

1 AN ACT relating to property and casualty insurance and declaring an emergency.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF SUBTITLE 20 OF KRS CHAPTER 304
4 IS CREATED TO READ AS FOLLOWS:

5 (1) As used in this section:

6 (a) "Insured" means a person that is entitled, or may be entitled, to receive
7 first-party benefits or payments under an insurance policy;

8 (b) "Person" includes:

9 1. A natural person;

10 2. Any type or form of corporation, company, partnership,
11 proprietorship, association, or other legal entity; and

12 3. A government, governmental subdivision or agency, or other body
13 politic; and

14 (c) "Rights or benefits under the policy" includes the insured's right to receive
15 any and all post-loss benefits or payments available or payable under the
16 policy, including but not limited to claim payments.

17 (2) An insured under a property, casualty, or property and casualty insurance policy
18 shall not, either prior to or after a claimed or covered loss, assign or otherwise
19 transfer, in whole or in part, to any other person the insured's:

20 (a) Duties under the policy; or

21 (b) Rights or benefits under the policy.

22 (3) Any contract entered in violation of this section shall be void and unenforceable.

23 (4) Nothing in this section shall be construed to prohibit an insured from:

24 (a) Directing the payment of benefits under KRS 304.39-241; or

25 (b) Authorizing or directing payment to, or paying, a person for services,
26 materials, or any other thing which may be, or is, covered under an
27 insurance policy.

1 ➔Section 2. KRS 304.20-060 is amended to read as follows:

2 (1) As used in this section:[,]

3 (a) "Advanced driver assistance system" means any motor vehicle electronic
4 safety system that is designed to support the driver and motor vehicle in a
5 manner intended to:

6 1. Increase motor vehicle safety; and

7 2. Reduce losses associated with motor vehicle crashes;

8 (b) "Motor vehicle glass" means the following on any motor vehicle:

9 1. The glass and non-glass parts used in the windshield, doors, or
10 windows; and

11 2. The glass, plastic, or other material used in the lights required by KRS
12 Chapter 189;

13 (c) "Motor vehicle glass repair shop" means any person, including the person's
14 employees and agents, that for consideration engages in the repair or
15 replacement of damaged motor vehicle glass;

16 (d) "Person" includes:

17 1. A natural person;

18 2. Any type or form of corporation, company, partnership,
19 proprietorship, association, or other legal entity; and

20 3. A government, governmental subdivision or agency, or other body
21 politic; and

22 (e) "Repair or replacement of damaged motor vehicle glass" includes:

23 1. Inspecting, repairing, restoring, or replacing damaged motor vehicle
24 glass; and

25 2. Calibrating or recalibrating an advanced driver assistance system
26 when incident to a repair or replacement of damaged motor vehicle
27 glass~~["Safety equipment" shall mean only the glass used in the~~

1 windshield, doors, and windows, and the glass, plastic, or other material
 2 used in the lights required by KRS Chapter 189 on any automobile].

3 (2) Any motor vehicle~~[automobile]~~ insurance policy that provides comprehensive
 4 coverage or other than collision coverage, whether designated as such~~[,]~~ or
 5 included within a broader coverage, shall provide complete coverage for repair or
 6 replacement of damaged motor vehicle glass~~[safety equipment,]~~ without regard to
 7 any deductible or minimum amount.

8 (3) (a) An insured that makes a first-party claim for a repair or replacement of
 9 damaged motor vehicle glass under a motor vehicle insurance policy shall
 10 not be required to use a particular motor vehicle glass repair shop to receive
 11 claim payments or other benefits under the policy~~[This section shall apply to~~
 12 ~~all policies issued after January 1, 1979].~~

13 (b) This subsection shall not be construed to:

14 1. Prohibit an insurer, insurance agent, insurance adjuster, or any
 15 person acting on behalf of an insurer, insurance agent, or insurance
 16 adjuster from providing an explanation to an insured of the coverage
 17 available, and any applicable liability limit, under any insurance
 18 policy;

19 2. Prohibit an insurer from maintaining a network of motor vehicle glass
 20 repair shops; or

21 3. Create a private right of action.

