

## 64<sup>th</sup> Annual Meeting and Elections Were a Lot of Fun!

Our recent 64<sup>th</sup> Annual Meeting and Elections held in San Luis Obispo on October 7-10, 2004 was a great business meeting but also a lot of fun! We appreciate all ASC members who attended and also send many thanks to President Dan Biggs and members of his home Chapter 17 for hosting this event. Thanks also to the following sponsors who so generously contributed to our Annual Meeting and who have also supported us throughout the year in many other ways: ASC Insurance Services, NAPA Auto Parts, Parts Plus, the Coalition for Automotive Repair Equality (CARE), NOVA Network, AAIA, ASA, Rare Parts, Inc., Automotive Training Institute (ATI), CAWA and Educational Seminars Institute (ESI). Please be sure to thank these organizations for their support of ASC and its activities. We also need to thank Lisa Morgan from the Mondavi Winery for helping us acquire the terrific bottles of wine we were able to hand out to the ASC participants as our welcoming gift. Also, the members of our host Chapter 17 provided a beautifully engraved wine glass to each conference attendee in tribute to Mario Rizzoli.

We kicked the event off with dinner Thursday night and what a lot of fun it was! Many meeting attendees got to go downtown to the San Luis Obispo Thursday Farmer's Market. This event has been going every Thursday night for well over 20 years! The downtown was alive with natives and tourists alike with many shops staying open late and street vendors lining both sides of the street. Some of the best ribs and barbecue was to be had as well as numbers of restaurants to visit. Thanks to Dan Biggs for suggesting it.

Friday started out with the golf tournament. Glenn Davis was the Golf Chairman this year and ASC member golfers enjoyed a round out at the Dairy Creek Golf Course in SLO. There were prizes and lunch was provided. Many thanks to Glenn for his time in planning this event and thanks to Brandon and Elizabeth of the ASC staff who took digital photos and had them framed and ready for the golfers to take home as souvenirs of their day on the course before the round was even over!



*Some ASC Golfers getting ready to tee off.*

Our golfers got back to the hotel in time to join other conference attendees and took advantage of the mini-Hybrid training class taught by Craig Van Batenburg. This class was well received and Craig had materials to hand out to participants regarding these new cars that will be starting to roll into your shops for repairs. This was a smaller version of the ASC On the Road Show Training Seminar that we held throughout the state of California in September and October. (A recap of those seminars is provided elsewhere in this publication).

*(continued on page 4)*

## BHAG? What is THAT?

Well you might not know what a BHAG is, but your ASC volunteer leadership is looking for one and they are planning on finding it at the Board and Chapter Reps Orientation/LRSP Visioning Workshop Weekend being held on January 29 and 30, 2005 at the Embassy Suites Hotel in Sacramento.

Our recent Preliminary Long Range Strategic Planning Session for 2005 held in conjunction with the 64<sup>th</sup> Annual Meeting and Elections in San Luis Obispo this October was facilitated by our new consultant Mark Alcorn of Alcorn & Associates. Mark brings an excitement and energy to the process that is refreshing and inspiring. Over the past few years ASC members, leaders and staff have done a great job of creating and successfully executing plans that were designed to stabilize the association and get it onto a firm footing. We accomplished well over 90% of the goals we set out for ourselves in the 2004 plan. Now that the house is "in order" we all have the ability to begin thinking bigger about what ASC can be and what our members and our customers most need from us.

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**Corrections & Info:**

There are a number of information pages and communication forms available on the website for matters pertaining to *The Independent* on the ASC Website. Go to: [www.ascca.com](http://www.ascca.com)

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# President's Message



Dan Biggs

State President 2004

**Members:**

This is my last President's message before the end of my term. I am honored to have been able to serve such a dynamic membership over the past year and I am looking forward to staying involved with ASC as we move into the future. I would like to take a moment and personally thank my fellow board members for their support over this year. So many of them went above and beyond the call of duty and put their whole hearts into their mission to look out for you and your business.

This past year saw some changes. We accomplished over 90% of the objectives we set out for ourselves in our Long Range Strategic Plan. We maintained our fiscal stability and stayed within budget. We launched a new website, upgraded our communications and pushed for cooperation between all facets of our membership. We fought some legislative battles and we won some important ones including the passage of the Sunset Review Committee's recommendations on changes that need to occur at the BAR and also the workers comp reform bill which is beginning to lower premiums across the state. We've helped develop and implement the new BAR Advisory Notice pilot program. We held our first ASC On the Road Show and took our Hybrid Vehicle training seminar to eight different chapters in the state.

We also finished "cleaning up the house" and a lot of issues have been settled. We just had an audit done by an independent accounting firm and thanks to Jennifer Zins' leadership over the past two years we found that things are all in order. We will do another audit in 2005 on the 2004 year and will proceed from there with all of our ducks in a row. The lawsuit involving Brad Walker was settled to the satisfaction of both parties and the costs have already been taken care of. ASC Insurance Services decided to terminate their arrangement with CIMS and we are now moving forward with providing health insurance coverage and employee benefits under a new model which will provide substantial savings as well as new enhanced services for our members.

Now we are looking forward and it appears that more changes are upon us. We are saying goodbye to our Executive Director, Jennifer Zins. We appreciate her service over the past two years and we wish her the best in her future endeavors. We are embarking upon a re-invention of ASC in our Long Range Strategic Planning process that has only just begun. I will be serving as Chair of the LRSP Committee this year and am excited to be a part of this new vision for ASC and its membership.

So I guess the bottom line is - last year saw some changes and so will this coming year. It never really stops. But the one thing that doesn't change is our love of our industry and of this association. I'm proud to be one of you and together we will keep moving forward. Talk to you all soon and I'll be seeing you around.

## ASC-CA Staff & Associates

Jennifer Zins, Executive Director .....	916/924-9054
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Elizabeth Hicks, Director of Administration .....	916/924-9054
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David Gregory, ASC Attorney .....	951/781-9091
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## Executive Director's Report



**Jennifer Zins**  
Executive Director

Wow, what an incredible year.

