



Commonwealth
of
Massachusetts

**Report of the Special Commission on
Auto Body Labor Rates**

April 12, 2022

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Introduction

Section 130 of Chapter 24 of the Acts of 2021 established the Special Commission on Auto Body Labor Rates (“the Commission”). The Commission’s report must include an analysis of labor rates in the Commonwealth, including a comparison to labor rates in neighboring states, an analysis of the impact of managed competition in the automobile insurance market on labor rates, an assessment of whether current labor rates are reasonable and, if not, an evaluation of potential methods for calculating a reasonable labor rate. The Commission’s report must also include the number of auto body shops in the Commonwealth each year from 2008 to present, including the number of shops that have closed during that time period. The Commission must examine the impact of labor rates on the auto body work force.

As mandated by Section 130 of Chapter 24 of the Acts of 2021, the Commission held two public hearings – one, virtually, on January 25, 2022 and one, virtually, on March 22, 2022. The first hearing was attended by the Commission members, auto body repair shop representatives, and insurance company representatives. The second hearing was attended by the Commission members and the auto body repair shop representatives. Furthermore, the Commission held two additional public meetings related to the issue on December 15, 2021 and April 4, 2022. The Commission is charged with submitting a report of its studies, including any legislative or regulatory recommendations with the Clerks of the House of Representatives and Senate, to be forwarded to the Joint Committee on Financial Services and the House and Senate Committees on Ways and Means no later than July 1, 2022.

Commission Members

Representative James M. Murphy, Co-Chair
Chairman, Joint Committee on Financial
Services Committee
Fourth Norfolk District

Representative Steven S. Howitt
Fourth Bristol District

Rebecca Dutra
Mediator
Insurance and Financial Services Division
Office of the Attorney General

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Automobile Insurers Bureau of
Massachusetts

Senator Paul R. Feeney, Co-Chair
Chairman, Joint Committee on Financial
Services Committee
Bristol and Norfolk District

Senator Ryan C. Fattman
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Michael D. Powers
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Massachusetts Division of Insurance

Evangelos Papageorg
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Ray Belsito
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Alliance of Automotive Service Providers
Massachusetts

Paul Segota
Director, Claim Field Operations, Safety
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Automobile Insurers Bureau of
Massachusetts

William DeLuca
Dealer Principal, The DeLuca Family of
Dealerships
Massachusetts State Automobile Dealers
Association

History of Auto Body Rates

Prior to the Massachusetts Legislature's enactment of Chapter 622 of the Acts of 1986, "An Act Relative to Automobile Insurance Rates," requiring the Commissioner of Insurance to determine if insurance companies utilized adequate programs to control costs and reduce premiums, the State Rating Bureau of the Division of Insurance ("SRB") introduced a study determining that overpayments to automobile shops were being made and that there was no incentive to lower the cost of repairs. In 1987, an additional study was completed reinforcing the findings of the 1986 study, and the Commissioner ordered a 3% reduction to physical damage and collision premiums¹. In 1988, the Massachusetts Legislature passed Chapter 273, Section 51, allowing insurance companies to pay consumers directly for the loss of their vehicles prior to receiving a completed claim form. In this law, the Commissioner could require insurers to provide consumers with a list of five repair shops, convenient to the insured, that would complete a repair for the stated price and guarantee the quality of the repair². Following this change in law, several insurance companies reduced the auto body labor rate, after having one of the highest rates in the country, due to the existence of referral programs. For detailed information on the history of auto body labor rates from 1986 to 2008, refer to Appendix A, the 2008 Report of the Special Commission on Auto Body Labor Rates.

In 2008, the Commissioner of Insurance determined that competition was sufficient in the auto insurance market, and it was unnecessary to set labor rates going forward. The repeal of 211 CMR 93 permitted insurance companies to set their own labor rates with no intervention from the Division of Insurance³. In 2014, Commonwealth Automobile Reinsurers (CAR) repealed the requirement that insurance companies have a plan in place for cost containment of labor rates; instead, companies will be required to have a plan to determine whether labor, repair, and replacement times are reasonable and consistent with industry-recognized sources⁴. Following the changes that CAR implemented, the Division of Insurance required the Automobile Insurance Bureau (AIB) to use the language: "the cost to repair the auto is limited to the

¹ Decision on Motor Vehicle Insurance Rates for 1987, page 56

² Mass. Gen. Laws, Chapter 273, §51 (1988)

³ 211 CMR 93

⁴ Commonwealth Automobile Reinsurers, Bulletin NO. 989, September 10, 2014

prevailing competitive price, which is the price we can secure from a licensed repair facility conveniently located to you,” in their 2016 updated policies⁵.

Since the Report of the Special Commission on Auto Body Labor Rates released in 2008, the labor rate paid by insurance companies has remained nearly the same, although the 2008 report’s recommendations stated that the labor rate had not kept pace with increases in similar industries. While the auto body industry’s conclusion suggested the need for immediate relief, the insurance industry’s conclusion stated that the industry and market needed time to adjust to new guidelines and standards. The labor rate paid by insurance companies in 2008 remains the standard today.

⁵ Automobile Insurers Bureau, Massachusetts Automobile Insurance Policy, 2016

Industry (2008-Present)

Section 130 of Chapter 24 of the Acts of 2021 requires an analysis on auto body labor rates in surrounding states, an analysis of how managed competition has affected labor rates in Massachusetts, an analysis on whether the current labor rate is reasonable and, if not, potential methods for calculating a reasonable labor rate, the number of auto shops in the Commonwealth from 2008 to 2020, and an analysis on the effects of the labor rate on the auto body workforce.

The average labor rate that is paid to auto body shops in Massachusetts, when being paid through insurance companies, is approximately 40 dollars per hour. In Rhode Island, where state law requires a survey of auto body labor rates, the prevailing labor rate ranges between 46 dollars per hour and 53 dollars per hour⁶. According to National AutoBody Research, the labor rate paid by insurance companies in Massachusetts is significantly lower than the rates customers are willing to pay out of pocket⁷. No state in the U.S. sets a minimum auto body labor rate. Accordingly, there is variation in the rates among Massachusetts' surrounding states. Massachusetts is above Maine and Vermont for total labor costs and below Connecticut, New Hampshire, New York, and Rhode Island. Total labor cost does not consider other related costs incurred in owning and operating an auto body shop in the Commonwealth⁸.

Managed competition for the insurance industry ended in 2008 through changes in the Code of Massachusetts Regulations. Insurance companies were then able to negotiate the auto body labor rates with the auto body shops in the Commonwealth without direct intervention from the Division of Insurance. Since the changes in 2008, the auto body labor rate has not increased significantly and auto body shops across Massachusetts have stated that without an increase in the labor rate or the power to negotiate the labor rate with appraisers, auto shops will begin to close due to shop owners not being able to afford to run a business or retain employees⁹. According to representatives from the insurance industry, if there were a significant change to

⁶ Rhode Island, Department of Business Regulation, Insurance Bulletin Number 2021-7

⁷ National AutoBody Research, Written Testimony, March 22, 2022

⁸ Massachusetts Insurance Federation, Improving the Talent Pipeline for Collision Repair Technicians, Written Testimony, January 25, 2022

⁹ MA Legislature Website, Special Commission on Auto Body Labor Rates Hearing, Jan. 25th, 2022 and March 22nd, 2022

the auto body labor rate, there would be an increase in insurance premiums paid by Massachusetts residents¹⁰.

In 2008, there were 1,805 registered repair shops in the Commonwealth. The most recent available data on the number of registered repair shops is from 2020. In 2020, there were 1,686 registered shops¹¹. Since 2008, there are 119 fewer auto body repair shops registered in the Commonwealth. For more detailed information on the year-over-year number of registered repair shops, please see Appendix B.

