

Howard Goldblatt, Coalition Against Insurance Fraud

9-3-09 Comments on Proposed NCOIL *Model Act Regarding Auto Airbag Fraud*

Via e-mail

Candace,

It is not that we believe in the use of salvaged (non-deployed) airbags but believe that any and every contingency of where a repair shop gets a replacement bag for one that was deployed should be accounted for. Unless the model clearly states that only airbags purchased from a manufacturer would be used in the repair, the model needs to take into account how a repair shop gains access to an airbag. Regardless of where it comes from, the shop should be required to keep strict records to show how the airbag arrived to be placed in the repaired vehicle. Without such a paper trail, we would have no proof of where it came from.

One of the comments of the recyclers struck a chord with me -- if say a 1999 Honda Accord is salvaged and the manufacturer's non-deployed airbag is taken out to be used in another 1999 Honda Accord, does that meet the definition of original equipment manufactured part. But, that I think is a digression of my key point that the body shop that is repairing the 1999 Honda Accord should have records to show where they got the replacement airbag.

From the coalition's perspective, this is a theft and fraud issue -- trying to close loopholes in how consumers and insurers are being defrauded in repairs of cars.

As for the amount of states that have passed some form of an airbag theft law -- the model was drafted to take into consideration all the variations of laws that states have. For instance, our research showed that few states (Florida & Vermont) increase the penalty for the person knowingly repairing/selling a car without a viable airbag and the driver/passengers are seriously injured or dies because of lack of a viable airbag. Most states simply have it as a misdemeanor or low-level felony if you repair a car or sell one knowingly without a viable airbag. The model would then give those states the idea that they need to strengthen their laws.

Colorado, Michigan and New York target the repair shops -- thus the model would send the message that creating a paper trail for the airbag is one of several avenues to take targeting this fraud. And, of course, requiring accident reports to note whether an airbag has been deployed in an accident clearly shuts off a repair shop from trying the scam of getting an insurance company to pay for a repair that was not necessary.

The holistic approach of the model would help states understand what it lacks in attacking this crime. Nobody expects states to enact a model law in its entirety. Each section (title) of the model can be viewed as a stand-alone law or used in conjunction with other titles. That is the purpose of the model.