Together we have tackled some really tough legislative and regulatory battles, overcome some big association management obstacles and overall made ASC a better, bigger and stronger organization for our members. We launched our new website, continued to focus on communications and membership recruitment and retention and with the help of many of our volunteers, chapter representatives and our ASC Board of Directors we have reached many of the objectives we set out for ourselves in our 2004 Long Range Strategic Plan.

Like you, I see an industry that has amazing and colossal potential. We have completed so many significant accomplishments and hit so many of our goals in the last two and a half years, that we have made ASC an association to be proud of, an association that members are excited and invigorated about.

As I begin my final month as your Executive Director, I want to offer my sincere thanks to each and every one of you for your time, dedication and loyalty toward YOUR association. You have helped me to grow as an individual and as a professional and I am a better person for having served you as your Executive Director- a fact that will color my future endeavors. I would also like to thank the ASC Board of Directors and the ASC Staff for their support as well over the past two years.

I want to thank and acknowledge the many good friends and mentors I have made through my involvement with ASC. As I launch my own consulting business I will remain involved in our industry so please consider this an offer to stay in touch. I would hate to lose contact with those of you that I consider friends so please feel free to call me on my cell phone at (916) 871-0603 or email me at [jjins@surewest.net](mailto:jjins@surewest.net) any time.

Thank you for giving me the opportunity to help make ASC the premier independent automotive repair association in California.

Sincerely,

Jennifer Zins

## ASC Board & Directors



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## Annual Meeting

Thanks to Craig for the valuable information!

Dinner on Friday night included a reception and Dick Ross, Chief of the Bureau of Automotive Repair joined us for some wine tasting and appetizers. It was terrific have Mr. Ross join us and we wish to thank him for coming to our Annual Meeting and spending some time with us. We are looking forward to continuing the positive relationship we are developing with Mr. Ross.



*President Dan Biggs speaks to Chapter 17 President Gary Truhitte.*

*Incoming President Bob Constant shares a laugh with BAR Chief Dick Ross.*



Our emcee for the weekend was ASC Director, John Camara. John's jokes are going to go down in history and we certainly enjoyed having this thoughtful and articulate representative of our association emcee our events in such a professional and entertaining way.

After the fun was over, the real work started on Saturday with our Long Range Strategic Planning Session and Committee Meetings. We introduced our new LRSP consultant Mark Alcorn to the group and got the committees working on some preliminary action plans to begin 2005 with. Mark brings years of expertise with associations to our group and is focused on giving us

some new tools and ways to approach strategic planning that are appropriate for our organization at this stage. This process will take us a while to get through but the end result should be something spectacular. The next step will be an LRSP Visioning Workshop scheduled for January of 2005 which will spur our next



*LRSP Consultant Mark Alcorn.*

steps. We would like to thank every person who attended this meeting and who threw their energy and passion into this process. We will be counting on all ASC members to get involved over the next few months so keep your eyes open for communications from us.

Saturday evening we all enjoyed the Annual President's Banquet and Awards Presentation. Our committee chairs for the 2004 year were recognized for their hard work and dedication to their committees: Carol Bartels - Government Affairs Committee, Kevin Browning - Membership Committee, Bob Constant - Bylaws, Policies and Procedures Committee, Glenn Davis - Education, Training and Information Committee, Greg Kelly - Endorsements Committee and Frank Joel, Long Range Strategic Planning Committee.

Our outgoing ASC Board of Directors were also thanked for their service and given plaques to express our appreciation. Members whose terms expired this



*ASC Outgoing Directors*

year included - Carol Bartels, John Camara, Walt Carnwright, Ken Fox, Marion Vosburg and Glenn Davis.

Carol Bartels then helped us welcome our newly elected board members who will be coming onto the 2005 Board of Directors including Allen Pennebaker, Jon McConnel, Declan Kavanagh, Patrick Donovan and returning members Glenn Davis and Marion Vosburg who were elected to serve a second term. Congratulations to all of these worthy candidates! Carol handled the swearing in of officers and of the full board. Your officers and Executive Committee members for the 2005 ASC Board of Directors include: Bob Constant - President, Dan Fogle - 1<sup>st</sup> Vice President, Bob Klingenberg - 2<sup>nd</sup> Vice President, Kevin Browning - Treasurer, Marion Vosburg - Secretary and Dan Biggs - Immediate Past President.

Dan Biggs presented a special President's Award to Glenn Davis for his hard work in putting on the ASC On the Road Training Series - Repairing Hybrid Cars. Dan Biggs stated this educational program had been a dream of his and that he especially appreciated Glenn's efforts in spearheading this project on behalf of the membership of ASC.

Also, our outgoing Executive Director Jennifer Zins was presented with a special award of appreciation for her service to the association which included an engraved award, flowers and a six pack of some special brew from Bob Klingenberg and his compatriots in the vaunted community of Bakersfield - world renowned for both their wine making and beer brewing prowess. Seriously though, Jennifer will be missed and we did not want to occasion to pass without recognizing her dedication and hard work over the past two years.



*ASC Chapter Representatives at work*



*ASC 2005 Board of Directors*

The next day wrapped up with our final meetings which included the Chapter Representatives Committee in the morning and the ASC Board of Directors in the afternoon. John Camara and Walt Carnwright both gave heartfelt goodbyes as both their terms as ASC



*ASC Board taking care of business.*

Board Members and Walt's term as Chapter Representative for Chapter 32 are drawing to a close. We will miss both of them and their involvement with us but we know they won't go too far and rest assured that they both remain committed to ASC and its goals and aspirations for itself.



*ASC Board Meeting*

All in all, the event was successful both in terms of the business that was done and the fun that was had. We are already planning our 65<sup>th</sup> Annual Meeting and Elections at The Beach Resort in Monterey, California scheduled for September 29–October 2, 2005. Mark your calendars now and plan to be a part of our 65<sup>th</sup> Anniversary in 2005! We'll see you then!

