Act No. 32 (2023) STUDY; AUTOMOBILE INSURANCE; LABOR RATES; USE OF AFTERMARKET PARTS; BUSINESS PRACTICES
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Submitted by:
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Executive Summary

Section 12a of Act No. 32 of 2023, *An act relating to banking and insurance*, directs the Commissioner of Financial Regulation to conduct a study of labor rates, the use of aftermarket parts, market conditions, and other business practices of automobile insurance companies to ensure that those business practices are fair and reasonable.

In preparing this report, the Department of Financial Regulation (DFR), with the assistance of Regulatory Insurance Advisors, LLC (RIA) and Oliver Wyman Actuarial Consulting, Inc. (OW), conducted research into topics such as auto body repair labor rates, direct repair programs, appraisal practices and estimating tools, total loss valuations, aftermarket parts, betterment, consumer complaints, laws and practices in other states, and the effects that changes to these areas may have on insurance rates and availability. DFR also sought information and feedback from various stakeholders in the insurance and auto body repair industries, as well as consumers.

The information reviewed, data analyzed, and feedback obtained revealed several trends. First, DFR did identify areas where a lack of clarity and specificity in law and regulation exists which may be contributing to confusion, inconsistent compliance, and heightened points of conflict between consumers, insurers, and auto body repairers. Second, from an insurance regulatory perspective, many of the issues, such as questions about fair labor rates, valuations, disclosures, and the use of aftermarket parts are not unique to Vermont, and some possible solutions may be found in National Association of Insurance Commissioners (NAIC) model laws and laws and regulations in other states. Although related regulations focused on the auto repair industry have been enacted in other states, a similar comprehensive regulatory structure does not exist currently in Vermont. Third, although the concerns of affected parties such as consumers and auto body repairers provide indications of potential issues, understanding their scope in the context of broader market activity is equally important. Finally, estimations of the impacts on price and availability of coverage should be viewed as directional in nature only, given the number of potential variables involved and the variety of changes that could be made. As always, caution is warranted to ensure that combined changes do not result in unintended consequences such as unexpected acceleration of rate increases, unmanageable operational impacts on insurers, or increases in the number of uninsured motorists.

The report discusses in detail the information reviewed, data analyzed, and feedback obtained to identify the trends above, provides context for stakeholder and market issues, and presents DFR's findings and recommendations, including updates to Regulation I-79-2, increased consumer disclosures, and additional regulatory guidance.

Summary of Legislative Charges

Section 12a of Act No. 32 of 2023, *An act relating to banking and insurance*, (The Act) directs the Commissioner of Financial Regulation to conduct a study (the Study) of labor rates, the use of aftermarket parts, market conditions, and other business practices of automobile insurance companies to ensure that those business practices are fair and reasonable. The Act specifically requires DFR to investigate and make findings and recommendations with respect to the following:

- Average hourly labor rates charged by auto body shops in Vermont and other jurisdictions including New York, Massachusetts and New Hampshire; the labor rates paid by automobile insurers; any other non-hourly rates; reference information on hourly wage data for auto body and related repairers in Vermont obtained through consultation with the Vermont Department of Labor (DOL); and a recommendation as to whether Vermont should establish a minimum labor reimbursement rate for automobile insurance claims.
- Whether the appraisal practices of automobile insurance companies and independent appraisers equally consider the interests of insurance companies, auto body shops, and consumers.
- The extent to which insurers control or influence repair work done at a shop chosen by a consumer and the extent to which that control or influence should affect insurer liability for the repair.
- The use and impact of direct repair programs on auto repairers and consumers.
- Disclosures made to consumers by insurers at point of sale and time of claim; consumer information developed and maintained by DFR; and to what extent additional disclosures are necessary to ensure consumers are adequately informed of their potential financial exposure under a policy.
- Whether Insurance Regulation I-79-2 (revised) governing claims practices should be updated to address market or business practice changes that may impede prompt, fair, and equitable settlements; standards for settlement of property and physical damages; to clarify the independence of appraisals [(A)(1)], the ability of the insurer to negotiate with a repairer, [(A)(2)], and the ability to insist that repairs be done by a specific repairer [(A)(3)].
- Betterment practices of insurers, including legitimacy and fairness of valuation methods.
- The use of aftermarket or recycled parts, including cost savings, certification and whether and to what extent insurers should be liable for costs such as necessary modifications, as well as consumer notifications when these parts are used.
- Complaints received by DFR and the Attorney General's Consumer Assistance Program concerning automobile insurance and repair work done by auto body shops.

- Any other acts, practices, or market conditions related to insurance coverage for auto body repairs, and whether additional regulation is needed to prevent anticompetitive behavior and ensure the interests of all parties, especially consumers, are adequately protected.
- How the costs of auto repairs contribute to the price and availability of auto insurance in Vermont, and whether all other findings and recommendations might impact price and availability.

In accordance with the Legislature's directive in Section 12a of Act No. 32 of 2023, the Commissioner of Financial Regulation hereby submits to the House Committee on Commerce and Economic Development and the Senate Committees on Finance and on Judiciary, this report, which contains the DFR's findings and recommendations related to automobile insurance, labor rates, the use of aftermarket parts, and other business practices of automobile insurance companies.

Introduction

Currently, Vermont has a healthy and competitive automobile insurance market with over 70 insurers offering private passenger automobile insurance. Vermonters also pay some of the lowest premiums nationally with premiums ranking in the bottom five states consistently. Even with these lower rates, however, continued industry-wide pressures related to inflation, cost of repairs, increasing vehicle cost and complexity, supply chain constraints and increases in litigation have resulted in premium increases that, even if relatively low, are difficult for consumers.

1. Summary of Research and Stakeholder Engagement

In preparing this report, DFR took several steps to gather information, documentation, stakeholder feedback, and data for analysis related to its complex subject matter. Below is a summary of the work undertaken.

- DFR issued a request for information to the top 26 automobile insurance companies (over 80% of the Vermont market). DFR requested both documentation on insurer policies and issued interrogatories requiring answers to specific questions. Over 5,000 pages of documentation describing insurance practices related to auto body repair insurance claims were received, including information on labor rates, valuations, betterment, appraisals, aftermarket parts, disclosures, and related study topics. Interviews with auto insurance company personnel were also held following the document review to clarify outstanding questions. RIA was engaged to review and provide analysis of the information.
- DFR launched an online survey of auto body repair shops seeking information on their interactions with insurers including labor rates, repair practices, appraisal

practices, procedures, and training. Notices of the survey were publicly made via newspapers, social media, and DFR's website, as well as emails, mailings and telephone calls to shops registered through the Secretary of State's office. DFR identified 147 shops in Vermont and attempted to encourage survey participation through phone calls and emails. Of the over 140 shops asked to participate, twenty-five responded to the survey.

- Two public meetings to hear comments from consumers and other stakeholders were held. Written comments were also solicited from consumers, with 18 written responses received.
- Interviews and/or meetings were held with:
  - The Vermont League of Cities and Towns
  - A selection of auto repairers
  - Auto repair-related trade organizations (e.g., Vermont Vehicle and Automotive Distributors Association, Auto Alliance for Innovation)
  - Independent automobile appraisers
  - LKQ, an aftermarket parts distributor
  - Intertek (offers testing, inspection and certification of products)
  - J.D. Power (owner of NADA used car valuation service)
  - Mitchell (an Enlyte Company, provides estimating and appraisal software)
  - CCC Intelligent Solutions, Inc. (provides estimating and appraisal software)
  - Massachusetts Division of Insurance
  - Rhode Island Insurance Division

- Approximately 950 auto insurance-related complaints received between January 1, 2022, and June 2, 2025, were reviewed, of which 162 had possible relevance to the study topics for further review and incorporation into the final report.
- NAIC research staff were engaged to provide a survey of state laws and regulations on the study topics.
- A comparison between the NAIC Model Regulation, *Unfair Property Casualty Claims Settlement Practices*, and Vermont Regulation I-79-2, *Fair Claims Settlement Practices*, was completed.
- Oliver Wyman (OW), an actuarial consulting firm, was engaged to provide a report regarding auto repair costs and insurance pricing and availability, including the impact of changes to labor rates and valuation methodologies.
- DFR engaged with the Vermont DOL to obtain information on wage rates for auto body repairers and conducted research via the Federal DOL website for additional information.

2. Current Law

DFR's statutory authority to regulate auto insurers' claims payment arrangements is found in Section 4724 of Title 8, which defines unfair or deceptive methods of competition, acts, and practices in Vermont. Our definition of unfair claims settlement practices includes misrepresenting relevant facts or policy provisions, failing to adopt and implement reasonable standards for the investigation of claims, refusing to pay claims without conducting a reasonable investigation based on all available information, and not making good faith efforts to settle claims promptly, fairly, and equitably when liability is reasonably clear. 8 V.S.A. § 4724(9).

Pursuant to these statutory rules, DFR's Fair Claims Practices regulation, Regulation I-79-2, establishes further requirements for claims settlement. Regulation I-79-2 sets time requirements for communicating with claimants regarding claims receipt, proofs of loss, settling claims, and post-settlement payment. Regulation I-79-2 also establishes standards for the denial of claims, in whole or in part, requiring specific explanations to claimants for the legal, contractual, and/or factual basis of the denial. Section 8 of the regulation enacts standards specifically for auto insurers regarding claims adjustment, appraisals, and total losses.

Related Vermont Court Decisions

Despite the requirement in Regulation I-79-2 that insurers engage in reasonable efforts to reach an agreed price with shops, one issue seen in complaints and raised by the auto body shops is that insurers and shops are unable to agree on the cost to repair a vehicle. This issue has been reviewed by the Vermont Supreme Court. In a series of over thirty lawsuits spanning from 2010 through 2024, Parker's Classic Auto Works, Ltd. (Parker's), a car repair business in Rutland, challenged the validity of the insurers' practice of what is called "short pay" in the collision-repair industry, which is "[t]he difference between the cost of repair billed by the repair shop and the amount paid by the insurance company—to whatever extent it is covered by the insurance policy." *Parker's Classic Auto Works, Ltd. v. Nationwide Mut. Ins. Co.*, 2019 VT 46, ¶ 2. In 2019, the Vermont Supreme Court weighed in on the arguments that Parker's had been successfully making for almost a decade in the lower courts. In *Parker's Classic Auto Works v. Nationwide Mutual Insurance Co.*, 2019 VT 46, the Vermont Supreme Court addressed whether an insurer may unilaterally determine the amount it owes under an automobile collision policy.

The Supreme Court held that the policy language did not grant Nationwide unfettered discretion to decide the amount of payment owed. The insurance contract promised to pay for the "direct and accidental loss of, or damage to" the covered vehicle, subject to the vehicle's actual cash value limit. *Id.* at ¶ 8. The Court rejected Nationwide's argument that the policy does not promise to pay a repair shop's bill, noting that "[t]his misunderstands the central dispute over a short pay: an insurer may only refrain from paying an insured amounts that are not covered by the policy." Here, the Court explained, "the policy promises to pay 'direct and accidental loss or damage to' a covered vehicle. It does not specify how this is to be calculated when the insurer elects to pay an insured directly for its loss, except that this figure cannot exceed 'cash value.'" *Id.* at ¶ 12. The Court confirmed that an insurer cannot unilaterally determine the amount of its payment obligation where the policy promises to pay for the insured's actual loss or damage. *Id. at* ¶ 11.

This ruling clarifies that insurers in Vermont may not rely on internal estimates or unilateral determinations of repair sufficiency to cap their payment obligations unless the policy language expressly grants that authority. It does not, however, provide auto body repairers with the ability to charge for repairs without question. Actual loss or damage values may continue to be a valid topic of discussion between the parties when those discussions are based on appropriate objective information.

The Department does review form filings for overly restrictive language and will continue to monitor and refine its guidance in this area as needed.

Labor Rates

The Study requires that DFR gather information and investigate a number of areas related to labor rates in Vermont and in neighboring states, including rates charged by auto body shops, rates paid by insurers, wages paid to repairers, and whether Vermont should set minimum labor rates to be paid for auto body claims. The issue of labor rates paid by insurers to auto body repair shops is neither new nor isolated to Vermont. Legislation related to labor rate reporting has been enacted in Rhode Island with limited effectiveness, and Massachusetts has recently completed a review related to this topic to follow up on a review conducted in 2022 and another completed in 2008. As further evidence of the difficulty of this issue, although the Massachusetts Advisory Board was charged with collecting data and making a recommendation on an auto body labor rate, it was unable to come to any agreement.[1] Given the complexities and competitive market concerns, no state has determined that setting mandatory labor rates to be paid by insurers is the appropriate mechanism for handling these issues. DFR has seen an increasing number of consumer complaints relating to insurer-paid labor rates that differ from the rates charged by the shops. Auto body repair shops point to challenges facing the industry that result from low labor rates, including a diminishing work force and a diminishing number of shops. They fear that lower pay for auto body repair technicians as compared to mechanical repair technicians may make this career path less attractive

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[1] Michael D. Powers et al., "Report of the Auto Body Labor Rate Advisory Board," Massachusetts Division of Insurance, December 22, 2025, accessed December 29, 2025, https://agencychecklis.wpenginepowered.com/wp-content/uploads/2025/12/ABLRAB-Final-Report.pdf.

to young people entering the industry. Shop owners suggest low rates lead to a lack of profitability and this, combined with the aging of shop owners, has led to independent shops being closed or sold to chains. The shops argue that these challenges have implications for the future viability of the auto body repair industry. They allege that labor rates paid by insurers have not kept pace with mechanical repair rates, and this is arguably linked to insurance companies playing a much larger role in the auto body repair business than in the mechanical repair business. Shop owners suggest that insurer pressure on labor rates is a primary factor causing the major issues facing the auto repair industry.

To assess labor rates paid in connection with auto body repair claims, DFR requested information from shop owners and insurers, and also asked RIA to obtain information independently on average auto body repair labor rates paid in Vermont and neighboring states.

1. Shop Owner Labor Rate Information

To obtain auto body repair shop information, DFR created an online survey requesting information on topics related to the study. Included in this survey were questions about the hourly labor rates charged for several categories of auto body repair services that were performed by auto body repair shops in Vermont from 2020 to 2024.[2] The responses indicated that the auto body repair rates charged by shops range from $60 to $84 per hour. The highest rate ($84 per hour) is an outlier, as only one shop reported that rate and the next highest rate is $76 per hour. The average hourly auto body repair rate is $67. The rate has increased by 26 percent since 2020.

2. Insurer Labor Rate Information

DFR issued a request for information (RFI) to the top 26 writers of private passenger auto insurance in Vermont. Several insurers were part of the same insurance group, and each insurance group provided only one response, resulting in 19 company responses from the selected companies. Though a request was not sent, one additional company mistakenly thought they needed to respond to the RFI and also provided information. This brings the total number of company responses to 20.

In their written responses, insurers reported that to set auto body labor rates they use different methods, including:

a. eleven (11) of the twenty (20) insurers utilize aggregated data provided by CCC One (CCC), and/or NuGenIT to determine prevailing customary rates;

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[2] DFR identified 147 auto body shops to contact in order to encourage participation in the survey. DFR received 25 responses for a response rate of 17 percent.

b. three (3) insurers vary rates based on geographic region;
c. three (3) insurers utilize surveys to determine appropriate labor rates;
d. one (1) insurer utilizes its own proprietary estimation software and self-audit tool in addition to CCC;
e. one (1) insurer considers Vermont as one geographic market and sets consistent prevailing competitive labor rates, and
f. one (1) insurer stated that its labor rate allowances are based on data compiled on appraisals written throughout the state by its Company as well as data from the insurance industry.

When utilizing geographic regions to establish labor rates, insurers identify prevailing rates based on zip code and body shop availability in the area. These insurers indicated that they may extend the radius of the geographic region to bordering states to gain an appropriate sample size.