Since the 2008 Report of the Special Commission on Auto Body Labor Rates Report and through the process of public hearings for legislation attempting to address the labor rate issue since 2008, there has been a continuous concern about the auto body industry's workforce, especially for collision repair technicians. This sentiment has been repeated by auto body shop owners, dealerships, and vocational school representatives. As heard in the most recent hearings for the Special Commission on Auto Body Labor Rates, the collision repair industry is losing their technicians to other trades due to higher wages. Additionally, representatives from vocational technical schools across Massachusetts expressed their experience with decreased enrollment as students transition to other trades once entering the school when learning the potential for increased salaries elsewhere. The average collision repair salary in Massachusetts is \$47,400, while the annual mean wage for all industries, according to the Bureau of Labor Statistics, is \$72,940¹².

¹⁰ Joint Statement of the American Property Casualty Insurance Association, Massachusetts Insurance Federation, and National Association of Mutual Insurance Companies In Opposition to Legislation Requiring the Setting of Labor Rates for Insured Auto Repairs

¹¹ Division of Standards

¹² Zip Recruiter, Average Collision Repair Salary by State, ADP data; U.S. Bureau of Labor Statistics, May 2021 State Occupational Employment and Wage Estimates Massachusetts

Process

In accordance with Section 130 of Chapter 24 of the Acts of 2021, the Commission on Auto Body Labor Rates held two public hearings virtually due to the COVID-19 Pandemic. In addition to the two public hearings, the Commission held two additional public meetings related to the issue, held written testimony open until April 6th at 5:00pm, and the two Chairmen asked all Commission members to submit their recommendations to be included in the report. Lastly, a vote was taken of all Commission members on Tuesday, April 12th on the final report.

Public Meetings

December 15th Virtual Public Meeting with Hyperlink

Can be found here: <https://malegislature.gov/Events/Hearings/Detail/4123>

An Introductory meeting was held on December 15th, 2022, virtually. Chairman James M. Murphy, and former Chairman Brendan P. Crighton, formally introduced themselves and spoke about the process outlined in the Acts of 2021. All Commission members had the chance to introduce themselves and generally discuss the issue at hand. During this meeting, Commission members made it clear that it was important to have hearings as soon as possible. Chairman Murphy suggested a potential site visit as well.

April 4th Site Visit and Virtual Public Meeting with Hyperlink

Can be found here: <https://malegislature.gov/Events/Hearings/Detail/4255>

Following the public hearings, Chairman Murphy put together a site visit to Assabet Valley Regional Technical High School, with fellow Commission member Kenneth Stukonis, to give Commission members the opportunity to visit an auto body collision program firsthand. Commission member Kenneth Stukonis talked about the program and opportunities that students had during their time at Assabet Valley and discussed the costs associated with the program and the tools necessary for auto body repairers to start in the industry. Following the visit, Chairman Murphy and Chairman Paul R. Feeney lead a public meeting to discuss the process thus far, the issues at hand, and solicited potential solutions from all Commission members. During this meeting, Chairman Murphy set deadlines for written testimony for all parties to be submitted by

April 6th at 5:00pm and recommendations from the Commission members for April 8th at 5:00pm.

Public Hearings

The Commission held two public hearings to receive comment from interested parties. The first hearing was held on January 25, 2022. The second hearing was held on March 22, 2022. Both hearings were conducted virtually due to the COVID-19 pandemic. Recordings of both hearings can be found on the Massachusetts Legislature's website located at malegislature.gov, hyperlinks provided below.

January 25th Virtual Hearing with Hyperlink

Can be found here: <https://malegislature.gov/Events/Hearings/Detail/4167>

Numerous independent auto body shop owners, instructors at vocational schools, Alliance of Automotive Service Providers Massachusetts (AASP-MA) representatives, Massachusetts State Automobile Dealers Association (MSADA) representatives, and owners of automobile dealerships spoke about the labor rates paid by the insurance industry. The Massachusetts Insurance Foundation (MIF) and the Automobile Insurers Bureau (AIB) spoke on behalf of the insurers during the hearing. Approximately 30 people orally testified at the hearing.

March 22nd Virtual Hearing with Hyperlink

Can be found here: <https://malegislature.gov/Events/Hearings/Detail/4230>

In the second hearing, the Commission heard from AASP-MA representatives, vocational school instructors, additional auto body industry representatives, and third-party researchers. Similar testimony was heard in the second hearing that was heard in the initial hearing. Approximately 25 people orally testified at the hearing.

Written Testimony with Hyperlink

The Special Commission on Auto Body Labor Rates received approximately 100 pieces of written testimony. Most written testimony was received for the January 25th virtual hearing. The testimony received was from individual auto body shop owners, MIF, American Property

Casualty Insurance Association, National Association of Mutual Insurance Companies, MSADA, car dealerships, Commission members, Commission members from 2008, National Federation of Independent Businesses, professors, and consumers.

All written testimony can be found under the hearing links that are listed here:

<https://malegislature.gov/Events/Hearings/Detail/4167>

<https://malegislature.gov/Events/Hearings/Detail/4230>

Recommendations and Potential Solutions

The Commission recognizes that auto body labor rates must be addressed and that the auto body labor rate has not increased significantly since 1988. After conducting numerous public meetings and hearings, there are a multitude of options available to address the issues highlighted in this report. Contained herein are possible options and solutions:

(1) Status Quo

Policy changes, official guidance, and industry practices have created the environment that exists today between the insurance and auto body industries. The insurance industry negotiates a labor rate with contracted auto body repair shops, and that rate is most often paid to auto body repair shops in the Commonwealth. The average labor rate paid through insurance companies is approximately 40 dollars per hour. If there are no changes implemented, there will be no change to the current system that exists, and it will continue to be status quo. This is not a viable recommendation and will not provide a long-term solution to the issue of auto body labor rates.

(2) Pending Legislation – Surrounding State Average

The Committee on Financial Services has four bills currently before it that would create a government-set labor rate that insurance companies would be required to pay auto body repair shops based on the average labor rate of surrounding states. House Bill 1048, House Bill 1152, House Bill 1178, and Senate Bill 711 all require the minimum hourly labor rate on repairs to be the average hourly rate from Connecticut, Maine, New Hampshire, Rhode Island, and Vermont.

(3) Pending Legislation – Inflation Adjusted Rate

The Committee on Financial Services has two bills currently before it that would use the labor rate set in 1988 and adjust it for today's use based on inflation over the past twenty years. House Bill 1111 and Senate Bill 709 set the minimum hourly labor rate as the rate set by the Insurance Reform Act of 1988, adjusted for inflation. This rate would be

approximately 78 dollars hour currently according to the Massachusetts Alliance of Automotive Service Providers.

(4) Alliance of Automotive Service Providers Massachusetts Recommendation

- (1) An immediate increase of \$33 in the minimum reimbursement rate to the claimant with yearly adjustments based upon the CPI in the northeast region.
- (2) The passage of HB 1111 as proposed in the current legislative session.
- (3) The passage of HB 1111 with an adjustment in the correction period increased from 2 years to 3 years from passage. Then, increasing the reimbursement rate to the claimant using the following amounts and schedule:
 - an immediate increase of \$18 to the labor reimbursement rate paid by insurers to the claimant
 - an increase of \$10 in year 2
 - an increase in the third year of \$5 plus the CPI factor from the previous two years.
 - continued increases or decreases based on the CPI thereafter

This tiered roll out addresses the immediate need for an increase to bring technicians back into the industry, while making the industry more appealing to younger individuals in the vocational schools. It also allows the insurance industry a corrective period and the ability to calculate their premium needs during the transition to a fair and equitable labor reimbursement rate. After the third year's adjustment, the labor reimbursement rate would increase or decrease yearly based upon the CPI in the northeast region.