### **ASC Member Publishes Book "Making the Vehicle to Reach Your Dreams"**

We encourage ASC members to check out this newly published, 234 page book written by long-time ASC member Phil Fournier from Chapter 32 (Hemet).

What defines success? It's more than a profitable business and a secure life. "Making the Vehicle" describes Phil Fournier's journey from a chaotic company to a well-run and profitable firm.

This book may be purchased at [www.trafford.com](http://www.trafford.com). Go to book store, click on search and type in "Phil Fournier" under author.

Contact Phil directly for possible chapter speaking engagements at [pacphil@verizon.net](mailto:pacphil@verizon.net).

## **Thank You to Our 64th Annual Meeting and Elections Sponsors**

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(continued from page 1)

**BHAG**

Mark will spend the next few months giving your leaders tools to use to begin to develop an overarching mission for our association that will encompass our thinking and strategy for the next 15 to 30 years. The BHAG is a Big, Hairy, Audacious Goal. Something that will set our members on fire and get our prospective members to say, "Wow, I want to be a part of that when that happens."

A simple example of a BHAG was President Kennedy stating we would go to the moon by the end of the decade in the 60's. That was a huge, unbelievably audacious goal at the time he gave voice to the idea and set it out for the nation. Many said it was impossible and downright crazy. But those people who allowed that thought to capture their imaginations became focused and driven to see that labor of love come true. It took years and untold hours of frustration and effort but in the end — it did.

Now it's our turn to come up with a new vision for our association. Maybe we aren't going to the moon but there IS something out there that will spin our beanies (and everyone else's in our industry) and we can feel it. We don't know what it is yet, but there are plenty of discussions already happening among the executive committee, the Board of Directors, our committees and the Chapter Representatives as to what it might be. The LRSP Session at the Annual Meeting was designed to develop some Preliminary Action Plans based on our needs to develop a 2005 budget and what we think we might be doing in 2005 but this is only the introduction to the new era we will see dawn in January.

If you have any questions and want to give us your ideas as to what in the world could we do together to turn our industry on its ear, please don't hesitate to contact any member of your volunteer leadership or fax your ideas to ASC Headquarters at (916) 924-6702.

Fasten your seatbelts kids. Let's get this party started.

## Hybrid Training A Success!

Our first ASC On the Road Training Series presented their seminar "How to Repair Hybrid Cars" in eight different regions around the state in September and October of this year. If you missed it, don't miss the next one.

Instructor Craig Van Batenburg did these eight hour seminars and gave our ASC members a heads up on the different hybrid cars that are rapidly gaining market share as we speak. He detailed their evolution and the best ways to repair common problems they have. Thanks Craig for doing such a great job for us!

We would like to thank Glenn Davis and the other members of the Education Committee who saw to it that this became a reality for us in 2004. Watch out because ETI has lots of plans to bring more training to you in 2005. Thanks also to the following chapters who were gracious enough to put this training on for both their members and other ASC members in the surrounding regions who were able to attend – Chapter 24 – San Diego, Chapter 48 – North Orange County, Chapter 1940 – South Bay, Chapter 11 – San Fernando Valley, Chapter 26 – Tulare/Visalia, Chapter 42 – San Jose, Chapter 23 – Peninsula, Chapter 20 – Mt. Diablo and Chapter 16 – East Bay.

## ASC Educational Foundation Scholarship Deadline Approaching!

November 30, 2004 is the deadline for students to apply for the 2005 Educational Foundation Scholarship Awards! If you know of a high school senior who is planning to enroll in, or a student who is already in a post high school vocational/technical school or college and studying automotive repair technology, please encourage them to apply! Nothing ventured, nothing gained and our scholarship fund is dedicated to helping the automotive repair technician of tomorrow!

Call ASC at (800) 810-4272 or download the application on our website at [www.ascca.com](http://www.ascca.com) in the education section!



## Remembering Jo Sedig

Nearly a lifetime San Pedro, Ca resident, Josephine Sedig passed into eternal life on August 18, 2004 at Loma Linda Hospital near her home for the past eight years at Sun Lakes in Banning, CA. Jo was married to Vern Sedig for 44 years. She balanced the accounts for his Service Station business and later his auto repair shop, Vern's Tune-up and Brake, in San Pedro for over thirty years. Vern served as an ASC state director and Jo became very active in the ASCettes, serving as 3rd Vice President in 1985-86; President in 1987-88; 2nd VP in 1990; and received a very deserved award as "Woman of the Year" in 1989. Vern and Jo were both very active in the LAX So Bay Chapter too. Jo also volunteered many hours to the Holy Trinity School's Mothers Club, in the kitchen and with crafts for their boutiques. Jo is survived by husband, Vern; son, Mark and wife Rebecca, two granddaughters, Erin and Kaylee, two brothers and four sisters. She was very dedicated to her entire family, especially the granddaughters! Her son, Mark, remembers Jo as "a very loving, caring, generous and clever Mom", and loved her very much.

Jo loved everyone and will be missed by ALL!

— Jessie Mooney

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# Learning From Losses

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## Mechanic Pinned By Truck

### INCIDENT DESCRIPTION

A 45 year-old mechanic sustained a broken fibula and severe damage to the calf muscle and nerves when a late model truck positioned on a wheel engaging lift moved forward, pinning his left leg between the bumper and shop equipment.

The mechanic had approximately 20 years experience performing automobile maintenance and repairs. On the day of the incident the mechanic was to do a front-end alignment on the vehicle. He drove the truck onto the lift, took the automatic transmission out of drive, and exited the vehicle with the engine running. Before beginning the alignment he checked engine fluid levels, then shut the hood. The moment he closed the hood the vehicle began rolling forward. The truck's momentum could not be stopped and it rolled forward, crushing the mechanic's leg between the truck bumper and a piece of shop equipment.

A witness to the incident saw the truck rolling forward and realized the mechanic was in danger. He ran to the truck, climbed into the driver's seat and backed it away allowing other shop employees to come to the mechanic's aid.