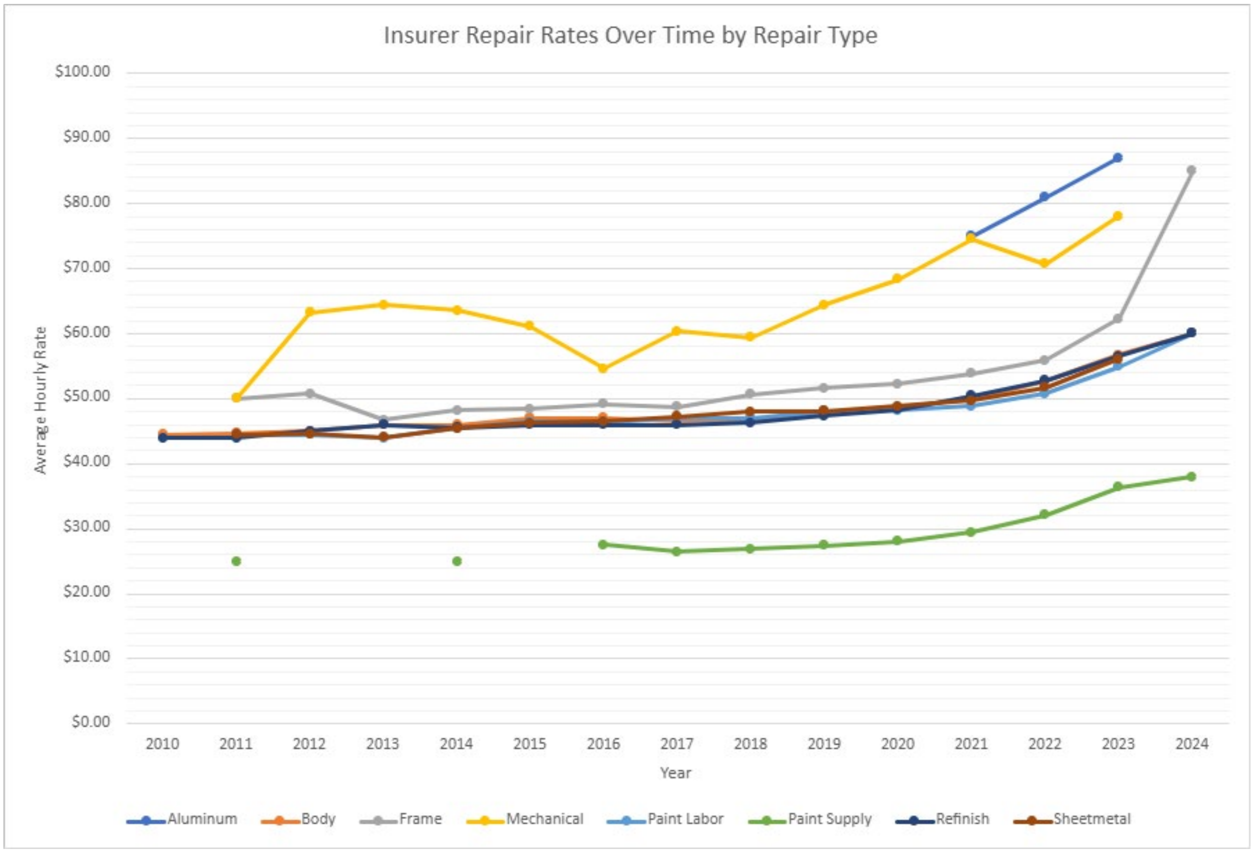
Frequency of updating rates varied by insurer, with the longest period being annually, and the most frequent period being monthly. All insurers stated that they review rates on a regular basis based on discussions and estimates from body shops and CCC information and adjust their rates accordingly to ensure that they are competitive. Further, all of the insurers indicated that they monitor the marketplace on a regular basis to ensure that their rates remain competitive with prevailing market rates.

None of the insurers utilized flat rates. Instead, all insurers responding to the survey based their hourly rates on the work being performed. Some insurers reported a single rate, while others reported rates paid for body, refinish, frame, mechanical, sheet metal, aluminum, and paint work. When shops or insurers generally refer to auto body labor rates, they are referring to the body rate as this is the most common rate, whereas other rates may apply to more specialized work such as frame or paint work. The chart below provides the mean rates paid by insurers, which rose from $44.33 in 2010 to $60.50 in 2024. The “mean” column reflects the unweighted mean across varying service labor rates, so it is only a rough indicator of average costs. In comparison, the Massachusetts Auto Body Advisory Board Report indicated that the weighted average mean of prevailing auto body labor rates paid by insurers was $49 in Massachusetts and $54 in Rhode Island.

Year	Aluminum	Body	Frame	Mechanical	Paint Labor	Paint Supply	Refinish	Sheetmetal	Mean
2010		$44.50					$44.00		$44.33
2011		$44.67	$50.00	$50.00	$44.46	$25.00	$44.00	$44.49	$44.66
2012		$45.00	$50.78	$63.23	$44.47		$45.00	$44.57	$49.19
2013		$46.00	$46.73	$64.43	$44.00		$46.00	$44.06	$49.04
2014		$46.00	$48.21	$63.53	$45.43	$25.00	$45.50	$45.47	$48.68
2015		$47.00	$48.44	$61.10	$46.52		$46.00	$46.24	$49.80
2016		$47.00	$49.21	$54.57	$46.37	$27.50	$46.00	$46.50	$46.76
2017		$46.50	$48.77	$60.38	$46.97	$26.50	$46.00	$47.26	$48.14
2018		$46.73	$50.69	$59.42	$47.06	$26.89	$46.34	$47.96	$47.41
2019		$47.92	$51.67	$64.46	$48.08	$27.47	$47.40	$48.14	$48.75
2020		$48.60	$52.25	$68.32	$48.27	$28.02	$48.30	$48.84	$50.05
2021	$75.00	$49.91	$53.86	$74.56	$48.85	$29.46	$50.46	$49.70	$52.07
2022	$81.00	$52.64	$55.87	$70.68	$50.73	$32.16	$52.84	$51.70	$53.81
2023	$87.00	$56.79	$62.28	$78.07	$54.92	$36.33	$56.55	$56.08	$58.54
2024		$60.00	$85.00		$60.00	$38.00	$60.00		$60.50
Mean	**$81.00**	**$49.50**	**$53.66**	**$66.67**	**$48.65**	**$30.19**	**$49.50**	**$49.01**	**$51.13**

Mechanical rates reported were consistently paid at higher rates than standard body and paint rates and were reported to be based on prevailing market rates. Insurers reported that rates may also vary depending on the complexity of the project. Additionally, rates may vary if the work is being done by a dealership service department rather than an independent mechanical shop or body shop.

The chart below summarizes insurer repair rates over time by repair type.



All insurer responses indicated that they utilize the prevailing reasonable and customary rates in the marketplace. As indicated above, the insurers all pointed to similar sources or combinations of sources that were used to determine prevailing labor rates, but when DFR met with the insurers and pressed them for details about how they use these sources or their method for determining a final labor rate, insurers had difficulty articulating a clear process or were not able to provide written procedures or source materials.

Many of the insurers responded that they also rely on subrogation/arbitration results and third-party market sources when determining prevailing labor rates. However, subrogation and arbitration outcomes reflect the amounts at which insurers settle claims, not the rates that repair facilities actually charge the consumers. For this reason, these sources may provide a narrower, insurer-centric view of labor rates and may not fully capture current shop rates in the market.

Additionally, DFR has learned that sometimes insurers will add a “concession line” to estimates when making changes to the estimate through discussions with repairers. This concession line is sometimes used by insurers to reimburse shops for a higher labor rate. However, by including the amount in this manner on the estimate, the payment of the higher rate is masked. While DFR does not know the extent to which this practice occurs, it is another example of a practice used by insurers that may have the effect, whether intended or not, of keeping average labor rates artificially low.

3. Average Hourly Labor Rates Charged by Shops in New Hampshire, New York, and Massachusetts

Average hourly labor rates charged by auto body repair shops are difficult to obtain and calculate, since no objective data set for this information exists in most states. DFR consulted a number of sources to attempt to find hourly labor rates charged by shops in neighboring states, including the Automobile Dealer Association (ADA) in each state, but only the Massachusetts ADA was able to provide any information. The Massachusetts ADA indicated that the most common labor rate paid by insurers was approximately $40 per hour but that customers often pay more. They stated that the rates charged by the shops ranged from $50 per hour to as much as $95 per hour for common vehicles, and more for specialty vehicles. According to the Massachusetts Report of the Auto Body Labor Rate Advisory Board, the average (mean) rate charged by Massachusetts auto body repair shops is $68.

DFR obtained rates for New York and New Hampshire from CCC Intelligent Solutions' data. CCC provides benchmark reports based on an aggregation of industry data from customers that use CCC's collision estimating software.[3] According to CCC, auto body shop labor rates in New York range from $52 to $123 per hour. In New Hampshire, CCC reports auto body shop labor rates range from $62 to $150 per hour. DFR also obtained rates for Massachusetts from CCC to see if the reported rates were comparable to what was reported by the Massachusetts ADA. CCC reported the auto body shop labor rates in Massachusetts are $45 to $100, which is in line with the ADA response.

4. Hourly Wage Data for Repairers in Vermont

To gather information on wages paid to auto body repairers in Vermont and other Northeastern states, DFR reviewed U.S. Bureau of Labor Statistics (BLS) Occupational Employment and Wage Statistics (OEWS) estimates obtained through the Vermont DOL's website. OEWS is a BLS program that provides detailed annual data on employment levels and wages for hundreds of occupations across the nation, states, and metro areas. This is a federal-state effort, which uses a semiannual survey to gather data. The 2024 estimates are based on responses from six semiannual panels collected over a 3-year period: May 2024, November 2023, May 2023, November 2022, May 2022 and November 2021. Wages reported prior to May 2024 are updated to May 2024 using the BLS Employment Cost Index.

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[3] https://www.repairerdrivennews.com/2020/09/21/ccc-benchmark-report-prices-arent-prevailing-labor-rates-or-survey-results/

The May 2024 report indicates the hourly mean wage for auto body repairers in Vermont is $25.78. The reported rates for other Northeast states are: $27.27 in NH; $27.69 in MA; $25.20 in ME; $27.19 in NY; $29.97 in RI; and $29.53 in CT.

For comparison, the hourly mean wage for automotive service technicians and mechanics, which varies depending on the degree of specialty (for example diesel mechanic or heavy equipment mechanic), ranges from $26.69 to $31.34 in Vermont. The ranges of rates in the other Northeastern states for mechanical rates are $28.23 to $32.60 in NH; $28.66 to $37.45 in MA; $25.92 to $30.68 in ME; $27.72 to $33.95 in NY; $25.48 to $35.91in RI, and $27.86 to $36.86 in CT.

5. Related Labor Rate Information

A. Mechanical Repair Labor Rates

The providers of software platforms used by auto mechanic shops to manage repairs survey shops to determine the average labor rate in each state. The results of these surveys are fairly consistent between providers in showing that the average mechanical repair rates in Vermont range from $115 to $130 per hour. This data demonstrates the current disparity between the labor rates for mechanical repairs versus auto body repairs. Looking back to 1974, a New York Times article[4] discussing the increase in labor rates at that time reported that repair rates charged by mechanics ranged from $10 to $25 per hour. At the same time, auto industry media outlets reported that several major insurance companies were paying a labor rate of $10 per hour. This demonstrates that in 1974, the rates charged by mechanics and paid by insurers were either equal or at least much closer than they are today. A shop owner who responded to the survey said that in the early 1970s, a dealership rate for mechanical work was $2 per hour LESS than body work and now the dealerships are charging between $120-$185 dollars an hour. Another long-term shop owner said that in the mid-1990s the labor rate in this industry was $34.00 per hour and at the same time the labor rate for mechanical repairs at the local dealerships was $48.00 per hour. These sentiments are consistent with the premise that the disparity has grown significantly since the 1970s.

B. Auto Body Repair Labor Rates vs. Inflation

A comparison of the rates paid by insurers in the 1990s to the rates paid today reveals that the rates have not kept pace with the cost of living. A rate of $34 per hour in 1995, adjusted for inflation, is equal to $71.68 today. This does not factor in increases in the cost of capital, land, buildings, rent, parts, materials, and labor that may exceed the

[4] https://www.nytimes.com/1974/09/23/archives/cost-of-fixing-old-car-has-risen-sharply-too.html

general inflation rate. This is not unique to Vermont. Massachusetts, a state with one of the lowest auto body repair rates in the country, has also studied these rates. After a report issued in 2022 by the Special Commission on Auto Body Repair Rates, a proposed bill in the Massachusetts legislature would have required that auto insurers pay the hourly labor rate used in 1998 ($30.00) adjusted for the last twenty years of inflation. This bill's formula would have required payment of a labor rate of $78 per hour.

C. Auto Body Repair Industry Rate Setting Issues

National AutoBody Research (NABR) is a self-described independent research, technology, and business consulting company serving the collision repair industry. NABR indicates that it works to enable an industry-side rational pricing model for labor rates, a level playing field for payment of necessary but not-included repair procedures, and greater transparency of repair estimate market data. NABR suggests that a "prevailing labor rate" is a misnomer because not all shops are equal and therefore there should be a range of acceptable rates. NABR places partial blame on the shops for not doing a thorough business analysis to determine their labor rates. They encourage shops to conduct this analysis and then periodically perform a comprehensive labor rate analysis as a check, considering at a minimum: (1) the local market's overall cost of living; (2) general consumer price inflation; (3) things such as training, equipment, facilities, or OEM certifications that set the shop apart; and (4) what investments the shops need to make. The suggestion is that doing this analysis will help ensure the rates are appropriate for the market and the individual shop, but more importantly, provide the basis for justifying the shop's labor rate. From a practical and economic standpoint this makes sense, because this provides a defensible labor rate for the shop and then the free market determines whether the shop is a viable business. The complicating factors are what the insurer is willing to pay and whether the consumer should have to make up the difference. Since Vermont does not regulate auto body shops with respect to this issue, there are no regulations or guidance for shops pertaining to labor rates or establishing factors that may influence a range of rates such as specialized equipment, certifications for specific types of vehicles, and quality of technician training and certifications.

6. Labor Rate Findings and Recommendations

A. Findings

Insurer procedures for determining labor rates are often inconsistent, do not result in representative market rates and/or are not clearly documented. Some of the sources, such as direct repair arrangements, subrogation/arbitration results, and third-party marketers used by insurers to reach a "prevailing rate" are actually insurer-paid rates or settlements. In addition, some insurers appear to be paying for labor rate differences in a concession line on the estimates or supplements, masking the actual labor rates used to settle a claim.

Use of "prevailing rates" may be inappropriate given variations between auto body repair shops, the market they are located in and other factors resulting in the need to consider ranges. Additionally, individual auto body repair shops may not be performing a thorough business analysis to determine their rates, further complicating the assessment of appropriate rates. Finally, since Vermont does not regulate the auto body repair shops specifically related to issues such as labor rates, insurers do not have objective criteria to assess the validity of the rate being charged by any particular shop.

The Vermont Supreme Court's decision in *Parker's Classic Auto Works v. Nationwide Mutual Insurance Co.*, 2019 VT 46, clarified that insurers in Vermont may not rely on internal estimates or unilateral determinations of repairs to cap their payment obligations unless the policy language expressly grants that authority. Insurers are obligated to pay "direct and accidental loss of, or damage to" the covered vehicle, subject to the vehicle's actual cash value limit, and the value of damages paid equals the "amount of money needed" to repair the vehicle to pre-accident condition.

There is neither current regulation nor DFR guidance on appropriate methods and standards for insurers to set labor rates.

B. Recommendations

DFR recommends modifications to Regulation I-79-2 to incorporate the requirements set by the Vermont Supreme Court and to set standards for insurers, including guidelines for objectively identifying average market labor rates. Additional regulatory standards would specify necessary documentation and requirements for handling disagreements related to rates, to ensure that any challenges regarding the value of damages believed to exceed "the cost of repair" or the "amount of money needed" to repair the vehicle are fair and compliant.

Appraisal Practices

1. Insurer Practices

Insurer appraisals can take two forms: (1) an estimate to repair a vehicle and (2) a determination of the actual cash value of a vehicle deemed to be a total loss. For the purposes of this report, we will refer to the first type of appraisal as an "estimate or supplement" and the second type as a "valuation." Both the estimate and the valuation are created by the insurer using software programs. There are several vendors who offer this software to both insurers and to auto body shops. Most insurers use the same vendor for both estimates and valuations. This software is discussed in greater detail below in Section 5 of this section.

DFR's review of the insurers' estimating guidelines, as submitted in documents and interrogatory responses, revealed that while they vary widely among insurers, they are often quite prescriptive. Some guidelines prioritize in-person inspections and emphasize obtaining a full scope of damages for the initial estimate, while others indicate virtual appraisal is the common or preferred practice. Some of the procedures provide detailed state-specific guidance (when relevant), some only instruct the appraiser to be aware of state-specific requirements, and others do not include guidance for that aspect of the estimate at all.

Appraisers are guided by both the estimating software and policies/procedures provided by the insurers for estimating damage. Appraisers appear to have limited authority to make independent decisions. Deviation by an appraiser from the insurer or software guidelines typically requires the issue to be brought to the adjuster for approval. The guidelines vary in the level of detail, but generally direct appraisers on the type of parts to use (OEM, LKQ, or AM, which are described in the "Aftermarket Parts" section), based on specific factors such as the age of the vehicle or type of part. There are relatively few insurers that will routinely allow OEM parts, but a limited number do for current year or prior year vehicles or if the policy requires it.

