Stamford, and services clients throughout all of Connecticut. The opinions set forth in Attorney Parese's articles are for education and entertainment purposes only, and should not be construed as legal advice or legally binding. If you have any questions or concerns about the content of this or any of Attorney Parese's articles, you are encouraged to contact Attorney Parese directly.

Auto Body Association Donates \$10K to Technical Education



Automotive design interests Milford resident Maddy Razzaia, a junior at Platt Technical High School.

Thanks to a \$10,000 donation from the Auto Body Association of Connecticut (ABAC), Razzaia and other students throughout Connecticut will be better trained to pursue careers in automotive technology.

ABAC presented this donation in a ceremony at Platt Tech on Friday, Jan. 11, which was attended by a host of local and state officials – most notably,

United States Senator Richard Blumenthal (D-Conn.). The funds will help the Connecticut Technical Education and Career System (CTECS) to modernize its automotive repair and refinishing program. This program is offered at Platt as well as seven other technical high schools statewide.

Blumenthal praised ABAC and noted that technical and career education fills an important need in a variety of industries – including the auto industry.

“Today’s cars are far different from the vehicles produced just 10 years ago,” Blumenthal noted. “The level of skill required to repair them and make them safe is more sophisticated than ever before. Vocational education is essential to the future of our country.”

Connecticut’s strongest asset

Blumenthal also noted that high-skilled technical workers are needed for the production of a variety of military hardware in Connecticut, including submarines, helicopters and aircraft engines. Yet in today’s tight job market, a lot of those jobs go unfilled, he said. “That is where the great career education schools in Connecticut come in,” he said. “People like to run down Connecticut as too expensive to do business, but what we do have is some very smart, skilled people. ABAC’s donation is not a gift, but an investment in our future workforce.”

ABAC is a statewide association of auto-body shop owners, which are primarily small businesses. It pursues a variety of public-information initiatives, including helping people know what to do after a traffic accident as well as finding a body shop near them.



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It also has a consumer-advocacy mission, educating consumers about Connecticut's anti-steering law – which gives Connecticut consumers the right to have their car fixed at the shop of their choice, not the insurers'.

"Here at ABAC we believe the future will come from these schools and programs," said ABAC President Bob Amendola. "We also want to bring about an awareness that this is a great and viable career path."



Amendola also contrasted career and technical education with the plight of so many college students, who have graduated laden with high debts and have difficulty finding jobs. Technical programs impart skills that are in high demand, he said.

A passion for automobiles

"It's most important to pick something that piques your passion," Amendola said. There was plenty of evidence of that passion among automotive students at Platt Tech.

As most Platt students do, Tayden Doran of Branford began his high school years in an exploratory curriculum that exposed him to a variety of technical pursuits. "I found that I really liked the automotive program," he said.

Doran's classmate Anthony Oliveras also considered plumbing – but gravitated instead to the automotive program. In particular, he likes painting cars. "I discovered I had a strong liking for it – and it would offer a good future, too," Oliveras said.

This is the second donation of its kind that ABAC has made to Connecticut's technical school network. In 2016 it matched \$1,000 donations from five automotive firms: Kemperle Auto Body Paint & Equipment, based in Amityville, N.Y.; Auto Body Supplies & Paint of Bristol and East Hartford; Paint World of New Haven; Paul Francis & Company, also of New Haven; and West Springfield (Mass.) Auto Parts Plus. All five took part in this year's donation as well.

Platt Tech Principal David Telesca praised this involvement in technical education by area businesses. "One of the things I'm especially proud of is the partnership between our school and members of the community," Telesca said.

That partnership goes beyond providing funding for automotive technology and other programs. "The industry expertise they [ABAC] offer is invaluable to our staff," said CTECS Superintendent Jeff Wihbey. "We look forward to continuing our close collaboration with ABAC and strengthening our collision repair program together."

Source: www.milfordmirror.com - Article by Robert Sample

Winds of Change: A Huge Success

On January 8th, 2019, the ABAC held an educational seminar titled “Winds of Change” in Guilford, CT. A panel of 6 industry professionals presented the seminar to approximately 100 attendees. Most attendees were shop owners from across the state but the seminar also drew so much buzz that shop owners and industry professionals from Massachusetts and Rhode Island also made the trip down.

