

# CRASH network

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**\* INSURER ENDS MATERIALS THRESHOLD IN ILLINOIS:** USAA has instructed its direct repair shops in Illinois to disable the paint materials threshold in their CCC estimating system for all USAA claims, according to a memo obtained by *CRASH Network*. Although it's not clear what prompted the change, it occurred just days before the Illinois Department of Insurance released a market conduct examination report showing that in 16 of 116 USAA claims files reviewed, the insurer unfairly placed "caps or limits on paint or materials." USAA did not respond to multiple requests for comment. The memo, dated March 14 and signed by USAA Auto Physical Damage Executive Director Kyle Thompson, indicates that all STARS shops in Illinois received a March 11 memo with instructions (and a screen shot) on how to disable the materials threshold in their CCC profile configuration for USAA claims. The USAA memo says the company's claims staff are "to ensure this new policy is acted upon and monitored for accuracy." The memo does not, however, provide explanation for the change, but it emphasizes that the new policy "applies only to shops located in the state of Illinois." Existing Illinois law prohibits an insurer from "attempting to settle a claim for less than the amount to which a reasonable person would believe the claimant was entitled" by such means as "establishing unreasonable caps or limits on paint or materials when estimating vehicle repairs." The DOI's market conduct report, which took place last year and examined USAA property and auto claims from 2013 and the first quarter of 2014, found a variety of violations. In 10 of the claims found to have improper caps on materials, USAA paid \$400 for paint materials; in the other six, the insurer paid \$500. The DOI determined the amount of the underpayment on these claims (all from 2013) based on the number of paint labor hours (which ranged from 13.7 to 24.8, an average of 17.8 per claim) multiplied by the hourly materials rate (which ranged from \$26 to \$34). The underpayments in the 16 instances ranged from a low of 40 cents to a high of \$294.40, but averaged \$67.48. The consent order signed by USAA in response to the DOI investigation includes a fine of \$19,500 and an agreement by the insurer to "institute and maintain procedures to ensure they settle claims for a reasonable amount by not placing thresholds, caps or limits on paint materials."

**\* STARS SHOPS OFFER LITTLE COMMENT:** Most of the USAA STARS shops in Illinois contacted by *CRASH Network* about the USAA memo did not respond or declined to comment. The owner of one such shop said he had not received a copy of the memo, though he said he had been contacted in recent months by an Illinois DOI representative "assigned to the task of getting the insurance companies that were imposing thresholds to cease doing so." He said that to his knowledge, USAA and another large insurer still require a threshold, though his shop files a "supplement for the difference, when a threshold is exceeded." It appears the vast majority of STARS shops in Illinois are MSO locations. Using the USAA online shop locator to find STARS shops in a half-dozen Illinois cities around the state, *CRASH Network* found that only 11 of the 82 STARS shops (13 percent) the locator listed were independent shops; the remaining 71 were major MSOs, including Gerber (37 shops), ABRA (27 shops) and Service King (six shops).

## Who PAYS? for WHAT?

### **\* 'TYPICAL' HOURLY REFINISH RATE**

**ANYTHING BUT TYPICAL:** Hourly refinish rates vary by almost \$90 an hour from the highest rate to the lowest across the country,

according to the latest results from the "Who Pays for What?" survey series ([CRASH 4/11/16](#)). Although the calculated median rate is \$50 per hour for refinish labor among the more than 650 shops that disclosed their rates on the survey, 25 percent of them are charging less than \$46 per hour while another 25 percent are charging more than \$58 per hour. Rates for refinish materials showed less of a variation in what shops are charging. Nearly 20 percent said their shop uses a materials calculator or invoicing system to bill for refinish materials, but 80 percent said they use the traditional method of charging a fixed dollar amount per refinish hour on the estimate. Among those 80 percent, the nationwide median rate charged is \$34 per refinish hour for materials, though 1-in-4 shops are charging in excess of \$38 per refinish hour for materials. The survey, conducted in February by Collision Advice and *CRASH Network*, primarily focused on "not-included" repair operations related to the refinish process; the complete results and analysis (69 pages) are available for download at [www.crashnetwork.com/collisionadvice](http://www.crashnetwork.com/collisionadvice). Each quarter, the survey series covers "not-included" repair operations relating to a different area of the repair process, from mechanical and frame repair operations to aluminum repair and shop supplies. Over the course of a year, the four surveys reveal how frequently shops are paid for nearly 100 different common, yet "not-included" repair processes. An all-new survey, on body labor operations, is now open during the month of April; shops can [click here](#) to take the current survey. [Click here](#) for a chart of the hourly refinish rates and materials charges.



**\* AVERAGE REFINISH HOURS PER ESTIMATE, BY STATE:** Only three states averaged more than 10 refinish labor hours per estimate in 2015, while just one state averaged less than eight hours. The other 46 states averaged between eight and 10 hours of total refinish time billed on each repair

order. This data comes from more than 3.3 million final estimates written in the 12 months ending December 31, 2015, on all three estimating systems, including both DRP and non-DRP work, representing just over \$10.5 billion in completed repair work nationwide ([CRASH 4/11/16](#)). The top three states of Massachusetts (10.37 hours billed), Rhode Island (10.26 hours) and Georgia (10.0 hours) all averaged nearly two additional hours of refinish labor per repair than the bottom three states of Oregon (8.41 hours), Alaska (8.37 hours), and North Dakota (7.76 hours). California came in right at the middle with 9.01 average refinish hours per estimate with Texas slightly higher at 9.33 hours. It's interesting to note that at the top of the list, five of the states are clustered together in the south; Oklahoma, Arkansas, Louisiana, Mississippi and Georgia are all among the 10 states with the highest average refinish hours per estimate. Looking at the bottom 12 states, eight of them are on the northern U.S. border; Alaska, Washington, Idaho, North Dakota, Wisconsin, Vermont, New Hampshire and Maine all fell within the 12 states with the lowest average refinish hours. Further north, into Canada, the average hours drop a bit, with a countrywide median of 8.76 refinish hours per estimate, compared to 9.01 in the United States. The province with the lowest average, Quebec (6.93 hours), is nearly 2.75 hours lower than the average of 9.61 hours in Ontario. The Canadian figures come from over 230,000 final estimates written throughout the 10 provinces during calendar year 2015, totaling nearly \$1.2 billion CAD in repair work. The average total estimate nationwide was \$4,049 CAD in 2015. [Click here](#) for interactive maps showing the average refinish hours by state and province.