22 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO
 23 READ AS FOLLOWS:

24 (1) As used in this section:

25 (a) The following have the same meaning as in Section 2 of this Act:

26 1. "Advanced driver assistance system";

27 2. "Motor vehicle glass";

- 1 3. "Motor vehicle glass repair shop";
2 4. "Person"; and
3 5. "Repair or replacement of damaged motor vehicle glass"; and
4 (b) "Insured" means a person that:
5 1. Has made a first-party claim for a repair or replacement of damaged
6 motor vehicle glass under a motor vehicle insurance policy; and
7 2. Is entitled to insurance benefits or payments as a result of the claim
8 referenced under subparagraph 1. of this paragraph.
9 (2) A motor vehicle glass repair shop, or any other person who is compensated for
10 the solicitation of insurance claims, shall not offer a rebate, gift, gift card, cash,
11 coupon, fee, prize, bonus, payment, incentive, inducement, or any other thing of
12 value to any insured, insurance producer as defined in KRS 304.9-020, or other
13 person in exchange for directing or making a claim under a motor vehicle
14 insurance policy for a repair or replacement of damaged motor vehicle glass.
15 (3) A motor vehicle glass repair shop shall not contract with a person for a repair or
16 replacement of damaged motor vehicle glass until:
17 (a) All of the following are satisfied:
18 1. The person has made a first-party claim for the repair or replacement
19 of damaged motor vehicle glass under a motor vehicle insurance
20 policy;
21 2. The motor vehicle glass repair shop has received a claim number for
22 the claim referenced under subparagraph 1. of this paragraph; and
23 3. The requirements of subsection (4) of this section are satisfied; or
24 (b) The person either:
25 1. States, in writing, that the person does not have first-party motor
26 vehicle insurance coverage for the repair or replacement of damaged
27 motor vehicle glass; or

1 2. Declines, in writing, to make a first-party claim for the repair or
2 replacement of damaged motor vehicle glass under a motor vehicle
3 insurance policy.

4 (4) Prior to contracting with an insured for a repair or replacement of damaged
5 motor vehicle glass, a motor vehicle glass repair shop shall provide the insured:

6 (a) A notice that states:

7 1. Whether the motor vehicle has an advanced driver assistance system;

8 2. If the motor vehicle has an advanced driver assistance system:

9 a. Whether the motor vehicle glass repair shop can calibrate or
10 recalibrate the advanced driver assistance system; and

11 b. Whether calibration or recalibration of the motor vehicle's
12 advanced driver assistance system is required to:

13 i. Make the advanced driver assistance system operable; and

14 ii. Ensure that the repair or replacement of damaged motor
15 vehicle glass is performed in a manner that meets or
16 exceeds the motor vehicle manufacturer's specifications;

17 and

18 3. If calibration or recalibration of the motor vehicle's advanced driver
19 assistance system is performed, that the motor vehicle glass repair
20 shop will inform the insured as to whether the calibration or
21 recalibration was successful; and

22 (b) An invoice, which shall, at a minimum, include:

23 1. An estimate of the fees and costs that are anticipated to be charged to
24 the insured by the motor vehicle glass shop for the repair or
25 replacement of damaged motor vehicle glass;

26 2. The shop's standard fees and costs for a repair or replacement of
27 damaged motor vehicle glass; and

1 3. Notice that the motor vehicle glass repair shop is prohibited under
2 subsection (5)(a) of this section from charging higher fees and costs to
3 an insured for a repair or replacement of damaged motor vehicle glass
4 than are reasonable and customarily charged in Kentucky.

5 (5) A motor vehicle glass repair shop:

6 (a) Shall not charge higher fees and costs to an insured for a repair or
7 replacement of damaged motor vehicle glass than are reasonable and
8 customarily charged in Kentucky;

9 (b) Upon completion of a repair or replacement of damaged motor vehicle
10 glass, shall provide an insured:

11 1. A receipt; and

12 2. For any calibration or recalibration of an advanced driver assistance
13 system, a notice that states whether the advanced driver assistance
14 system is in working order; and

15 (c) Shall not knowingly:

16 1. Submit false, misleading, or incomplete documentation or information
17 to an insured or an insured's insurer, including any agent of the
18 insured or insurer, for a repair or replacement of damaged motor
19 vehicle glass;

20 2. With respect to an insured's claim, or potential claim, for a repair or
21 replacement of damaged motor vehicle glass, do the following, which
22 results, or would result, in a higher insurance payment or a change of
23 insurance coverage status:

24 a. Indicate that work was performed in a geographical area that
25 was not the geographical area where the work occurred; or

26 b. Advise an insured to falsify the date of damage;

27 3. Falsely sign a work order or other insurance-related form relating to

1 an insured's claim, or potential claim, for a repair or replacement of
2 damaged motor vehicle glass;

3 4. Misrepresent to an insured or the insured's insurer, including any
4 agent of the insured or insurer, the price of a proposed repair or
5 replacement of damaged motor vehicle glass;

6 5. State that an insured's insurer has approved a repair or replacement
7 of damaged motor vehicle glass without:

8 a. Verifying coverage directly with, or obtaining approval directly
9 from, the insurer or the insurer's agent; and

10 b. Obtaining confirmation of the coverage or approval by facsimile,
11 email, or other written or recorded communication;

12 6. State that a repair or replacement of damaged motor vehicle glass will
13 be paid for entirely by an insurer and at no cost to the insured unless
14 the coverage has been verified by the insurer or the insurer's agent; or