Dave Fogarty (Lorensen Auto Group) opened the meeting with just a few simple questions:

1. How many of you want to continue to fix new vehicles in the next few years?
2. How many of you have properly invested in your business with state-of-the-art equipment, technology and education in order to properly repair today’s vehicles?
3. If you have not invested, do you honestly think you will be equipped to properly repair today’s and future high-tech, complex vehicles?



Dave continued to ignite a flame in attendees by following up these 3 questions with some simple facts. For those that haven’t properly invested in their business, it’s more than likely due to the fact that you are not making enough money to justify the investment. He suggested that an immediate change in mindset is the first place to start because not doing so will be fatal to their businesses.

The first guest speaker was Tony Lombardo of Superare Marketing- Consulting. Tony presented an eye opening analysis of the various factors that shop owners need to take into consideration on an individual basis when calculating their true cost of labor and calculating their actual hourly labor rate. He included examples of what technicians really cost a shop owner per hour before a dime of profit is achieved. Dave encouraged shop owners to consult with Tony as he is a wealth of knowledge and it would be the prudent first step in getting on the right track.

Next up on the agenda including a panel of local body shop owners/ABAC Board of Directors: President Bob Amendola, Past-President Tony Ferraiolo, Eddie Lupinek and Tony Cavallaro Sr. Between the members of this panel, their experience as business owners amounted to over 200 years. Each speaker had similar yet different ideas and approaches regarding charging their true labor rate and still retaining their customer base, providing the audience with plenty of options and point of views.

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A key point in the discussion was how to involve the customers in the repair process through information and communication. When a shop is dealing with a first party customer, it is important to explain to the customer that they have a contractual agreement with their insurance company to be indemnified. Similarly but slightly different, for third party customers there isn't a contract between them and the insurance company. However, there is a contract between the insurance company and the insured to indemnify the claimant. This is important to understand when you are informing the customer of their rights and involving them in the process. Even more so when you considering a legal approach.

The keynote speakers also discussed negotiating tips on how to be compensated for their repair invoice, based on their true labor rate being charged. Multiple ideas and strategies were brought forward but the end goal remained the same in dealing with small, medium and large insurance companies.

The final speaker was none other than Attorney John Parese (Buckley, Wynne & Parese). Dave Fogarty introduced him as "the best weapon that the ABAC has ever had". Attorney Parese provided a full introduction to the legal aspect of pursuing compensation in the small claims court system when shops find themselves dealing with a short-pay situation. He

stressed the importance of preparation and proper documentation prior to filing a short-pay. Attorney Parese also gave different examples of how small claims litigation has transpired in past cases and the benefits that shop owners have received, both monetarily and psychologically. Pursuing short pays in the small claims system has proven to be quite effective and set the tone for future success for shop owners.

The feedback from this event was nothing but excitement, motivation and empowerment for those who attended. Stay tuned for part 2!

Submitted by
Ashley Burzenski



Auto Alliance, Global Automakers: Follow OEM repair procedures

The Alliance of Automobile Manufacturers and Association of Global Automakers this month declared that all “post-collision vehicle repairs” must follow OEM repair procedures.

The policy statement by the two trade groups — who represent 99 percent of U.S. new car and light truck manufacturers — formally aligns automakers with the stance held for nearly a decade by the three national collision repair trade groups and I-CAR. It also matches what courts have supported — perhaps most notably with the \$31.5 million 2017 John Eagle Collision verdict (later settled for an undisclosed amount).

“There was a time when a basic understanding of autobody repair would allow a repairer to fix 9 out of 10 vehicles that come into a shop. That time has passed,” Auto Alliance government affairs senior director Wayne Weikel said in a statement Wednesday. “If a collision shop is going to fix the cars of today, they cannot use the repair procedures of yesterday. The only way to repair today’s vehicle is by following the OEM recommended repair procedures on every repair.”

“An automaker’s top priority is its customers’ safety, as is safeguarding the overall health of the motor vehicle fleet utilizing our nation’s shared roadways every day,” the joint statement declares.

“All post-collision vehicle repairs must be conducted in accordance with the repair procedures issued by the vehicle’s original equipment manufacturer (OEM), specific to that vehicle’s year, make, and model. This includes any directives contained therein relative to pre- and post-scanning of vehicle systems.

“OEMs develop repair procedures to help safely restore vehicle systems to proper conditions. The processes follow service and structural engineering practices that have been tested by the manufacturer through crash simulation, actual crash testing, and real-world validation of the repair methodology.

