



2009 SENATE BILL 118

March 17, 2009 - Introduced by Senators KREITLOW, ERPENBACH, WIRCH, HOLPERIN, LEHMAN and COWLES, cosponsored by Representatives SHILLING, SOLETSKI, HUBLER, VAN ROY, KERKMAN, HINTZ, BERCEAU, FIELDS, MURTHA, HILGENBERG, YOUNG, MURSAU, HUEBSCH, WOOD, A. WILLIAMS, ZEPNICK, SPANBAUER, SMITH, MILROY, GRIGSBY, BROOKS and LOTHIAN. Referred to Committee on Judiciary, Corrections, Insurance, Campaign Finance Reform, and Housing.

1 **AN ACT to renumber and amend 632.37; to amend 632.37 (title); and to create**
2 134.82, 632.37 (1) (title), 632.37 (1) (b), (c), (d), (e) and (f) and 632.37 (2) and (3)
3 of the statutes; **relating to:** prohibiting an insurer from requiring a certain
4 vendor for repairing a motor vehicle, requiring adjusters to inspect motor
5 vehicle damage, and insurance payments for motor vehicle repair costs.

Analysis by the Legislative Reference Bureau

Current law prohibits an insurer that issues a motor vehicle insurance policy that covers the repair or replacement of motor vehicle glass from conditioning the coverage on whether the insured or a third party making a claim under the policy obtains services or parts from a particular vendor specified by the insurer. This bill expands that prohibition. Under the bill, an insurer that issues a motor vehicle insurance policy that covers the repair of a motor vehicle may not condition that coverage on whether the insured or a third party making a claim under the policy obtains a damage repair estimate or services or parts from a particular garage, repair shop, or other vendor specified by the insurer. In addition, if an insured or third party makes a claim for the repair of a motor vehicle, the insurer must inform the insured or third party that they may select any garage, repair shop, or other vendor for a damage repair estimate or the repair and that the insurer will cover all reasonable and necessary costs of the repair regardless of which garage, repair shop, or other vendor they select. The insurer also must inquire whether the insured or third party has selected a garage, repair shop, or other vendor for a damage repair estimate or

SENATE BILL 118

the repair and may make a referral to a garage, repair shop, or other vendor if the insured or third party indicates that he or she has not selected a repair shop or requests a referral. The bill requires that every motor vehicle proof of insurance card issued after the effective date of the bill contain a notice that insurance companies are prohibited from requiring that repairs be made by a particular repair facility. Also under the bill, an auto body repair facility or automobile insurance claim facility must post in a conspicuous location a notice that insurance companies are prohibited from requiring that repairs be made by a particular repair facility. In addition, an auto body repair facility or an automobile insurance claim facility must include that same notice at the top of every motor vehicle repair estimate that it prepares.

The bill provides that an insurer that pays for the repair of a motor vehicle must pay for the repair at the same rate that the general public pays in that local market area, unless the insurer and repair facility have an agreement otherwise, and that the insurer may not limit or discount the amount paid on the basis that the repair would have cost less if it had been made at a repair facility specified by the insurer. The bill prohibits an insurance adjuster from preparing a vehicle damage estimate or from altering one prepared by another party without first physically inspecting the damage to the vehicle. The bill also prohibits an insurer or anyone acting on behalf of an insurer from unilaterally and arbitrarily disregarding a repair operation or cost identified under a damage repair estimate system.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 134.82 of the statutes is created to read:

2 **134.82 Notice of right to choose repairer.** (1) An auto body repair facility
3 or automobile insurance claim facility shall post in a conspicuous location a sign that
4 states, in boldface letters not less than 2 inches high: “Wisconsin law prohibits an
5 insurance company from requiring that motor vehicle repairs be made by a
6 particular repair facility; the consumer has the right to choose the repair facility.”

7 (2) Every motor vehicle damage repair estimate prepared by an auto body
8 repair facility or automobile insurance claim facility shall include at the top of the
9 estimate, printed in not less than 10-point boldface type, the following notice:
10 “Wisconsin law prohibits an insurance company from requiring that motor vehicle

SENATE BILL 118

1 repairs be made by a particular repair facility; the consumer has the right to choose
2 the repair facility.”