It continues to be our position that the collision repair industry has done all that it can to increase efficiencies and to contain the costs which repairers have control over. It is evident by the preponderance of the testimony provided at the two LRSC hearings that action is needed now. For decades the insurance industry has shown an inability to even acknowledge the issue, nor change their business practices. During the meetings, they offered no viable alternatives or solutions to suggest that anything other than a mandate would change the business environment. That mandate must be that insurers compensate fairly and properly for the increased cost to repair today's vehicles. The consumers in Massachusetts deserve to be protected on our roadways. They should also feel confident

that their chosen collision repair facility is able to maintain staff, training and equipment requirements, because they would then be adequately reimbursed for the expertise, costs and the liability involved in the collision repair process¹³.

(5) Massachusetts State Automobile Dealers Association Recommendation

“An Act Establishing the Fair Calculation of Labor Rates Paid by Insurance Companies to Auto Repairers in the Commonwealth.”

SECTION 1. Chapter 100A of the General Laws, as appearing in the 2020 Official Edition, is hereby amended by inserting after section 14 the following section:- Section 15. The commissioner of insurance shall set the minimum hourly labor rate that insurers shall pay on insured claims for repairs made by registered motor vehicle repair shops. In determining the minimum rate paid by insurers on all Massachusetts insured motor vehicle damage claims, the compensation for the minimum hourly labor rate that insurers shall pay on insured claims for repairs made by registered motor vehicle repair shops shall be calculated by utilizing the method described in this section. The compensation for the minimum hourly labor rate that insurers shall pay on insured claims for repairs made by registered motor vehicle repair shops shall be established by the repair shop submitting to the insurer 100 sequential customer-paid collision repair orders or 60 consecutive days of customer-paid collision repair orders, whichever is less, from which the repairer shall calculate the average customer paid hourly labor rate, which shall be declared the minimum hourly labor rate that the insurer will pay to the repairer. The minimum hourly labor rate shall go into effect 30 days following the declaration, subject to audit of the submitted collision repair orders by the insurer and a rebuttal of the declared rate. If the declared rate is rebutted, the insurer shall propose an adjustment of the minimum hourly labor rate based on the rebuttal not later than 30 days after submission. If the repairer does not agree with the minimum hourly labor rate proposed by the insurer, the repairer may file an action with the commissioner of insurance 30 days after receipt of the proposal by the insurer. In an action commenced under this section,

¹³ See Appendix C

the insurer shall have the burden of proving that the rate declared by the repairer was inaccurate or unreasonable.

SECTION 2. Section 113B of chapter 175 of the General Laws, as appearing in the 2020 Official Edition, is hereby amended by inserting, after the word “commissioner” in line 14, the following:- “; provided, however, that collision repair hourly labor rates, set pursuant to section 15 of chapter 100A, shall not be included when considering programs to control costs and expenses under this section or section 113H.”

SECTION 3. Within 90 days of the enactment of Section 1, the commissioner of the division of insurance shall promulgate regulations necessary to implement the provisions of Sections 1 and 2, inclusive¹⁴.

(6) Legislative Recommendation – Establishment of a Labor Rate Advisory Board

A Labor Rate Advisory Board shall be established to address any and all issues related to auto body labor rates. The advisory board shall consist of the Commissioner of Insurance or a designee; the Attorney General or a designee; 3 members from the auto insurance industry appointed by the Automobile Insurers Bureau of Massachusetts, one shall serve as co-chair chosen by the three members appointed; 3 members from the auto repairer industry appointed by the Alliance of Automotive Service Providers of Massachusetts, Inc., one shall serve as co-chair chosen by the three members appointed; 1 member from vocational-technical schools agreed upon by the advisory board; 1 member appointed by the Massachusetts State Automobile Dealers Association, Inc; 2 members from consumer advocate groups agreed upon by the advisory board; an Economist agreed upon by the advisory board.

The advisory board shall organize and meet no later than six (6) months upon the filing of this Special Commission on Auto Body Labor Rates final report. The advisory board shall be charged with addressing any and all issues relative to auto body labor rates and

¹⁴ See Appendix D

may promulgate internal rules to effectuate board procedures. It is recommended the advisory board shall meet not less than twice a year.

The advisory board shall be responsible for creating, implementing, and overseeing an annual survey given to relevant auto body shops as determined by the advisory board. The survey should compile data pertaining to contracted hourly labor rates, posted hourly labor rates, and prevailing hourly labor rates, as well as any additional information as requested by the advisory board.

In addition to the survey, the advisory board shall be responsible for collecting relative industry data including but not limited to: neighboring states labor rates, auto body shop costs, Advanced Driver-Assistance Systems (ADAS) costs, total labor costs, the consumer price index, work force data, vocational school trends, insurance premiums, and any additional information as requested by the advisory board.

In order to provide a long-term solution, the results of the survey and the collection of said data shall be reviewed and analyzed by the advisory board annually. This data should be used as factors to provide a basis and recommendation for which the board can discuss a fair and equitable labor rate.

The advisory board shall file a report annually of its findings, conclusions, and any recommendations with the Clerks of the Senate and House of Representatives, the Joint Committee on Financial Services, the Senate and House Committees on Ways and Means, and the Division of Insurance no later than December 31.

Recognition

Thank you to all who participated in the Special Commission's public hearings and public meetings. All of the information provided to the Commission was utilized in drafting this final report containing recommendations and potential solutions. Thank you to the Commission members for your valuable input. We recognize this is a complicated issue with often times, competing viewpoints. We, as a Commission, were dedicated to providing an open and transparent process incorporating all perspectives, opinions, and recommendations towards the possible solutions contained herein.

Appendix

Appendix A:
2008 Report of the Special Commission on Auto Body Labor Rates



Commonwealth of Massachusetts

Report of the

Special Commission on Auto Body Labor Rates

December 30, 2008

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Introduction

Section 108 of Chapter 182 of the Acts of 2008 created a special commission (“Commission”) to study auto body rates by reviewing existing practices in the setting of labor rates, and examining the costs and benefits of options including creation of a rate setting system, a tiered rating system for repair shops, an average national hourly payment rate and the use of a cost of labor multiplier developed from data supplied by the Department of Labor. The Commission’s report must also include the number of auto body shops in Massachusetts from 2000 until present, including the number of shops that closed during that time.

The Commission consists of the following 11 members: Chair Daniel C. Crane, Undersecretary of the Office of Consumer Affairs and Business Regulation; Senator Stephen Buoniconti, Co-Chair of the Joint Committee on Financial Services; Senator Robert Hedlund, Designee Senate Minority Leader; Representative Ronald Mariano, Co-Chair, Joint Committee on Financial Services; Representative F. Jay Barrows, Designee House Minority Leader; David Krupa of Safety Insurance Company; David Bartlett of Travelers Insurance Company; David Antocci of Commerce Insurance Company; Richard Starbard of Alliance of Automotive Service Providers/Rick’s Auto Collision; Thomas Ricci, Central Mass. Auto Rebuilders Association/Body & Paint Center; and John Santilli, Sr. of The Cadillac/Nissan/Dodge Center, Inc.

As mandated by St. 2008, c. 182, §108, the Commission held two public hearings, one in Worcester on October 9, 2008 and one in Boston on November 13, 2008. Both hearings were well attended by auto body repair shop and insurance company representatives. The Commission is charged with submitting a report of its study, including any legislative or regulatory recommendations with the clerks of the senate and house of representatives, to be forwarded to the joint committee on financial services not later than December 31, 2008.