“Beyond the simple reinstallation of vehicle hardware, OEM repair procedures provide the measurements and tolerances to correctly recalibrate advanced driver safety and assist systems increasingly found on today’s vehicles, including lane departure warnings, emergency braking, adaptive cruise control, and blind-spot monitoring.

“Failure to follow OEM repair procedures in the course of a post-collision repair should be considered an unauthorized modification of a vehicle and its systems, introducing the potential for bodily injury and death to any future drivers and occupants of the vehicle, as well as occupants in other motor vehicles on the roadway.”

The Auto Alliance’s membership includes BMW, FCA, Ford, General Motors, Jaguar Land Rover, Mazda, Mercedes, Mitsubishi, Porsche, Toyota, the Volkswagen Group and Volvo.

Global Automakers includes Aston Martin, Ferrari, Honda, Hyundai, Isuzu, Kia, Local Motors, Maserati, McLaren, Nissan, PSA, Subaru, Suzuki and Toyota.

Global Automakers noted Wednesday that repair procedures were accessible. Most members allow anyone to obtain online a copy of the instructions to fix their vehicles with either a short- or long-term subscription.

“Automakers have gone to great lengths to make repair procedures available to the public,” Global Automakers vehicle safety and connected automation Vice President Steve Gehring said in a statement. “These procedures were developed to ensure the vehicle is safely returned to pre-crash condition, with a confidence that advanced driver safety systems are calibrated correctly to help avoid the next crash.”

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The Automotive Service Association and Auto Alliance have planned to pursue OEM repair procedure legislation this year.

“ASA has made the use of OEM repair procedures by collision shops a top policy priority. All parties in the collision repair process have a stake in repairs being made correctly by following OEM repair procedures which includes vehicle scans,” ASA Chairman Roy Schnepfer (Butler’s Collision) said in a statement. “Following these recommended procedures should be a practice that is performed on every vehicle and all parties to the repair, consumers, insurers and shops assume that it will be done. We look forward to working with our team members to move OEM repair procedure policy forward across the U.S.”

Source: www.RepairerDrivenNews.com - Article by John Huetter

Alliance of Automobile Manufacturers and Association of Global Automakers Statement on use of OEM Repair Procedures

An automaker’s top priority is its customers’ safety, as is safeguarding the overall health of the motor vehicle fleet utilizing our nation’s shared roadways every day.

All post-collision vehicle repairs must be conducted in accordance with the repair procedures issued by the vehicle’s original equipment manufacturer (OEM), specific to that vehicle’s year, make, and model. This includes any directives contained therein relative to pre- and post-scanning of vehicle systems.

OEMs develop repair procedures to help safely restore vehicle systems to proper conditions. The processes follow service and structural engineering practices that have been tested by the manufacturer through crash simulation, actual crash testing, and real-world validation of the repair methodology. Beyond the simple reinstallation of vehicle hardware, OEM repair procedures provide the measurements and tolerances to correctly recalibrate advanced driver safety and assist systems increasingly found on today’s vehicles, including lane departure warnings, emergency braking, adaptive cruise control, and blind-spot monitoring.

Failure to follow OEM repair procedures in the course of a post-collision repair should be considered an unauthorized modification of a vehicle and its systems, introducing the potential for bodily injury and death to any future drivers and occupants of the vehicle, as well as occupants in other motor vehicles on the roadway.

The Alliance of Automobile Manufacturers and The Association of Global Automakers represent automakers producing more than 99% of new cars and light trucks sold in the United States.

About the Alliance: The Alliance of Automobile Manufacturers is a trade association of twelve car and light truck manufacturers representing 70% of all car and light truck sales in the United States. Formed in 1999, the Alliance serves as a leading advocacy group for the automobile industry on a range of public policy issues. The Alliance is committed to developing and implementing constructive solutions to public policy challenges that promote sustainable mobility and benefit society in the areas of environment, energy, and motor vehicle safety. For more information, visit www.autoalliance.org.

About Global Automakers: The Association of Global Automakers represents the U.S. operations of international motor vehicle manufacturers, original equipment suppliers, and other automotive-related trade associations. We work with industry leaders, legislators, regulators, and other stakeholders in the United States to create public policy that improves motor vehicle safety, encourages technological innovation and addresses environmental needs. Our goal is to foster an open and competitive automotive marketplace that encourages investment, job growth, and development of vehicles that can enhance Americans’ quality of life. For more information, visit www.globalautomakers.org.