When a vehicle is determined to be a total loss, the appraiser must determine the actual cash value of the vehicle, which is the amount typically paid on a total loss claim.[5] Actual cash value is the market value of the vehicle right before the crash or incident minus depreciation not attributed to the crash or incident. Just as appraisers use estimating software for damage estimates, they use valuation software to determine the actual cash value of the vehicle. Vermont law requires that insurers use a specific method to value total loss vehicles. Regulation I-79-2 requires that insurers pay, at a minimum, the average of the National Auto Dealer Association (NADA) value of the vehicle and the retail value of comparable vehicles from a third-party vendor that provides total loss valuation services to insurers. Regulation I-79-2 specifies that the third party vendor's methodology must: (1) give primary consideration to the value of vehicles in the local market, which is defined as the area within a 75-mile radius of the zip code where the vehicle is garaged; (2) expand the geographic parameters beyond the local market if necessary to achieve statistical validity; and (3) must only use values of comparable vehicles for sale in the United States (these vehicles should be available for sale or sold within ninety days of the date of loss). This value is then adjusted to account for special equipment or for the pre-crash condition of the total loss vehicle, which could mean adding to or subtracting from the base value. DFR does require that

[5] This is the default on auto insurance policies. Some companies may offer other options such as a "replacement cost" option at a higher premium.

a licensed appraiser conduct an in-person inspection of the vehicle to take condition deductions, meaning the appraiser may not rely on photos. Additionally, all condition deductions must be justified and well documented via in-person appraisal completed by a licensed appraiser or adjuster.

2. Repairer Perspective

Historically, insurers sent appraisers out to provide damage estimates when consumers filed claims. With the increasing use of virtual adjusting (adjusting using photos), and technologically advanced estimating tools, in-person appraisals by insurers are decreasing. Auto body shop survey respondents identified concerns that they are becoming increasingly responsible for duties that used to belong to insurance companies, and they typically aren't being compensated for taking on the additional work.

According to auto body shop survey respondents, customers arrive at an auto shop with a completed appraisal from their insurer 44.2% of the time. In addition, 64% of shops responding said that more than half of their customers arrive without a complete appraisal from their insurance company. Furthermore, 72% of shops said insurance companies won't send an appraiser at the request of their shop, and 76% of shops said insurance companies won't send an appraiser at the request of the customer. DFR also asked if insurers compensate auto body shops for requested videos and photos, and 96% of respondents said that they did not do so. The one shop that said insurers provide compensation also indicated that compensation varied by insurer and that some insurers may pay a limited amount (often one hour) for estimating and photos.

3. Supplements

A supplement is a request for additional funds to cover necessary repairs or costs that were not included in the initial estimate. The supplement request is made from the repair shop to the insurer. Supplements have always been part of the auto insurance claims process and are intended to be used for hidden damage that was not detected in the initial inspection. This often occurs in situations where damage only becomes known after dismantling a vehicle. Supplements have become more common since insurers began to rely on photos for estimating damage (also known as “virtual adjusting”) because photos often do not provide adequate evidence of the extent of the damage. This has increasingly become a topic of concern as evidenced by body shop comments and consumer complaints.

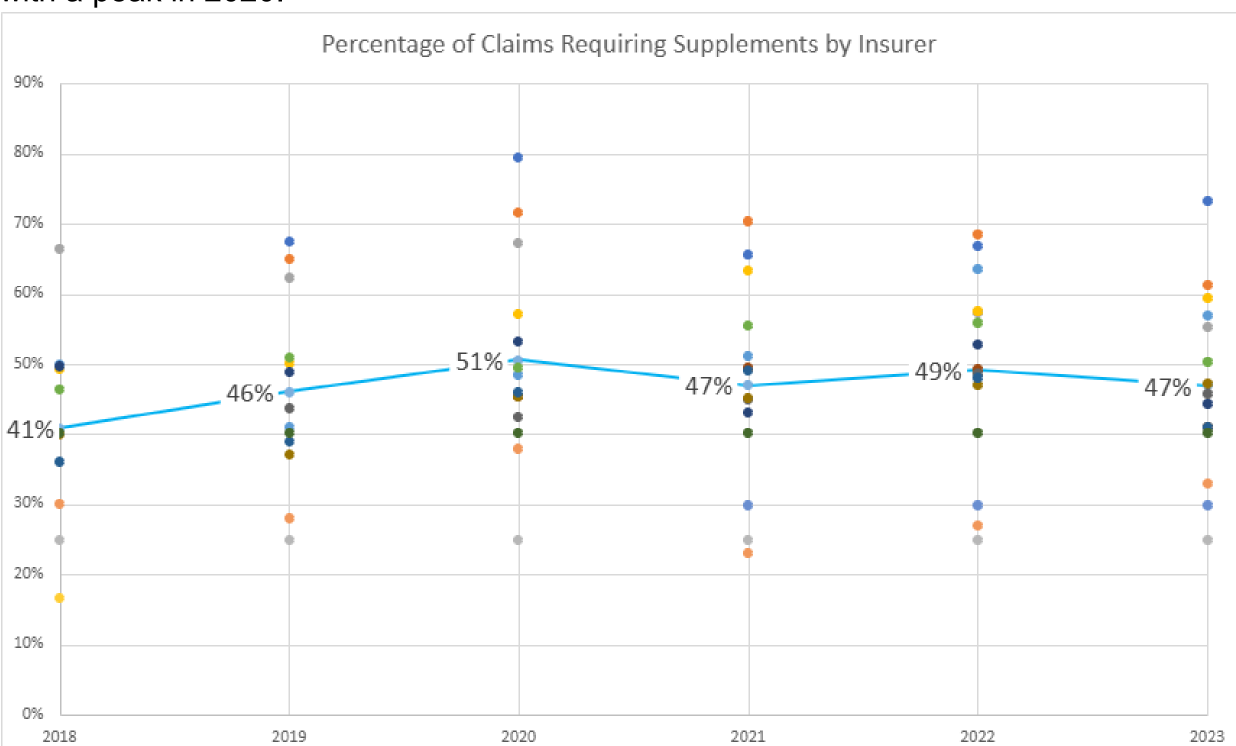
Consumer complaint investigations point to issues with the supplement process. Often when there is a discrepancy between the insurer estimate and the shop estimate, the claimant will request an in-person inspection of damage to resolve the discrepancy.

Some insurers seem to be avoiding the in-person inspection by telling the claimant any discrepancy will be resolved through the supplement process. This may be misleading because not all supplement requests are approved, particularly if the discrepancy is with the labor rate or part prices. Complaints also reveal that even when supplements are approved, the approval process and/or the payment of the supplement can be slow.

Repair delays resulting from the use of supplements impact consumers. The consumer is impacted directly from the increased time to repair the vehicle, but this can have a ripple effect. First-party claimants are subject to policy limits for rental cars. Delays can mean that rental coverage does not extend through the time required to complete repairs either causing the claimant to be without a vehicle or to incur out-of-pocket costs.

Insurers were requested to provide information regarding the percentage of claims that required repair supplemental payments to customers from 2018 through 2023. Overall, the information provided by the insurers indicates that supplements peaked in 2020 (presumably due to COVID) and that supplements have increased since 2018. The numbers provided by the insurers are not consistent with the extreme increase in supplements reported by the auto body shops.

The insurer perspective on supplements is captured in the graph and table below. The graph shows the percentage of claims requiring supplements for each of the surveyed insurers by year. The blue line is the mean. There has been a slight increase over time, with a peak in 2020.



From the auto body repair shop's perspective, insurers are increasingly relying on virtual adjusting, which is increasing the need for supplements. This practice can result in a delay in ordering parts needed for hidden damage until the insurer approves the supplement request; denials for amounts the shop deems necessary when they vary from the insurer's estimate; parts sourced from suppliers with whom the shop has no relationship; parts that require fit or finish adjustments that may not be included in the estimate; and increased administrative costs.

Auto body repair shops were asked how often supplements are required for repairs. The average response among responding auto body shops was that supplements are required 95% of the time. Ten of the shops said supplements are required 100% of the time. Many shop owners attribute the rise in supplements to insurers relying on shop-provided photos and videos for appraisals and refusing to send appraisers for in-person inspection. Auto body repair shops were asked to quantify the delay to repairs (in days) caused by supplements. Shops reported that typically the delay was less than two weeks. The average reported delay was 7.32 days.

DFR has seen an increasing number of complaints relating to appraisal practices around the supplement process, either due to an insurer's delay in processing them for approval or due to an insurer avoiding sending an in-person appraiser to resolve discrepancies between shop and insurer estimates that cannot be resolved through virtual review of photos. Some insurers have few or no staff adjusters or appraisers in Vermont, so reliance on independent adjusting/appraising has created scheduling challenges that have led to delayed inspections and delays in getting the appraisals to the staff adjusters for approval.

As noted above, DFR has seen complaints about delayed payment of supplements and this issue was also raised by an independent appraiser, who suggested that Vermont look to Massachusetts, which enacted requirements for the handling of supplements in a timely manner.[6]

4. Estimating and Valuation Software

Insurers and auto body repair shops have historically relied on collision estimating manuals to write estimates for collision repairs. Before the advent of new technology, the manuals were paper-bound books or thick binders that could be updated with new sheets or pocket manuals to reflect changes. These were published by both vehicle manufacturers and third parties, and as each model and year may have had its own manual, there were thousands of manuals. These books would specify the standard

[6] 212 CMR 2.04 outlines requirements for the use and payment of supplements.

time it takes for repair procedures, include illustrated breakdowns with names, numbers, and prices for each component, and list the associated costs for paint and materials. As technology improved, there was a shift from these physical, paper-based systems to digital formats. As early as the late seventies and early eighties, electronic systems began to move away from paper and manual calculations. Over time, these systems advanced to include tools for connecting with insurers, writing estimates from remote locations, and additional reporting capabilities. Today, the estimating software integrates advanced technology like AI and machine learning to help with the estimating process and to connect users to a wider network of insurers and data.

The estimating software now in use helps insurance adjusters and repair shops create repair cost estimates by using industry databases and real-time data to calculate labor hours, parts costs, and paint and material costs. Appraisal software is also used to determine the actual cash value of total losses by using databases containing information on advertised vehicles and recently sold vehicles. These technological advances have no doubt made the estimating process easier for shops and adjusters; however, the risk or downside may be an over-reliance on automation that allows insurers to use adjusters with limited technical knowledge or experience. These adjusters are less likely to understand the nuances of the repair process or the reasons a shop estimate may deviate from an insurer estimate. In short, the software enables insurers to rely on these estimates and remove independent authority from the appraisers and adjusters.

There are several vendors that offer both of these tools. DFR met with several software vendors to better understand how insurers use their products. The purpose of the meeting was to get a basic overview of the software, to determine how insurers may modify the software based on individual needs, to identify the source of the underlying data, and to understand the frequency of data and software updates.

Each vendor provided information on both the estimating and the valuation software, but DFR's focus was on the valuation software. The questions and concerns on the estimating side, though not as significant, include: (1) parts sourcing and (2) paint and material costs. The estimating software has the ability to source parts, and insurers frequently use this feature. While providing recommendations for sourced parts is not an issue, sourcing parts becomes problematic if the insurer requires the shop to use the sourced part or to absorb any difference in cost. For example, shops have complained that parts may be sourced from suppliers that will not deliver to this area, making the price of that particular part irrelevant. Another frequent issue is related to how insurers calculate the cost of paint and materials. Insurers typically calculate this amount by multiplying the estimated hours needed for painting by an hourly paint and material rate. This does not take into account the differences in the cost of paint, which can vary significantly. This has been recognized by Massachusetts, where a regulation addresses the disparity that can result from the method typically used to calculate paint and material costs.[7]

DFR's review of the total loss valuations found that the data utilized in the software appears to be updated frequently, with each vendor using proprietary methodologies and market data networks to determine how mileage, market conditions, and vehicle condition are weighted in the software's algorithms. The programs are designed to follow the specifics of Regulation I-79-2's methodology (e.g., comparable-vehicle market radius, days from the date of loss, how values are averaged, when condition deductions or enhancements are factored in, and Vermont DMV fees) when making the final calculations. Certain valuation features can be modified by insurers, including enabling or disabling features and controlling user access. However, insurers are limited in their ability to change the comparable vehicles chosen by the system if the software determines certain vehicles are more closely aligned with the regulated methodology and its internal weighting system. While all the software programs reviewed consider the condition of the loss vehicle, notably one program appears to automatically apply condition deductions as well.

Review of consumer complaints regarding total loss valuations show that some adjusters using this automated condition deduction valuation program use the software as a guideline, whereas others strictly adhere to the program's valuations and associated deductions. In these cases, suggested deductions are applied in a manner that is not consistent with Regulation I-79-2 and DFR's associated guidance, which states that condition deductions are justified only when there are specific, documented findings showing that a component is damaged or clearly degraded beyond expected wear for the vehicle's year, make, and mileage. Additionally, condition deductions cannot be based on a virtual inspection or on a physical inspection by an unlicensed appraiser or adjuster.

Other issues identified with the valuations are unwarranted deductions for engine and transmission components and the "bundling" of components that inappropriately increases the deductions. Valuations using this software have shown that some insurers consistently apply significant condition deductions to components such as the engine and transmission, with deduction amounts in some cases ranging from $500 to $1400 (depending on the value of the loss vehicle) when there are no documented findings that these components are in any condition outside what is normal for the vehicle's year, make, and mileage. Some insurers using this software bundle deductions for the interior and mechanical as whole components, while others choose the option to have those

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[7] 212 CMR 2.00 states:

With respect to paint, paint materials, body materials and related materials, if the formula of dollars times hours is not accepted by a repair shop or licensed appraiser, then a published manual or other documentation shall be used unless otherwise negotiated between the parties.

components broken down into smaller subsections—such as seats, carpet, engine, and transmission—allowing the deductions to be more specific. Instead of a tear in one seat causing deductions for the entire interior, the deduction is applied only to the seats. Instead of an engine with evident oil leaks causing deductions for the entire mechanical system, the deduction is minimized to just that component.

The reliance on the valuation software raises concerns as to whether insurers are allowing appraisers or adjusters to exercise independent judgment, similar to the concerns raised about the use of estimating software. The technology is a useful tool, but it should not replace technical knowledge, experience, common sense, and the use of independent judgment by the experts using the tool. Insurers must still hire qualified individuals to appraise and adjust claims to ensure consumers are treated fairly. Furthermore, insurers must educate and monitor their appraisers and adjusters to ensure software is used appropriately and in a manner that is consistent with Vermont laws and regulations.

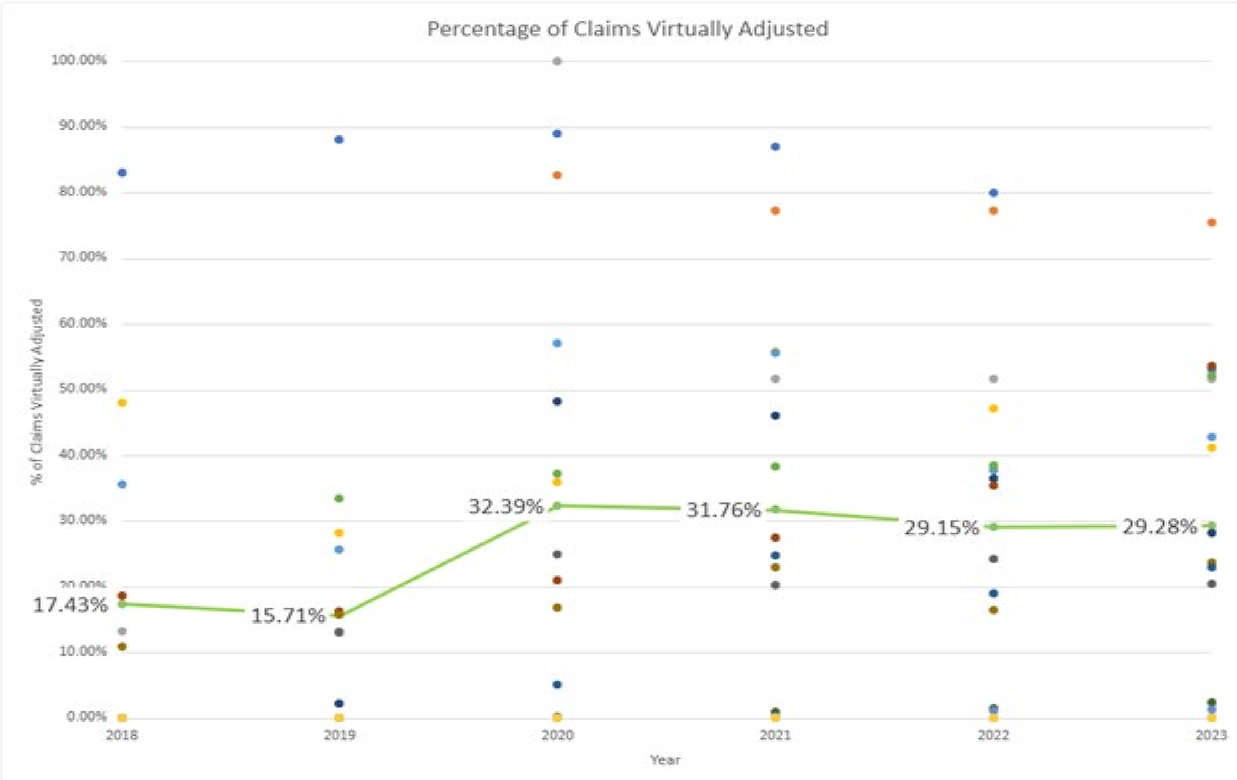
5. Virtual Adjusting

Virtual claims adjusting is the term used to describe estimates or valuations that are derived from photos as opposed to a physical inspection of the damaged vehicle. Virtual claims adjusting has grown in popularity among insurers and consumers, partially in response to the pandemic, but the practice continues to be widely used due to the speed at which it enables a claim to be initiated and processed. It has become standard for many insurers to request photos and videos from claimants via email or claim apps, in order to complete a virtual appraisal.