### RECOMMENDATIONS/DISCUSSION

The accident investigation is inconclusive. The direct causes of this incident have not been identified, however there are lessons to be learned from this event.

#### **1. When exiting a vehicle place the automatic transmission in park, or a manual transmission into gear, AND set the emergency brake.**

Whether the engine is running or not when exiting the vehicle, set the emergency brake. This seems to be common sense, but common sense isn't so common. Placing the shift lever into park or gear when exiting a vehicle is an action mechanics have performed unconsciously hundreds, if not thousands of times. However, older vehicles can have worn shifter and transmission parts that may cause the transmission to "slip" into drive or neutral, permitting the vehicle to move. Setting the emergency brake is a good safety habit to practice.

#### **2. If it's necessary to have the engine running after exiting the vehicle, use wheel chocks to prevent unexpected movement.**

Using wheel chocks isn't a common practice in most repair shops, but the safety it provides is valuable when compared to the cost of injury and vehicle damage. Setting wheel chocks, in addition to using the emergency brake, can prevent cars from moving whether on a lift or not. Although most wheel engaging lifts have wheel stops engineered into the design, the vehicle can still move back and forth some distance before these are effective.

#### **3. General Safety Rule: Don't leave the engine running in an unattended vehicle.**

This should be a strictly enforced general safety rule in every automotive service shop. If repairs require the engine to be running, then follow the above two recommendations to prevent the vehicle from unattended movement. Otherwise there is no reason to leave an engine running in an unattended vehicle. Bottom line, it's a **bad work habit** that can contribute to injury or property damage.

LFL 1008

## Legal Forum

### Ask Katie & Dave

# New Federal Overtime Laws Do Not Apply to You

There was a lot of publicity about new overtime laws this summer. Unfortunately they were new federal overtime laws and do not affect those in the auto repair business in California. That being said, this might be a good time to review overtime laws as it applies to your business.

Anytime an employee works in excess of eight hours in one day or forty hours in one week, that employee is due one and one-half times their regular pay for each overtime hour worked. This applies to everyone unless they fit in an exempt category. While there is an exemption for commissioned salespeople, there is NO exemption for commissioned technicians. Therefore if your technician is paid flat rate and if the technician works more than eight hours a day or forty hours a week that technician is due overtime premium pay. (Keep reading and there will be an example of how to pay the technician.)

Even though there is an exemption for management employees, very few independent auto repair dealers have employees who qualify as management employees. In order to qualify as a manager, the employee must spend more than fifty percent of his/her time doing management work. Service writing is not considered to be management work. Management work includes hiring, firing, employee evaluation, business planning and tasks of that nature.

Although there are provisions in the law for salaried employees, these apply primarily to licensed professionals, such as doctors, lawyers and accountants. If you pay your employees on a weekly or biweekly basis, you can pay them a set amount each time, but if they regularly work overtime the paycheck will need to reflect an hourly rate that would recognize their overtime pay. For example if your employee works five-nine hour days (45 hours per week) and is paid \$475 each week, the paycheck should reflect that employee is paid \$10 per hour. (40

regular hours x \$10 an hour, 5 overtime hours x \$15 for a total of \$475).

Now for the flat rate technicians. You need to look at what they are being paid for the week. Again let us assume the technician worked 45 hours. According to your calculations, the technician should be paid \$1125 for the week. You need to divide the earnings by 45 (the number of hours that he worked, not the number of hours that he flagged). In our example, the technician's hourly rate is \$25. But this technician actually worked 45 hours, so he needs to be paid a "premium" — the extra "half" from time and one-half for those five hours. You divide the hourly rate \$25 by two and get the premium pay — \$12.50 — multiply that by the five hours of overtime for a total premium of \$62.50. The technicians pay for the week is \$1187.50. Please keep in mind this means actual hours worked, not hours flagged. The calculations for overtime can be tricky sometimes. If you have any questions about how to calculate pay or any other legal matter, please call Katie or Dave at (951) 781-9091.

## Congratulations and Welcome to New Members

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Adam's Auto Service LLC .....	14
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Ray's Auto Care .....	48
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Wood's Automotive .....	24

## Chapter 99 Members Meet with Assembly Member La Malfa



*Chapter 99 Members Meeting with Assembly Member LaMalfa.*

ASC members in Chapter 99 met with Assembly Member Doug LaMalfa (R-02) on September 15, 2004 in Redding, California. We appreciated Assembly Member La Malfa's time so that we could both introduce ourselves and also to talk about issues that concern the automotive repair industry in his district. We continue to schedule meetings with local Assembly Members and Senators throughout the year. If your chapter would like to host one, please let us know.



# AALC Legislative Day 2005

Mark your calendars now for the annual AALC Legislative Day being held on **Monday, March 21, 2005** in Sacramento, California.



This event is being held in conjunction with our first quarter Team Weekend on March 19 and 20, 2005. Come to Team Weekend and plan to stay over on Monday so you can learn about legislative issues likely to affect our industry in the coming year and get the chance to meet your local legislators face to face.

Please keep your eyes open for event details and information on how to register coming soon in the Independent and also on our website at [www.ascca.com](http://www.ascca.com)!

## New Endorsed Programs

There are two new programs that ASC members now have access to!

ASC, in cooperation with Auto-CA, is now offering "The California Independent Automotive Service Facility Legal Advisor Manual" to ASC members at the **discounted price of \$159 until December 31, 2004**. The normal price for ASC members will rise to \$199 after the first of the year so don't wait! (Non-members pay \$359 for the manual). This valuable tool is a must have for every shop owner and includes information on everything you need to know to run a repair shop in California from BAR Registration and Enforcement Procedures to how to handle small claims court.

Also, ASC members are now entitled to a 15% - 20% discount on all materials offered by Thomson Delmar Publishing including ASE study guides, Chilton Repair Manuals and more. Give us a call today and we'll get you the information to get you up and running with these terrific books at low ASC member prices.

**CALL ASC TODAY AT (800) 810-4272** for more information on how to order the legal manual and also how to get your Chilton manuals and ASE Test Prep manuals at our members only prices!