DOIs say states don't recognize OEM repair procedures with regards to claims

Insurance departments in many states have told the Society of Collision Repair Specialists that nothing in state statute specifically recognizes OEM repair procedures — repair instructions developed by the automakers themselves — as a basis for settling claims.

Despite nearly all of the agencies declaring they were responsible for claims settlement practices and complaints regarding procedure-related short pays, few also had a concrete answer whether they viewed OEM procedures as a reasonable basis for settling a claim. Some declared themselves hamstrung by the absence of state law giving them the ability to make that decision.

Similar answers arose regarding a question about whether policy language should articulate which OEM procedures wouldn't be covered.

The 29 responses (28 states and Washington, D.C.) posted to the organization's website represent the first wave of an effort that spanned all 50 states. For more on the holdouts, see [here](#).

SCRS Executive Director Aaron Schulenburg said at a January open board meeting it was "evident" in many of the responses that either a "lack of understanding" of the issue exists within the DOIs or "there truly are gaps in statute" which fail to describe OEM procedural operations within the claims settlement process.

Some of the states mentioned language pertaining to OEM and alternative parts, while a few departments of insurance seemed to misunderstand the question entirely as referring to OEM parts rather than the OEM instructions for placing those parts on the vehicle.

For those unfamiliar with the issue, there's an obvious difference. Even if you used a recycled or refurbished OEM part, you'd still install it the way the OEM says. And aftermarket parts certifiers judge parts on how closely they match the OEM version — meaning you'd logically still install the part the same way. The Automotive Service Association and Alliance of Automobile Manufacturers are attempting to pursue OEM procedure legislation which separates the issue of parts choice from the issue of the procedures to fix the car.

The responses provided to SCRS should help inform such discussion in statehouses considering legislation tying insurers to repair procedures. At least one bill has already appeared in New Hampshire, which ironically hasn't yet replied to SCRS.

Trends in responses

The answers to SCRS largely show an obvious disconnect between state law and regulation and what all three national collision trade groups and I-CAR have also recognized as the correct way to repair a vehicle: OEM instructions. This could lead to situations in which policyholders or victims (in the case of a third-party claim) are forced to pay out of pocket or sue the insurer or at-fault party for recompense and an interpretation or the repairers make the decision to eat the costs.

Idaho's response is fairly representative of how many DOIs polled viewed these concepts. The agency said it was in charge of consumer protection and regulating insurance, including claims settlement practices.

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SCRS asked if anything held “insurers and insurance policies sold in your state accountable to recognize manufacturer documented procedures as a basis for settling claims and loss indemnification.”

Idaho DOI Consumer Bureau Chief Elaine Mellon wrote: “The Idaho Insurance Code does not include such a requirement.”

Asked if her agency would “consider it a ‘reasonable’ expectation that if an OEM repair procedure or instruction existed, that the claim should cover the associated costs,” Mellon replied:

The Department does not regulate the method or standard of repair nor does the Department set standards for determining a “reasonable” cost of automobile repair. The Idaho Insurance Code does not address these issues other than to allow for non-OEM parts to be used in the repair of Vehicles upon proper disclosure.

Unlike many other insurers, Idaho didn’t really answer the question of whether repair procedure exclusions should be covered in the policy. Mellon instead cited language regarding identification of aftermarket crash parts at the repairer or insurer-estimate level. Whether any rules regarding auto policy content exist was unclear.

Mellon also wrote the agency would “investigate to determine if there are any violations of the Idaho Insurance Code or the insurance policy” if a consumer had a complaint.

Such responses also call into question the ability of the agency to perform what many said is their duty: judge claims settlement practices. How would the DOI judge the reasonableness of a denied charge? Or would it — as a couple of agencies said — just completely abdicate this self-proclaimed duty to the court?

The courts, for their part, recognize OEM procedures as the correct way to fix a vehicle, experts say. This was perhaps most notably displayed in the 2017 Seebachan v. John Eagle Collision case, which held a collision repairer liable for a repair that deviated from Honda procedures. SCRS mentioned the case in its communications to the 51 insurance agencies.



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California

One notable state following these lines was California, in that its answer seemed to contradict the state law it cited.

Alex Avalos told SCRS that his agency enforced Fair Claims Settlement Practices Regulations, including Section 2695.8(f).

He wrote to SCRS that this regulation “requires an insurer to prepare an estimate which will allow for repairs to be made in a workmanlike manner” but “our insurance laws and regulations are silent on vehicle manufacturer documented procedures.”

