



CALIFORNIA
AUTOBODY
ASSOCIATION

April 12, 2017

The Honorable Autumn Burke
California State Assembly
State Capitol, Room 5150
Sacramento, California 95814

Re: AB 1679 (Burke) – Auto Body Repair-- Oppose

Dear Assembly member Burke:

On behalf of the California Autobody Association (CAA), we must regretfully oppose AB 1679. The CAA is a non-profit automotive trade association comprised of approximately 1,000 individual and independent repair businesses within the collision repair industry.

AB 1679 is anti-consumer, anti-small business and anti-competitive. The bill has two overarching and troubling aspects: it corrupts the recently enacted voluntary labor rate survey guidelines and eliminates new consumer protections with regard to consumer's right to selecting a shop to have their vehicle repaired.

Labor Rate Surveys

By way of background, a labor rate survey is a process that allows an insurer to determine a reasonable range of prevailing rates auto shops charge for labor to repair damaged motor vehicles. When properly done, a survey can be a useful tool for insurers to benchmark labor rates in a particular geographical area in order to pay a fair and reasonable labor rate. However, when improperly done, a labor rate survey can be used to artificially fix prices below market rates and deprive auto repair businesses from charging fair and reasonable rates and forcing consumers to pay unnecessary out-of-pocket costs.

It is important to note that the vast majority of California insurers do not conduct surveys; do not see the need to conduct surveys and nonetheless do fine, by paying the shops regularly charged rates.

For years, the California Department of Insurance (CDI) has combated insurers' abusive use of labor rate surveys, including taking disciplinary action and leveling fines against the most abusive insurers. The lack of standards in many of these surveys produced inconsistent, inaccurate and unreliable results. The CDI determined that regulations in this area were

necessary to ensure consumers were protected. The recently enacted regulations were a result of a five-year process where all stakeholders (consumers groups, auto body shops, automobile dealers and insurers) were encouraged to provide feedback, identify concerns and provide data to support their assertions.

The recently enacted regulations, which went into effect in March 2017, defined voluntary guidelines and standards that insurers can use to conduct labor rate surveys in a fair and equitable manner. The regulations are far from one-sided in favor of consumers and small business. The regulations grant insurers who use the recommended guidelines a "rebuttable presumption", in other words, a "safe harbor" that the rates are reasonable, effectively preventing consumers and auto repair shops from challenging them.

AB 1679 effectively repeals the new labor rate survey regulations and replaces them with practices to suppress market labor rates in a manner that skews the results and gives them a rebuttable presumption that the rates are proper. That is, it codifies anti-competitive pricing designed to harm consumers and small businesses. It benefits the worst actors in the insurance industry, while everyone pays the price.

Specifically, AB 1679 allows insurers to:

- Include in the survey shops that do not meet the minimum equipment requirements set by the state BAR; also that do not have proof of garage keeper's liability insurance and workers comp insurance; in other words, insurers may use the underground economy to establish labor rates;
- Use DRP rates (negotiated rates with insurer in exchange for volume referrals) which will suppress market rates and skew results.
- Use an artificially large geographically area (entire county) that does not reflect the local market resulting in an statistically invalid survey;
- Use labor rates that are on shop invoices or third party software where the labor rate was forced upon the shop further manipulating the survey results.
- "Cherry pick" and survey insurer chosen auto repair shops (20%) rather than all the licensed and properly equipped and insured shops in the local market place.
- Keep unreliable surveys results "secret" from public view thus failing to hold insurers accountable.
- Make the unfair and unreliable surveys achieve a "rebuttable presumption" status under the law. Meaning that the "bogus" surveys will now be presumed to be statistically valid and not challengeable.

Consumer Choice

Under current law, consumers have a right to select a repair facility to have their vehicle repaired. Unfortunately, some insurers use unfair tactics to "steer" consumers away from their chosen shop and into insurer-contracted repair shops. Although insurers have the ability to advertise and promote their insurer-contracted repair shops, some insurers make untruthful, deceptive and misleading statements to consumers that unreasonably influence a consumer's

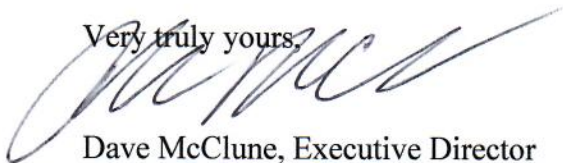
right to select the repair facility. The CDI issued regulations to clarify and complement existing law to prevent steering and ensure unfettered consumer choice of repair shops and more timely damage inspections. The new regulations provided guidelines for reasonable timeframes for insurers to inspect damaged vehicles and identify what constitutes unreasonable distances in cases where an insurer requires the consumer to travel to obtain a repair estimate or have a vehicle repaired.

AB 1679 eliminates these important consumer protections:

- Consumers will now have to travel over 15 miles in urban areas and over 25 miles in other areas to obtain a estimate or to have their vehicle repaired.
- Deletes the requirement that insurers inspect a damaged vehicle within 6 business days, thus creating delays for weeks.
- Requiring consumers to obtain a second estimate from an insurer DRP shop even though the consumer already obtained an estimate from their chosen shop. Consumers currently only required to obtain one estimate.
- Opens the door for insurers to make misleading statements to consumers about their chosen shop.

For the foregoing reasons we must respectfully oppose AB 1679. If you have any questions or wish to discuss in further detail, please free to contact me.

Very truly yours,



Dave McClune, Executive Director

cc: Assembly Insurance Committee members
Jack Molodanof, CAA Lobbyist