

ABAC NEWS

JUNE 2005



The Official Newsletter of the Auto Body Association of Connecticut

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Attorney General Richard Blumenthal (L) and
ABAC President Tom Bivona

Attorney General Delivers Powerful Message

For the second consecutive year, Connecticut attorney general Richard Blumenthal continues to demonstrate his strong support toward the members of the Auto Body Association of Connecticut. Arriving at approximately 7:30, Mr. Blumenthal was proudly introduced by Dave Fogarty (master of ceremonies) to a standing ovation.

The attorney general immediately achieved the undivided attention of all in attendance. He reminded us that last year, he had promised to look into our industry concerns; lack of enforcement of state insurance department statutes, illegal steering of collision work to preferred body shops, and unfair compensation paid on collision repair by insurance companies. Blumenthal then stated, for those who were not aware, that he had done a thorough investigation into the insurance companies' illegal practices that not only involved the collision repair industry, but many other areas as well!

He explained that he had also done a thorough investigation into the practices of the Connecticut Department of Insurance and had, as he'd described himself, "buted heads" with them. For this, Blumenthal received tremendous applause from ABAC members.

The attorney general's closing words were powerful and sincere. He encouraged all ABAC members to continue to fight to protect their own business rights and the rights of Connecticut consumers regarding collision repair and enforcement of statutes. He promised us that he would continue to support our cause every step of the way until changes are made that provide fair and reasonable claims settlement for all.

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ABAC Continues to Educate and Inform Guest Speakers at Annual Meeting Relay Important Information to Members



ABAC President Tom Bivona (L) and M.C. Dave Fogarty address members at a packed Country House Restaurant

Another "standing room only" quarterly meeting of the ABAC was held on May 17, 2005 at The Country House Restaurant. These large turnouts are becoming quite frequent due to the increasing membership and the success that the ABAC is attaining in the collision repair industry.

Dave Fogarty, master of ceremonies, introduced President Tom Bivona who reminded everyone that information and documentation are extremely important. When you are faxed a questionnaire or survey, the ABAC depends on your response. Bivona then thanked everyone for taking the time to come to the meeting to support their association.

Fogarty then introduced many key figures that were in attendance. State Senator Len Fasano, who has attended many ABAC functions took to the podium for a few words. Said Fasano "a year ago I was here and I told you that in order to move ahead of this process you had to do some-

thing, that you had to set an agenda and you had to set a criteria and you had to go forward and that's the only way we could help. I also indicated that you needed to call Senators and your Representative in your area once these bills started to come out to get their support. You people did a terrific job. There were five to six bills that were submitted that were house bills and Senate bills to change appraisals, to change labor rates, to change the method of determining damages and giving rights to you (the repairer) so you could protect your customers. Those bills had a tremendous impact. You drew attention. There was a tremendous effort by the insurance companies and their lobbyists to kill your bills... **AND THEY DIDN'T SUCCEED!**"

Fasano then continued that a result of these proceedings was that there needed to be a summit of our organization (ABAC) and the State of Connecticut Insurance Department to talk about how we can solve these problems. As of today, the first meeting has already happened and the second meeting is scheduled for Friday, June 3, 2005, to lay groundwork. Said Fasano "if by October there is not an understanding that there is a bill to come out to protect the Auto Body Industry, I have assurances through the chairs of insurance, assurances from the Chairs of Transportation Committee and general law that the bills that we have out there today will go forward and be voted up or down in the House and in the Senate. So there is a strong incentive for the people to come together at these meetings and draft legislation that makes sense to try and correct these problems. You people of the ABAC are the voices. You are on the way. It (change) doesn't happen over night. You have made a tremendous stride from last year to this year." Fasano then reminded everyone that if you make a complaint to an insurance company make sure you send a copy of that complaint to the ABAC. Senator Fasano then thanked everyone for their time and their valuable support.



Senator Len Fasano

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Dave Fogarty then acknowledged several distinguished guests in attendance:

- Peter Russo of the DMV
- Lee Telke Chief of Bureau of Licensing and Registration Management (DMV)
- Michael London, London & Associates – ABAC Media Firm
- Alan Neigher, ABAC Legal Counsel
- Enterprise Rent-A-Car, Mark Couture - ABAC meeting sponsor
- Paul Francis Company, John Modica – ABAC meeting sponsor
- Metropolitan Car-O-Liner, Mike Casey – ABAC meeting sponsor
- J.N. Phillips Auto Glass, Corsett Phillips & Mark Bosse – ABAC meeting sponsor
- Bill Romaniello – ABAC Board of Director, Richard Chevrolet
- Dave Reynolds, past president Auto Body Association of Rhode Island
- Bob Collins, Wreck Check of Massachusetts
- Chris Sheehy, ADP
- Tony Lamandozzi, New Hampshire Auto Body Association
- Mike Parker, Vermont Auto Body Association
- Tom Morgan, Vermont Auto Body Association