However, Section 2695.8(f) states:

If a partial loss is settled on the basis of a written estimate prepared by or for the insurer, the insurer shall supply the claimant with a copy of the estimate upon which the settlement is based. The estimate prepared by or for the insurer shall be of an amount that will allow for repairs to be made in accordance with accepted trade standards for good and workmanlike automotive repairs by an “auto body repair shop” as defined in section 9889.51 of the Business and Professions Code, and in accordance with the standards of automotive repair required of auto body repair shops as described in the Business and Professions Code and associated regulations, including, but not limited to, Section 3365 of Title 16 of the California Code of Regulations. An insurer shall not prepare an estimate that deviates from the standards, costs, and/or guidelines provided by the third-party automobile collision repair estimating software used by the insurer to prepare the estimate, if such deviation would result in an estimate that would not allow for repairs to be made in accordance with accepted trade standards for good and workmanlike automotive repairs by an auto body repair shop, as described in this subdivision. (Emphasis ours.)



And 16 CCR 3365 defines “workmanlike” as:

- (a) Repair procedures including but not limited to the sectioning of component parts, shall be performed in accordance with OEM service specifications or nationally distributed and periodically updated service specifications that are generally accepted by the autobody repair industry.
- (b) All corrosion protection shall be applied in accordance with manufacturers’ specifications or nationally distributed and periodically updated service specifications that are generally accepted by the autobody repair industry. (Emphasis ours.)

As noted above, all three national autobody trade groups and I-CAR endorse OEM procedures as the standard, so this one actually seems pretty well defined for the CDI.

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SCRS questions

“It is the position of SCRS that if an OEM documents a repair procedure as required, recommended or otherwise necessary as a result of damage or repair, that those published procedures would be the standard of repair until such time the documentation changes,” SCRS wrote on its new webpage dedicated to the project. “Our position, communicated to our members, is that disregarding a documented procedure that is made available to the industry creates undue and avoidable liability on the repair facility performing the repair.

“As part of our informational work on behalf of our members, we established a desire to determine the role that each state DOI office plays in helping consumers ensure the claims settlement process will also ensure them a complete and proper repair.”

SCRS had asked:

- Is your department charged with consumer protection and the entity who serves as the regulatory agency to govern and supervise the business of insurance in your state?
- Are claims settlement practices a part of that regulatory oversight? ...
- Is there anything that holds insurers and insurance policies sold in your state accountable to recognize manufacturer documented procedures as a basis for settling claims and loss indemnification?
- Would your department consider it a “reasonable” expectation that if an OEM repair procedure or instruction existed, that the claim should cover the associated costs?
- Would your department expect consumers to be clearly notified through exclusions in the policy where costs associated with documented OEM procedures would not be covered; otherwise, allowing a consumer to reasonably assume they would be?
- If there is a dispute between a consumer and their insurance carrier over the cost to restore their vehicle to pre-loss condition in accordance with manufacturer documented procedures, is your department the correct one to address those issues and provide consumer protection?
- If yes, please explain?
- If no, who is the appropriate consumer protection body to do so? (Minor formatting edits.)

The SCRS inquiry continues.

To See how your state did, go here: <https://scrs.com/doi-responses/>

Be heard: State department of insurance contact information can be found here: https://www.naic.org/index_members.htm

Source: *www.RepairerDrivenNews.com*

Porsche explains rationale for ban on wheel repairs



Porsche on Thursday said its rim flanges are 2.5 mm thinner than the 11 mm flanges described in one European rim and tire standard, a technical decision contributing to its ban on alloy wheel repair.

Mike Kukavica, Porsche aftersales technical training collision repair technology instructor, told a Veri-Facts Guild 21 audience that the European Tyre and Rim Technical Organization has for a long time proposed a minimum of 11 mm for an outer rim flange. However, there's nothing binding Porsche to those standards, and so it has always used an 8.5 mm flange on its alloy wheel, he said.

Despite their reduced thickness, the wheels are "structure-optimized," according to the presentation. Porsche uses the flow-forming process to produce the rims in order to achieve the lowest wall thickness combined with maximum stability," a slide

from his presentation explained.

Kukavica described Porsche wheels as able to handle top speeds nearing 200 mph on a 911 Turbo and able to handle 24 hours of operation. The performance is not a question," he said. But Porsche has removed everything it could out of the wheel to get that performance, he said.