## Congratulations to 2005 AAM Graduates!

We would like to say congratulations to all the ASC members who received their AAM accreditation at CARS. This was the largest graduation class they have had with 205 ASA members from all over the United States and Canada.

Gary and Sharon Anderberg  
Z-Whizz Complete Auto Repair  
San Diego

Robert Ayers  
Ayers Automotive Repair  
Santa Barbara

Kristine Cesena  
Honda Hospital Inc  
San Mateo

Tom Dere  
Tom's Master Mechanics  
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Don Guy  
Yorba Linda Auto Service  
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Sheri Kelly  
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Don and Wendy Weber  
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# Legislative Update

The November 2 election proved victorious for several ballot propositions of interest and concern to ASC and its members. Of the 16 propositions that appeared on the ballot, ASC's leadership took positions on two crucial measures—Yes on 64 and No on 72. Both wins are a direct result of ASC's grassroots efforts to get out the vote and our monetary support of the campaigns.

## YES on Proposition 64

This measure of critical interest to every small business owner in the state, particularly those in the independent automotive parts and service industries, passed handily with nearly 59% percent of the vote. It is an overwhelming victory that would not have been possible without the strong support of organizations such as the California Chamber of Commerce, ASC and other organizations. Proposition 64 will stop the legal practice of shakedown lawsuits, in which private lawyers file suits without any client or any evidence of harm. This turns lawyers into bounty hunters, stalking innocent small businesses that create jobs and opportunity in California.

## NO on Proposition 72

By casting a no vote on Proposition 72, California's voters rejected legislation (SB 2) authored by Senator John Burton and signed into law by Governor Gray Davis by a close margin of 50.9% to 49.1%. Prop 72 would have required employers with 20 or more employees to provide health insurance for their employees or pay a huge tax to fund a massive state bureaucracy that would provide the coverage. Employers with 200 or more employees would have to provide coverage for their employees' dependents as well. By casting a no vote on No vote on Prop 72, voters rejected a \$5.3 billion tax on employers and a \$1.7 billion tax on employees, who would be forced to pay their share of healthcare costs even if they can't afford it.

Another significant proposition to small businesses across the state was Proposition 67. Called the phone tax initiative, Proposition 67 was voted down by a staggering 72%. Voters rejected this initiative that would have placed a 400% tax increase on cellular, home and business phone usage, which was unrelated to phone system infrastructure. This initiative would have cost consumers \$540

million per year in new taxes, an amount that would likely increase in the future. ASC did not play a formal role in this campaign but it is worthy of note in any case. ASC is extremely pleased with the outcomes of these ballot propositions and commend Governor Schwarzenegger for stepping up to the plate and getting involved to stop some measures that would have had crippling effects on ASC members and other small businesses in our state. Congratulations to all ASC members who got involved in the campaigns for Props 64 and 72—your hard work has certainly paid off.

## Change of Address Notification

If you have moved or your address label is incorrect, please correct on this form. From time to time, we receive requests from people to remove their name from our mailing list. Sometimes members move from a location, and the new shop owner does not wish to continue receiving the *Independent*. Other people, for one reason or another, are receiving duplicate copies.

If you have a correction or you wish to stop receiving the *Independent*, please clip out this section (along with your mailing label on the back page) and mail it to:

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**Sacramento, CA 95825**

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- CAL-OSHA Injury Prevention Plans (SB 198)

# ASC Insurance Services Update

Recently ASC and ASC Insurance Services have received questions and concerns from members inquiring about what actions we have taken to influence the reforms being implemented in Workers Compensation. In addition, many members have been penalized by having been insured with one of the 18 insurance carriers that have filed for bankruptcy in the last 36 months by having their Experience Modifications taken away from them. We have gotten requests to direct the WCIRB to issue Experience Modifications for them, or to get the carriers to give credits equal to the missing claims information or in some other way correct the inequities.

We want to make you aware of efforts we have taken as an Association, your insurance agency and with other automotive aftermarket groups to address these issues and inequities. We have undertaken a campaign of individual meetings with legislators and others influential in the governmental arena who might be able to solve some of these issues. In addition, we have directly petitioned the Governor, the State Senate and Assembly as well as the WCIRB and the Department of Insurance. Enclosed is a copy of a letter sent to these various government leaders dealing with the issues in detail and asking for specific actions to correct the problems. To date we have received a single phone call from a low level manager at the Department of Insurance acknowledging the letter and saying that the issues were being worked on and that legislation pending would solve the problems. As shop owners you know that this was a hollow promise.

We will continue to work on your behalf to see that these issues are addressed and just as importantly we will continue to push the power brokers in Sacramento to make meaningful and cost effective changes that will decrease Workers Compensation cost and increase competition in the industry.

Many of the issues dealing with experience modifications are regulatory in nature and can be solved with a willingness to understand the process and the issuance of new rules not new laws.

If you know your local legislators please feel free to use this letter as a discussion starter. If you can arrange meetings with legislators we have people who can help explain the issues. If you need an electronic copy of the letter, please contact the ASC Staff at (800) 810-4272 and they can email you one.

## ASC Letter to Insurance Commissioner Garamendi

February 10, 2004

The Honorable John Garamendi  
Insurance Commissioner, State of California  
California Department of Insurance  
300 Capitol Mall  
Sacramento, CA 95814

**Re: Unfair Business Practices  
Adminstrating California Workers' Compensation**

Dear Commissioner Garamendi:

On behalf of the memberships of the Automotive Service Councils of California, the California Automotive Wholesalers Association, the State of California Auto Dismantlers Association and the Automotive Trade Organizations of California, we are writing to request that you take immediate steps to correct unjust actions that have been taken by your

department that have adversely affected the profitability of the business community in California. While we all are involved in constructive dialogue attempting to reform and restructure the California workers compensation laws and system, there are actions being taken on the administrative and departmental level that immediate corrective action.

