



Top 10 California Laws that Auto Body Shops Need to Know

Knowledge is king and truly empowering, especially when it comes to the laws of the land. Ignorance of any law doesn't mean you don't have to adhere to it and being in the dark on any law that can impact you or your business can cause you problems down the road.



Jack Molodanof (file photo) is a California attorney and lobbyist who has distinguished himself in areas of automotive legislative and regulatory law over that past 30 years

We sat down recently with **Jack Molodanof**, a California attorney and lobbyist who has distinguished himself in areas of automotive legislative

and regulatory law over that past 30 years. He's the go-to lawyer/lobbyist in California for the automotive repair industry and represents several statewide automotive associations, including the

California Autobody Association (CAA) and Automotive Service Councils of California (ASCCA). Molodanof also serves on the California Bureau of Automotive Repair (BAR) Advisory Group, which provides input on BAR programs.

These 10 laws directly impact body shops in California, so they should be well-known by collision repairers throughout the state. But Molodanof has discovered over the years that many aren't even aware of them. Listed below (but in no particular) are the top 10 California laws that all auto body repairers must be aware of.

1) Insurance companies are required to pay an auto body shop within 10 days after receipt of invoice. "The law provides that every insurer shall make payment payable to the repairer or to the named insured and the repairer, jointly, not less than 10 days subsequent to receipt of itemized bill," Molodanof said.

"But, surprisingly, many shops don't seem to know that fact." See Insurance Code Section 560.

2) A shop cannot provide compensation to insurance agents/adjusters for referring vehicles. "It is unlawful for an automotive repair dealer or employees or agents to offer to any insurance agent, broker or adjuster any fee, commission, profit sharing or other form of direct or indirect consideration for referring an insured to a shop for vehicle repairs covered under an insurance policy," Molodanof explained. "This is a tricky and dangerous area, because shops often take insurance adjusters to lunch, ball games and golf outings, for example, which could be a violation of the law if it is for the purpose of referring insured's to the shop for repairs." See Penal Code Section 551 (a)

3) A shop cannot record telephone

conversations with customers/insurance agents unless consent is obtained. "It is illegal for any person by means of any instrument to record a telephone conversation without the consent of all parties to the communication," according to Molodanof. "This law may not exist in other states, but in California you always have to obtain consent before you record any conversation, which also includes your employees for training purposes." See Penal Code Sections 630, 631, 632.

4) An auto shop repair bill maybe capped by a vehicle legal owner/lessor (i.e. bank/finance company/lender). "Generally, shops have lien rights for service performed on a vehicle, Molodanof said. "However, the lien laws are complex and contain limitations, especially if a bank/finance/lessor has a lien on the vehicle. The law provides that the bank/finance/lessor is generally only required to pay a shop

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\$1,500 for repairs and \$1,250 storage, if a lien sale filed, exception apply.” See Civil Code Section 3068.

5) Insurance Companies are responsible for towing and storage charges. “Any insurer that is responsible for coverage for ordinary and reasonable towing and storage charges under an automobile insurance policy to an insured or on behalf of insured to a valid claimant claimant, is liable for those charges to the shop when a vehicle is towed and stored as a result of an accident or stolen recovery,” Molodanof said. See Vehicle Code 22524.5 and Section 2695.8(k) Fair Claims settlement Practices Regulations.

6) Auto body repairs must meet defined trade standards and insurers must comply. “The accepted trade standards for good and workmanlike auto body and frame repairs, procedures including sectioning of component parts, shall be performed in accordance with OEM service specifications or nationally distributed and periodically updated service specifications that are generally accepted by the auto body repair industry,” he said. “Based on the new Department of Insurance regula-

tions, insurer estimates now must follow these standards.” See BAR regulations section 3365 and Section 2695.8 (f) Fair Claims Settlement Practices Regulations.

7) Repair shops cannot pay referral fees to tow companies. “Automotive repair shops shall not directly or indirectly pay or agree to pay any money or anything of value as a commission, referral fee, inducement, or in any manner a consideration, to a towing service for the delivery or the arranging of a delivery of a vehicle not owned by the repair shop or towing service, for the purpose of storage or repair.” See Vehicle Code Section 12110 or BAR regulations service 3368.

8) A shop must have a separate license for performing car washing and detailing services if such services are not ancillary to its primary business. “If a repair shop is conducting a separate/side business of detailing vehicles the shop may have to obtain a separate license as a car wash/detailing shop,” Molodanof said. “The law provides an exemption for a shop registered with BAR who is primarily engaged in the business or repairing

and diagnosing motor vehicles. Body shops are always looking for ancillary sources of revenue and car detailing has proven to be an effective way of doing it, but make sure you’re in compliance before you pursue anything like this.” See Labor Code Sections 2050, 2051.

9) If you require employees to supply their own tools you must pay at least double the minimum wage. “This is the one many shops don’t know about,” Molodanof explained. “The law provides that when tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by the employer, except that an employee whose wages are at least two times the minimum wage may be required to provide and maintain hand tools and equipment customarily required by the trade or craft.” See Wage Order 9 (Transportation).

10.)A shop may not waive or discount a customer’s deductible if it means the shop will deviate from the insurer company accepted estimate. “Except in cases in which the amount of repair has been determined by the insurer and the repair services are performed in accordance with that determination, it is unlawful for a shop to offer or give any discount intended to offset a deductible required by a policy of insurance covering repairs,” he said. “The law does not prohibit an advertisement for repair at a discount as long as the amount of the repair has been determined by the insurer and the repair is performed in accordance with that determination.” See Penal Code section 551 (b).

If you ever have any questions about your shop, BAR compliance and/or California automotive repair laws, feel free to contact Jack Molodanof at jack@mrgco.org.

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