**\* SHOPS ARGUE AGAINST DISMISSAL:** The body shops who have filed a national class action racketeering lawsuit against State Farm, Allstate, Geico and four other insurers last week argued that a U.S. District court should reject the insurers' call for dismissal of the lawsuit ([CRASH 2/22/16](#)). The lawsuit brought by Crawford's Auto Center in Pennsylvania and K & M Collision in North Carolina differs from the two dozen other recent lawsuits brought against insurers by shops in that it alleges racketeering rather than antitrust, and in that it seeks class action status for "tens of thousands" of shops that since 2006 have done work paid for by the insurers. The shops are also represented by Pennsylvania attorneys, not the Mississippi law firm handling the other lawsuits. State Farm has argued in part that the lawsuit should be dismissed because the shops' "purported injury" was caused "not by their reliance on [insurers'] purported misrepresentations, but rather by [the shops'] own business decisions to accept

the compensation offered" by the insurers. But the shops' attorneys fired back in their 69-page response last week, saying that overlooks that "repair transactions are a fluid, evolving process," and that the full measure of what is required is not clear until well into the process, "sometimes not until completion." "It is inaccurate, then, to characterize the repair transaction as a static offer and acceptance, where both the repair professional and the insurer are aware of the required repairs and the cost with precision from inception," the shops' argue. Click below for a "CRASH Backgrounder" on the Crawford's lawsuit.



**\* STATE LEGISLATIVE NEWS: Pennsylvania Gov. Tom Wolf** has signed into law legislation ([HB 1638](#)) that makes it legal to obtain a damaged vehicle appraisal based on photographs or video, rather than requiring a physical inspection of the vehicle. The Pennsylvania Collision Trade Guild had vehemently opposed the change to the state's 43-year-old appraisal requirement ([CRASH 3/28/16](#)), and the Society of Collision Repair Specialists last month wrote to Delaware regulators to oppose a similar proposed change in that state's regulations ([CRASH 4/4/16](#)). But the Automotive Service Association earlier this year voiced support for the Pennsylvania legislation, saying in a [letter](#) that most states allow "web-based or mobile options for claims" and that "it is important that our industry stay abreast of new technologies." A Louisiana House committee voted 10-6 last week in favor of a bill ([HB 559](#)) that would prohibit an insurer from requiring or authorizing (and shops from using) non-OEM safety parts, which the bill defines as those involved with a vehicle's airbag restraint system or anti-lock braking system ([CRASH 3/14/16](#)). The bill would also change the wording of the state's existing non-OEM crash parts consumer notification requirement to make it applicable to "claimants" rather than "insureds." A House floor debate on the bill is scheduled for this week.

**\* LINKS OF THE WEEK: LINK No. 1** - The RAND Corporation is the latest think tank to offer its take on the future of autonomous vehicles, issuing a [214-page report](#) designed as a guide for policymakers. The report argues it will be decades before such technology is widely accepted, in part because only "hundreds of millions of miles" of real-world testing will reveal how safe the vehicles are. The report predicts that autonomous vehicles will reduce but not eliminate crashes, given that inclement weather and complex driving environments will pose as much a challenge for autonomous vehicles as they do for human drivers. **LINK No. 2** - Various groups have weighed in with the U.S. Supreme Court as it prepares to hear oral arguments this week in a California dealership's appeal of a ruling that found that service advisors should be entitled to overtime pay ([CRASH 3/14/16](#)). Encino Motorcars, LLC, argues the Fair Labor Standards Act (FSLA) exempts salespeople "primarily engaged in

selling or servicing automobiles" from overtime, and that an appeals court erred when it read that clause to mean that salespeople actually have to be working on cars to be exempt. Dealership associations submitted a [22-page "friend of the court" brief](#) saying that failing to overturn the lower court ruling would do away with "an overtime exemption on which dealerships and their employees have relied in structuring their compensation plans for more than 40 years." But three other briefs filed this month urge the Supreme Court to uphold that service advisors are entitled to overtime. A [brief](#) filed on behalf of the federal government argues that, unlike those selling and servicing vehicles, service advisors "sell the servicing performed by others" and thus aren't exempt under the FSLA. The International Association of Machinists also filed a [brief](#) arguing against the overtime exemption for service advisors, and four law professors from different universities argue in a [joint filing](#) that service advisors would only be exempt from overtime if such an exception was "explicit" in the statute. **Link No. 3** - Last week's *CRASH Network* story about how frequently shops say they need to 'denib' or 'finish sand and buff' refinished panels ([CRASH 4/11/16](#)) prompted one West Coast shop to suggest insurers watch a [2015 video from Hyundai](#) on the vehicle assembly process. "At the 1:45 mark in the video, the factory paint shop workers are wearing white gloves, looking and feeling for dirt in the paint, sanding it out, using compound and buffing the finish," the shop owner noted. "Wow, I thought only body shops needed to do this strictly because our booth filters are dirty."



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