15 7. With respect to an insured's claim, or potential claim, for a repair or
16 replacement of damaged motor vehicle glass:

17 a. Damage, or encourage an insured to damage, the motor vehicle
18 in order to increase the scope of the repair or replacement of
19 damaged motor vehicle glass;

20 b. Perform work that is clearly and substantially beyond the level of
21 work necessary to restore the motor vehicle to a safe pre-
22 damaged condition in accordance with accepted or approved
23 reasonable and customary techniques for the repair or
24 replacement of damaged motor vehicle glass; or

25 c. Misrepresent the motor vehicle glass repair shop's relationship
26 to an insurer or the insurer's agent.

27 (6) It may be presumed that a motor vehicle glass repair shop is acting knowingly in

1 violation of subsection (5)(c) of this section if the motor vehicle glass repair shop
2 engages in a regular and consistent pattern of the prohibited activity.

3 (7) Any notice or invoice required under this section shall be in at least twelve (12)
4 point font.

5 (8) (a) An insurer or insured may institute an action in any court of competent
6 jurisdiction against any motor vehicle glass repair shop or other person
7 alleged to have violated this section.

8 (b) In any action brought under this subsection, if the court finds that the
9 motor vehicle glass repair shop or other person has violated this section, the
10 plaintiff may:

11 1. Obtain an injunction to enjoin a continuance of any act in violation of
12 this section;

13 2. Recover damages at two (2) times the amount of any actual economic
14 damages sustained; and

15 3. Be awarded reasonable attorney's fees and costs.

16 (c) It shall not be necessary that actual damages be alleged or proved in order
17 to recover injunctive relief or attorney's fees and costs.

18 (9) All of the remedies, powers, and duties delegated to the Attorney General by KRS
19 367.110 to 367.300, and the penalties provided in KRS 367.990, pertaining to acts
20 and practices declared unlawful by KRS 367.170, shall apply with equal force
21 and effect to acts and practices declared unlawful in this section.

22 (10) (a) The remedies and penalties prescribed in this section shall be cumulative.

23 (b) Nothing in this section shall be construed to limit or restrict the powers,
24 duties, remedies, or penalties available to the Attorney General, the
25 Commonwealth, or any other person under any other statutory or common
26 law.

27 (11) The Attorney General may promulgate any administrative regulations necessary

1 to effectuate, or as an aid to the effectuation of, the proper enforcement of this
2 section.

3 ➔Section 4. KRS 304.14-250 is amended to read as follows:

4 Except as provided in KRS 304.17A-265 and Section 1 of this Act:

- 5 (1) A policy may be assignable or not assignable, as provided by its terms;
- 6 (2) Subject to its terms relating to assignability, a life or health insurance policy,
7 regardless of when it was issued, under the terms of which the beneficiary may be
8 changed upon the sole request of the insured or owner, may be assigned either by
9 pledge or transfer of title, by an assignment executed by the insured or owner alone
10 and delivered to the insurer, whether or not the pledgee or assignee is the insurer;
- 11 (3) Any assignment of a policy which is otherwise lawful and of which the insurer has
12 received notice shall entitle the insurer to deal with the assignee as the owner or
13 pledgee of the policy in accordance with the terms of the assignment, until the
14 insurer has received at its principal office written notice of the termination of the
15 assignment or pledge or written notice by or on behalf of some interest in the policy
16 in conflict with the assignment; and
- 17 (4) (a) Any individual insured under a group insurance policy or group annuity
18 contract shall have the right, unless expressly prohibited under the terms of
19 the policy or contract, to assign to any other person his rights and benefits
20 under the policy or contract, including but not limited to the right to designate
21 the beneficiary or beneficiaries and the rights as to conversion provided for in
22 KRS 304.16-180 to 304.16-200, inclusive.
- 23 (b) While the assignment is in effect, and regardless of when it was made, the
24 insurer shall be entitled to deal with the assignee as the owner of the rights
25 and benefits in accordance with the terms of the assignment and without
26 prejudice to the insurer on account of any lawful action taken or payment
27 made by the insurer prior to receipt by the insurer at its principal office of

1 written notice of the assignment or of the termination thereof.

2 (c) This subsection acknowledges, confirms, and codifies the existing right of
3 assignment of interests under group life insurance policies.

4 ➔Section 5. This Act applies to insurance policies issued or renewed on or after
5 the effective date of this Act.

6 ➔Section 6. Whereas there is a significant and legitimate need to eliminate trade
7 practices that result in unnecessary delays in payment to insureds and unreasonable
8 financial loss for both insureds and insurers, an emergency is declared to exist, and this
9 Act takes effect upon its passage and approval by the Governor or upon its otherwise
10 becoming a law.