DFR requested that insurers identify the percentage of virtual claims adjusted from 2018 through 2023. Twelve (12) insurers stated that they have processed claims using solely virtual means for at least part of that period. Five (5) insurers stated that they do not process claims with solely virtual means. The percentage of claims adjusted by each insurer with solely virtual means ranged from 0.2% to 89%, with one exception in 2020, as one insurer reported that 100% of claims were adjusted with virtual means.

Insurers that do utilize virtual adjusting reported that they do not require repair shops to purchase any unique software or applications to use when virtual adjusting is involved. Also, ten (10) insurers stated that they do not immediately issue a benefit decision when a customer provides pictures of damage for virtual adjusting. Rather, the insurers develop detailed estimates which are provided to an adjuster for review. Four (4) insurers stated that they do issue a check immediately based on virtual adjusting when coverage and liability are clear. The concern with this practice, because virtual adjusting may not capture the full extent of the damage, is that the claimant may not be fully compensated for the loss if they choose not to repair the vehicle.

The insurer perspective on virtual adjusting is captured in the following graph. The graph shows the percentage of claims virtually adjusted by each of the surveyed insurers over time. The green line is the mean. The average percentage of claims being virtually adjusted has increased from 17.43% in 2018 to 29.28% in 2023.



Overall evidence indicates that insurer estimates are increasingly based on virtual adjusting rather than physical inspections. This has been identified as a major source of the discrepancies between the shop's estimate and the insurer's estimate based on comments from independent appraisers, auto repairer survey results, and consumer complaints. While consumers may enjoy the convenience of taking pictures of damage to their vehicles and getting a quick evaluation, poor photographs or hidden damage can ultimately make the process longer and delay repairs.

Additionally, the virtual appraisal process used by insurers may add to out-of-pocket costs. Differences in estimates may be passed on to the claimant if an agreement cannot be reached between the insurer and the shop on the cost of repairs.

DFR Insurance Bulletin 206, which was issued early in the use of photo adjusting, was designed to address concerns in this area. Due to the significant expansion of the use of virtual adjusting, DFR is currently updating Bulletin 206 to address some of the newer challenges in this area.

6. Appraisal Clauses

An appraisal clause is a provision in the automobile insurance policy that allows a policyholder and the insurance company to settle disputes over the value of a claim. When a disagreement arises over repair costs or the total loss value of a vehicle, both parties hire an independent appraiser to provide estimates. If the appraisers can't agree on an estimate, they select a third appraiser (umpire) to make a final decision. Either the insurer or the consumer can invoke the appraisal clause. DFR views the appraisal clause as an important consumer protection mechanism because it offers a claimant a method of resolving a dispute over the value of a claim without resorting to litigation. In some states, insurers have attempted to remove the appraisal clause from policies or only allow it for total losses.

In response to such actions, some states have enacted laws that require auto insurers to include appraisal clauses in their policies. In 2025, Texas enacted S.B. 458, which requires that all personal automobile and residential property insurance policies must include an appraisal provision. Washington enacted S.B. 5721, which requires that every auto insurance policy must include the right to an appraisal.

Currently, DFR's Insurance Division reviews and approves auto policy forms, and the Department would disapprove the removal of appraisal clauses.

7. Appraisal Practices Findings and Recommendations

A. Findings

The appraisal process appears to be primarily driven by the insurers. Most appraisals are done at the direction of an insurer either by insurance company employees or contractors. Independent appraisal organizations are often hired by insurers to do appraisals and are therefore influenced by and/or provided with standards to be used for that insurer's appraisal work. These standards may include labor rates to be applied, the use of aftermarket parts, and sources for parts. Few truly independent appraisals are requested by consumers.

Virtual adjusting is a good tool and appreciated by consumers when used appropriately but can result in incomplete estimates; increased work for auto body shops on behalf of insurers without compensation; and increased use of supplements. These supplements can cause a delay in the repair process due to an auto body shop's reluctance to proceed with ordering parts or repairing a vehicle until the supplement is approved. Insurers may be slow to approve and to pay supplement requests. Delays in the repair process impact consumers and can increase out-ot-pocket costs for rental cars or storage fees.

Appraisal practices often apply equally to first and third-party claimants, where the third party bears no responsibility for the damage-causing incident and has no contractual relationship with the insurer, resulting in out-of-pocket costs for the innocent third-party.

Estimating and appraisal software are excellent tools, but should be used as a guide and not without the exercise of informed judgment. Insurers' heavy reliance on the software may be inadvertently reducing the quantity and/or the quality of knowledgeable, experienced appraisers and adjusters and lessening the ability of appraisers and adjusters to exercise independent judgment and discretion.

B. Recommendations

- DFR recommends modifications to Regulation I-79-2 to ensure that appraisals:
  - are consistent with Vermont regulations, court decisions, and contract language, including modifications suggested by other sections of this report;
  - preserve consumer choice where appropriate;
  - appropriately document and justify material deviations from guidance provided by estimating tool creators; and
  - provide timeframes for responding to and paying supplements.
- DFR also recommends codifying its previous guidance requiring in-person inspections if requested by consumers, including:
  - expectations that insurers maintain access to adequate and appropriately trained Vermont-licensed appraisal staff;
  - prohibiting insurers from deterring consumers from requesting an in-person inspection; and
  - setting standards for insurers that intend to dispute independent in-person estimates for vehicle repairs.

Insurer Control or Influence Over Repair Work

The Department's review of insurer practices, auto body shop input, and complaint information suggests that insurers are exerting an increasing level of control over the appraisal and repair process. Discussion of these aspects of control can be found throughout the report since it relates to a number of sections. Some aspects, like the choice to use aftermarket parts, may be dictated by policy provisions, but others are simply practices employed by insurers to manage claims and keep rates more affordable. Insurers seem to use the estimating process, in particular, to exert control over the repair process, by estimating based on assumptions for aspects of the repair such as parts sources, the labor rate paid, and the reimbursement for paint and materials. According to the review of insurer procedures, estimates from most insurers include prices for specifically sourced parts and may direct the repairers to either use the sourced parts or cover the difference in pricing for the parts.

Almost unanimously, repairers responding to DFR's survey complained about the sources from which insurance companies choose to procure parts, aiming to save small amounts of money. Many respondents expressed frustration over having to accept parts from across the country from businesses they have no relationship with, which increases wait times and complicates the return process. Additionally, shops often receive discounts from suppliers they have strong relationships with, which increases profitability of repairs when they are able to source parts themselves.

Currently, these practices do not result in an increase in liability for the repairs by the insurers. Dependent upon specific circumstances, these practices may be contrary to regulation if the insurers try to unreasonably cap the amount they will pay to repair a vehicle.

1. Findings and Recommendations

A. Findings

Insurers use estimating software and policies with associated procedures for appraisers, which result in insurers driving aspects of the repair process (e.g., use of their labor rates, part types and sources). Regulation I-79-2 has existing requirements related to liability in the event the insurer requires the use of a particular shop but does not address insurer influence in other areas.

B. Recommendations

DFR will explore appropriate methods, including possible modifications to Regulation I-79-2, to provide clarity regarding liability and cost when an insurer requires the use of a specific shop or part choices/sources. Included in this information will be guidance clarifying when DFR will view insurer negotiation and influence as shifting to a clear direction, triggering liability and cost expectations.

Direct Repair Programs

Direct repair programs (DRP) typically consist of a network of auto body shops approved by the insurer to repair claimants' vehicles. The Insurers have a variety of names for the programs but they all function similarly, and for the purposes of this report, will all be referred to as Direct Repair Programs or DRPs. These programs are generally governed by an agreement between the individual auto body shop and the insurer, with a variety of terms dependent upon the extent of the program and the willingness of the parties. Terms can include repair expectations, time standards for repairs, parts sourcing, and referrals of insureds to program shops. The majority of insurers have some form of direct repair network.

1. Insurer Response Summary

Insurers responding to DFR's request for information indicated their belief that direct repair programs benefit consumers because insurers assess shops according to the types of criteria identified below and because the work is guaranteed. Insurers do not, however, directly guarantee the work; the shop must provide the guarantee as a part of the program terms. While independent shops may also guarantee their work, the insurer will enforce the guarantee for the claimant using a DRP shop.

Seventeen (17) of the twenty (20) insurers responding to DFR's request for information utilize a version of a direct repair program. The primary factors that insurers consider in accepting an auto body shop into a Direct Repair Program are:

- Convenient locations;
- Shop reputation;
- Use of modern technical estimating systems;
- Modern equipment and technology;
- Highly trained and/or certified staff;
- Minimum insurance requirements in effect; and
- Appropriate licenses.

As a part of the program, the shop agrees to:

- provide lifetime warranties for repairs as long as the consumer owns the car;
- follow appraisal guidelines and best practices; and
- accept competitive rates based on prevailing rates in the marketplace.

In 2023, the number of Direct Repair Program shops reported by insurers ranged from one to twenty per insurer.

The insurers were asked to provide documentation regarding labor rates paid to Direct Repair Shops versus shops not participating in the DRP. All insurers that utilize Direct Repair Shops stated that there is no difference in labor rates paid to Direct Repair Shops versus shops who do not participate in the DRP. For the consumer, this means that they will not incur out-of-pocket costs that result from shops charging a rate higher than that paid by the insurers. A potential concern is that insurers are using rates agreed to by DRP shops to set the prevailing rate, which may keep these rates artificially low.

Insurers provided responses and supporting documentation outlining the ways they assess and ensure quality control of DRP Shops. All of the insurers who use DRP

Shops outlined various activities that they utilize to ensure quality control of these facilities.

The most common methods used to exercise quality control of DRP Shops include:

- Random re-inspections;
- Satisfaction surveys for policyholders and third parties;
- Estimate review and monitoring;
- Random sampling of repair work completed and file reviews; and
- CCC quality score cards.

2. Auto Body Shop Survey Reponses

The auto body repair shop survey presents a different picture. The survey revealed that of the respondents, 56% are designated as DRP shops for an insurer. Nearly 60% of shops reported that labor rates for DRP shops are typically lower than for shops outside the DRP network. The shops indicated that the advantage of DRP shop status is the predictability of consistent business and the standardized repair processes provided by the insurer in the preferred shop agreement. Shops that choose not to establish relationships with insurers cite as reasons: insurers' control over the repair process and the insurers' encouragement to write low estimates. Another concern raised by shops was that insurers use the rates paid to DRP shops to keep rates low in a given area.

Direct repair programs may result in more direct influence over the repairs done by the contracted shops and indirectly influence repairs by independent shops.

3. Findings and Recommendations

A. Findings

Direct repair programs may result in more influence by the insurer on the repairer, including mandating specific parts sources, repair choices, and labor rates. DRPs may also influence the entire market if non-DRP shops accept lower labor rates or repair based on insurer estimates in order to compete. Conversely, DRPs also provide auto body shops with a referral source for additional business and provide consumers with shops that have been evaluated on their work standards.

B. Recommendations

DFR will explore modifications to Regulation I-79-2 to ensure that DRP programs do not impact consumer choice as allowed under their automobile policy and do not result in insurer interference with necessary repair standards and the repair process unless it is based on a legitimate technical repair disagreement between qualified individuals representing the insurer and the shop. DFR will look to incorporate information concerning the influence of contracted DRP labor rates into any guidelines it creates related to the determination of labor rates by insurers. DFR also suggests that should any regulation concerning the activities of auto shops be contemplated, a prohibition against charging a consumer any cost difference resulting from a DRP contracted rate be considered.

Consumer Disclosures

Section 12a(5) of the Act required DFR to review disclosures made to consumers by insurers at point of sale and time of claim; consumer information developed and maintained by the DFR; and whether changes are needed, particularly with respect to financial exposure of the consumer.

Consumer disclosures at the time of sale are limited to the contents of the policy itself, any required endorsements, and other documents such as the declarations page. Depending on the insurer, these documents may contain specific information on things such as cancellation and nonrenewal provisions, coverage limitations or exclusions, parts coverage, rental and storage fees, appraisal clauses, etc. Policies do not generally contain specific information on claims settlement processes. Policy language can be lengthy and complex resulting in consumers having difficulty understanding these details.

Currently, Regulation I-79-2 requires specific disclosures to consumers regarding claims settlements at the time of a settlement offer for a total loss claim. These requirements include a detailed copy of the insurer's total loss valuation calculation, a copy of any valuation report used that is not publicly available, and information on how to contact DFR to dispute any settlement offer. Regulation I-79-2 also requires notification to the insured of any denial of a claim in full or in part with reference to the applicable policy provision.

DFR's website provides information about the various types of insurance, including automobile insurance. This information includes guidance on purchasing a policy, repairs, claims, and rental cars, and provides links to information from other sources such as the NAIC. This information, however, should be updated and could be more comprehensive. The website also provides information to consumers on contacting the Consumer Services unit for inquiries and to file a complaint.

During its review, DFR identified eleven states that have some form of an auto repair, auto insurance, or auto body [8] bill of rights. Some are primarily disclosure-based, while

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[8] California Auto Body Repair Consumer Bill of Rights, Cal. Code Regs. Tit. 10, § 2695.85; Maine Motor Vehicle Repair Law, Me. Rev. Stat. Ann. tit. 29-A, § 1801 *et seq.*; Massachusetts Motor Vehicle Regulations,

others also provide specific protections in law. Most of these states (9 out of 11) have some form of requirement for an itemized written estimate before repairs are made, although in some states this right can be waived, must be requested by the consumer, or may carry an additional fee. In two states (New York and Pennsylvania), a written estimate must list each part, its cost, and the source of parts. Similarly, eight states require a detailed invoice upon completion of repairs. Several states also require customer consent for repairs exceeding the original estimate by a certain amount or percentage. Four states (California, Ohio, Pennsylvania, and Texas) give consumers an explicit right to choose a repair shop. Texas gives consumers the right to choose their parts but notes that insurers may set a reasonable amount for payment. Maine does not permit the use of used, rebuilt, or reconditioned parts without prior consent. Several states allow consumers to inspect or keep replaced parts, except those that were returned under warranty[9].

Some states also have additional disclosure requirements, including requiring that consumers be informed about their coverage for towing, storage, and rental vehicles. Maine, Nevada, and Washington require that a repair shop post a sign informing consumers of their rights. In Maine, the shop must also post a sign with hourly labor rates, while in New York, the shop must post how labor charges are computed.

1. Findings and Recommendations

A. Findings

Consumer disclosures at the time of sale are limited, are generally only found within the policy, and can be difficult to understand. Disclosure at the time of claim is limited to specific requirements in total loss claims only. Information on DFR's website may not be current or comprehensive.