***Our first featured speaker of the evening was
Connecticut Attorney General Richard Blumenthal.
See front cover of this issue for the Attorney General's powerful message.***



***A packed house was in order at
the Country House Restaurant for
the recent annual meeting of the
Auto Body Association
of Connecticut***

Our next featured speaker of the evening was Erica Eversman, J.D. Erica and her firm provides data for the industry and they act as experts and expert witnesses in litigation. They consult and advise for organizations. Erica says that a new area the company is getting into is one of her driving motivations in the fact that there are no safety standards for the repair of motor vehicles. In other words, there is no regulation, there is no oversight, there is no mandatory certification training experience necessary. Consumers, according to Erica, have no idea that this is the case and consumers also have the presumption that the insurance company is looking out for their best interest.



Erica Eversman

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Erica's presentation involved the collision repair industry and our recapturing of that industry. We are in a defensive position combating the insurance companies. She touched upon the NCOIL (National Conference of Insurance Legislators) meeting being held in Rhode Island in July and the need to put a halt to it. Why NCOIL? The stated purpose of the Act is to protect consumers from inferior aftermarket parts. So why is a parts issue being considered by Insurance Legislators? This is a job for the Attorney General. The Act says that crash parts shall undergo certification by an independent third party. The only people, under the terms of this legislation that are prohibited from becoming third party certifiers are, parts manufacturers (OEM & non OEM), entities "owned, operated, or maintained" by parts manufacturers. People who are NOT prohibited from becoming third party certifiers are insurers, insurer-owned, controlled, operated or maintained entities, and novices! Amazing eye-opening stuff! So the question is, how independent do you think these third party certifiers will be when the only entity interested in utilizing the aftermarket parts is the insurance industry? The insurance industry will fund these certifications, they will control them, they will make determinations about who is going to be a certifier and what parts will be certified. The worst part of the Act is there is no liability for third party certifiers. The model Act does not hold certifiers accountable for the products they certify. The model Act contains no remedies. There is nothing in the Act for improper certification nor for poor product quality and there is no mechanism for decertifying a third party certifier. Now, why isn't anyone talking about collision repairers as a certification source? Currently, repairers are the only ones with the requisite experience to determine if an imitation crash part is truly comparable to an OEM part. According to Eversman, we have outside interests attempting to get legislation passed that literally legislates quality. You can get more information at www.ncoil.org and you can e-mail Candace Thorson, the director of Legislative Affairs and Education at cthorsen@ncoil.org.

Erica then went over the issues for repairers to consider when entering a Direct Repair Program Agreement. You, as the repairer, must consider what you are giving away when you join a DRP. Right now, in theory, you have the right to set your own price for your work. You can set your own labor rate, you can determine your own product markup and you decide what processes are necessary to repair the vehicle because YOU are the professional. One of the other things you have a right to do is choose which supplier you use for parts and equipment and YOU decide how to satisfy customers. If an insurance company has a contract with a particular supplier and the insurance company tells you that you have to use them due to the insurance company's contractual obligation then that is an anti-trust violation and you do not have to use that supplier. You could end up in an anti-trust violation if the customer finds out that you may not have received the best product because you used the insurance company's supplier.

The most important fact that Erica brought forth concerning DRP shops was this: Belonging to an insurer DPR network does not excuse body shops from their responsibilities nor from liability. Erica could not stress enough the importance of this fact. Just because the insurance company tells you that you "have to do it that way" you are the professional and you make the correct decision because ultimately you are the one who is liable and you are the one who will be held accountable if there are problems with the repairs. **DRP agreements require you to accept all liabilities. You will have to pay all of the insurance company's fee incurred during litigation.**

You, as a DRP, must:

- Offer "warranty"
- Use aftermarket parts
- Obligation to find "betterment" or prior damage
- Collect deductible directly from customer
- Maintain and submit information electronically

You do the "dirty work" for the insurance company.

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Erica then brought up on the screen a Federal Trade Commission Regulation 16CFR700.1. This regulation states “warranties on replacement parts and components used to repair consumer products are covered; warranties on services are not covered. Therefore, warranties which apply solely to a repairers workmanship in performing repairs are not subject to the Act. Where a written agreement warrants both the parts provided to effect a repair and the workmanship in making that repair, the warranty must comply with the Act and the rules there under”. Erica said “if you only take home one thing from this meeting then let it be this. In anything that you do in writing or orally you make absolutely dead certain that you warrant ONLY your repair work. Leave the aftermarket parts warranty liability with the insurance company.”

Several examples were shown of these issues and quite a few eyebrows were raised, to say the least.

We all left this tremendous meeting more educated and armed with knowledge to use in our quest to improve our collision repair industry.