A separate TÜV standard suggests Europeans can repair the outer 1 mm of the 11 mm wheels, but this can't work for Porsche's thinner wheels, Kukavica said.

"There's no room to take any more away," Kukavica said. Porsche only allows shops to repair paint damage, "period," he said. It bans all other wheel repair.

Kukavica said he didn't think either standard had been established in the U.S.

While Kukavica said he couldn't speak for other OEM's bans on repairing wheels, we asked him to clarify that Porsche's 8.5 mm rim flanges contrasted with the European standard didn't necessarily mean the outer 2.5 mm of every 11 mm OEM's rim flanges could be shaved off with impunity.

Kukavica replied that his point was simply Europeans felt a wheel with a 11 mm thick flange could tolerate a 1 mm repair, "no more," he said. He noted that mentioning numbers made him uneasy, for people could run with them inappropriately.

"These aren't all the same places making wheels," Kukavica also pointed out. A mass-market car with a top speed of 85-90 mph might have different performance requirements than cars designed to go much faster. (Even a Cayenne diesel could hit 140 mph, Kukavica recalled.) A skeptic might counter that the speed limit was only 70, Kukavica said. A repairer could certainly wager that real-world conditions would allow them to stand behind the improper repair — though getting caught would be "a different issue," according to Kukavica.

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“As collision repairers, our responsibility is the technical quality of the car when it leaves,” he said. The car should be able to still match the manufacturer’s performance standards.

Moderator George Avery, a former longtime State Farm employee, noted that other OEMs wheels were probably designed to need a thicker flange.

And in fact, multiple OEMs issue similar repair prohibitions as Porsche for U.S. repairers — even mass-market brands. So don’t go around assuming all U.S. wheels are going to have the 11 mm spec of some European wheels or that the first 1 mm of substrate on any wheel is automatically fair game. Follow the OEM repair procedures.



Porsche’s wheels have thinner rim flanges because wheels are a “very big part of performance,” Kukavica said. A lighter wheel reduces rotating mass and unsprung mass, and a lower unsprung mass means better handling, he said. Porsche’s are engineered to be thin yet strong.

Porsche balances weight reduction, maximum performance and safety in making such decisions, Kukavica said. It also examines cost of ownership.

It was easy to say Porsche should have just made the wheel thicker (and this point had been raised to the engineers, he said), but that lacks knowledge of all the factors that went into the OEM’s decision, Kukavica said. “We just know the end result,” he said.

The equipment and skills to check if a wheel is acceptable was “beyond the scope” of the aftermarket — not just collision repairers but “aftermarket, period,” according to Kukavica. If you received a repaired wheel from a third party, “how can you know that it’s OK?” Kukavica asked.

About half of the Guild 21 audience reported in an informal poll that they handled damaged wheels by having a third party repair the part. A little less than 10 percent bought a refurbished wheel. The remainder bought a new OEM wheel.

Avery said he heard from some automakers that there is some wiggle room when they order a wheel from a Tier 1 supplier. If a part is out of spec, it can be adjusted in the factory and still be considered viable, he said. However, a repairer has no way of knowing if a customer’s wheel has received such a factory repair already, Avery said. The implication seemed to be that the only chance to be repaired had already been consumed.

Kukavica said a “simple solution” existed — just buy a new OEM wheel. It was the “right solution,” he said. The presentation wasn’t meant to be an ad for Porsche parts, according to Kukavica, but his job was to ensure vehicles are fixed properly, he said.

If an industry guideline is one width and Porsche’s wheels are almost 30 percent thinner for “good technical reasons,” then it validates that you can’t repair the alloy, according to Kukavica. “It just makes sense,” he said.

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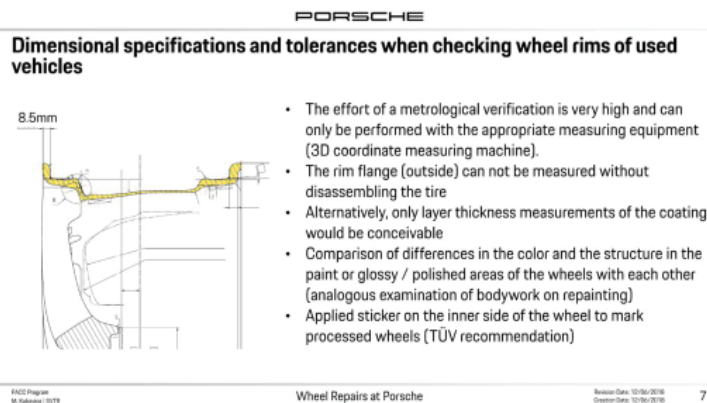
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Porsche believes that paint damage is repairable on its wheels, and it demonstrates this by providing wheel paint codes, according to Kukavica. But if the scratch goes “down to the metal” and exposes the alloy, it’s not repairable, he said. If “you don’t see anything silver underneath,” the damage is superficial and is repairable, he said. But there’s a difference between what’s “technically possible” and what was “practically possible,” Kukavica said. It’s unlikely that a collision repairer would encounter a Porsche wheel with an impact so minor it only damaged the paint, he said.

