

From: Mike Parker <mike@parkersauto.com>
Sent: Monday, April 24, 2023 12:45 PM
To: Andrew Hegarty <AHegarty@leg.state.vt.us>
Subject: [External] Re: New Draft S.95 Section 12a

[External]

My 2 cents.

I will only speak to claims where there is a policy (1st party). If there is no policy it is tort law and what would allow insurers to do anything except pay for the reasonable and necessary repairs.

In most policies it states that insurers may use aftermarket parts. It also states that the aftermarket parts must be of like kind and quality. VT 79-2 also states this. There are several appellate rulings that have ruled that aftermarket parts are categorically not of like kind and quality because they are made by reverse engineering an original manufacturer's part. Any flaw in that part will be inherent to any part made from that part. Insurers should especially not put structural aftermarket parts on an estimate. See Todd Tracy's video on Repairer Driven News article. Problem is most shops don't have a clue and will install them on unwitting consumers' cars. Just like the shop in Texas glued the roof on the Honda Fit.

Insurers should also pay for all necessary repairs. Indemnification should put a person back to where they were financially before the loss. They should not be rewarded, but they should not be penalized either.

You should not include Massachusetts in the survey. They tried doing a labor rate bill years ago. It passed into law after the insurance lobby changed it to turn it into a club to be used on shops and consumers. They have been fighting it for 16 years to change it unsuccessfully. I know shops in Mass that are getting \$80 an hour plus.

Auto mechanics, lawn mower repair people etc should also be considered.

Many insurance policies have language that allow insurers to not make the claimant whole, by not paying for the reasonable and necessary costs of the repair. My attorney and I are looking at one right now. The language is ambiguous, but getting VT courts to understand would be an issue. This is hard to explain without a meeting where a conversation is held with a policy in front of us.

This is never explained by an agent. Agents I've spoken to do not understand and most appraisers etc don't either. This is a problem. I can send a court transcript where my attorney had to explain it to an Allstate supervisor.

Should 79-2 be revised. Probably should, but it should be with input from the very few shops in VT that get it and look out for the consumers interests. Insurers will be looking to have their way with consumers.

Insurers have the ability to negotiate with shops, but I contend it is not reciprocal. For a shop to compromise money owed to an insured would be unlicensed practice of law.

Many policies allow insurers to take betterments. The same policies to not allow for diminished value. Once in an accident a car can be restored to as close as possible to pre-loss condition, but that does not restore the market value. If an insurer can take a betterment, then they should also make the owner whole, by giving them diminished value. They should have one without the other. Good clean used parts from the same year or newer is one thing. Even CAPA certified parts only fit properly 51% of the time. I have a \$1,500 AM headlight here now that doesn't fit. I bought a \$2,200 rockwell hardness tester and proved a CAPA certified part was made from the wrong metal. It was a structural part and if installed it would have potentially screwed up the timing of the airbag deployment. The insurer should be liable for the safety of AM parts too. As I testified earlier. The insurer has 3 payment of loss options. They are blending them and they should stay out of the repairs if they don't want all the liability that goes along with the repair option

Shops should be allowed to file complaints. Did anyone on the committee know the facts I explained? If not, how can anyone expect a consumer to know when they've been wronged, let alone file a complaint. We get customers that can barely read.

Consumers will be protected when the predators are removed from the equation. Many shops operate on the lie, cheat and steal business models to survive. I see many poorly repaired vehicles from other shops. Some I've told the vehicle owner that it was unsafe to drive. Lots of problems to fix and it needs to start someplace. Until there is a deterrent in place insurers will continue to prey on the weaker party.

I would have no problem coming to Montpelier again if the committee would like to ask specific questions and as I said I have tons of data.

Mike Parker