Here is a page from the NCOIL Act. Read it CAREFULLY!

Section 4. Use of Certified Aftermarket Crash Parts

All non-car company aftermarket crash parts, as defined in Section 3(1), which are used to repair a motor vehicle and which are certified, shall be presumed to be suitable replacement parts.

Section 5. Notification

In all instances the written estimate prepared by the insurer or the repair facility, or both, shall clearly identify the manufacturer of each such part so long as that manufacturer can be identified by automated processes or through the manufacturer's warranty. A notification shall be attached to, or included in, the estimate and shall contain the following information in no smaller than 12-point type: THIS ESTIMATE HAS BEEN PREPARED BASED ON THE USE OF CRASH PARTS SUPPLIED BY THE MANUFACTURER OF YOUR VEHICLE OR CERTIFIED AFTERMARKET CRASH PARTS SUPPLIED BY AN INDEPENDENT MANUFACTURER. ALL AFTERMARKET CRASH PARTS USED IN THE PREPARATION OF THIS ESTIMATE ARE WARRANTED BY THE MANUFACTURER OR DISTRIBUTOR OF SUCH PARTS AND/OR AN INSURER FOR WHICH THE ESTIMATE WAS WRITTEN.

Section 6. Leased and Financed Vehicles

No individual, company or agent shall impose any penalty upon an individual leasing or financing a motor vehicle that repairs said vehicle using certified aftermarket crash parts.

Section 7. Effective Date

This act shall be effective on [insert date].

SYNOPSIS

This bill is designed to protect consumers from inferior crash parts used in the repair of their motor vehicle. Non-car company (independent) manufacturers of non-mechanical parts used in repair of automobiles shall undergo certification by an independent third party. This certification provides notice to the public that the crash parts used to repair the vehicle, equal or exceed the parts placed on the vehicle during initial assembly in terms of fit, finish, quality and performance

The consumer is further protected by the requirement that the insurance estimate or the body repair shop will furnish a notification identifying the manufacturer of the certified part (so long as that manufacturer can be identified by automated processes or through the manufacturer's warranty) and that the part is warranted by the manufacturer. Since aftermarket crash parts must be certified, there shall be no penalty imposed on an individual who finances or leases a motor vehicle for the use of non-car company crash parts.



Auto Body Association of Connecticut

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www.abaconn.com

"Pulling together for a better future."

April 27, 2005

To All ABAC Members:

It appears that the DMV may be staging a coordinated effort to intimidate, harass and annoy ABAC Members by unannounced visits whereby the DMV inspector demands to see certain records. This is especially important when you are away from the shop, (as happened last week with a former ABAC Board Member, an inspector demanded records from a receptionist while telling her that he has the right to close up a shop without notice in the event record compliance is not made). Accordingly, you should instruct your workers as follows:

1. If a DMV inspector arrives, shows his/her credentials and demands access to records, the person left in charge of your shop should demand to see a request for documents from the DMV. Under no circumstances should anybody show records to any inspector without the licensee (the ABAC Member) present.
2. If the DMV inspector makes any threats, your assistant should tell him/her to contact the ABAC legal counsel: Attorney Alan Neigher 203-259-0599 or Attorney David Slossberg 203-877-8000, and to fax (Neigher 203-255-2570 or Slossberg 203-878-9800) copies of the complaint and the materials sought.
3. ***Do not cave in response to any threat of immediate closure, fines, or suspension from any inspector making such threats. DMV cannot do this without a hearing.***
4. Be polite but firm in requesting a copy of the complaint and a list of the items requested. You can tell the inspector that you have been advised by legal counsel that you do not have to drop everything to respond to an unannounced visit by a DMV inspector.

By adopting this procedure, we will make it a little bit harder for the insurance companies to pressure the DMV to terrorize or intimidate you.

Sincerely,

Tom Bivona

Tom Bivona
President

A Sincere Thank You

**to all of our sponsors whose financial contributions helped make
our May 17th ABAC annual meeting a great success!**

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Mark Couture, Management

J.N. Phillips Auto Glass

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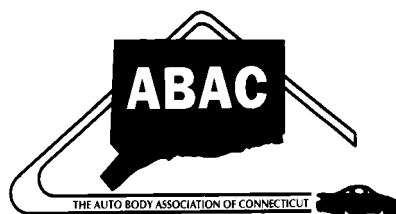
John Modica, President

CONSUMER ALERT!!!

Beware of any insurance company employees who require or influence you to bring your damaged vehicle to a specific repair shop for an appraisal.

This is a direct violation of Connecticut Anti-Steering Law that protects you, the consumer. The law specifically states that no insurance appraiser, adjuster or employee shall require that appraisals shall or shall not be made at a specific repair facility.