B. Recommendations

DFR will consider additional consumer disclosures for use at both the time of sale and the time of filing a claim. As a part of this work, DFR will explore whether a consumer bill of rights based on those in other states would be an appropriate method for achieving

[9] 940 CMR 5.05; Minnesota Truth in Repairs Act, Minn. Stat. §§ 325F.56–325F.66; Nevada Automotive Repair Customer Bill of Rights, Nev. Rev. Stat. Ann. 487.6871; New York Motor Vehicle Repair Shop Registration Act, N.Y. Veh. & Traf. Law § 398 *et seq.* and N.Y. Comp. Codes R. & Regs. tit. 15, § 82.1 ; Ohio, Administrative Code Rule 109:4-3-13; Pennsylvania, 37 Pa. Code § 301.5; Texas Consumer Bill of Rights – Personal Automobile Insurance, 49 Tex Reg 2544; Virginia Automobile Repair Facilities Act, Va. Code Ann. § 59.1-207.1 *et seq.*; Washington, Wash. Rev. Code Ann. § 46.71 *et seq.*

increased consumer disclosure. The following items, many of which are already implied in Regulation I-79-2, will be considered for inclusion:

- The right to choose a repair shop (CA, OH, PA, TX)
- The right to choose what type of parts will be used (exists in Texas, but insurer "may set reasonable amount for payment")
- At the time of claim or repair, required consumer consent to a downgrade in replacement parts (e.g., if the policy requires OEM parts, but these parts are unavailable due to supply chain issues)
- At the time of claim or repair, required consumer consent to an upgrade in parts not covered under a given policy with the consumer paying the difference
- The right to an in-person appraisal or estimate
- The right to prompt claims handling with written documentation (see Regulation I-79-2; TX makes this an explicit right as well)

Insurance Regulation I-79-2

Section 12a(6) of the Act required that DFR assess whether Regulation I-79-2 (particularly Section 8) governing claims practices should be updated to address market or business practice changes that may impede prompt, fair, and equitable settlements; standards for settlement of property and physical damages; and to clarify the independence of appraisals [(A)(1)], the ability of the insurer to negotiate with a repairer [(A)(2)], and the ability to insist that repairs be done by a specific repairer [(A)(3)].

As is evidenced throughout this report, Regulation I-79-2 is linked to all facets of the auto insurance claim and auto body repair ecosystem. DFR's review of the Regulation, the issues researched for this study, and consumer complaints have revealed a number of opportunities to clarify existing requirements or to provide additional guidance for insurers and protection for consumers. Vermont Regulation I-79-2 is derived from a National Association of Insurance Commissioners (NAIC) Model Law but does not include all of the provisions of the Model Law. As part of our review, DFR completed a comparison between Regulation I-79-2 and the Model Law. Where the Model Law has language that addresses an issue posed by this study, DFR will explore adding such language if appropriate. Where there are gaps, DFR has surveyed other state laws to determine whether there are existing provisions addressing particular issues that are commonly used. This exercise ensures that if these issues are being addressed in other states, Vermont can adopt provisions consistent with other states where appropriate.
If warranted, we will consider modifying existing language or establishing new requirements.

The recommendations related to issues researched in this Study are discussed in more detail in the applicable sections. Recommendations that are related to auto claims but not identified for investigation by the Study are included here.

1. Findings and Recommendations

A. Findings

Modification of Regulation I-79-2 is appropriate in a number of places, including areas which would increase consistency with the NAIC model rule and address specific concerns raised in this report.

B. Recommendations

DFR will pursue modification of Regulation I-79-2 in the areas identified throughout this report. DFR will also identify language for potential modifications to Regulation I-79-2 to clarify the following areas not identified elsewhere in this report:

- Add/amend Definitions
- Add File and Records Documentation as needed
- Add Misrepresentation of policy provisions as needed
- Clarify Statute of Limitation language
- Determine if specific language related to Storage and Towing should be adopted.
- Consider clarifying that third-party claimants are not subject to the policy provisions applicable to the insured. Insurers sometimes treat third-party claimants in the same manner as an insured.

Betterment Practices

Section 12a(a)(7) of the Act required that DFR study the betterment practices of insurers, including the legitimacy and fairness of valuation methods. Betterment refers to the improvement in an item's value or condition after a repair or replacement that exceeds its pre-loss state. Insurers typically charge the policyholder for the upgraded portion. Betterment is a way for insurers to ensure they only pay to restore property to its original condition, not improve it beyond that point. Common examples include replacing worn-out tires or a battery with new ones; replacing a rusty bumper with a new bumper; replacing a body panel that was dented prior to the incident on which the claim was made with a new panel.

Ten (10) of the twenty (20) insurers responding to DFR's survey provided coverage betterment guidelines or procedures ("procedures"). The remaining insurers did not provide betterment procedures or did not have established procedures. Common characteristics of insurer betterment procedures include:

a. basing betterment depreciation determinations on vehicle mileage, vehicle age, part wear, and type of replacement part (i.e., OEM, new, reconditioned, or salvage/recycled);
b. limiting the betterment depreciation to a maximum amount of the part value;
c. requiring detailed documentation of the reasons for betterment deduction; and
d. providing a consumer with an explanation for each betterment deduction applied to their claim. The maximum betterment deduction allowed by insurers ranges from 50% to 80% of the part value.

Differences between insurer betterment procedures include:

a. two (2) insurers do not apply betterment deduction to first-party insured claims;
b. two (2) insurers only apply betterment deductions for new parts;
c. one (1) insurer only apply betterment deduction to OEM parts; and
d. one (1) insurer does not apply betterment deductions for salvaged/recycled parts.

The lack of established or well-documented betterment procedures from ten (10) insurers is concerning. Further, the ten insurers with established procedures each apply betterment deduction to parts used to repair a third-party claim, regardless of the third-party's fault for the event causing damage. Insurers reduce the amount they pay for a part or repair by 50 to 80 percent when determining betterment is applicable to that part or repair. This can result in a third-party claimant being placed in a financially disadvantaged position when the third party is not assigned any fault for the damage-causing event.

1. Findings and Recommendations

A. Findings

Betterment practices among insurers are inconsistent, with half of respondents having no specific procedures and the application of betterment deductions varying widely, including in some cases to third-party claimants regardless of fault. Regulation I-79-2 currently has no requirements related to betterment.

B. Recommendations

DFR will develop language to modify Regulation I-79-2 to specify betterment requirements. The NAIC model on which Regulation I-79-2 is based contains betterment language that DFR will consider incorporating as appropriate.

Aftermarket or Recycled Parts

Section 12a(a)(8) of the Act required DFR to review the use of aftermarket or recycled parts, including cost savings, certification, and whether and to what extent insurers should be liable for costs such as necessary modifications, as well as consumer notifications.

1. Types of Parts Explained

When writing estimates for the cost of repairs to a vehicle, the insurer's guidelines refer to the types of parts used. To provide a better understanding of the types of parts, definitions and/or descriptions are included below. It should be noted that these definitional lines can be blurred as some automakers use the terminology differently (e.g. differences may be found in North American vs. foreign auto makers).

Original Equipment Manufacturer (OEM) components made by the same company that produced the original parts for the vehicle. These parts are an exact match to the original factory-installed ones in terms of design, specifications, and quality. They are sourced from dealerships and dealership networks and come with a warranty.

Aftermarket parts (AM, A/M), also referred to as "Alternate" parts, are generally those parts not made by the original manufacturer. Aftermarket manufacturing provides a variety of parts of varying qualities and prices for nearly all vehicle makes and models for replacement, collision (crash), appearance, and performance purposes.[10] For the purposes of this report, references to aftermarket parts pertain to crash and replacement parts.

Recycled, refurbished, or salvaged parts sometimes referred to as "Like Kind and Quality" (LKQ)[11] These parts are often salvaged from vehicles that have been in accidents or are at end of life. These parts can come with a warranty, depending on the distributor.[12]

Other terms that might be used with varying meanings include genuine, OE, OEM Surplus, Opt-OEM or Alt OEM parts.

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[10] (https://en.wikipedia.org/wiki/Automotive_aftermarket).

[11] There is a major national auto parts distributor named "LKQ Corporation" that is a major distributor of recycled, refurbished, and new aftermarket parts but LKQ parts are not limited to those distributed by LKQ Corporation.

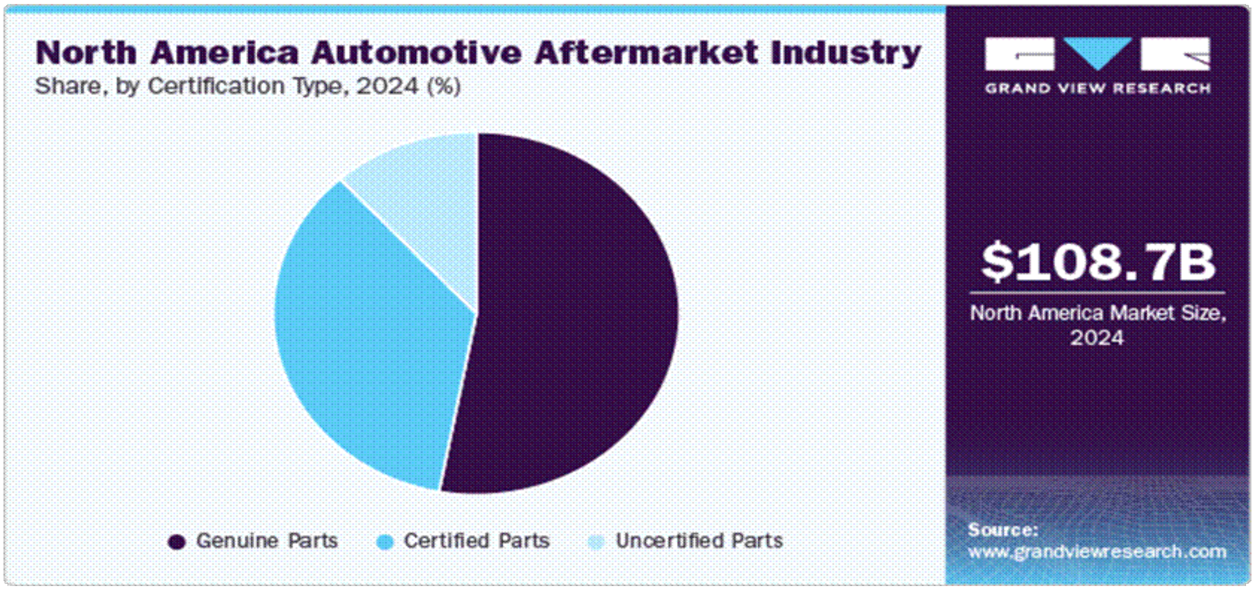
[12] The term "Like Kind and Quality "is used in regulatory and/or policy language when describing how aftermarket or replacement parts are to match OEM parts in fit, quality, and performance.

Aftermarket parts vary greatly in terms of quality, fit, price and warranty. While some aftermarket parts are of lower quality due to materials and manufacturing differences, others may be manufactured to offer equal or greater quality than OEM parts. This is because some aftermarket parts manufacturers identify weaknesses in the OEM part. Whether this happens depends upon economics and target market. Many manufacturers of aftermarket parts are attempting to make the parts that can be sold below the OEM part price. In these cases, the cost to produce the aftermarket part drives the manufacturer's decisions relating to how the parts are made resulting in differences in quality among manufacturers.

The issues with AM part fit are the most commonly reported problem as most of these parts are not created with the exact OEM specifications, potentially affecting alignment with original equipment. There are also may be questions about AM part safety. The Insurance Institute of Highway Safety (IIHS), an independent, nonprofit scientific and education organization, performed motor crash tests on non-OEM parts. Their 2018 Advisory indicated their research showed that AM cosmetic parts — those parts that are not responsible for safeguarding occupants in a crash—do not alter crash test results. However, they advised that replacement structural parts that make up the front end-crush zone and safety cage must exactly replicate the original parts to preserve the integrity of a vehicle's crashworthiness, whether they are sourced from the OEM or aftermarket supplier. Their research showed that some aftermarket non-OEM parts can meet these requirements. Their advisory does not indicate the specific ones they found.[13]

Questions around fit and safety concerns for aftermarket parts continue to be debated. Quality certification for AM Parts today largely includes standards set by ISO 9001 and CAPA. The certified segment of AM parts is growing, driven by buyers in the consumer and independent repair market seeking reliable but less expensive options. *See chart below for 2024 market breakdown showing Genuine, Certified, and Non-certified parts*. With the variance of quality in AM parts, DFR research finds that much of the automotive industry recommends avoiding AM parts for critical safety components such as bumper reinforcements, airbags, and structural and safety components.

[13] Insurance Institute for Highway Safety, "OEM vs. Aftermarket Parts and Honda Fit Crash Tests," *IIHS-HLDI Advisory* 42 (February 15, 2018), https://www.iihs.org/media/e843a7af-8e2a-4831-9f93-13171ea500c0/f15c_w/News/2018/IIHS_Advisory_42.pdf)



https://www.grandviewresearch.com/industry-analysis/north-america-automotive-aftermarket-industry-report

DFR's review of insurers' procedures found that all include some consideration for aftermarket parts in their estimating. Some insurers specifically include directions to not use AM parts for structural, suspension, headlamps, airbags, and other safety components. Some of the insurers' guidelines included directions to use CAPA-certified aftermarket parts when AM parts are appropriate.

2. CAPA Certification

To inform DFR's findings and recommendations on the use of aftermarket or recycled parts in automobile repairs, DFR staff conducted research on the certification of aftermarket parts and the Certified Automotive Parts Association (CAPA).
Over the past several decades, the use of aftermarket auto parts in vehicle repairs has become an increasingly contested subject. Auto manufacturers, auto repair shops, insurers, and consumers each have different perspectives on this subject and interests to defend. Before the late 1970s, Original Equipment Manufacturer (OEM) parts were primarily used for repairs and replacement of the so-called "crash parts" or cosmetic parts of automobiles following accidents. However, the increasing sophistication of manufacturing technology in the late twentieth century led to the wide availability of aftermarket parts produced by independent manufacturers not associated with America's major auto manufacturers.

For consumers, aftermarket parts are generally significantly more affordable than OEM parts. Over time, the use of aftermarket parts and their increasing market share has resulted in lower costs for both OEM parts and aftermarket parts overall. For insurers, encouraging or requiring the use of aftermarket parts in repairs helps them lower the cost of claims, particularly for collision or comprehensive coverage claims. Insurers argue that these savings help them keep consumer auto insurance premiums lower than they would be if OEM crash and replacement parts were required in auto repairs. However, over time, concerns arose regarding the safety and quality of aftermarket parts. Auto manufacturers have frequently called attention to studies that they claim document that non-OEM parts are of lower quality and less safe than their OEM equivalents. For the same reasons, consumers often raise concerns or complaints regarding insurer requirements that aftermarket parts be used in the repair of their vehicles.

A. Formation and Overview of CAPA

This debate led to the founding of the Certified Automotive Parts Association (CAPA) in 1987. CAPA was created by auto insurance companies to address concerns raised by auto manufacturers, repair shops, and consumers about the quality of aftermarket replacement parts. While founded by auto insurers, CAPA is an independent organization whose stated mission is ensuring that "consumers have access to high quality automotive replacement parts and services by identifying sustainable options at competitive prices." CAPA is the only independent, non-profit aftermarket replacement parts certification authority, so for the purposes of a discussion regarding possible legislative or other requirements for the certification of aftermarket parts, it can be considered the standard.

Since 2018, the CAPA certification program for aftermarket auto parts has been exclusively operated by Intertek, part of the Intertek Group Plc., a multinational corporation based in the United Kingdom. Intertek provides testing, inspection, and certification of products, materials, and facilities for a variety of industries. As part of its work, DFR staff held a meeting with an Intertek representative to better understand the specifics of the CAPA certification program.

CAPA creates and sets national standards for replacement repair parts. Manufacturers of replacement repair parts seeking CAPA certification must submit the parts to Intertek for testing and certification. Intertek conducts extensive tests to ensure that parts meet established CAPA standards for material, fit, finish, and structural integrity.
The Intertek/CAPA certification process includes manufacturer facility approval, parts certification and testing (including dimensional, material properties, performance and finish/appearance testing), regular and unannounced in-factory inspections, and marketplace surveillance.

Manufacturers whose parts pass these tests receive the right to advertise the part as "CAPA Certified" and use a CAPA quality seal on the part. The CAPA seal also includes unique, traceable identification and proof of certification information that allows for subsequent tracking of the part. CAPA claims that its testing and certification process provides assurance that a given part is safe, high-quality and generally less expensive than the equivalent OEM part.

3. Insurer Information

As part of the request for information, insurers were asked if they either encouraged the use of aftermarket parts or required the use of aftermarket parts.

