

ABAC NEWS

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The Official Newsletter of the Auto Body Association of Connecticut

Commission Hearing Considers Repeal of McCarran-Ferguson

Special government commission held a hearing Wednesday to evaluate possible repeal of insurance industry's exemption from anti-trust law.

The Antitrust Modernization Commission held a hearing Wednesday on the McCarran-Ferguson Act. During this hearing, the commission heard testimony regarding the Act as just one part of its examination into whether the need exists to modernize the antitrust laws, including possible repeal of the McCarran-Ferguson Act- a law which exempts insurers from certain anti-trust laws.

Speaking on behalf of the National Association of Insurance Commissioners (NAIC), Illinois Director of Insurance Michael McRaith told the Commission that the McCarran-Ferguson antitrust exemption actually benefits consumers and fosters a vibrant, competitive insurance marketplace, and cautioned against its repeal.

"McCarran's limited antitrust exemption permits supervised, cooperative activities by insurers to work in concert with comprehensive, cradle-to-grave consumer protections to promote competition, enhance consumer choice and help maintain marketplace integrity," McRaith testified. "Discussions of its repeal must be considered in the broad economic context and cannot be viewed in a legalistic vacuum."

McRaith raised one of the standard arguments used to defend the McCarran-Ferguson Act, or MFA, when he described the unique characteristics of the insurance business, which he said warrant special consideration under federal antitrust laws. Additionally, he emphasized that state oversight of insurers' cooperative endeavors prevents anti-competitive behavior.

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Happy Holidays

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Jay Angoff, a Jefferson City, Missouri lawyer from Roger Brown & Associates, disagreed with the NAIC's assessment when he pointed to insurers' excessive rates and profits. "Based on the Annual Statements insurance companies file with state regulators, the NAIC annually calculates the rate of return yielded by each of the 14 major property/casualty lines of insurance in each state for each of the last ten years. On an all-lines basis, property/casualty insurance profitability is typically not excessive. In several lines, however, including farm owners, fire, and auto physical damage, rates and profits in many states have been excessive over the long run and remain excessive today," said Angoff.

Angoff had previously been Deputy Commissioner of the New Jersey Department of Insurance, as well as the Director of the Missouri Department of Insurance.

"There may well be non-McCarran factors at work that have played a role in the maintenance of these long-run excessive rates and profits. It seems unreasonable, however, to believe that such rates and profits are completely unrelated to the industry's antitrust exemption," Angoff testified.

Donald C. Klawiter, Chair, Section of Antitrust Law for the American Bar Association, submitted testimony that argues in favor of modifying the MFA, granting the insurance industry a series of safe-harbor protections, rather than completely repealing the MFA. He said, "...the current ABA Policy is not to advocate a complete repeal of the MFA, but to instead modify the MFA by eliminating the exemption for all conduct other than that which is plainly procompetitive."

"Proponents of modification [as opposed to complete repeal] recognize that the MFA's blanket exemption creates anti-competitive concerns. They acknowledge that the exemption is overbroad, but they assert that it should be narrowed by enacting specific safe harbors. Safe harbors would protect the procompetitive behavior such as collection and dissemination of loss data. However, the safe harbors would not protect anticompetitive behavior such as price fixing and market allocations."

The Automotive Service Association favors repeal of the MFA and not just a modification. "Collision repairers should note the discussion of 'safe harbor' exemptions in both the ABA testimony and that of the American Insurance Association. These and other proposed exemptions to any repeal of McCarran-Ferguson certainly limit the benefits of insurance reform for consumers and repairers," said Bob Redding, ASA's Washington, D.C., representative.

"The November elections will have a tremendous impact on the degree of insurance reform once Congress returns. In addition, the House Financial Services Committee, presently the committee of jurisdiction, will have a new chairman, whether the House is controlled by Democrats or Republicans, with the retirement of the current chair."

The results of the commission's investigation will be put in a report and submitted to Congress and the President. The report is to "contain a detailed statement of the findings and conclusions of the Commission, together with recommendation for legislative or administrative action the Commission considers to be appropriate."

The commission consists of 12 members, four of whom are appointed by the President, four appointed by Senate leadership, and four appointed by House leadership.