**Protect your rights as a consumer!
Choose the collision repair facility of your choice,
not the choice of an insurance company.**





M. Jodi Rell
GOVERNOR

STATE OF CONNECTICUT
EXECUTIVE CHAMBERS
HARTFORD, CONNECTICUT
06106

May 17, 2005

Auto Body Association of Connecticut
21 Preston Avenue
Meriden, Connecticut 06450

Dear Friends:

On behalf of the State of Connecticut, it is my pleasure to extend sincere greetings and congratulations to everyone gathered for the Auto Body Association of Connecticut's Annual Dinner Meeting, at the Country House Restaurant in East Haven.

I join the members of the Auto Body Association of Connecticut in commending tonight's Featured Speaker, The Honorable Richard Blumenthal, Attorney General of the State of Connecticut for his distinguished service and outstanding leadership. This meeting is an opportunity for you to voice your concerns and discuss plans that will continue to strengthen the auto body industry in the State of Connecticut. This annual event is a true testament to your dedication, commitment and tireless efforts to raise the standards of excellence.

It is a privilege to extend my words of tribute to all. Please know that you have my best wishes for continued success in all your future endeavors.

Sincerely,

A handwritten signature in cursive script, reading "M. Jodi Rell".

M. Jodi Rell
Governor

MJR/ba



Hot News

Legislative Issues



The first special legislative committee meeting took place on Friday, May 20th, in Hartford, Connecticut at a legislative office building. The parties involved, and permanent attendees for this meeting and all future meetings, include the following individuals:

- Senator Crisco
- Senator Fasano
- Representative O'Connor
- Susan Cogswell, Insurance Commissioner
- Raymond Claytor, Consumer Affairs Director (CT Insurance Dept.)
- Howard Weiner, Woodland Auto Body, East Hartford
- Chris Burkhardt, Liberty Mutual Insurance Group
- Martin Iverson, The Hartford
- Gerry Manuel, St. Paul Travelers
- Joseph Odierno, Nationwide Insurance
- Larry Siembab, Collision World Auto Body, Inc. d/b/a CARSTAR, Berlin
- Tom Bivona, ABAC President
- Bill Denya, ABAC Legislative Issue Committee Chairman
- Michael Walsh, ABAC Vice President
- Joanne Serkey, ABAC Director

Quite a unique group of professionals has been assembled. Hopefully, this will be the start of positive discussions dealing with key issues involving the interests of all parties. ABAC President **Tom Bivona** is optimistic that realistic solutions can be reached through improved communications by all parties being present at these meetings. Basically, accountability becomes a key factor.

The next meeting is scheduled for June 20th. Each meeting time is approximately 2 hours in length. All attendees at the first meeting have committed to attending all future meetings with no substitutions or additions. The objective is to have one meeting per month for the immediate future.

It appears that, finally, things may be taking a step in the right direction. We will keep you informed on progress as it unfolds. Stay tuned!

And MORE HOT NEWS...

CRASH NETWORK April 17, 2005

Oregon S.B. 210 has been approved by the Oregon Senate Business and Economic Development Committee. The bill requires collision repair shops to disclose to vehicle owners any direct repair agreement information. Shops must post a sign reading, "This repair shop has a financial agreement with one or more insurance companies to direct business to this facility. Details of these agreements are available upon request." S.B. 210 now goes to the Senate for a vote. The Property Casualty Insurers Assn. of America (PCI) is urging the Senate not to pass S.B. 210, claiming that it "would mislead consumers about a valuable program designed to provide quality repairs to accident-damaged vehicles," according to a PCI press release. PCI believes that one of the requirements of S.B. 210, namely, that customers will be able to request a copy of a preferred provider agreement or contract, would violate non-disclosure clauses in these contracts.

Notices & Bulletins

Membership

The ABAC membership is growing in leaps and bounds. We have 29 collision repair shops and allied vendors who have joined since March of 2005. **Tom Vicino** (membership committee chairman) has done an outstanding job with a select group of dedicated people to grow our membership. At the present rate of expansion, ABAC membership should see 100% increase by year's end.

New ABAC News Advertisers

The ABAC would like to welcome the following vendors as the newest supporting advertisers of this newsletter. They are:

- Stamford Mazda Stamford, CT
- Tasca Ford-Lincoln-Mercury Cranston, RI
- Tasca Volvo Seekonk, MA
- Tasca Mazda Cranston, RI

We wish them mutual success and support!

ABAC Officers 2005-2006

President Tom Bivona

Vice President Michael Walsh

Treasurer Bob Skrip

Secretary Mark Wilkowski

Immediate Past-President – Karl Mauhs

A special welcome goes to **Phyllis Pepe** (administrative assistant, treasurer) for joining the ABAC team. Phyllis has already established a great working relationship with executive assistant Denise Banta, and her contributions will be very beneficial to our organization.

ABAC OFFICERS 2005 - 2006

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TOM BIVONA

MY WAY OF GREENWICH

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