As you are aware, over the course of the last several years there have been several major bankruptcies in the workers compensation Insurance company community. This situation has led to several problems in getting information necessary for business owners to maintain their experience modification factors and to secure loss information that enables them to shop for insurance. This inability to secure necessary information to control the placement of coverage leads to increased prices and unwillingness on insurance carriers part to compete for business.

We would like to point out a few of the problems that our members and clients are encountering and provide some suggested solutions for improvement. It is our belief that the issues raised in this letter are separate from basic reform of the system and should be accomplished by directives and changes in procedure within your organization or by organizations over which you have oversight.

### EXPERIENCE MODIFICATIONS FACTORS

The very basis of the experience rating system in California is the reporting of coverage, claims and payroll data to the Workers Compensation Insurance Rating Bureau of California (WCIRB) by the Insurance Carriers issuing policies in California. This reporting is generally accomplished by following



rules and procedures found in the Unit Statistical Manual published and updated each year by the WCIRB.

Once the payroll, coverage and claims data is reported in the Unit Statistical report it is used by the WCIRB to determine rates and formulas to publish an Experience Modification factor for each eligible risk. This Experience Modification Factor is either a credit or debit and is designed to punish or reward the management of a business for their efforts in preventing employee injuries.

Over the last three years, as Workers Compensation carriers in California have gone bankrupt the reporting of data has been questioned concerning the quality and accuracy of the data. In several cases bankrupt companies have ceased reporting data altogether. This has led to the delay in publishing or in many cases the deleting of these Experience Modifications for many California businesses. Directly, this costs many employers tens of thousands of dollars of increased premiums, in the case of those employers who have quality safety programs in place. In addition, it allows employers who pay no attention to safety in the workplace to avoid the penalty of increased premiums when the proper Experience Modification isn't published. Indirectly, this leads to more injuries in these businesses as safety programs are downsized or eliminated.

In many cases the loss of an Experience Modification coupled with the increase in rates can lead to businesses laying off employees or moving or closing their businesses in California, leading to decreased tax revenue at a time when the California Economy needs every dollar to pay for services and programs. In addition, this leads to direct cost increases for many municipal and governmental entities who are struggling to survive on decreased funding from state and local sources.

We are being made aware of situations whereby our clients and members have

had an Experience Modification eliminated from their renewal policies due to lack of data, even when the prior years reports and Experience Modification was based on no losses or all closed losses and thus should not need new data. We have even been told that in some cases, the WCIRB is just too busy with current 2004 issues to go back and rectify prior years suspended or non promulgated Experience Modifications.

### INDIVIDUAL BUSINESS LOSS DATA OR LOSS RUNS

There are regulations in place dealing with the required reporting of individual data on losses by year for each client in this state. Time frames have been established whereby each carrier and Broker or Agent must supply this data to

business owners upon request. This allows each business owner to shop their account to various Insurance Carriers and find the best combination of price and coverage. This also allows Insurance Carriers to review past loss data and charge a price based on past efforts to control losses by each business.

Just as is the case with experience modifications discussed earlier, the bankruptcy of several carriers has now made it impossible for individual business owners to secure valid prior years loss experience. Without the individual data from Insurance Carriers many business owners are finding it impossible to find carriers willing to quote their accounts and are thus at the mercy and ethical behavior of the of their current carriers to price their

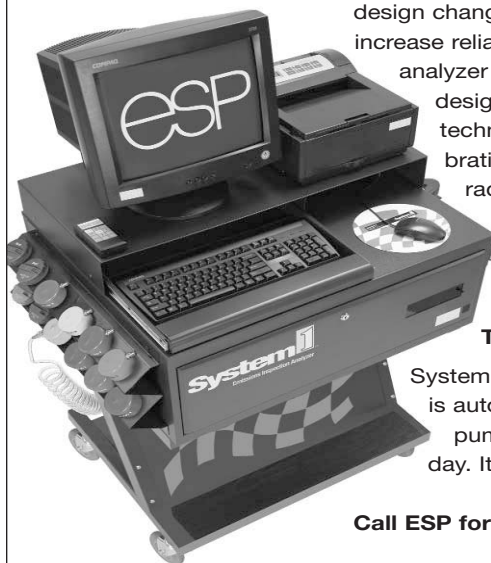


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insurance in a fair manner. We are hearing of cases where increases are much larger than dictated by increases in pure premiums and make many of us think that premium gouging is being attempted to make up for past mistakes in pricing by the various Insurance carriers. This will also in a great many instances prevent new carriers from entering the marketplace, as they have no valid data to use to predict losses and thus to put into place pricing plans that are fair and equitable.

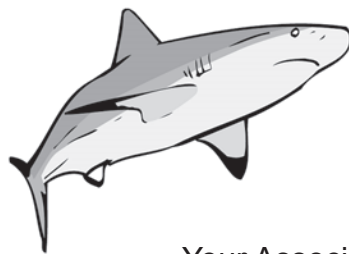
One of the most frustrating aspects of this situation is that in a great many cases the individual claims experience that is needed to put together the loss data for a client is currently in the hands of Third Party Administrators (TPA) or contract claims adjusting companies. In the case of Legion Insurance Company for instance, claims had always been adjusted by a TPA. When the company was ordered into conservatorship by the Pennsylvania Department of Insurance, the claims handling responsibility was taken over by the California Insurance Guarantee Association (CIGA). The handling of open case files was transferred to another network of TPAs. In many cases, this resulted in closed claim data and information being maintained by one TPA and the open case claim data being handled by another TPA. This practice by CIGA also resulted in double payment for the handling of claims, as many of the TPAs originally contracted by the Insurance Carriers had been paid in full for the handling of all claims. Finally, this makes it almost impossible for the individual business owner to get complete loss runs or information needed to have their insurance program quoted by an interested Insurance Carrier who demands current prior years loss results.