Of the twenty (20) insurers that responded, none indicated that they require the use of aftermarket (AM) parts. While not requiring them, all prioritize consideration of AM parts if it is appropriate for the repair and does not conflict with state regulations. The written appraisal guidance on this subject provided by the insurers varies in specificity. As an example, the written guidelines submitted to DFR by one insurer are minimal, indicating that, while all part types (OEM, LKQ, AM) are to be considered, the appraiser should select the part that is most "cost-effective and appropriate," with little additional guidance provided.

Most insurers provided more specific guidance regarding the types of parts to be used in the estimate, based on the function of the part (structural, mechanical, safety, etc.). DFR found that nineteen (19) insurers require OEM parts to be used for safety components, such as airbags and seatbelts. The only insurer that does not require OEM parts for "safety parts" stated that they "will use the right part for the situation." Guidelines also vary based on factors such as whether there is an OEM endorsement on the policy, year and mileage of the vehicle, and whether certified AM parts are recommended or required by the insurer. For example, many insurers' procedures indicate that OEM parts will be automatically considered for newer vehicles of limited mileage. Some insurers have different guidelines for first or third-party claimants.

Some insurers also include utilization of certified AM parts as an expectation and others specify that AM parts should come with a warranty. A number of insurer guidelines equate Opt-OE parts with certified AM parts or "like-OEM-new," but with restrictions on when to use them, based on which parts are being replaced, suggesting awareness that they are not OEM equivalent in all ways. Many insurers indicate that LKQ parts are not to be used in safety-related systems such as (but not limited to) seat belts, restraint systems, steering and suspension, and brake-related parts, and most insurers included direction that LKQ parts should be in equal or better condition than the alternative.

Directions on estimating costs for repairers to prepare/fit/modify AM parts as needed also varied by insurer. Some did not seem to have any guidance, some are restrictive in how much time is allowed for preparation/fit/modification, and others allow appraisers discretion based on the part, time, and modification process.

Four (4) insurers offer an Original Equipment Manufacturer (OEM) endorsement, which if purchased by the consumer, mandates the use of OEM parts by the body shop performing the repairs.

4. Auto Body Shop Survey Results

Of the auto body repair shops that responded to DFR's survey, all but one reported that they use AM parts for auto body repairs, although the majority of shops also advocate for using at least CAPA-certified aftermarket (AM) parts. Many shops prefer to use original equipment manufacturer (OEM) parts due to a perceived higher level of safety, 92% of shops indicated that insurers don't give them discretion on whether to use OEM or AM parts, and 96% of shops said insurers place limitations on the use of OEM parts. When asked if any insurers refuse to pay for OEM parts, 92% of shops stated yes. When asked for additional information, nearly a third did not provide much detail, only stating that all or most insurers they worked with did this. Another third responded that it depended on the insurer's specific policies. 16% of the respondents specifically indicated that OEM would only be considered if the AM part was not available or if there were a fit issue but stated that the insurers make the process of meeting these criteria challenging.

Despite the above, when asked who has the final say over which parts are used in a repair, 52% of shops stated the customer does, while 48% said the insurer does. Many respondents stated that if a customer wants to use OEM parts, the customer is forced to pay the extra cost. However, some shops stated that they choose to pay the price discrepancy themselves to make proper repairs and save time dealing with the insurer. Most shops stated they are often not compensated for making necessary modifications to poorly fitting AM parts, identifying a variety of reasons provided by insurers including simple denial of any payment for fit time; severely limited fit time (e.g. ½ hour only); that the fitting process is part of the shop's job; or that the shops need to seek reimbursement from the AM part manufacturer for poor fit. One shop stated the process is too time consuming, so they don't try to get reimbursement, and 3 others stated that they no longer or rarely use AM parts because of the hassle or the concerns over AM parts fitting.

A. Pricing and Markup

It is important to note that 60% of shops reported that they calculate markup based on a percentage of the part price, and OEM parts are typically more expensive. Many shops also said that they charge customers the retail or list price for parts and the profit they make is from the discount they receive from their suppliers. Based on the shops' responses, the average markup for parts is approximately 25%, for both OEM and AM parts.

B. Disclosures to Consumer on Repair Transparency

When shops were asked if they provide explanatory documentation to the customer around the repair process, 68% responded that they do. When asked whether this documentation includes information regarding the insurance claims process, 88% of the 68% responded "Yes," making the total percentage of shops that provide customers with information around the claim process approximately 60%.

5. State Regulation of Aftermarket Parts

To address concerns around the use of aftermarket parts, some states are considering or have already implemented legislation regarding insurers' obligations as they relate to the use of aftermarket auto parts and CAPA certification. Many shops stated in their survey responses that Vermont needs regulations ensuring that new cars receive OEM parts. Currently, a majority of states have regulations related to aftermarket parts. However, the requirements vary widely from state to state. In most states, some form of disclosure concerning the use of aftermarket parts is required at the time of the appraisal or estimate. This disclosure requirement may be the responsibility of the auto repair shop, the insurer, or both. These disclosure statements range from simply providing general information on aftermarket parts, relevant warranties, the types of parts used and the name of the part manufacturer to requirements that the consumer consent to the use of aftermarket parts in their repair. Consent requirements are often only applicable for limited time frames after the vehicle's manufacture date and can require that the consumer pay the difference in cost if they choose OEM parts. Additional state requirements also include markings to be placed on the part itself by manufacturers identifying it as an aftermarket part. A significantly smaller number of states have passed legislation requiring that non-OEM aftermarket auto parts be of like kind and quality to original OEM parts. Generally speaking, any part that is CAPA certified will meet this standard. However, no state has established a specific certification requirement. Finally, four states prohibit the use of non-OEM parts in newer vehicles ranging in age from one to four years from date of manufacture without prior consumer consent.

A. Benefits and Drawbacks of State Regulation of Aftermarket Part Certification

State regulation specifically related to CAPA certification of aftermarket parts has potential benefits and drawbacks for consumers, auto repairers and the auto insurance marketplace in Vermont.

Potential benefits include higher safety standards and consumer protection. CAPA certification ensures that parts undergo extensive testing to meet standards for durability, crash performance, and overall performance. Requiring CAPA certification would help to protect consumers from lower-quality or substandard parts that could result in further repairs or accidents.

Potential drawbacks include increased insurance costs for consumers, limitations on consumer and repairer choice, and the regulatory burden of enforcement for the State. While more affordable than OEM parts, CAPA-certified parts are generally more expensive than non-certified aftermarket parts because manufacturers often pass the cost of the certification process on in the price of the part. This increased cost will then be factored in by insurers when calculating premiums increasing costs to consumers. In addition, due to the cost and time needed to test parts for CAPA certification, CAPA certified parts may not be available in all situations, limiting consumer and repairer choice. Finally, enforcing any CAPA certification requirements could place a significant resource and administrative burden on State agencies, which would need to monitor compliance and address consumer complaints.

6. Findings and Recommendations

A. Findings

Aftermarket parts can save consumers money and be less difficult to find than OEM parts. However, fit/modification issues can occur, and safety continues to be questioned depending on the type of part. The majority of auto body shop respondents state that they are not getting reimbursed for the labor and paint material costs associated with the fit/modification of AM parts that insurers require them to use. Few states have requirements for OEM parts, but a significant number of states have disclosure requirements based on the NAIC model law. The NAIC model language requires specific disclosure language such as like, kind and quality requirements and consideration of modification costs. Not all parts are certified, due to difficulties in the process of securing certification, time delays, cost, etc. There are also issues with parts certifications being withdrawn by the certification body after a relatively short period of time, potentially leaving shops with previously certified parts that they can no longer use.

B. Recommendations

DFR recommends requiring disclosure consistent with the NAIC model regulation. DFR will also explore requirements that insurer appraisals identify aftermarket parts that are used in calculating claims settlements. DFR believes that these disclosures, combined with other recommendations related to issues such as appraisal practices, use of estimating tools, and insurer influence over repairs, will result in appropriate consumer protections.

Although DFR does not recommend establishing requirements for the use of OEM parts for particular time periods, should the Legislature choose to move forward, DFR recommends that a consumer opt-out be included to preserve consumer choice and affordability. DFR will also consider whether to require that insurers make an OEM endorsement available, which would give consumers the choice of OEM parts usage when entering into or renewing their policy.

Consumer Complaints

Section 12a(a)(9) of the Act requires that this report include information on complaints related to automobile insurance policies received by DFR, the Attorney General Consumer Assistance Program (CAP), as well as complaints received by CAP against auto body repair shops concerning auto body repairs.

1. Insurance Complaints

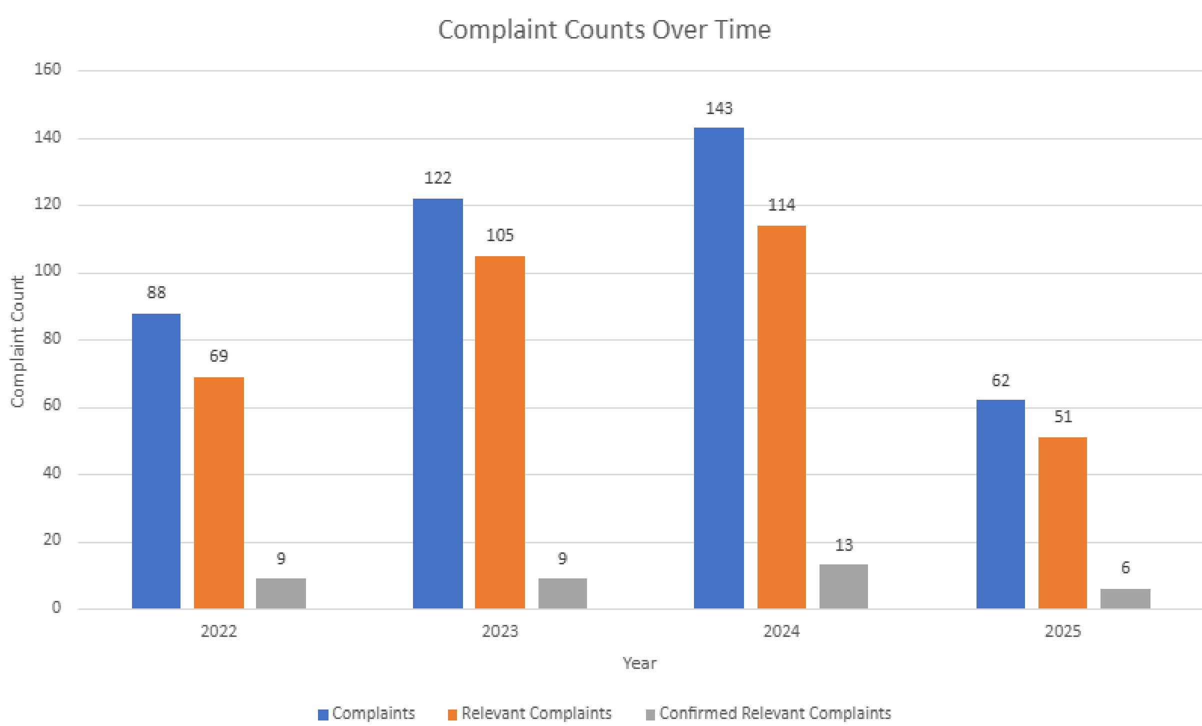
The DFR Insurance Division Consumer Services section processes all insurance complaints against regulated persons. Consumer Services works closely with the Market Conduct section, which oversees compliance by all regulated persons. Consumer complaints offer insight into what is happening in the insurance market and are often the impetus for initiating investigations and examinations.
When a company has violated a law or regulation, a complaint is reported as confirmed to an NAIC database used by all state insurance departments. A confirmed complaint is a complaint in which the state department of insurance determines:

a. The insurer, licensee, producer, or other regulated entity committed any violation of:
    1. An applicable state insurance law or regulation;
    2. A federal requirement that the state department of insurance has authority to enforce; or
    3. The term/condition of an insurance policy or certificate; or
b. The complaint and entity's response, considered together, indicate that the entity was in error.

All complaints are tracked in the database maintained by NAIC, but confirmed complaints are tracked separately, for use by states when analyzing a specific company's behavior in the market. A large portion of consumer complaints received by DFR are private passenger auto complaints.

DFR analyzed complaint data from January 1, 2022, to June 2, 2025. The number of private passenger auto complaints has increased each year. From 2022 to 2023, complaints rose from 88 to 122, an increase of approximately 39%. From 2023 to 2024, the count further increased to 143, marking a 17% rise. DFR believes that the rise in number of complaints, particularly from 2022 to 2023, is partially attributable to increases in driving following the pandemic. The data for 2025 does not represent a full year but is at least on par with 2023. DFR then looked at complaints regarding topics specifically included in the Auto Study directive ("relevant complaints"). The number of relevant complaints follows a similar trend to the overall private passenger auto complaint count, increasing from 69 in 2022 to 114 in 2024. Finally, DFR identified confirmed complaints. The number of confirmed complaints that are relevant to the study is significantly less than the total number of complaints. The number of confirmed complaints was 9 in 2022 and 2023 but increased to 13 in 2024. 2025 is on track to have as many confirmed complaints as 2024.

To provide context for the complaint numbers, DFR researched the total number of automobile insurance claims closed for Vermont policies from 2022 – 2024. The totals for automobile collision, comprehensive, property damage, and uninsured/underinsured motorist property damage claims were: 87,033 in 2022, 75,073 in 2023, and 89,125 in 2024. As indicated above, the totals for private passenger automobile insurance complaints submitted to DFR were: 69 in 2022, 105 in 2023, and 114 in 2024. This means the number of complaints for these years ranged from 8 to 14 complaints per 10,000 closed claims.

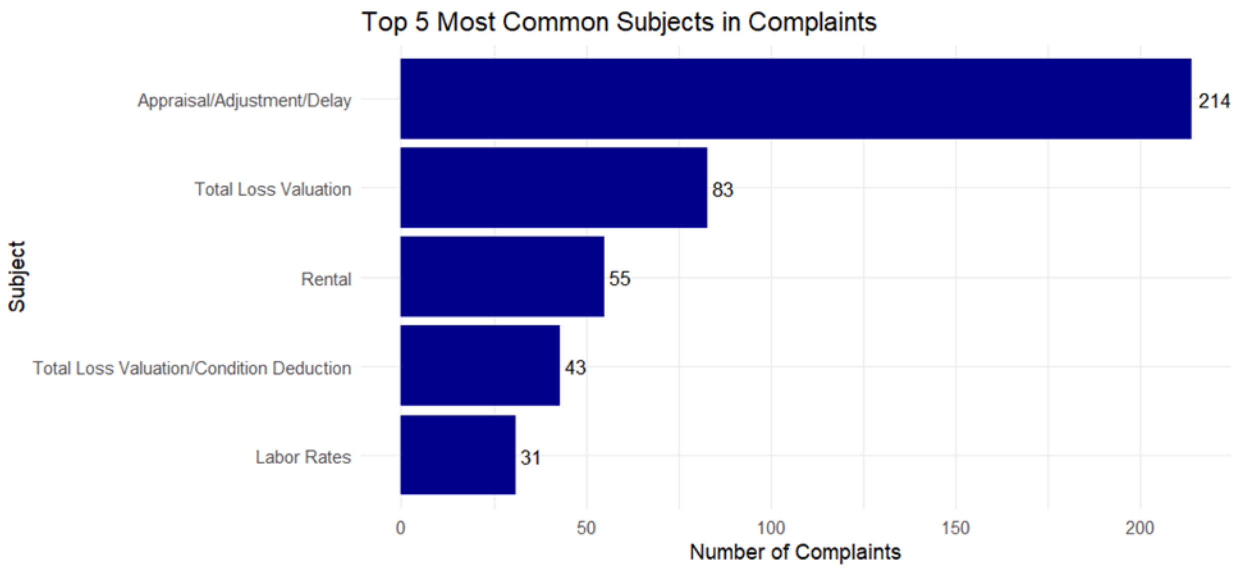


The Division broke down the relevant complaints to identify the most common reasons for filing a complaint. The reasons identified as "relevant" were:

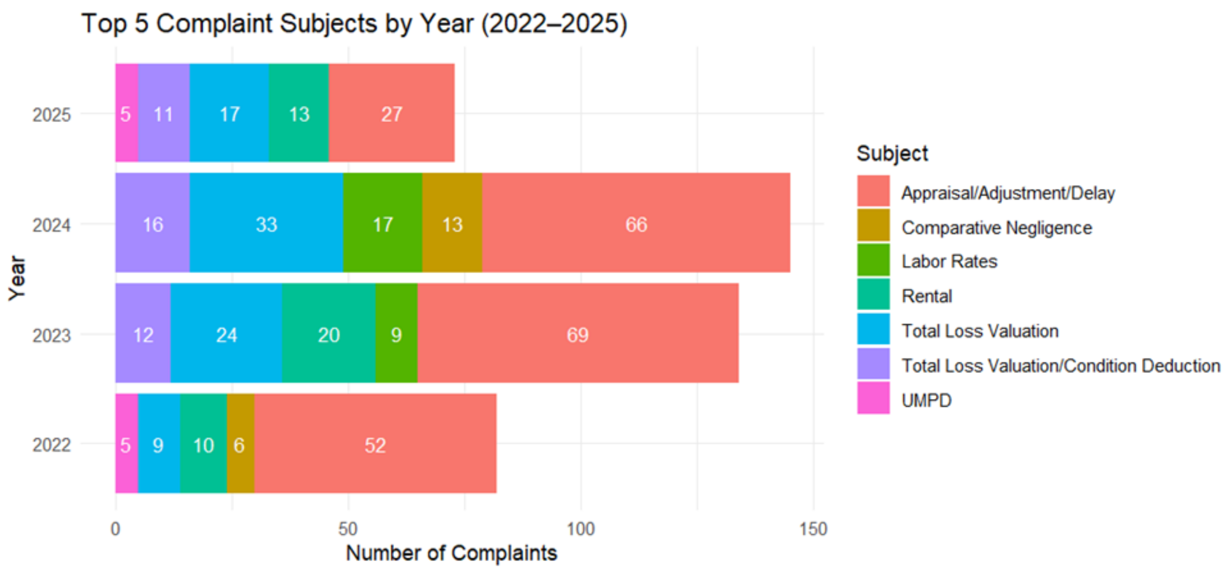
- Appraisal/Adjustment/Delay
- Rental

- Total Loss Valuation
- Total Loss Valuation/Condition Deduction
- Comparative Negligence
- Uninsured Motorist Property Damage (UMPD)
- Labor Rates
- OEM vs. Aftermarket
- Betterment

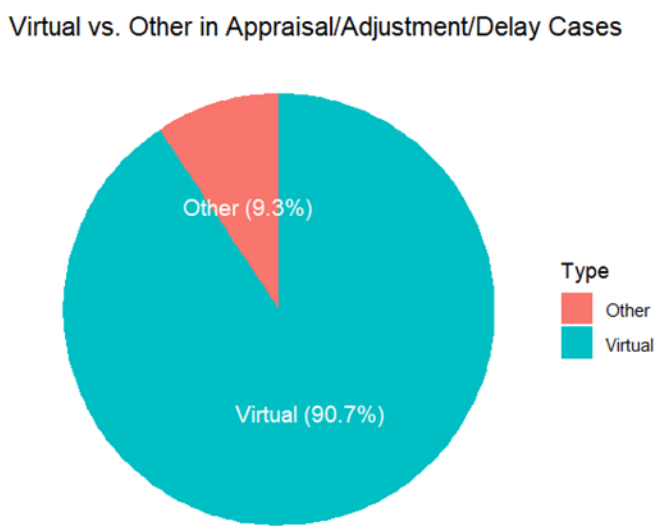
Appraisal/Adjustment/Delay was by far the most common complaint category, appearing in 214 complaints. Total loss valuation was also a prominent category. It should be noted that each complaint can appear in more than one category.



The Division also looked at the reasons for complaints by year. Appraisal/Adjustment/Delay remained the most common subject across all years. Since 2023, Total Loss Valuation has consistently held the position of the second most common complaint. Rental was the third most frequent complaint in 2023 and 2025, though it was second in 2022. Interestingly, in 2024, Labor Rates emerged as the third most common subject, despite not appearing in the top three subjects in any other year.

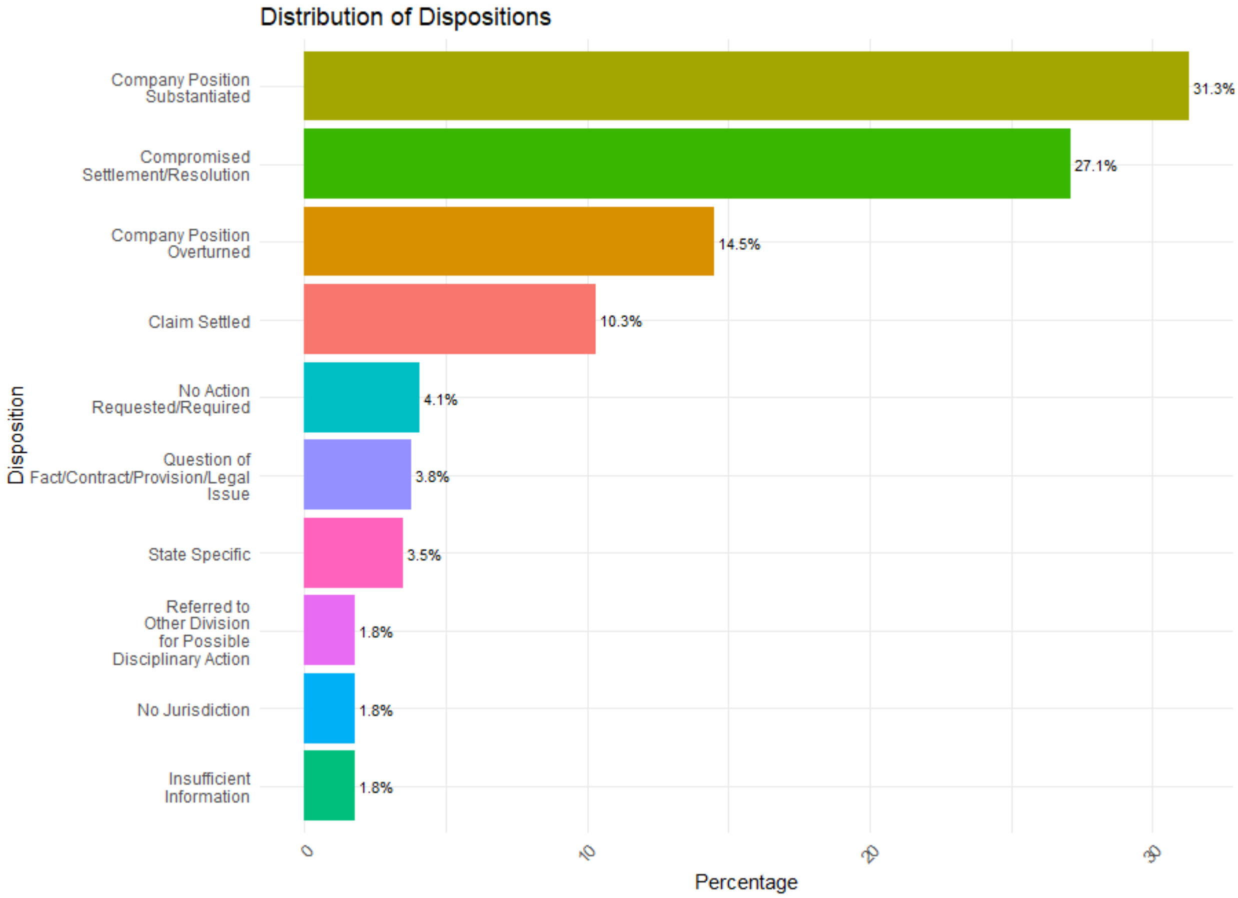


The Division drilled down further into the Appraisal/Adjustment/Delay data and determined that nearly 91% of complaints (194 of 214) were related to virtual adjustment processes. This is significant, as virtual adjusting is now a common practice. Although Vermont requires that adjusters perform an in-person inspection if requested by the claimant, consumers may not be aware of this requirement, and complaints suggest that some insurers push back on this request when made.



The Division attempted to categorize the dispositions of complaints. From January 2022 through June 2025, 39% of complaints resulted in dispositions that did not indicate incorrect behavior on the part of the insurance company (this combines "company position substantiated" and "no action requested/required" categories). The insurance company position was explicitly overturned 14.5% of the time. Over

37% of complaints resulted in the claim being settled or a compromise settlement. DFR analyzed complaints by company at the group level, meaning affiliated company counts were combined.



2. Consumer Assistance Program (CAP) Auto Body Shop or Other Automobile-Related Complaints

The Vermont Attorney General's Office (AGO) provided DFR with records of their Consumer Assistance Program (CAP) complaints in two data sets covering a period from 2018 to August 2025. Of the forty-seven (47) complaints provided, DFR identified 27 complaints that appeared related to sales, manufacturer warranties, mechanical issues, or tires only; 12 stated concerns about auto body repairs related to a claim and/or damage; 6 did not include enough details to categorize; and 2 involved extended warranties or service contracts.

Of the (13) total complaints related to a claim and/or damage, 8 mentioned workmanship concerns; 4 mentioned parts delays with potential issues with vehicle access; 3 mentioned shop and/or claim communications causing delays; and 2 of the 13 complaints brought up concerns that fell under at least two of these categories. Note: Of the (13), only one shop was the subject of 2 complaints; 1 related to workmanship and 1 related to both parts delays and communication issues.

As a follow-up, DFR requested from the AGO the consumer names and outcomes for those complaints (15) that appeared related to matters that might have been submitted to DFR as complaints. In response, the AGO provided information for (10) complaints. Of those complaints, none of the named consumers appeared in DFR's records as having filed a complaint or inquiry, and the AGO's records showed that 6 were referred to the Vermont Auto Dealers Association (VADA) for mediation. The AGO did review file notes and past emails to see if CAP provided a referral to DFR for these matters. For automobile complaints, CAP will specifically ask consumers if their complaint involves their insurance company. If the answer is yes, the AGO will provide the consumer with DFR's contact information. When the consumer indicates the complaint is with the dealer and not their insurance company, the consumer will not be directed to DFR.

3. Findings and Recommendations

A. Findings

1. **Complaint to Claims Ratio is Insignificant**: The number of complaints filed with DFR relative the number of claims filed per year was only 0.10% in 2022 and 0.16% in 2023 and 2024.
2. **Appraisal/Adjustment/Delay Leads in Complaint Volume:** This subject was the most common complaint across all companies and years.
2. **High Prevalence of Virtual-Related Issues Within Appraisal/Adjustment/Delay Complaints:** 90.7% of all Appraisal/Adjustment/Delay complaints from 2022 – 2025 were virtual-related, showing customer dissatisfaction with virtual processes. This also coincides with the increased digitization of the claims process, especially post-2020.
3. **Rental and Total Loss Valuation Also Frequently Among Top Companies:** Alongside Appraisal/Adjustment/Delay, Rental and Total Loss Valuation frequently appeared in the top three complaint subjects across companies and years. This suggests multifaceted challenges in multiple stages of the claim process.
4. **Complaint Patterns Are Consistent Across Years:** As the total number of complaints has increased each year, the same three subjects (Appraisal/Adjustment/Delay, Total Loss Valuation, and Rental) have consistently dominated across years.

B. Recommendation

Recommendations related to the specific issues identified in complaints are addressed in other areas of the report.

Other Acts, Practices, or Market Conditions

Section 12a(10) of the Act required DFR to review any other acts, practices or market conditions related to insurance coverage for autobody repairs and whether additional regulation is needed to prevent anticompetitive practices and ensure that the interests of all parties, especially consumers, are protected.

DFR has undertaken a comprehensive review of Regulation I-79-2, including areas not covered by the Study but which relate to consumer complaints, to determine additional potential updates. As noted in the Sections above, a number of changes related to differences between Vermont regulation and the NAIC model are under consideration, particularly in those areas that have arisen in consumer complaints. Topics currently under consideration are whether to include separate requirements for auto and homeowner's insurance and whether to add guidance on towing and storage.

With respect to auto and homeowner claims, Regulation I-79-2 does not currently differentiate between these types of claims. The NAIC model 902-1 has separate requirements for each due to differences in the nature of the claims under these policies. DFR is considering modifying Regulation I-79-2 to include this separation of auto and homeowner claim processing requirements since application of our current provisions can prove difficult in certain situations involving consumer complaints.

In addition, costs associated with storage and towing have been a topic of discussion nationally and the subject of complaints in Vermont.[14] DFR's understanding is that complaints against towing companies regarding towing and storage would be filed with the Consumer Assistance Program (CAP) in the Office of the Attorney General. DFR handles complaints relating to payment of these fees by an insurer and has received some complaints of this type, and though these are relatively few, the amount in dispute can be significant. A dispute typically arises when a vehicle is taken to a shop for repairs and after being at the shop for a period of time it is determined to be a total loss. Insurers pay storage costs for total loss vehicles but try to move a vehicle deemed to be a total loss to avoid excessive charges. In the situation described above the shop will attempt to charge fees dating back to when the car arrived at the shop and the insurer will only pay the fees from the date the car was deemed a total loss. This can leave the consumer with a large bill. DFR will consider making a recommendation on storage and towing requirements related to insurers to protect consumers.

[14] https://vtdigger.org/2023/12/05/towed-in-vermont-you-have-few-protections-compared-to-most-states/

DFR does not believe that any significant areas of anticompetitive behavior were identified during its review. Although insurer behavior is consistent in areas, the procedures and practices we reviewed did not show evidence of insurers purposefully acting in concert and did show evidence of a number of distinctions between approaches to various areas. DFR's recommendations throughout the report are designed to improve consistency of practice where appropriate and to improve clarity of expectations and protection of the interests of all parties.

Price and Availability Impacts

Section 12a(11) of the Act required DFR to review how the costs of auto repairs contribute to the price and availability of auto insurance in Vermont and whether a minimum labor rate and/or any other recommendations might impact price and availability.

DFR engaged Oliver Wyman (OW), an actuarial consulting firm, to assist in studying this question. Oliver Wyman prepared a report that examines how the cost of auto repairs and minimum labor rates might impact the price and availability of auto insurance (see Appendix A). DFR requested that Oliver Wyman provide the following:

1. Estimated range of impact on the price of private passenger automobile insurance under varying scenarios of:
   a. increased labor rates; and
   b. increased valuations of vehicles that are deemed a total loss.

2. Commentary regarding the anticipated impact on the availability of private passenger insurance due to increases in labor rates and/or valuations of vehicles that are deemed a total loss.

1. OW's Estimated Ranges of Impact on Premiums

A. Labor Rate Impacts

Due to the number of variables that can influence premium, isolating the impact of labor rates is difficult. The portion of a claim attributable solely to labor rates varies depending upon the nature of the damage and therefore also varies as a part of premium impact. After discussions with OW, DFR determined that it was appropriate to ask OW to assess a range of labor rate increases across a range of percentages of cost in order to illustrate the potential impact. Based on this request, OW estimated that if labor rates increase from 10% to 40% when labor rates comprise 25% to 75% of insured vehicle damage or theft costs, then it is estimated that premiums would increase by 1.2% to 14.9%.

B. Total Loss Valuation Impacts

Similar to the impact to labor rates, DFR asked OW to assess a range of total loss valuation increases across a range of insured vehicle damage to assess premium impact. Based on OW's report, if total loss valuations increase from 10% to 30% when total loss represents 20% to 60% of insured vehicle damage or theft costs, then it is estimated that premiums will increase by 1.0% to 8.9%.

2. OW's Estimated Impacts on Availability of Auto Insurance

OW assessed availability of auto insurance in Vermont by reviewing the current assigned risk market and concluded that availability is not currently an issue. The percentage of vehicles insured in the Assigned Risk plan is commonly used to measure the availability of insurance. Vermont's assigned risk market, consisting of drivers unable to find coverage in the voluntary market, is very small. OW expects the impact on the availability of auto insurance from any one factor to be minor.

At DFR's request, OW also looked at the estimated percentage of uninsured motorists in Vermont's market as alternate test of insurance availability. Uninsured motorist rates can be viewed as an indicator that, although insurance may be technically available, its affordability is making it unable to be purchased by some individuals. Traditionally, Vermont uninsured motorist rate has been below 10% and consistently lower than national averages. Beginning in 2021, however, Vermont figures have moved above 10% in line with increases nationally. Given that these numbers are likely due to affordability challenges, increases in premium would be impactful.

3. Findings

As described above, possible premium impacts due to increased labor rates and total loss valuations will vary based on variety of factors including the percentage of the cost of damages which is attributable to a particular factor. The report provides an indication directionally of the impact of an isolated factor but does not and cannot calculate the impact of multiple factors on premium rates. Multiple regulatory changes to may result in cumulative impacts on auto insurance premiums and those increases will affect the affordability of insurance. For some Vermonters that decrease in affordability will result in an availability challenge and a decision whether to forgo auto insurance as a result.