Reprinted with permission from CollisionWeek (www.collisionweek.com) from the October 20, 2006 Issue

Small State Wins Big Insurance Law Changes

Rhode Island News

Rhode Island law now requires and describes how insurers are to conduct labor rate surveys. First state-designed surveys in the mail to shops now.

California may often lead the way when introducing new legislation pertaining to the collision repair industry, but on October 2, the Rhode Island Department of Business Regulation (DBR) adopted the final version of a new regulation that sets precise guidelines for how insurance companies must survey collision repair facilities when determining the prevailing labor rate for market areas in the state, including the exact survey form they must use.

The Rhode Island Auto Body Shop Association was instrumental in passing the legislation this summer ([RI HB 7167](#)) which required the creation of the new Insurance Regulation 108.

According to John Petrarca, president of Providence Auto Body and the Rhode Island Auto Body Shop Association, the legislative efforts of the association started back in 1997. "In 1999, through the efforts of the association, the Rhode Island House of Representatives set up a commission to start studying the auto body industry," explained Petrarca. "Because of that, the legislators started realizing there was a problem."

Under the new law, insurance companies are to conduct annual surveys under specific guidelines set out by the state. The rules will require insurers to survey all licensed shops, excluding only those that they have a DRP relationship with.

The regulation requires insurers to provide in their report to the Department, "a description of the formula or manner in which the insurer has calculated or determined the prevailing labor rate." Insurers had requested that this requirement be removed from the final regulations, but the Department declined their request explaining that it is required by the statute.

Insurers had also requested changes to the regulations that would allow for "surveying" techniques outside of the actual submission of a questionnaire to an auto body shop. The Department declined this request as well because, "the Department believes the intent of the statute is to provide for a standard method which receives actual data from auto body shops." In addition, the Department added terms that require the insurers to use the exact survey form provided by the state, with only formatting changes allowed.

On October 6, the DBR issued a [bulletin](#) to every insurer in the state required to comply with the new law- all insurers with greater than 1 percent market share. The bulletin set the deadlines for compliance with the new law as, prior to February 1, 2007 send questionnaires to all licensed Facilities as determined by the state; by June 1, 2007 insurers must file a report on their findings with the DBR; beginning in 2008, insurers must survey and file their reports annually by September 1.

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Petrarca explained, "This new bill requires the insurers to conduct the survey and disclose the results." Petrarca said the surveys are already in the mail to repair facilities and the Association will hold a meeting on November 1 to help shops understand the new survey process. The Association has invited economist Frederick B. Jennings, Jr., Ph.D., of EconoLogistics, to address the group. Jennings has conducted research projects for several associations including "The Economic Study of the Auto Body Repair Industry," commissioned by the New York State Auto Collision Technician's Association. The NYSACTA study illustrates the effects of a profit squeeze by insurers on independent auto body repair shops in New York and elsewhere.

Consumer disclosure

In addition to the new bill on labor rate studies, the Rhode Island Auto Body Shop Association also worked to get bills passed recently requiring notification of a consumer's right to choose an auto body repair facility under Rhode Island Insurance Law.

One bill requires Rhode Island auto body shops to display a sign notifying consumers that insurance companies may not interfere with the consumer's choice of an auto repairer. Another requires appraisers to include on their appraisals a notice, in boldface type, informing consumers that they have the right to choose the repair facility they want to fix their vehicle.

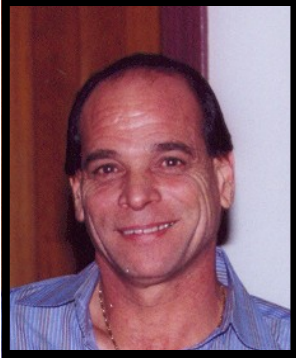
"The law requires every repairer and every insurance company drive in claim center to have a sign explaining a consumers rights to have repair work done at any shop. Insurers must also put a disclosure statement of every insurance identification card," said Petrarca. "When a consumer looks at their insurance card to find the 800 number to report a claim, they also see the statement about their right to choose a repair shop. We believe this has been a big help for repairers in the state."

