



Auto Body Association of Connecticut

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REQUEST FOR MINOR, BUT CRITICAL, REVISIONS TO HOUSE BILL 7266 AN ACT CONCERNING DEVIATIONS FROM MOTOR VEHICLE COLLISION REPAIR GUIDELINES, PROCEDURES, RECOMMENDATIONS AND SERVICE BULLETINS.

The Auto Body Association of Connecticut (ABAC), a statewide trade association of professionals dedicated to the advancement of the collision repair industry, through safe quality repairs for Connecticut consumers, respectfully submits the following comments regarding the above bill.

Repairing damaged vehicles today requires greater insight and skill than ever before. The evolution of vehicle technologies (including advanced safety systems, and greater use of materials such as aluminum, magnesium, carbon fiber and advanced high strength steels) has given rise to a greater level of repair complexity and the need for new levels of information, knowledge, and skills. The growing number of advanced safety systems on vehicles, for example, requires collision repairers to know more than just how to physically replace their components, but also the innerworkings of how they operate and how those repairs are going to interact with other component parts.

The best resource in insight into proper and safe repairs comes from vehicle manufacturers. This is referred to as Original Equipment Manufacturer or OEM. No one could or would argue that there is a better source of guidance for the best and safest way to repair a vehicle than the manufacturer. It is the standard of care. Technical schools train their technicians to follow OEM procedures, and every major auto body training or certification program imparts the importance of following OEM guidelines for the proper and safe repair of vehicles.

With all of that said, OEM procedures are not always followed, and insurance companies often pressure auto body repairers to disregard OEM procedures in favor of faster, cheaper methods. Many repairers accede to this pressure knowing that they will not be paid for doing the repairs correctly. Cutting corners like this can and does compromise vehicle safety. The most noteworthy example of this practice was brought to light in a Texas lawsuit against the John Eagle Collision Center. In that case, it was alleged that in 2012, a repair shop failed to follow Honda's OEM roof replacement procedures when repairing a 2010 Honda Fit. The alleged deviation involved adhesive bonding the vehicle's roof instead of welding it. A year after the repair, a couple driving the previously repaired Honda Fit was involved in a significant t-bone crash. The couple was badly injured and caused to be trapped inside the burning vehicle. Experts in the case testified that faulty structural repairs a year earlier compromised the crashworthiness systems resulting in these terrible injuries.

On October 2, 2017, a Texas jury returned a verdict against the repair shop totaling \$42 million, which amount was reduced by 25% for the negligence of the other driver, resulting in the shop's exposure to pay \$31.5 million in damages for its misconduct that contributed to this couple's suffering. A lawsuit was later filed against State Farm Mutual Automobile Insurance Co. claiming that it directed the repairer to make the money-saving but inadequate repairs that ended up severely injuring the couple.

In June 2017, the Society of Collision Repair Specialists, the largest national trade association of collision repair facilities across North America, issued a formal position stating 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." This pronouncement was necessary to counter the pressure insurers were asserting on repairers to deviate from the standard of care. Cutting corners on repair by not following the applicable standard of care can and does compromise consumer safety in a meaningful way.

New Hampshire, for example, is also currently seeking to pass legislation to address this issue (House Bill 664-FN). We agree in concept that legislative reform is needed here, but ultimately, we expressed our concerns with the way New Hampshire was going about it. In short, the New Hampshire bill sought to mandate that insurers directly reimburse auto body repairers for OEM procedures. We took issue with this because it reflected a fundamental misunderstanding of the dynamics of the relationship between insurers and auto body repairers: to wit insurers do not owe repairers indemnity, they owe their insured, or the third-party victim, indemnity. Imposing a direct relationship between insurers and repairers, we fear, would give insurers a greater degree of control in the repair process, something which has already distorted the repair market in such a fundamental way and caused countless vehicle to be repaired improperly. We share this same concern with the way HB 7266 is written. (See below discussion addressing the changes we are seeking to address this important concern.)

Other states have also attempted to legislate the need to follow OEM guidelines, including Montana, Illinois and Rhode Island. These laws are inspired by insurer overreach, which is compromising consumer safety.

In light of the above concerns, we agree that legislation is needed to prohibit insurers from deviating from OEM procedures and we support the idea of House Bill 7266 for these reasons. But, we feel quite strongly that the language of the statute needs to be amended to correct the same conflict created by New Hampshire's draft legislation on this topic. An insurer has no duty or right to instruct a licensed repairer on the scope or methodology of auto repairs. We are unaware of any auto policies that require repairers to deviate from OEM guidelines. Thus, the prohibition of this practice as the bill is currently drafted will not help to curb the underlying problem. What is worse, prohibiting an insurance policy from requiring how a repair may be performed mistakenly presupposes that an insurer has that right in the first place, which it does not. Insurers cannot and do not fix vehicles. We emphasize this point because it is vitally important to all of these small business owners who are relying on this law to help prevent undue interference, without inadvertently giving insurers a great say in repair.

Based on all of the foregoing, we are respectfully seeking the following revisions, which we believe meets the intent and purpose of the law without creating any conflicts in the nature of the relationships and duties of repairers, consumers and insurers:

Section 1. (NEW) (Effective October 1, 2019) Notwithstanding any provision of the general statutes, no physical damage appraiser or motor vehicle insurance policy that is delivered, issued for delivery, renewed, amended or endorsed in this state on or after October 1, 2019, shall ~~require~~ request that a motor vehicle repair ~~shop, as defined in section 14-65e of the general statutes, to~~ deviate from the collision repair guidelines, procedures, recommendations and service bulletins issued by the vehicle or original equipment manufacturer.

We fully support the proposed language set for in 14-65f(a)(1) prohibiting repairers from deviating from OEM guidelines without authorization from the customer.

We thank the Committee for considering these important issues and for recognizing the critical import of the above requested revisions. Without those changes, we fear the proposed bill could actually counteract the intended purpose of the intended reforms, which is to reduce insurer interference in collision repair and ensure industry recognized standards of safety and expertise are followed.

Thank you for your time and consideration of this issue. Should you wish for any additional information or have any questions, please feel free to contact any of the following people at any time:

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