Summary

As indicated throughout this report, auto insurer claims settlement practices vary, and insurers are exerting significant influence over auto shops' repair practices, labor rates, and use of parts in order to manage claims costs and premium impacts. There is an opportunity for more clarity in the law such that existing standards may be inadequate to promote consistent regulatory compliance by insurers; to set appropriate expectations for consumers and repairers; and to effectively mediate conflict between insurers, consumers, and the auto repair industry. DFR believes that many of the issues raised in this report can be addressed by amending Regulation I-79-2. As noted, recent NAIC model rules and existing laws and regulations in other states are likely to prove useful and productive models for refining the relevant standards in Vermont. DFR views the question of labor rates as an issue of particular importance and recommends that it be addressed by establishing clear standards and criteria for their determination by the insurance and auto repair industries. DFR recommends against labor rate-setting by regulation, given the complexities of the issues, the unknown scale of downstream economic effects and the high potential for unintended consequences for consumers and industry alike.

Appendix A

F

Robin Fitzgerald, FCAS, MAAA
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Memo

To: Mary Block, JD, Deputy Commissioner of Insurance, Vermont Department of Financial Regulation
Date: December 26, 2025
From: Robin Fitzgerald, FCAS, MAAA
Subject: **Support for Vermont's Automobile Insurance Study (S.95)**

Pursuant to your request, Oliver Wyman has prepared this report to assist the Vermont Department of Financial Regulation (DFR) in preparing the legislative study required by Sec. 12.a of S.95 (Act 32) related to banking and insurance;[1] hereafter referenced as "S.95" or "the Act."

1. Background and Scope

Section 12a of the Act states that the Commissioner of Financial Regulation shall conduct a study of labor rates, the use of aftermarket parts, market conditions, and other related business practices. This section of the Act has eleven sub-sections that itemize topics that shall be examined as part of this study. Subsection (11) states that the study shall investigate:

> How the costs of auto repairs contribute to the price and availability of automobile insurance in Vermont and whether the establishment of a minimum labor rate and all other findings and recommendations made by the Commissioner pursuant to this section could impact the price and availability of automobile insurance in Vermont.

The DFR requested that Oliver Wyman provide assistance and supplemental analysis in support of Subsection (11). Specifically, DFR requested that Oliver Wyman provide the following:

1. Estimated range of impact to the price of private passenger automobile insurance under varying scenarios of:
    a. increased labor rates; and
    b. increased valuations on vehicles that are deemed a total loss. [2]
2. Commentary regarding the anticipated impact to the availability of private passenger insurance due to increases in labor rates and/or valuations on vehicles that are deemed a total loss.

[1] https://legislature.vermont.gov/bill/status/2024/S.95

[2] Throughout this report, references to "valuations on vehicles that are deemed a total loss" refer to the dollar value that insurers assign to totaled vehicles. This value is used to determine the claim payment to an insured whose vehicle is deemed a total loss.

2. Summary of Findings

In Table 1, we present high-level ranges of results for each component described above.

Table 1: Summary of Results

1a.	Estimated range of premium impact under various scenarios of labor rate increases	1.2% - 14.9%
1b.	Estimated range of premium impact under various scenarios of increases to total loss valuations	1.0% - 8.9%
2.	Anticipated impact to availability of private passenger automobile insurance in Vermont under various scenarios of increases to labor rates and/or total loss valuations	Minimal

The values in Table 1 are based on the range of assumptions discussed later in this section, and do not reflect the full possible range of outcomes.

Labor Rates

Table 2 presents additional detail underlying the scenarios presented in the first row (1a) of Table 1. Specifically, it demonstrates that:

- The low end of the range, 1.2%, corresponds to a scenario in which labor rates increase 10% and labor rates are assumed to be 25% of insured vehicle damage/theft costs.
- The high end of the range, 14.9%, corresponds to a scenario in which labor rates increase 40% and labor rates are assumed to be 75% of insured vehicle damage/theft costs.

Table 2: Estimated Impact to Premiums Resulting from Changes to Labor Rates

		If Labor Rates Comprise __% of Insured Vehicle Damage/Theft Costs		
		25%	**50%**	**75%**
If Labor Rates Increase by __%	**10%**	1.2%	2.5%	3.7%
	20%	2.5%	5.0%	7.4%
	30%	3.7%	7.4%	11.1%
	40%	5.0%	9.9%	14.9%

Valuations on Total Losses

Table 3 presents additional detail underlying the scenarios presented in the second row (1b) of Table 1. Specifically, it demonstrates that:

- The low end of the range, 1.0%, corresponds to a scenario in which total loss valuations increase 10% and total losses are assumed to be 20% of insured vehicle damage/theft costs.
- The high end of the range, 8.9%, corresponds to a scenario in which total loss valuations increase 30% and total losses are assumed to be 60% of insured vehicle damage/theft costs.

Table 3: Estimated Impact to Premiums Resulting from Changes to Total Loss Valuations

		If Total Loss Represents __% of Insured Vehicle Damage/Theft Costs		
		20%	**40%**	**60%**
Total Loss Valuation Increases by __%	**10%**	1.0%	2.0%	3.0%
	20%	2.0%	4.0%	5.9%
	30%	3.0%	5.9%	8.9%

Availability of Insurance

A common metric for measuring availability of insurance is the percentage of vehicles insured by the Assigned Risk Plan, since it represents the portion of the insured population that is unable to secure insurance in the voluntary market. Vermont's assigned risk market is very small, insuring less than 20 vehicles annually in recent years.[3] This suggests that availability of insurance is not currently an issue in Vermont.

[3] Source: NAIC Auto Database Report published January 2025: https://content.naic.org/sites/default/files/publication-aut-pb-auto-insurance-database.pdf

3. Methodology and Assumptions

The calculations underlying the tables above are based on the following methodology and assumptions:

1. We reviewed data of twelve writers of private passenger auto insurance in Vermont; this sample represents over 70% of the Vermont market based on 2024 written premium data as provided by DFR.
2. We examined public records of rate filings that these carriers submitted since January of 2024 to ascertain each company's view of how its premium dollars are allocated across the following three key categories:
    a. Claim payments for coverages that are driven by the cost auto repairs and reimbursement for theft (primarily property damage liability, comprehensive, and collision);
    b. Claim payments for other coverages (primarily bodily injury liability and medical payments); and
    c. Insurance carrier expenses, including loss adjustment expenses and the provision for profit and contingencies.
3. Based on discussions with the DFR, our modeling assumed the following ranges for the items listed below:
    a. Increase to auto repair labor rates:
    10%, 20%, 30%, or 40%
    b. Percentage of property damage liability, comprehensive, and collision coverages that is attributable to auto repair labor rates (as opposed to theft, auto parts, and non-auto property damage):
    25%, 50%, or 75%
    c. Increase to valuations on total losses:
    10%, 20%, or 30%
    d. Percentage of property damage liability, comprehensive, and collision coverages that is attributable to total losses:
    20%, 40%, or 60%.

    These figures were selected to reflect the wide possible range of outcomes that could result from changes that may be implemented based on the DFR's recommendations. The ranges also reflect the uncertainty around measurement of current labor rates[4] and total loss valuation practices.[5]

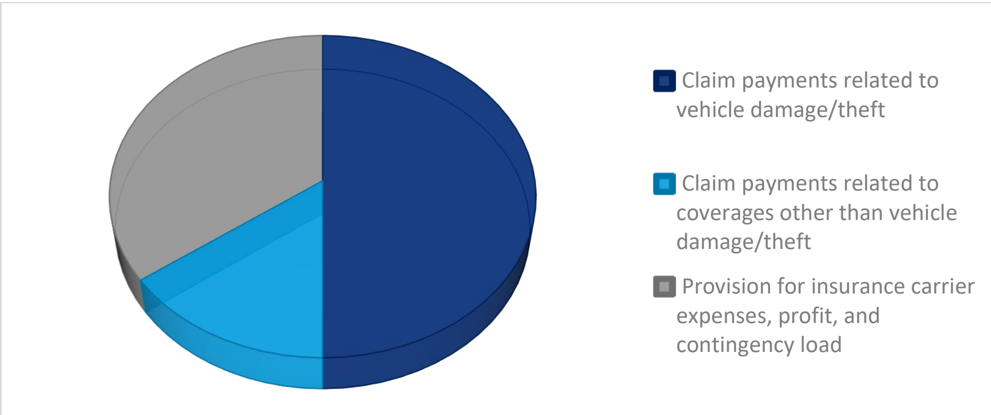
[4] Our understanding is that current labor rates in Vermont vary by factors that include, but are not limited to: location (urban vs. rural); type of work (auto body vs. mechanical); complexity of vehicle systems (e.g., electrical vehicles); and who is paying for the repair services (paid directly by the vehicle owner vs. paid by an insurer). Additionally, each of these categories could have a significant range of costs; for example, some insurers may currently reimburse at higher rates than others.

[5] Based on our discussions with the Department, insurance carriers vary in their current practices for valuing cars that are total losses, with some carriers being more aggressive than others in applying reductions in value for vehicle condition.

4. Additional Commentary

1. The estimated distribution of Vermont private passenger insurance premiums is depicted in Figure 1.

Figure 1: Estimated Distribution of Private Passenger Premium in Vermont



Source: Public records of insurance carrier filings and statutory statements.

The data underlying this estimate includes some small regional carriers and some large national carriers. When comparing the data for these two categories of insurance carriers, we observed that the proportion of claim payments that is attributable to coverages related to vehicle damage and theft is higher for the small regional carriers within our sample than it is for the national carriers within our sample. Although there may be many reasons for this observation, one possible explanation is that small regional carriers may be currently paying higher labor rates and using higher total loss valuations than national carriers do. This aligns with the findings from DFR's survey-based research.

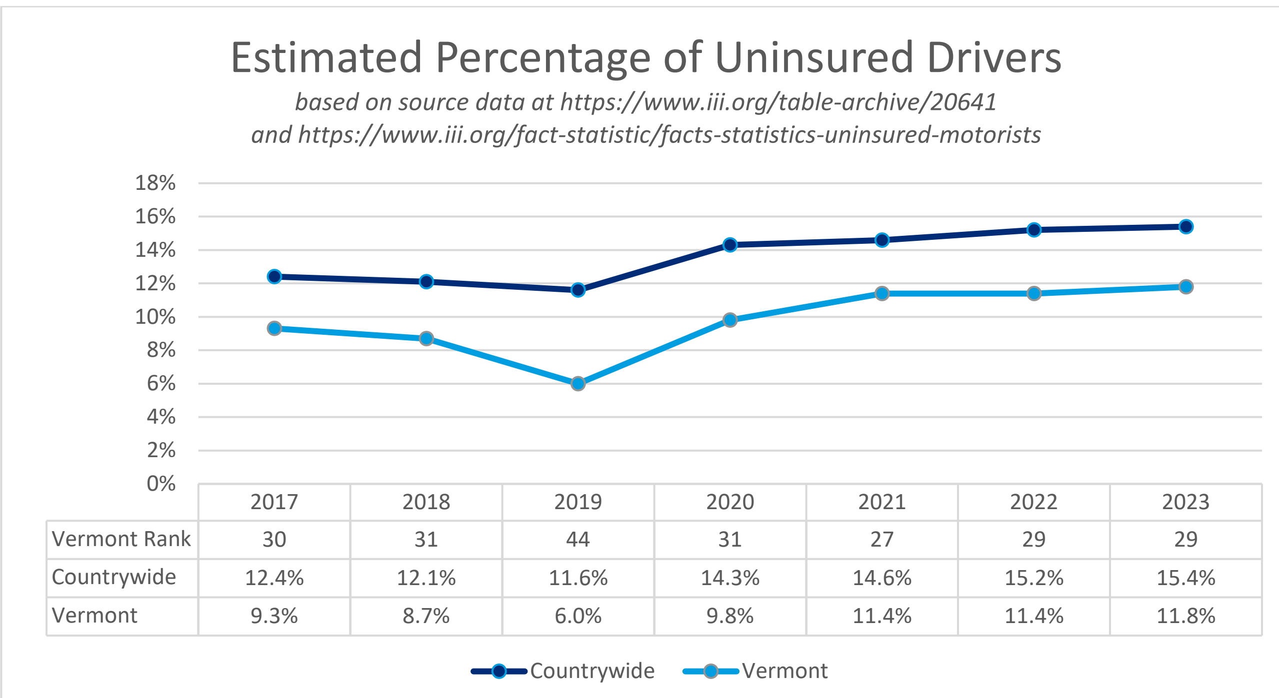
2. The estimates presented in Table 2 and Table 3 were developed independently of each other. It would not be appropriate to sum the two "high end" estimates to derive a total "high end" estimate that considers both drivers of increased costs. That would imply that labor rates represent 75% of total costs related to insured vehicle damage and theft losses, while simultaneously, total losses represent 60% of total costs related to insured vehicle damage and theft losses. These conditions cannot exist at the same time.
3. The estimates presented in Table 2 and Table 3 are intended to reflect the overall statewide average impact, which may be higher or lower than the impact to any individual policyholder.
4. This analysis does not consider the effect of any other changes that may impact insurance costs for these coverages. Unexpected changes (e.g., tariffs, unusual inflationary shifts, etc.) have not been modeled in the calculations underlying Table 2 and Table 3. This can be considered as further justification for the wide range of parameters underlying each table. Additionally, this analysis does not consider the effect of any additional regulatory changes that could impact the cost of insurance.
5. With respect to availability of insurance, another commonly referenced metric is the estimated percentage of drivers that are uninsured. Although insurance may technically be available to all drivers (given the presence of an assigned risk market), it is possible that some drivers find the insurance to be cost-prohibitive, or they have other reasons for choosing to break state laws and drive without insurance. While the percentage of uninsured drivers does not directly align with the pure concept of

"insurance availability," it can be a consideration regarding perceived availability of *affordable* insurance. Based on our review of a commonly referenced industry study: [6]

- The estimated percentage of Vermont drivers that are uninsured has increased modestly in recent years;
- The estimated Vermont increase is generally aligned with countrywide trends;
- Vermont's estimated percentage of uninsured drivers is consistently lower than the corresponding countrywide estimate.

Figure 2 presents a visualization of this data.

Figure 2: Estimated Distribution of Private Passenger Premium in Vermont



	2017	2018	2019	2020	2021	2022	2023
Vermont Rank	30	31	44	31	27	29	29
Countrywide	12.4%	12.1%	11.6%	14.3%	14.6%	15.2%	15.4%
Vermont	9.3%	8.7%	6.0%	9.8%	11.4%	11.4%	11.8%

These estimated uninsured motorist (UM) percentages are derived based on counts of UM claims and counts of bodily injury liability claims. Accordingly, our understanding is that the overall percentages cited may be impacted by claim reporting anomalies, such as the fact that hit-and-run claims are counted as UM claims. Our further understanding is that the DFR considers the trends in the cited uninsured percentages to be of greater interest than the absolute percentages.

[6] The analysis is performed by the Insurance Research Council, based on data lagged by 2-3 years. Detailed results are published by the Insurance Information Institute at https://www.iii.org/fact-statistic/facts-statistics-uninsured-motorists. Archived data is published at https://www.iii.org/table-archive/20641.

* * * * *

Please contact me if you have any questions.

Robin Fitzgerald

Robin Fitzgerald, FCAS, MAAA

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Considerations and Limitations

COVID-19 Pandemic – We have included no explicit adjustments in this report for the effect of the COVID-19 pandemic on loss experience except as specifically noted in this report.

Data Verification – For our analysis, we relied on data and information provided by the DFR without independent audit. Though we have reviewed the data for reasonableness and consistency, we have not audited or otherwise verified this data. Our review of data may not always reveal imperfections. We have assumed that the data provided is both accurate and complete. The results of our analysis are dependent on this assumption. If this data or information is inaccurate or incomplete, our findings and conclusions might therefore be unreliable.

Unanticipated Changes – We developed our conclusions based on an analysis of the data of the DFR and on the estimation of the outcome of many contingent events. We developed our estimates from the historical claim experience and covered exposure, with adjustments for anticipated changes. Our estimates make no provision for extraordinary future emergence of new types of losses not sufficiently represented in historical databases or which are not yet quantifiable.

Internal / External Changes – The sources of uncertainty affecting our estimates are numerous and include factors internal and external to the DFR. Internal factors include items such as changes in claim reserving or settlement practices. The most significant external influences include, but are not limited to, changes in the legal, social, or regulatory environment surrounding the claims process. Uncontrollable factors such as general economic conditions also contribute to the variability.

Uncertainty Inherent in Projections – Users of this analysis should recognize that our projections involve estimates of future events and are subject to economic and statistical variations from expected values. We have not anticipated any extraordinary changes to the legal, social, or economic environment that might affect the frequency or severity of claims. For these reasons, we do not guarantee that the emergence of actual losses will correspond to the projections in this analysis.