History of Auto Body Rates

Beginning in the late 1970s and continuing until 2008, the commissioner of insurance fixed and established motor vehicle insurance rates for the commonwealth. As part of the rate setting process, the commissioner considered a variety of factors, including accident rates, insurance company profits, losses, claim payments and expenses. In the proceeding to fix and establish the rates for 1986, the State Rating Bureau of the Division of Insurance (“SRB”) introduced a study by an outside consultant who determined that the system permitted, if not actively encouraged, gross overpayments

to automobile repair shops and included no incentives to lower the cost of repairs¹. The consultant concluded these overpayments were caused in part by the companies' paying repair shops directly for repairs, and the lack of incentive for insureds to shop for repairs based on price, thereby limiting competition between shops. The commissioner determined that evidence was insufficient to quantify a reduction in premiums for that year but expected that the parties address the issue in the 1987 rate proceeding.

Prior to the 1987 proceeding to establish private passenger automobile insurance rates, the legislature enacted Ch. 622 of the Acts of 1986, entitled An Act Relative to Automobile Insurance Rates ("Act"). The Act amended the statute regarding the procedures for fixing and establishing rates by requiring that the commissioner determine whether insurance companies used adequate programs to control costs and expenses in order to reduce costs and lessen premiums. The commissioner's determination was to be based on information filed by the rating organization of the automobile insurers. If the industry made no such filing, or the filing was deficient or the industry's programs inadequate to control costs, the Act required the commissioner to limit the amount of any adjustment in premium charges based on changes in costs and expenses.

In the proceeding concerning 1987 rates, the SRB requested an updated study from the same consultant employed for the 1986 rate proceeding. The commissioner found that the 1987 study reinforced in all respects the prior year's report, and that the consultant noted that the Massachusetts labor rates were the highest in the country with the exception of Alaska and San Francisco. To the commissioner, it appeared the insurance companies had done nothing to make the labor rate aspect of the repair process more competitive. The commissioner found that the companies' passivity was unacceptable under the Act, and ordered a three percent reduction to physical damage and collision premiums.² In the decision on rates for 1988, the commissioner again found the companies failed to show adequate cost containment efforts regarding body shop payments and ordered the same adjustment as in the proceeding for 1987 rates.³

¹ Decision on Motor Vehicle Insurance Rates for 1986, at 33.

² Decision on Motor Vehicle Insurance Rates for 1987, at 56.

³ Decision on Motor Vehicle Insurance Rates for 1988, at 153.

In November, 1988⁴, the legislature passed a law allowing companies to file plans with the commissioner pursuant to which companies could pay insureds directly for the loss or damage to their vehicles prior to the companies' receiving a completed claim form stating that the repair had been completed. The amended law also permitted the commissioner to require that any such plan provide insureds with a list of five repair shops, convenient to the insured, that would complete the repair for the amount stated and to guarantee the quality of the repair. A company could not require, or steer, any insured to any particular repair shop. A court decision in 1987 also permitted a carrier to provide a list of quality repair shops to insureds on the request of the insured.

The Decision on Motor Vehicle Insurance Rates for 1989 discussed the impact of approved repair shop referral programs under both the court decision and the 1988 legislation. The decision notes that several companies were able to reduce the labor rate paid to auto body shops, and that the use of referral programs should assist in containing future costs. Based on information in the hearing record, the commissioner ordered a ten percent reduction to the pure premiums for property damage liability, collision and comprehensive coverages.

For several years thereafter, the cost containment proceedings focused almost exclusively on fraudulent claims payments and did not discuss auto body rate issues in detail. No further reductions were ordered in response to allegedly excessive labor rates.

In the proceeding to fix and establish the 2001 auto insurance rate, the Central Massachusetts Auto Rebuilders Association ("CMARA") attempted to intervene in the rate setting proceeding to consider whether the industry's rate filing adequately addressed whether auto body shop labor rates were reasonable, alleging that the industry did not consider whether the labor rates were unreasonably low. CMARA requested that the commissioner determine whether the industry was making an effort to ensure labor rates were reasonable, what a reasonable rate might be, or what a reasonable range of rate might be. The commissioner denied CMARA's request to intervene, determining that the issues CMARA sought to resolve were outside the scope of the insurance rate proceeding. CMARA was permitted to submit evidence and testimony regarding whether labor rates were reasonable. Since that time, the body shop industry made no other attempts to intervene in rate setting proceedings. Many of

⁴ St. 1988, c. 273, §51

the subsequent cost containment rate proceedings settled by stipulation of the parties and did not discuss auto body rates in significant detail.

Beginning with policy year 2008, the commissioner of insurance determined that competition was sufficient in the auto insurance market to preclude the setting of rates going forward. Instituting a managed competition system, the commissioner issued guidelines for companies to set their own rates. She gave no specific guidelines regarding auto body rates.

Public Hearings

The Commission held two public hearings to receive comment from interested parties. The first hearing was held on October 9, 2008 at the Worcester Public Library. The second hearing was held on November 13, 2008 at the Division of Insurance in Boston.

The Worcester Hearing

Ten parties submitted oral and written statements, and three submitted only oral statements. Of the thirteen people submitting comments, twelve represented individual auto body repair shops or auto body repair shop trade groups, and one party represented an auto insurance industry trade group.

The representative from the insurance industry submitted that auto body labor rates in Massachusetts are comparatively low, but the time it takes for shops to complete repairs is longer than the nationwide average. He also pointed out that, under the fix and establish auto insurance rate setting process, the industry was penalized for not containing auto repair labor rates, which contributed to the stagnation of labor rates. Under the managed competition system now in place, he suggested that this new structure is a model for modernizing other aspects of the auto insurance market, including repairs to damaged vehicles. Any new state structure to prescribe labor rates as currently proposed in certain legislation would be harmful to managed competition and a step backwards and a deterrent to insurance companies entering the Massachusetts market. The industry representative believes that market forces under managed competition will resolve any issues concerning labor rates.

Auto body shop representative comments reflected common themes. All commented that labor rates have stagnated and have not kept pace with increased costs of doing business, such as employee wages, health insurance costs, machinery upgrades and property costs. Several representatives testified that the stagnation in wages is leading to a drastic reduction in the number of young technicians entering the field and leading to an aging, less productive workforce. One party submitted appraisals showing the labor rate authorized by an insurer in 1988 was \$30 per hour, and the rate

authorized in 2008 was just \$35 per hour. Rates for paint and materials more than doubled in those same 20 years. Another party submitted statistics showing that the majority of students graduating from technical schools in auto body programs leave the business within a few years of graduation.

Several representatives also testified to the benefit of tiering body shops by state-sanctioned standards for safe collision repair services. Higher tiered shops would be compensated at a higher level, and lower tiered shops at a lower level. The auto body shops believe this will lead to higher consumer satisfaction with repairs and would be less of a burden on insurance companies in that the companies would not have to become involved in appeasing customers whose vehicles were repaired in shops that were not well equipped or that lacked properly trained technicians for the required repairs.

Some members of the auto body shop representatives feared the suppressed labor rates could lead to shops being forced to repair vehicles in a different manner than the shop would consider safe for the consumer. Additionally, the low wages in the industry cause many of the best, most talented technicians to leave the business. This too could compromise consumer safety.

The Boston Hearing

Twenty-five people provided oral testimony. Most of those also submitted written testimony. Others submitted only written testimony. A total of twenty-five parties submitted written statements.