Future legislation

The Association is looking to work with legislators to get some additional bills passed that they believe will be beneficial to both consumers and repair facilities, "Unlike Massachusetts, every car in Rhode Island doesn't have to be looked at by an appraiser," stated Petrarca. "We believe that requiring this would be beneficial to consumers. We will propose that any car worth over \$500 has to be looked at by an appraiser."



Reprinted with permission from CollisionWeek (www.collisionweek.com) from the October 31, 2006 Issue.



A Message from ABAC President Tom Bivona

HAPPY HOLIDAYS!

Throughout the year of 2006, the ABAC provided its members with support and education with numerous seminars geared toward creating solutions for success. Membership is growing rapidly. It is my hope that all of you will become part of your own collision repair industry's association by investing in membership. Together, we can become more powerful than ever before and create positive changes for all in 2007!

I would like to wish everyone a safe and happy holiday season.

Sincerely,
Tommy Bivona
Tommy Bivona
President



November 8th Quarterly Meeting Provides Ideas and Opportunities

Education covering various aspects of the collision repair industry was discussed in detail by three different companies at the Country House Restaurant. Master of ceremonies Michael Wilkowski welcomed everyone in attendance. Wilkowski then expressed sincere appreciation of behalf of the ABAC in thanking Enterprise Rent-A-Car, Metro Car-O-Liner and KPA for their generous contributions and support.

The first speakers of the evening were Domenick Del Monaco and Peter Mirkhani from Akzo Nobel. Both speakers gave a detailed presentation of the importance of tracking your paint and materials' real costs. They introduced their latest software and explained the features and benefits of body shop owners being able to create an actual invoice for paint and materials on each collision repair. Shop owners who are presently using their system find it to be very effective in obtaining proper reimbursement from insurance companies.

The next speakers were Mike Casey and Dave Demarest, Jr. from Metro Car-O-Liner. They gave the audience a complete educational overview of how important it is to be fully up to speed on the proper unibody and frame straightening techniques on today's high-tech automobiles. They explained that many manufacturers are using various new metals in frame construction, from aluminums to alloys. There are specific requirements necessary for repairing these vehicles correctly. Their presentation was well received and very informative.

Wilkowski introduced the final speakers of the evening from KPA. Representatives from KPA in attendance were Rob Stansbury (Northeast Regional Sales Manager), Chris Quinn (Northeast District Manager), Nick Bujeaud (CT Engineering Consultant) and Eric Schmitz (VP Product and Business Development Environmental Safety and Compliance). All speakers from KPA created a specific awareness and need for collision repair owners to wake up and make sure that their facilities are in compliance with all state and federal regulations, especially in the areas of environmental and safety. The company is offering all ABAC members in attendance a complimentary individual business analysis. Those interested may contact Rob Stansbury for an appointment. Those who attended gained valuable information and knowledge that they may not have had prior to attending this seminar.

Insurance Scuttlebutt

Progressive awards its claims people with lottery tickets and gift cards for steering work to its Concierge service centers. An attorney who is taking Progressive to court wants to find repairers who have been on the Progressive Concierge program, but were disheartened when they were forced to compromise the safety and/or quality of the repair because of Progressive's parsimonious business practices.

More on the new Progressive service center in Newington, CT (CRASH 10/15/06): CRASH asked Progressive if it dismantles vehicles at this service center when inspecting vehicle damage. Chante Jefferson of Progressive public relations responded, **"Inside each Service Center there is a diagnostic space complete with a car lift to fully inspect the underside of damaged vehicles, providing our claims representatives with the space and equipment necessary to prepare the most accurate estimates possible. If necessary, this may include partially disassembling some vehicle parts, such as bumpers or fenders to identify all damage related to the loss."** Jefferson emphasizes, "All repairs are completed at the body shop, by the body shop; no repairs are done at the Service Center." CRASH wonders, where is the line between dismantling and repairing? **In many parts of the country, a shop must be licensed in order to carry out repairs.** Another point to ponder: One source tells CRASH that Progressive estimates that 33% of the estimates the insurer writes don't even result in a repair order.

Another Progressive item: How many are aware of the insurer's Total Loss Concierge, in which Progressive will help policyholders find a replacement vehicle if theirs is totaled? "All you have to do is describe the vehicle you want...and your concierge specialist will take it from there," says a Progressive press release.