CIGA has consistently told California Employers that their only mandate under their charter is to make payments to injured workers. This leaves the individual business owner in California with no way to get individual loss information on any prior years

experience, status reports on individual claims to try to control the cost of claims, and leaves the agents and brokers without a method to help their clients with their insurance programs. Additionally, this is at the heart of the problems with unit statistical filings. As the bankrupt carriers lay off staff and no longer have the physical means to do unit statistical filings to the WCIRB, and CIGA has been unwilling to provide this information, the Experience Rating system has ceased to function effectively. For any business owner who bought insurance coverage, in good faith, from one of the bankrupt carriers the CIGA system has failed their needs.

#### SERIOUS ISSUES FOR CONSIDERATION AND RESOLUTION

1. The WCIRB is no longer able to provide accurate Experience Modifications due to lack of CLAIMS and payroll data being submitted by bankrupt insurance carriers and CIGA.
2. Some businesses will pay higher than necessary premiums as they will lose premium credits due to the loss of credit experience modifications.
3. Some businesses will pay less than necessary premiums, as they will not pay premium increases due to the loss of debit experience modifications.
4. Safety efforts on the part of some business owners will decrease as no reward or punishment for lack of effort will be apparent.
5. Individual loss experience by year or loss runs are not available.
6. Competition for accounts among Insurance Carriers will decrease due to lack of prior years loss data.
7. New Carriers will be reluctant to enter the California marketplace due to inability to predict future losses without accurate prior years loss data.
8. The State Compensation Insurance Fund will be unable to depopulate and encourage policy holders to leave due to



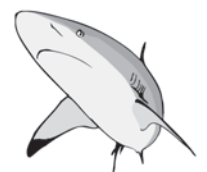
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policyholder's inability to shop for quotes.

9. As business owners, for any reason, see their current coverage cancelled, non-renewed or otherwise not available, the State Compensation Insurance Fund will actually grow as they will be the only market available.
10. Insurance carriers will compete in some instances for accounts where a historical credit Experience Modification history can be documented, but has been eliminated, therefore higher than justified premiums can be collected.
11. Insurance Carriers will not be willing to compete on accounts with an historical debit Experience Modification history due to inability to collect adequate premiums and the thus the State Compensation Insurance Fund will be the only carrier available for many of these accounts. This can result in the California State Fund under pricing their book of business.
12. The financial condition of the State Compensation Insurance Fund could well continue to decline and cause the State of California to intervene to maintain their solvency.
13. The foundation of the Workers Compensation system and its pricing stability is based on accurate reporting of prior years' payrolls and losses used to publish pure premiums used by carriers to file rates.
14. Pure premiums in California may not be accurate as the underlying data in the form of unit statistical reporting is unreliable or non-existent and thus not included.

### SOLUTIONS FOR CONSIDERATION

1. WCIRB must be directed to use data from policyholders, TPAs, Fee Audit Companies and other sources when it can be certified correct, in order to promulgate Experience Modifications.
2. Prior years' data for bankrupt carriers must be used when applicable to publish experience modifications when no claims or only closed claims have been reported in prior years.
3. WCIRB must be directed to review all suspended experience modifications and promulgate those that they can, using existing data as well as correspond with business owners as to missing or outdated data.
4. CIGA must be directed to provide Unit Statistical Filings for all companies and businesses for which they are handling claims under contract.
5. CIGA must be directed to issue loss runs to individual business owners, even if they have to issue two loss runs for the same year. (The loss run with closed claim information and the one with open claim information — for the same year.)
6. CIGA must be directed to work with business owners and Agents/Brokers to get current status reports on open claims to allow for proper management of claims cost, such as using modified duty and early return to work procedures.
7. WCIRB must be directed to undertake an immediate review of pure premium payroll and loss data to determine if all

required data is present from all years.

8. Department of Insurance has to implement procedures and monitoring systems to be sure that Insurance Carriers do not take advantage of this situation by over charging.

Thank you in advance Mr. Commissioner for consideration of these very important issues.

On behalf of the organizations listed below, we respectfully request a face-to-face meeting with you or one of your deputies to discuss this matter in more detail. Please contact Jennifer Zins, Executive Director, Automotive Service Councils of California at (916) 924-9054 to arrange a meeting.

Sincerely,

JENNIFER ZINS, Executive Director  
Automotive Service Councils of  
California (ASC-CA)

CHUCK COPPAGE, Manager  
ASC Insurance Services

RODNEY K. PIERINI, President &  
CEO  
California/Nevada Automotive  
Wholesalers Association (CAWA)

MARTHA BUCKNELL, Executive  
Director  
State of California Auto Dismantlers  
Association (SCADA)

WILL WOODS, Executive Director  
Automotive Trade Organizations of  
California (AuTO-CA)

Cc: Governor Arnold  
Schwarzenegger  
Workers Compensation  
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#### ASC-CA CODE OF ETHICS

1. To promote good will between the motorist and the industry.
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3. To perform high quality repair service at a fair and just price.
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8. To uphold the high standards of our profession and always seek to correct any and all abuses within the automotive industry.
9. To uphold the integrity of all members.
10. To refrain from advertisement which is false or misleading or likely to confuse or deceive the customer.