The themes expressed at the Boston hearing were similar to those expressed at the Worcester hearing. Most of those submitting statements were representatives of the auto body shop industry. The lack of any meaningful increase in the auto body repair labor rate paid by insurance companies over the past twenty years was repeated by almost every person submitting oral or written testimony on behalf of auto body shops. By all accounts, including those of the insurance industry, the labor rate paid to auto body shops in Massachusetts is below the national average rate. Whatever the process is for setting the current labor rate, noted several repair shops, it has led to an inadequate rate requiring an immediate increase.

Several people also noted the discrepancy between the labor rate paid for mechanical repairs versus that paid for body work. Most attributed that discrepancy to the fact that auto body repair work is generally paid by insurance companies after motor vehicle accidents while consumers pay for most mechanical work. Several other representatives of auto body shops noted that the reimbursement rates for police ordered towing of vehicles has increased significantly in the past few years, now set at approximately \$90 per tow, a rate that is set by the Department of Public Utilities. One speaker

mentioned that a lawn mower repairer receives \$89 per hour for his labor. Most of those who own shops reported that the low labor rate impacts their ability to upgrade their facilities and buy the new technology needed to repair today's more complicated vehicles, and some reported having lost employees over the past few years through attrition or lay-offs and not being able to replace them due to inadequate labor rates.

The auto body representatives also disputed that any actual negotiation takes place with insurance companies regarding rates. According to the auto body shops, the insurance company says what rate they will pay, and that is what the shop is forced to accept. While there is nothing legally prohibiting a repair shop from billing the customer in excess of the reimbursement rate set by the insurance companies, few auto body shops engage in this practice, preferring to maintain the goodwill of their customers. Several of those submitting statements noted that increasing the auto body labor rate to the national average would increase the average insurance premium by \$22.50. Auto body shops argue that such an increase is minimal and raising the rate to the national average should be considered.

Several speakers also pointed to the aging of the auto body repair workforce, and the inability to attract younger workers to the trade due to low wages. Those younger workers currently in the field are leaving to pursue more lucrative trades, and fewer students are enrolling or staying in the auto body repair courses offered at the high school level.

A number of auto body shop representatives spoke to the benefit of tiering auto body labor shops, so that better equipped and talented shops would be reimbursed at a higher rate than those shops. This, they argue, would encourage shops to invest in their businesses, obtain up to date equipment and hire the most talented technicians. A number of auto body representatives, when asked about the recent return of the Massachusetts automobile insurance industry recently returning to a more competitive system, stated that setting a new, mandatory labor rate immediately and then allowing competition to work in the auto body market would be acceptable.

Several representatives from the automobile insurance industry submitted statements. They pointed out that the labor rates became suppressed after the promulgation of the Cost Containment regulation by the Division of Insurance during the years the private passenger automobile insurance rates were fixed and established by the commissioner. All industry representatives also acknowledged the stagnation in the auto labor rates over the past several years, though several again pointed to the increased time taken to repair vehicles in Massachusetts makes the average cost to repair a vehicle in

the state just slightly less than the nationwide average to repair a vehicle. The issue of the labor rate cannot be separated from the repair time, according to the insurance industry. If the labor rate increases but the time to repair does not decrease, consumers will pay more without receiving increased services.

The insurers also cite the referral shop programs authorized by the legislature in 1988 as a reason for the lower labor rates. Under those programs, consumers may choose a repair shop off a list provided by their insurance company, and if they choose a preferred shop, the insurance company guarantees that the repair will be done for the price quoted as well as the quality of the repair work. In order to be on a referral list, a repair shop and the insurance company must agree on the labor rate to be paid to the shop. One insurance company stated that 75% of the vehicles it reinspected after repair were not repaired in accordance with the negotiated terms, requiring additional work. Both industry and auto body representatives agreed that this issue is worthy of further consideration.

Insurance industry representatives all oppose the return to any type of labor rate setting by the government, citing to the recent decision to return the automobile insurance industry to managed competition. Massachusetts was the last state in the nation to stop setting the auto insurance rates, and no other state sets auto labor rates. Establishing a new commission and procedure to set auto labor rates is a step backwards in the eyes of the insurance industry. Most insurance industry representatives want to allow the managed competition market for automobile insurance to work on auto body labor rates. Returning to a system of any type of rate setting might signify that managed competition is not working, and could have a detrimental impact on the fledgling competitive market.

Insurance representatives also noted that consumers are still able to find auto body shops to repair their vehicles for the prices approved by the insurance companies. In the free market, when consumers can no longer find shops to repair their vehicles for the amount of the insurance company's appraisal, the labor rate increases.

The insurance industry also noted that the bureaucracy inherent in setting up a process to "tier" auto body shops would be expensive, costly, time consuming, fraught with difficulty and the potential for litigation. A shop that disagrees with its placement on a certain tier could sue, resulting in high expenses and delays. The tiering classifications would need regular updating to keep pace with advances in technology, and the monitoring and enforcement requirements of such a tiering program would be expensive. The insurance industry questioned the tier on which appraisals would be made, noting that appraisals made on the highest tiered rate could cause insureds to have the repairs done at a

lower tiered shop and to pocket the difference in the reimbursement from the insurance company. Appraisals done on a lower tier would result in inadequate appraisals.

The insurance industry also notes that increasing the auto body labor rate dramatically would directly increase the cost to repair a vehicle, leading to more vehicles declared total losses as the cost to repair the vehicle would exceed the value of the vehicle. This in turn would result in fewer vehicles to repair, costing the auto body shops business. The past several years have seen a dramatic decrease in the number of motor vehicle accidents resulting in body damage, thereby reducing the amount of work available to shops. The number of auto body shops, however, has not dramatically decreased leading to less work and revenue for any individual shop.

None of those submitting statements on behalf of the auto insurance industry advocated for the setting of auto body labor rates. Rather, consensus is that the newly competitive auto insurance market be allowed to play out and have the free market set the rate.

Conclusions

There is no dispute that the auto body labor rate has not kept pace with increases in the labor rates in similar industries. The question is what, if anything, needs to be done at this time to remedy the situation. Those in the insurance industry advise a wait and see posture, to allow the managed competition of the Massachusetts private passenger automobile insurance market to determine the appropriate auto body labor rate. Those in the auto body business, however, feel that an increase in the labor rate is so overdue as to necessitate an immediate increase. Below are separate comments submitted by those in the insurance industry and the auto body repair industry.

Insurance Industry Representatives Conclusions

Data presented in the hearings showed that while body shop labor rates paid in Massachusetts are lower than those paid in other states, the number of labor hours in an average repair is the highest in the nation such that the average collision repair cost is about equal to that of the national average. There are a number of factors that should be considered before any serious thought is given to “regulate” the manner in which labor rates are “set” for purposes of payments to auto body shops for insurance related repair work. Massachusetts is just now emerging from years of a highly regulated auto insurance market. Within the past year “managed competition” has found its way into the Massachusetts auto insurance market. Within the past few months, old Cost Containment regulations that significantly curtailed market-driven changes in the labor rate have been repealed. In addition, in early September, changes to 212 CMR have enabled insurers and repairers to work more efficiently

and directly with each other than they have at any time in the past 30 years. The effect of these significant, fundamental changes has not as yet matured and undoubtedly more reforms will follow as a result of the deregulation of the auto insurance rates. This will happen, however, only if further distorting regulation can be avoided, such as a government-set body shop labor rate.