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EDUCATIONAL SEMINARS PRODUCE NEW ABAC MEMBERSHIPS

The three recent seminars offered by ABAC titled, **It's Time For A Revolution Of Education** were successful in many ways. First, shop owners who attended came away with great ideas and solutions to change some of the negative problems in dealing with insurers into positive results which means that the over 300 collision repairers in this state just may be a whole lot smarter in their daily business operations!

Second of all, shop owners are realizing that joining their own industry's association is a no-brainer! At this time, five new members have joined the ABAC in the last month along with many more to come. They are as follows: Jr's Auto Body (Milford), Greg's Auto Body (Milford), Extreme Auto Body (Stamford), Supreme Auto Body (Branford), and East Coast Auto Body (Stamford). More shop owners than ever before are realizing that "In unity there is strength! In knowledge there is power!"

OCTOBER SEMINAR CREATES OPPORTUNITY FOR SUCCESS!

Over 80 people were in attendance to receive knowledge and new ideas never before unveiled by the ABAC in a seminar titled (It's Time For A Revolution Of Education!)

The event took place at the Norwalk Inn And Conference Center on October 17th, 2006. Unlike seminars held in the past, this one was designed to eliminate apprehension and excuses that many collision repair owners have, and that it did! ABAC Attorneys David Slossberg and Alan Neigher were the first speakers introduced by Dave Fogarty (Master of Ceremonies). Slossberg and Neigher had the attention of the crowd as they gave a detailed presentation of fact on the progress of the legal action brought against the Hartford Insurance Co. They explained from start to finish how the case has grown in both size and positive momentum leading up to the present time. They expressed cautious optimism as to the final result of the case.

ABAC Media Publisist Michael London spoke next. London spoke about the communication that President Tom Bivona had with Attorney General Richard Blumenthal recently, regarding the Geico advertising incident which may have misled the public. Due to awareness created by Bivona, Mr. Blumenthal took an aggressive stance in going after Geico, thus prompting the insurance company to remove their misleading television ad. London also let the audience realize that because of the perseverance of key ABAC directors educating and meeting with the State Dept. of Education, the funding for the State technical schools offering collision repair training has doubled from two million to four million dollars. This is a major gain in the right direction for both the State tech schools and an overall major plus for the collision repair industry. Mr. London finished with a request to all shop owners to file complaints to the ABAC on any illegal actions committed by insurers, especially steering complaints, promising that this information would be forwarded to all parties and pursued to a resolution.

The final segment of the program was what every one was waiting for with anticipation. Dave Fogarty brought up two ABAC directors who were shop owners also. The topic of discussion was clear. "What are you really worth per hour? And how to achieve your individual labor rate." Fogarty asked the precise questions that most shop owners should ask, but never do in these settings. Both shop owners on stage simplified their answers offering ideas on how to really figure your individual business labor rate, how to charge that rate to retail customers, insurance companies on both first and third party claims, and most of all how to receive the proper compensation with proper sales technique. Fogarty then reminded the audience that indeed collision repair owners need to become better in customer relations. Knowing what to say to a customer and what not to say is one of the keys of retention. Dave then introduced Attorney Eric Blomberg from the law firm of Berkowitz & Reinken as the most important tool that every shop owner should have when they experience a labor rate shortage with an insurer. Atty. Blomberg did a superb job presenting a very effective and affordable program offered by his firm to help shop owners achieve proper reimbursement, yet keeping the program very time efficient for shop owners and also customer friendly. Blomberg received a very loud ovation from the audience who realized his sincere passion for wanting to help all in attendance.

*Sincere thanks to the following sponsors of our
October 17th Norwalk Education Seminar*



Enterprise Rent-a-car
Serving all of Connecticut

The Paul Francis Company
Serving all of Connecticut

*And the sponsors of our
November 8th Quarterly Meeting*

KPA
Environmental Safety & Compliance

Metro Car-o-liner
New Metals - New Methods

*Their generous financial support
helped make both events a
big success!*

Silly State Laws

Are You Breaking These Laws?