VeriFacts CEO Farzam Afshar advised repairers listening to the call to only accept wheels with a stamp if they didn’t buy wheels brand new from an OEM, which he called a sign of a reputable company and a means of shifting liability from the body shop. Kukavica said Porsche was clear on the matter. Deviate from its instructions, and “that’s gonna be their problem,” he said.

He said that it would be “pretty smart” to pick a third party and stick them with some liability, but he wasn’t sure that the body shop wouldn’t continue to hold some responsibility. “There’s no ambiguity” in Porsche’s statement instructing shops not to use such parts, Kukavica said.

Experts have said that a body shop as the repair professional still assumes liability for the parts installed on a vehicle. While a repairer couldn’t truly be sure of a wheel’s status, there are some red flags that could alert a shop to a prior repair. As Kukavica noted, sometimes a vehicle has seen work before it’s brought to your repair facility.



A repairer could take paint thickness measurements on the wheel, he suggested. “That would help you out a lot,” Kukavica said. His presentation also advised looking for color differences.

Many Porsche wheels have a milled surface and an undercut painted a complementary color, according to Kukavica. If the milled surface itself is inconsistent within the wheel or doesn’t match other wheels on the car, it’s a “pretty good indication” of a repair, he said. A rim flange’s contour might not correspond with the original flange’s curve, he said. “That one ought to be easy,” he said.

The TÜV’s recommendation that everyone who processed wheels put a sticker on the inner side could also yield another tip-off, he said.

In another informal poll, 55 percent of the audience reported they’d inspected a wheel, which Kukavica called “very surprising” but “heartening.” However, a call moderator said that as a consumer, the lack of inspection of outsourced wheel work made her “really nervous.”

She noted that after she raised that point, the audience stats changed to 64 percent inspecting.

At the end of the call, the proportion of the audience declaring they planned to send wheels to third parties had fallen to 8 percent, with another 8 percent planning to buy refurbished wheels. About 62 percent said they’d buy new OEM wheels, and 23 percent said they didn’t know.

Source: www.RepairerDrivenNews.com

ABAC Social Media Update

We've been keeping busy since our last update! Since December we have reached nearly 200,000 people through our social media efforts! We attribute this significant uptick in reach to not only consistency and boosted posts but also a set of videos we recently released. The videos are short clips that discuss knowing your rights, choosing a repair shop etc. We've found them to be very effective because they are concise and relatable but still get our message across. We have received a great amount of positive feedback from each one so far and there are more to come! If you haven't watched them yet, we highly recommend that you visit our page and check them out. You can also share them to your page so all of your friends can watch them too.

In January, the ABAC along with our sponsors presented a check to the Connecticut Technical Education and Career System in Milford to benefit their automotive collision repair program. We live-streamed the event on our Facebook page so that our followers online could watch the event. We reached over 3,000 people with our live-stream!

We've also been working on a mini facelift for both our Facebook and Instagram pages to make sure we stay current. We continuously strive to make our presence online clear and easily accessible. Our mission maintains to educate and empower consumers through our content.

Coming down the pike, we have more videos, giveaways and "Know Your Rights" posts so be sure to keep an eye on the page!

Submitted by Ashley Burzenski - ABAC Vice-President

Name That Car Contest!



**"Name That Car Contest" Winner
for the Nov-Dec 2018 Edition**

**Nicole Carpenter - Office Manager
Hamden Auto Body**

**The correct answer is:
1929 Packard 633 Roadster**

**Nicole was chosen from a
drawing of the 8 correct answers**

Nicole tells us that she reads every edition of the ABAC News and uses the great information published to help educate the shops' technicians and customers!



What Classic Car Is This??

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**On January 30th, we will
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