



*Collision Repair  
Association of California*

April 12, 2010

The Honorable Steve Poizner  
Insurance Commissioner, Suite 1700  
300 Capitol Mall  
Sacramento, CA 95814

Dear Commissioner Poizner

On behalf of the CRA, I want to express the association's concern over your department's failure to address the issue of unsafe aftermarket reinforcement bars in a timely fashion, or more significantly, to press insurers for a response to this problem.

In a letter of February 2, 2010 I wrote you regarding how certain aftermarket reinforcement bars were inferior to those produced by the vehicle manufacturer and that this difference in quality could compromise passenger safety in a collision. After two weeks without a response from you or your staff, we sent a follow-up letter dated February 17, 2010. As a result of the second letter, a meeting was convened on March 4 involving your legal counsel, Peter Conlin, and board members of the CRA, the CRA's lobbyist and myself. Mr. Conlin appeared to understand the safety concerns. However, it is imperative that your department grasp why as the regulator of insurers, the department should be out in front of all other agencies in terms of protecting vehicle occupants from unsafe automobile parts.

Specifically, Section 2695.8 (g) of the California Code of Regulations states: " No insurer shall require the use of non-original equipment manufacturer replacement crash parts in the repair of an automobile unless:(1) the parts are at least equal to the original equipment manufacturer parts in terms of kind, quality, safety, fit and performance: and (3) insurers specifying the use of non-original equipment manufacturer replacement crash parts warrant that such parts are of like kind, quality, safety, fit , and performance as the original equipment manufacturer replacement crash parts."

Insurers typically specify the usage of non-original equipment crash parts in their prepared damage assessments/settlement offers. When a California insurer specifies the usage of an aftermarket part, by regulation the insurer is required to warrant the part per Section 2695.8(g). Insurers specifying the use of aftermarket parts that do not meet the regulatory standard of " like kind and quality" would appear to be participating in an unfair claims practice.

On April 8, 2010 State Assemblyman Dave Jones and the CRA held a press conference to alert California consumers about the usage and dangers associated with these substandard aftermarket parts. A key portion of the conference involved a live demonstration by Mr. Toby Chess, a collision industry trainer. Mr. Chess explained how OEM reinforcement bars were comprised of

ultra high-strength steel while the aftermarket counterparts were a low-grade alloy. He easily sawed through the aftermarket part while the saw didn't penetrate the OEM part. He went on to detail how the weaker aftermarket part would adversely affect deployment of an airbag during a collision.

At the conference I discussed the quality issue with a representative of the aftermarket industry who said that not all aftermarket parts are inferior. I asked him how is a consumer or shop owner to determine when a part is compliant. He stated it is the repair professional's responsibility to determine if the aftermarket part meets the quality standard. This concept is contrary to current law. The warranting of equal, kind, quality, safety, fit, and performance is regulated as part of the business of insurance and not auto repair. Any shifting of liability is not supported by current regulation as this issue is rooted in the business of insurance and not repair.

Commissioner Poizner, our request is simple: enforce current law. Don't allow claims settlement practices to be based on costs associated with parts that do not meet regulatory requirements. California consumers should not be subject to the re-engineering of the structural and related safety aspects of their vehicles via the insurance claims process. Today's vehicles are designed to save lives and any compromise of the engineering of these vehicles during the claims process should not be tolerated.

I understand the department may be perplexed by how it is to assess the quality of aftermarket reinforcement bars. Our association stands ready to assist your staff in this deliberation. However, forming a working group, or calling for a study, should not be the first response. The law requires insurers to warrant that aftermarket parts are the same as OEM. Please require insurers that limit benefits to aftermarket reinforcement bars to prove to you that these parts are as good as OEM—it's the law!

Yours truly,

Allen Wood, Executive Director

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