The fixed and established rate setting mechanism used to set the auto insurance rates in Massachusetts for the last thirty years led to other price and market distortions. This government insurance rate price-setting allowed, in part, the supply of body shops in Massachusetts to remain largely unchanged in proportion to a sharp decrease in physical damage claims in the past six years. This decline in demand and oversupply of shops has led to a relative stabilization in the labor rates. Fixing labor rates higher than a free market rate is a government mandated subsidy to inefficient body shops that leads to a continued imbalance between the supply of body shops and the demand for collision repair.

With a competitive automobile insurance system in its infancy, several components comprising the premium dollar, including the body shop labor rate, that have been so heavily regulated will need time to react to the new competitive landscape. The best method for allowing the system to develop into a healthy market is to provide time for it to recover and to achieve equilibrium within the context of competitively set auto insurance rates. To force the labor rate into a fixed and established rate setting mechanism is not advisable, as it comprises such a sizable component of the auto insurance premium that much of the premium dollar would once again be fixed by the state. The market should be given time to work to find equilibrium for the mutual benefit of shops, insurers and most importantly consumers.

An economist from Cornell University testified about significant economic concerns in connection with establishing a state-set labor rate. She pointed out that such rates are highly inefficient and lead to a mediocre work product. She also urged the Commission to refrain from the temptation to fix the rate in the short term and then release it to competitive forces, reflecting that once regulated, a market is very challenging to de-regulate. Testimony was also presented about how competitive labor rate markets behave in other parts of the country and with specific examples of large states in the northeast where insurance companies regularly survey shops and negotiate acceptable rates and repair times for quality work. The Massachusetts market is now positioned for this type of competitive behavior to begin.

Because of the price and market distortions ushered in by years of over-regulation of the auto insurance rate, the issue of the labor rate cannot be separated from that of repair hours. A few examples of this distortion will be mentioned here. Numerous insurers provided statistics establishing that the number of hours in an average repair in Massachusetts is by far the highest in the country. One insurer testified that, with the Cost Containment focus on labor rate, cost shifting by repairers is in part responsible for the increased number of repair hours in Massachusetts. Forensic reinspections completed by this insurer demonstrated a significant number of vehicles reinspected were not repaired in accordance with the negotiated appraisal and supplement. This insurer stated it had met with the leaders of the various Massachusetts auto body associations on the issue and had expressed that this is one of the variables present in today's Massachusetts repair shop environment that has kept the labor rate at its current level over the past few years.

While the absolute value of the labor rate has risen only modestly over time, the total cost of repairs in Massachusetts has kept pace with the national average cost of repair. Insurers regularly negotiate with shops over the cost of repair and with shops that employ those with specialized skills for certain types of repairs. Insurers also negotiate with shops over procedures that shops claim need to be done to put the car in pre-accident condition. Sometimes these repairs are performed and sometimes they are not. There is a wide variety of reasons the repairs may not have been completed, but the insurers and consumers have little to no recourse against the shop for failing to complete the negotiated procedures, as the reinspection form called for by the Direct Pay Plan regulations specifies only that "repairs" were made, not that they were performed in accordance with the company's appraisal of the damage observed.

The testimony adduced at the public hearings also covered two areas where true competition for business has existed for body shops in the current market. The first is in the area of high-end specialty vehicles. Currently there are some vehicles that require certified shops to purchase parts and complete repairs. These shops have made the investment in equipment and training and are, therefore able to negotiate a substantially higher labor rate as a result of their investments. The second is in the area of rental, municipal and other fleet repairs where body shops compete against one another for business. Documentation presented demonstrated that when shops compete for these repairs, they complete those repairs at labor rates significantly lower than current insurance labor rates. Body shops are performing these repairs for \$25 to \$28 per hour and providing parts price discounts up to 30%. Currently, parts price discounts are not part of the insurance repair negotiations.

Insurance companies are competing for consumers' business for the first time in decades by providing innovative products and discounts for services and by managing their business relationships independent of direct state intervention such as the Cost Containment Regulation. The relationship between an insurer and a body shop is a business relationship that requires mutual understanding in order to negotiate labor rates and times that recognize the business realities of both industries. Creating another highly regulated environment will only deepen the mistrust that the fixed and established auto insurance rate setting mechanism fostered at the moment when both parties now have the potential to benefit from the innovation and partnership potential that they now have for the first time in decades.

The opportunities that these and other changes will afford both industries need to be nurtured and developed. The new way of doing business must also be measured and consistent, not regulated or mandated. A prudent course of action would be to monitor the repairer/insurer environment for the development of positive changes over the next year. During this timeframe, a committee of insurers and body shop representatives should continue to meet to discuss/review some of the most critical elements that were brought forth by the testimony provided by the many interested parties with the goal of bringing further regulatory change to enable the system to work as smoothly and efficiently in the free market we are moving into.

Auto Body Repair Shops Representatives Conclusions

Immediate relief is needed through legislation that sets minimum rates for qualifying repairers that is relative to Massachusetts. This legislation must also have a provision that puts in place a mechanism for future review and adjustments. There is also no dispute that the average number of labor hours in an average repair is by far the highest in the nation. The reason for higher labor hours however, is most likely attributed to more parts being repaired versus replaced. It is simply more cost-effective to repair parts when labor costs are far below that of the national average than it is to replace them. Labor hours to repair panels are much higher than hours needed to replace them. All appraisers in the Commonwealth are held to the strict guidelines included in 212 CMR. Any attempt to artificially inflate labor hours would constitute a clear violation of that regulation. Many of the insurance representatives testifying at the hearings were asked if their appraisers pay for procedures or for items that were not necessary, they all responded "no". All appraisals written by licensed auto damage appraisers in the Commonwealth must be sworn to under the penalties of perjury pursuant to

212 CMR 2.02 (5). Any changes to labor hours are only included in judgment times. These judgment times represent only a few lines in the content of an appraisal.

While the insurance industry makes a compelling argument against regulating hourly rates paid to the repair industry, the repair industry feels that “cost containment” is used as the primary scapegoat for keeping rates stagnant for the past twenty years. In fact, at a public hearing held before the Legislature’s Insurance Committee in 2004, regarding a bill filed on behalf of the Massachusetts Auto Body Association seeking regulation for rates paid to collision shops, an insurance industry lobbyist testified that “the Commonwealth should not be in the business of setting rates of body shops”. When pressed by a senate representative of the committee how rates should be set, he replied “the free market system”. When asked if the free market system currently sets the rate, he responded, “perhaps the system is a bit flawed”. He went on to state that the free market system should be allowed to work properly; he never mentioned “cost containment” in his testimony. The insurance committee took his advice and did not act. Four years after that request to wait for the free market to work, nothing has changed. The fact remains, the free market does not work and will not work when a third party responsible for payment infiltrates and attempts to control the relationships and agreements between the consumer and their chosen repairer. With notes on appraisals and correspondence to consumers that state: “This damage appraisal was written at a market labor rate. If your repairer charges more than this rate, you will be responsible for the additional cost”. This market labor rate was not set by those performing the labor.

The collision industry urges the legislature to pass legislation that includes the major provisions in the original Auto Body Labor Rate Bill, H1085. We believe that testimony offered during the recently concluded hearings proves, without a doubt, that waiting for the forces of a free market to develop for labor rates will not solve the problem that virtually all witnesses acknowledged. We feel the nature of the market for labor rates is controlled so tightly in all aspects by one party – from the initial appraisal to the final payment, and all actions in between – that no force, except for the force of law, can be a counterbalance to that control. In simple terms, the insurance industry is the only party that can change the situation and, because it holds the ultimate power as the payer, fair and meaningful labor rate reform will not take place without the force of law.

