

DEPARTMENT OF INSURANCE

EXECUTIVE OFFICE
300 CAPITOL MALL, SUITE 1700
SACRAMENTO, CA 95814
(916) 492-3500
(916) 445-5280 (FAX)
www.insurance.ca.gov



April 16, 2010

Transmitted via Electronic Mail and U.S. Mail

Mr. Allen Wood
Executive Director
Collision Repair Association of California
P.O. Box 2891
Rancho Cordova, California 95741-2891

Dear Mr. Wood:

I have reviewed your letter to Commissioner Poizner dated April 12, 2010. Since March 4th, the day when I met with you and other representatives from the Collision Repair Association (CRA) at the California Department of Insurance (CDI) offices in Sacramento, I have had regular conversations with Richard Steffen of the CRA staff on the subject of aftermarket parts generally and the specific issue of reinforcement bars. As I have told Mr. Steffen, Commissioner Poizner considers issues affecting consumer safety to be among the department's highest regulatory responsibilities. CDI staff from the Legal, Consumer Services, and Policy and Regulations branches are researching the legal and regulatory issues raised and developing policy options consistent with CDI legal authority.

Two statements contained in your letter caught my attention and I would appreciate any clarification you could provide. The first comes in the fourth full paragraph on page two, in which you write: "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" (underlining in the original). Your basic point is well taken; because the jurisdiction of the California Department of Insurance reaches insurers but not auto repair shops, CDI regulations could not impose liability on a repair shop. You had offered the statement quoted above as a response to a statement you attributed to a representative of the aftermarket industry that "it is the repair professional's responsibility to determine if the aftermarket part meets the quality standard." Is it the CRA position that a repair shop would face no civil liability for

Page Two
April 16, 2010

knowingly installing a substandard replacement part? As a related issue, is it the CRA position that the Uniform Commercial Code, and its implied warranty of merchantability, does not apply to a repair shop?

In the final paragraph of the letter, found on page three, you write that "forming a working group, or calling for a study, should not be the first response." As I have researched aftermarket parts issues, the apparent absence of any uniform and broad-based processes for parts-testing and parts-tracing has struck me as a significant defect in public policy. In offering the statement quoted immediately above, was it your intention simply to convey your sense of priorities or would you consider a study or working group focused on testing and tracing not to be a worthwhile endeavor?

I do appreciate your offer that the CRA "stands ready to assist (CDI) staff" as to how "to assess the quality of aftermarket reinforcement bars." To that end, I will repeat the request I made during our March 4th meeting that the CRA forward to the department specific identifying information on any aftermarket bumper reinforcements it believes are substandard, including the name of the manufacturer and model and lot numbers, as well as information on parts distributors that supply these products to repair shops.

I would appreciate any further guidance you could provide. Please contact me if you have any questions. I will be contacting you within the next several weeks with an update on department activities.

Sincerely,

A handwritten signature in black ink that reads "Peter Conlin". The signature is written in a cursive, flowing style.

PETER CONLIN
Counsel to the Commissioner