## Chapter Meetings & Contacts

- Bakersfield** (58) — Meetings: 4th Wed. 7:30 pm, place varies. Mbr Info: Michael Elliot at (661) 845-2274.
- Central Coast** (52) — Meetings: 3rd Weds. 7:00 pm, place varies. Mbr Info: Pat McDonald at (831) 899-2425.
- Central Valley** (27) — Meetings: 2nd Tues., 6:30 pm, Early Dawn Cattle Co, Modesto. Mbr Info: Robert Raduechel at (209) 575-6326.
- Coachella Valley** (30) — Meetings: 2nd Tues. 6:30 pm, Augua Caliente, Rancho Mirage. Mbr Info: Fred Divine at (760) 343-1226.
- East Bay** (16) — Meetings: 2nd Tues., 7:00 pm, The Englander Restaurant, San Leandro. Mbr Info: Ron Bessette at (510) 774-3394.
- Foothill** (5) — Meetings: 1st Tues. 6:30 pm, Brookside Country Club, Pasadena. Mbr Info: Chuck Chatham. (562) 928-1725.
- Fresno** (25) — Meetings: 2nd Thurs., 7:00 pm, Ramada Inn, Fresno. Mbr Info: Ray Rasmussen at (559) 855-2398.
- Gold Country** (36) — Meetings: 2nd Tues., 6:30 pm, place varies. Mbr Info: Robert Brocke at (530) 477-5712.
- Hemet** (32) — Meetings: 2nd Tues., 6:30 pm, Sizzler, Hemet. Mbr Info: Phil Fournier at (909) 927-2102.
- High Desert** (31) — Meetings: last Tues. 6:30 pm, Location varies. Mbr Info: Walt Carnwright at (760) 245-5777.
- Inland Empire** (14) — Meetings: 3rd Tues., 7:00 pm, Royal Cut Restaurant, Ontario. Mbr Info: Glenn Davis at (909) 946-2282.
- Long Beach** (18) — Meetings: 3rd Tues. (no mtg July & Aug), 7:00 pm, Colonial Cafe, Long Beach. Mbr Info: Sam Baayoun at (562) 433-5523.
- Merced** (33) — Meetings: 3rd Tues. 6:45 pm, Eagle's Nest Restaurant. Mbr Info: Rick Schroeder at (209) 722-3856.
- Mid Cities** (1) — Meetings: Varies, call for info. Mbr Info: Russ Okimoto at (562) 926-7317.
- Mt. Diablo** (20) — Meetings: 3rd Thurs. 7:00 pm, place varies. Mbr Info: Barbara Livingstone at (925) 837-1000.
- Napa/Solano Counties** (9) — Meetings: 2nd Tues. 7:00 pm, Rockville Inn, Fairfield. Mbr Info: Tracy Renceat (707) 642-1900.
- North Orange County** (48) — Meetings: 3rd Weds., Embassy Suites, Brea. Mbr Info: Jo Ann Fischer at (714) 773-0949.
- Orange Coast** (50) — Meetings: 2nd Thurs. 7:00 pm, Irvine Marriott, Irvine. Mbr Info: Rita Thomas at (949) 855-0590.
- Orange County** (49) — Meetings: 3rd Thurs. 7:00 pm, Sterling Suites Hotel, Anaheim. Mbr Info: Ken Hamilton at (714) 535-4100.
- Peninsula** (23) — Meetings: Last Tues. 7:00 pm, place varies. Mbr Info: Vallerie Williamson at (408) 264-9495.
- Redding** (99) — Meetings: 3rd Thurs. 7:00 pm, place varies. Mbr Info: Tim Morlock at (530) 244-4423.
- Sacramento** (34) — Meetings: 4th Tues. 7:00 pm, Frasinetti's Winery. Mbr Info: Carol Bartels at (916) 332-1883.
- San Diego** (24) — Meetings: 3rd Tues., 7:30 pm, Handerly Hotel, San Diego. Mbr Info: Stuart Terry at (619) 287-9626.
- San Fernando Valley** (11) — Meetings: 3rd Tues. 6:30 pm, Odyssey Restaurant, Granada Hills. Mbr Info: Marilyn Schanley. at (818) 768-3656.
- San Francisco** (21) — Meetings: last Weds. 6:30 pm, Delaney St. Restaurant. Mbr Info: Paul Grech at (415) 474-7323.
- San Joaquin Valley** (6) — Meetings: 2nd Thurs. 6:30 pm, place varies. Mbr Info: Andy Pollino at (209) 472-9866.
- San Jose** (42) — Meetings: 2nd Weds. 7:00 pm, Lou's Village, San Jose. Mbr Info: Valerie Williamson at (408) 264-9495.
- San Luis Obispo** (17) — Meetings: 3rd Weds., 7:00 pm, place varies. Mbr Info: Smitty Price at (805) 546-9892.
- Santa Barbara** (8) — Meetings: 3rd Wed. 7:00 pm, place varies. Mbr Info: Rachel Barajas. at (805) 682-9441.
- Santa Clarita** (3) — Meetings: Varies, call for info. Mbr Info: Kevin Browning. at (661) 251-6736.
- Santa Cruz** (15) — Meetings: 3rd Tuesday. 7:00 pm, Hindquarter, Santa Cruz. Contact: Nate Smith at (831) 476-1332.
- Santa Rosa** (28) — Meetings: 3rd Tues. 7:00 pm, Sam's For Play, Santa Rosa. Mbr Info: Barbara Baker at (707) 546-4280.
- South Bay** (1940) — Meetings: 3rd Thurs. 7:00 pm, place varies. Mbr Info: Peter Alper at (310) 328-1981.
- South Los Angeles** (10) — Meetings: 4th Thurs., 7:00 pm, Margarita Joens Restaurant, Los Angeles. Mbr Info: Les Morris at (323) 778-1014.
- Tulare-Visalia** (26) — Meetings: 4th Thurs., 7:00 pm, place varies. Mbr Info: Jaimie Hammond at (559) 688-4713.
- Ventura County** (2) — Meetings: 2nd Tues. 6:30 pm, place varies. Mbr Info: Kathy Riggs at (805) 983-8100.
- West Los Angeles** (12) — Meetings: Varies, call for info. Mbr Info: Dee Cherko at (310) 837-0446.

## Automotive Service Councils of California

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### MEETING/EVENTS SCHEDULE

#### 2005

Jan. 29-30	ASC Board of Directors Orientation/ LRSP Visioning Workshop Embassy Suites ..... Sacramento, CA
March 1-2	2005 Aftermarket Legislative Summit ..... Washington, DC
March 19-20	ASC 1st Quarter Board of Directors Meeting Team Weekend ..... Sacramento, CA
March 21	AALC Legislative Day ..... Sacramento, CA
June 13-17	ASC 2nd Quarter Committee Meetings ..... Conference Call
June 25	ASC 2nd Quarter Board/Chapter Reps Meetings ..... Location TBA
Sept. 29-Oct. 2	ASC 2005 65th Annual Meeting & Elections 3rd Quarter Board of Directors/Committee Meetings Chapter Representatives Committee Meeting ..... Monterey, CA

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