Therefore, we request that the legislature adopt a tiered rating system for registered collision shops as well as minimum allowable amounts for those rated shops for all categories of labor to be determined by using the national average and indexing it to the Massachusetts labor market according

to a multiplier that would be determined from reports from the Bureau of Labor Statistics of the US Department of Labor. Further, we recommend that all of the above actions be regulated, managed, and executed by an autonomous commission of the commonwealth that is fully funded by fees paid by the collision industry and the auto insurance industry, according to the provisions in the original legislation, and that labor rates for rated shops be reviewed and updated at least every three years according to the above formula.

Recommendations

1. The Commission recommends that as soon as the data for auto body labor rates through June 30, 2009 becomes available, the General Court should review it to determine what effect, if any, the implementation of managed competition has had on the auto body labor rate paid by insurance companies to auto body shops located in Massachusetts. The representatives of the auto insurance and auto body industries agree that the CCC Information Service's "Crash Course" and Mitchell International's "Industry Trends" reports will be utilized as the primary national source for labor rate statistics. The Commission also recommends that other sources of information such as Collision Repair Industry Insight as well as appraisals generated by insurers to consumers and or repairers to track movement in labor rates paid be utilized. These reports are produced quarterly and annually. They detail the average labor rate paid nationally and by state. Also included in these reports is the average number of labor hours per repair both nationally and by state.
2. The Commission recommends that the General Court then consider whether or not alternate methods, including legislation, are necessary to ensure that the labor rate insurers pay to auto body shops for repair of damaged motor vehicles is fair and reasonable as a result of the transition to managed competition in Massachusetts motor vehicle insurance.
3. The Commission recommends that representatives of the auto body repair shop industry meet bi-monthly with representatives from the motor vehicle insurance industry to discuss and identify best practices and any other actions that will improve the accountability and quality of services that both industries provide to consumers whose motor vehicles are damaged.

No table of contents entries found.**Appendix A**

Number of Auto Body Repair Shops

2000 through 2008

Number of shops registered by the Division of Standards by year:

<u>Year</u>	<u>Number of Shops</u>
2000	1887
2001	1828
2002	2033
2003	1965
2004	1917
2005	1897
2006	1873
2007	1809
2008	1827

Number of shops with expiring registrations by year:

<u>Year</u>	<u>Number of Shops expiring</u>
2003	80
2004	87
2005	104
2006	92
2007	160
2008 to date	79

Appendix B**Biographies of Commission Members****CHAIR***Undersecretary Daniel C. Crane*

Undersecretary Crane was appointed by Governor Deval Patrick to serve as Undersecretary of the Office of Consumer Affairs & Business Regulation on January 29, 2007. Undersecretary Crane is an attorney and former Bar Counsel for Massachusetts. Since admission to the bar in 1975, he practiced law with the firm Finn & Crane and has actively served in various Massachusetts legal associations and legal boards.

2 STATE SENATE MEMBERS*Senator Stephen Buoniconti*

Co-Chair, Joint Committee on Financial Services

Senator Buoniconti has served as the Hampden District representative in the Massachusetts State Senate since 2005. Prior to being elected to the State Senate, Senator Buoniconti served over 12 years in public office. Senator Buoniconti comes from a legal background.

Senator Robert Hedlund

Senate Minority Leader appointee

Senator Robert Hedlund has served as the Plymouth and Norfolk County representative in the Massachusetts State Senate since 1994*. Prior to his career in the State Senate, Senator Hedlund worked as a small business owner. He became president of Hedlund Motor Sales, Inc., a truck and fire apparatus repair business founded by his grandfather.

*Senator Hedlund also served as a Senator for Plymouth and Norfolk County from 1991-1992 and was not re-elected in 1993.

2 HOUSE REPRESENTATIVE MEMBERS*Representative Ronald Mariano*

Co-Chair, Joint Committee on Financial Services

Representative Mariano is the Massachusetts State Representative for the 3rd Norfolk District. Representative Mariano comes from an academic background, previously serving as an educator and member of the Quincy School Committee since 1989.

Representative Jay Barrows

House Minority Leader appointee

Representative Barrows is the Massachusetts State Representative for the 1st Bristol District, elected November 2006. Jay has also served as the President of the Tri-Town Chamber of Commerce and the President/Owner of Barrows Insurance Agency.

3 MEMBERS FROM THE AUTO INSURANCE INDUSTRY

Appointed by AIB –Contact: Dan Johnston, President

David Krupa, Safety Insurance

David has been the Vice President of Claims with Safety Insurance Company for 18 years. David is also a one-year member of the Massachusetts Auto Damage Appraisers Licensing Board and a 14-year Chartered property casualty underwriter for The American Institute for Chartered Property Casualty Underwriters.

David S. Bartlett, Travelers Insurance

David is the Second Vice President of Travelers of Massachusetts with 23 years of P&C insurance claim experience with Travelers and 20 years of experience in management of appraisal operations in Massachusetts. In 2004 David testified at the Joint Insurance Committee of Massachusetts Legislature on appraisal reform.

David Antocci, Commerce Insurance

David is the Vice President of Claims at Commerce Insurance with 32 years of experience in the insurance industry, 23 of which have been with Commerce. Over the years, David has worked in the many disciplines of claim handling including casualty, workman's comp., property, physical damage, subrogation and SIU. David has also been a licensed Mass. Auto Damage Appraiser since 1978.

2 MEMBERS FROM THE AUTO REPAIRER INDUSTRY

Appointed by Alliance of Automotive Service Providers – Contact: Peter Abdelmaseh, Executive Director

Rick Starbard, President, Alliance of Automotive Service Providers/ Rick's Auto Collision, Revere, MA

Rick has been President of Rick's Auto Collision, Inc. for 25 years and has been a Collision Repair Instructor at the Lynn Vocational Technical High School for 12 years. Rick has also served on several task forces and committees and is a Licensed Auto Damage Appraiser with the Massachusetts Division of Insurance.

Tom Ricci, President, Central Mass Auto Rebuilders Association/ Body& Paint Center of Hudson, Hudson, MA

Tom is the owner of Body & Paint Center, President of Central Massachusetts Auto Rebuilders Association (CMARA). He has been in the auto body repairs industry for 32 years.

**1 MEMBER WHO IS A MOTOR VEHICLE DEALER PURSUANT TO
M.G.L. c. 93B, § 1**

Appointed by the Massachusetts State Auto Dealers Association – Contact: Robert O’Koniewski, Director of Legislative and Government Affairs

John J. Santilli, Sr, President of The Cadillac/Nissan/Dodge Center, Inc.

John has been the President/Owner of John Santilli’s Center for Automobiles for 26 years. John has also been a member of several automobile manufacturers’ affiliations for over 10 years.

Appendix C

Links to Public Hearing Testimony

Worcester Hearing, October 9, 2008

http://www.mass.gov/Eoca/docs/autobodyrates_written_testimony20081009.pdf

Boston Hearing, November 13, 2008

<http://www.mass.gov/Eoca/docs/autobodyrates/writtentestimonies20081113meeting.pdf>

Appendix B:
Auto Body Repair Shops Table

Breakdown of Auto Body Repair Shops from 2008-Present

Year	Number of Massachusetts Repair Shops
2008	1,805
2009	1,805
2010	1,788
2011	1,764
2012	1,765
2013	1,739
2014	1,742
2015	1,732
2016	1,707
2017	1,721
2018	1,698
2019	1,665
2020	1,686

Source: Division of Standards

Appendix C:
Letter from the Massachusetts Alliance of Automotive Service Providers



April 8, 2022

To Chairman James Murphy,

Mr. Chairman,

On behalf of AASP-MA, I want to express our appreciation for the opportunity to present you the following options to create an equitable reimbursement rate to the claimant. A reimbursement rate which reflects the expertise, investment and liability associated with collision repairs performed in Massachusetts.