- In **Connecticut**, you can be stopped by the police for biking over 65 miles per hour
- In **Alaska**, even though it is legal to hunt a bear, it is illegal to wake a bear and take a picture for a photo opportunity
- In **Florida**, a special law prohibits unmarried women from parachuting on Sundays, or else they risk arrest, fine and/or jailing
- In **Illinois**, it is illegal for anyone to give lighted cigars to dogs, cats, and other domesticated animals kept as pets
- In **Indiana**, citizens are not allowed to attend a cinema or theatre nor ride in a public streetcar within four hours after eating garlic
- In **Kansas**, it is illegal to put ice cream on cherry pie
- In **Annapolis, Maryland**, you cannot throw a bail of hay out of a second story window
- In **Massachusetts**, snoring is prohibited unless all bedroom windows are closed and securely locked
- In **Minnesota**, it is illegal to have two or more forms of state issued identification
- In **Nebraska**, a parent can be arrested if his/her child cannot hold back a burp during a church service
- In **North Dakota**, beer & pretzels cannot be served at the same time in any bar or restaurant
- In **Providence, Rhode Island**, you may not sell toothpaste and a toothbrush to the same customer on a Sunday.

The Auto Body Association of Connecticut would like to welcome the following NEW members:

- **East Coast Auto Body - Stamford**
- **Extreme Auto Body - Stamford**
- **Greg's Auto Body - Milford**
- **Jr's Auto Body - Milford**
- **Supreme Auto Body - Branford**



Having trouble filling job vacancies? Help us help you!

ABAC is working hard to persuade state legislators to increase funding for the state's technical schools. As you may know, the schools now are being forced to train youngsters on outdated equipment.

We're trying hard to persuade the State to purchase the equipment our shops use every day so the technical school graduates are properly trained and ready to work in our shops the day they receive a diploma.

We need your help.

Below is a list of officials that need to hear from every ABAC member. We urge you to write letters to each of these people, urging them to properly fund capital improvements for the state's auto body training programs.

For your reference, we've reproduced Tom Bivona's letter to Gov. Rell.

Thanks for your help!

November 8, 2006

**George A. Coleman
Interim Commissioner
Office of the Commissioner
Department of Education
165 Capitol Avenue
Hartford, Conn. 06145**

Dear Mr. Coleman,

The Auto Body Association of Connecticut currently has approximately 200 member body shops statewide, employing in excess of 1,000 people. Right now, these shops have about 50 job vacancies for entry-level personnel. Unfortunately, we continue to have a tough time filling those jobs – there are few properly trained people anywhere in Connecticut.

In the coming 12 months, these same shops expect to have about an *additional* 50 vacancies, primarily the result of older workers' retirements. We don't expect we'll be able to fill many of those positions, either. For consumers, that's going to mean longer and longer waits for completion of car repairs following an accident. With highway traffic continuing its steady increase – and the number of accidents increasing – I think it is obvious that the problem is only going to get worse.

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We are writing to you to ask for your help filling those jobs.

The problem can be eased through effective funding of our state technical schools. Equipment used in the body shop programs at the state's technical schools is in desperate need of upgrading. Graduates need to be familiar with the state-of-the-art gear we use every day in our shops statewide. The equipment they currently use in the classroom is insufficient. The classrooms need to be equipped with the same gear we have in our body shops.

Please understand that we believe the state technical schools have excellent instructors in the body shop classrooms. It is the equipment that is sub-par.

As you begin preparation of your budget request for the coming year, we urge you to request substantially increased funding for equipment at the state technical schools.

Thank you for your consideration.

Sincerely,

Thomas Bivona

Thomas Bivona

President

Auto Body Association of Connecticut

PLEASE WRITE TO THESE PEOPLE:

George A. Coleman

Interim Commissioner

Office of the Commissioner

Department of Education

165 Capitol Avenue

Hartford, Conn. 06145

Senator Thomas P. Gaffey

Legislative Office Building

Room 3100

Hartford, Conn. 06106-1591

(Sen. Gaffey currently is chairman of the Legislature's Education Committee)

Sen. Donald E. Williams

Senate President Pro Tempore

Legislative Office Building

Room 3300

Hartford, Conn. 06106-1591

Governor M. Jodi Rell

Executive Office of the Governor

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Hartford, Conn. 06106

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ABAC NEWS

DAVE FOGARTY
DON CUSHING

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