Each of the following three options represents a long-term solution to a decades old issue. (please see attached page) Should you have any concerns upon review or if you would like to address other possible variations, we will make ourselves available for further discussion regarding a resolution.

Your leadership and guidance throughout the commission process has been greatly appreciated and admired by the collision repair industry here in Massachusetts. We will continue to support you and have trust in the legislative process.

Sincerely,

Evangelos "Lucky" Papageorg

Executive Director AASP-MA

617.574.0741

Lucky@aaspma.org



The three options for consideration are as follows:

- 1) An immediate increase of \$33 in the minimum reimbursement rate to the claimant with yearly adjustments based upon the CPI in the northeast region.
- 2) The passage of HB 1111 as proposed in the current legislative session.
- 3) The passage of HB 1111 with an adjustment in the correction period increased from 2 years to 3 years from passage. Then, increasing the reimbursement rate to the claimant using the following amounts and schedule:
 - an immediate increase of \$18 to the labor reimbursement rate paid by insurers to the claimant
 - an increase of \$10 in year 2
 - an increase in the third year of \$5 plus the CPI factor from the previous two years.
 - continued increases or decreases based on the CPI thereafter

This tiered roll out addresses the immediate need for an increase to bring technicians back into the industry, while making the industry more appealing to younger individuals in the vocational schools. It also allows the insurance industry a corrective period and the ability to calculate their premium needs during the transition to a fair and equitable labor reimbursement rate. After the third year's adjustment, the labor reimbursement rate would increase or decrease yearly based upon the CPI in the northeast region.

It continues to be our position that the collision repair industry has done all that it can to increase efficiencies and to contain the costs which repairers have control over. It is evident by the preponderance of the testimony provided at the two LRSC hearings that action is needed now. For decades the insurance industry has shown an inability to even acknowledge the issue, nor change their business practices. During the meetings, they offered no viable alternatives or solutions to suggest that anything other than a mandate would change the business environment. That mandate must be that insurers compensate fairly and properly for the increased cost to repair today's vehicles. The consumers in Massachusetts deserve to be protected on our roadways. They should also feel confident that their chosen collision repair facility is able to maintain staff, training and equipment requirements, because they would then be adequately reimbursed for the expertise, costs and the liability involved in the collision repair process.

Appendix D:
Letter from the Massachusetts State Automobile Dealers Association



Robert F. O’Koniewski, Esq.

Executive Vice President

MEMORANDUM

TO: Sen. Paul Feeney, Co-Chair, Special Commission on Auto Body Labor Rates
Rep. James Murphy, Co-Chair, Special Commission on Auto Body Labor Rates

FR: Robert O’Koniewski, Esq.

DT: April 8, 2022

RE: **Proposed Legislation – “An Act Establishing the Fair Calculation of Labor Rates Paid by Insurance Companies to Auto Repairers in the Commonwealth.”**

On behalf of the Massachusetts State Automobile Dealers Association, which represents the 427 franchised new-car and truck dealerships in the Commonwealth, many of whom also operate auto body repair facilities, we respectfully submit for consideration the following proposal to address the inadequacy in which insurers in the Commonwealth presently reimburse repairers for labor costs on insurer-paid repair work. We, moreover, respectfully urge the special commission to include a preferred final recommendation that can, if possible, be endorsed by a majority of the special commission members. Our members believe it is important that the special commission provide such guidance to the Legislature as it considers future legislation to address this issue.

After two public hearings conducted under the auspices of the special commission, on top of a public hearing conducted earlier this session by the Joint Committee on Financial Services on legislation filed regarding the labor rate reimbursement issue, it is disappointing but not surprising given past history that the insurance companies have yet to express an acknowledgement that a problem exists. It is evident that, as far as they are concerned, they are quite content with a system that artificially suppresses the labor rate reimbursement amount in a manner that can best boost their profits while keeping overhead costs as low as possible. Unfortunately, those who operate auto body repair facilities do not have that luxury of suppressing other cost factors in their businesses in order to ensure large profit margins. In fact, based on the current economics of the collision repair industry, it is virtually impossible for any new collision repair entrepreneurs to enter the business with any realistic expectation of success, leaving the arena to the few legacy collision repairers already in the business.

For over twenty years this Association, along with our sisters and brothers in the independent auto body repair industry, has advocated for reform on this subject matter. Years of bill filings and a prior special commission have failed to move the needle measurably on the reimbursed rate, to the point that Massachusetts rests securely at the bottom of the average labor rate reimbursement to repairers. Additionally, it has always amazed us that a system that allows for reimbursement at a level that is a fraction of a repairer’s posted retail rate for customer-pay work is allowed to exist, all to the benefit of the insurance companies, whose profits continue to grow unabated each year. Meanwhile, customer wait times to get into a shop and for the repairs to be completed have grown, in the face of increased insurance premiums.

To address this problem, we propose a conceptually simple solution, as provided below. The proposed legislation would use as a starting point a calculation of the repairer’s posted labor rate as the

level at which compensation should occur. The calculation is similar to that which is used under MGL Chapter 93B to calculate a dealer's labor rate for reimbursement by a franchisor for warranty and recall work performed pursuant to a franchise agreement. The process is grounded in current statute and recognizes a repairer's true labor compensation for the work in which they have made considerable investments in equipment, facilities, training, and personnel.

Thank you for your attention to this matter. Should you require additional information, please do not hesitate to contact me.

“An Act Establishing the Fair Calculation of Labor Rates Paid by Insurance Companies to Auto Repairers in the Commonwealth.”

SECTION 1. Chapter 100A of the General Laws, as appearing in the 2020 Official Edition, is hereby amended by inserting after section 14 the following section:-

Section 15. The commissioner of insurance shall set the minimum hourly labor rate that insurers shall pay on insured claims for repairs made by registered motor vehicle repair shops. In determining the minimum rate paid by insurers on all Massachusetts insured motor vehicle damage claims, the compensation for the minimum hourly labor rate that insurers shall pay on insured claims for repairs made by registered motor vehicle repair shops shall be calculated by utilizing the method described in this section.

The compensation for the minimum hourly labor rate that insurers shall pay on insured claims for repairs made by registered motor vehicle repair shops shall be established by the repair shop submitting to the insurer 100 sequential customer-paid collision repair orders or 60 consecutive days of customer-paid collision repair orders, whichever is less, from which the repairer shall calculate the average customer paid hourly labor rate, which shall be declared the minimum hourly labor rate that the insurer will pay to the repairer. The minimum hourly labor rate shall go into effect 30 days following the declaration, subject to audit of the submitted collision repair orders by the insurer and a rebuttal of the declared rate. If the declared rate is rebutted, the insurer shall propose an adjustment of the minimum hourly labor rate based on the rebuttal not later than 30 days after submission. If the repairer does not agree with the minimum hourly labor rate proposed by the insurer, the repairer may file an action with the commissioner of insurance 30 days after receipt of the proposal by the insurer. In an action commenced under this section, the insurer shall have the burden of proving that the rate declared by the repairer was inaccurate or unreasonable.

SECTION 2. Section 113B of chapter 175 of the General Laws, as appearing in the 2020 Official Edition, is hereby amended by inserting, after the word “commissioner” in line 14, the following:- “; provided, however, that collision repair hourly labor rates, set pursuant to section 15 of chapter 100A, shall not be included when considering programs to control costs and expenses under this section or section 113H.”

SECTION 3. Within 90 days of the enactment of Section 1, the commissioner of the division of insurance shall promulgate regulations necessary to implement the provisions of Sections 1 and 2, inclusive.