3 **SECTION 2.** 632.37 (title) of the statutes is amended to read:

4 **632.37** (title) **Motor vehicle glass repair practices; ~~restriction on~~**
5 **specifying vendor.**

6 **SECTION 3.** 632.37 of the statutes is renumbered 632.37 (1) and amended to
7 read:

8 632.37 (1) (a) An insurer that issues a motor vehicle insurance policy covering
9 the repair of a motor vehicle, including the repair or replacement of motor vehicle
10 glass or other parts, may not require, as a condition of that coverage, that an insured,
11 or a 3rd party, making a claim under the policy for the repair ~~or replacement of the~~
12 motor vehicle glass obtain a damage repair estimate or services or parts from a
13 particular garage, repair shop, or other vendor, or in a particular location, specified
14 by the insurer.

15 **SECTION 4.** 632.37 (1) (title) of the statutes is created to read:

16 632.37 (1) (title) RESTRICTIONS ON SPECIFYING REPAIR FACILITY.

17 **SECTION 5.** 632.37 (1) (b), (c), (d), (e) and (f) of the statutes are created to read:

18 632.37 (1) (b) If an insured or a 3rd party makes a claim specified in par. (a)
19 that is covered under a policy specified in par. (a), the insurer shall, at the time the
20 claim is submitted, do all of the following in the following order:

21 1. Orally inform the insured or 3rd party that he or she may select any garage,
22 repair shop, or other vendor to prepare a damage repair estimate or to repair the
23 motor vehicle.

SENATE BILL 118**SECTION 5**

1 2. Orally inform the insured or 3rd party that the insurer will pay all
2 reasonable and necessary costs of the repair regardless of which garage, repair shop,
3 or other vendor the insured or 3rd party selects to make the repair.

4 3. Orally inquire whether the insured or 3rd party has selected a garage, repair
5 shop, or other vendor to prepare a damage repair estimate or to repair the motor
6 vehicle.

7 (c) Except as provided in par. (d), if the insured or 3rd party indicates that he
8 or she has selected a garage, repair shop, or other vendor to prepare a damage repair
9 estimate or to repair the motor vehicle, the insurer may not attempt, or shall cease
10 attempts, to influence the insured's or 3rd party's choice of garage, repair shop, or
11 other vendor.

12 (d) An insurer may refer an insured or 3rd party making a claim under par. (a)
13 to a particular garage, repair shop, or other vendor, or to a particular location, if, after
14 the insurer satisfies the requirements under par. (b), any of the following occurs:

15 1. The insured or 3rd party indicates that he or she has not selected a garage,
16 repair shop, or other vendor for the estimate or the repair.

17 2. The insured or 3rd party requests a referral from the insurer.

18 (e) An insurer that makes a referral under par. (d) may not engage in any
19 actions intended to influence the insured's or 3rd party's decision, such as by
20 agreeing to reduce the amount of the premium or deductible or by offering any
21 warranties if the insured or 3rd party selects a particular garage, repair shop, or
22 other vendor, or by suggesting that if repairs are not made at a particular garage,
23 repair shop, or other vendor the repairs will cost more, be delayed, or not be
24 guaranteed.

SENATE BILL 118

1 (f) An insurer that issues a policy specified in par. (a) shall include on every
2 motor vehicle proof of insurance card issued on or after the effective date of this
3 paragraph [LRB inserts date], substantially the following information on its face:
4 “Wisconsin law prohibits an insurance company from requiring that motor vehicle
5 repairs be made by a particular repair facility; the consumer has the right to choose
6 the repair facility.”

7 **SECTION 6.** 632.37 (2) and (3) of the statutes are created to read:

8 **632.37 (2) REPAIR ESTIMATES.** (a) An adjuster, as defined in s. 601.02 (1), may
9 not prepare a motor vehicle damage repair estimate, or alter an estimate that was
10 prepared by another party, without first making a physical inspection of the damage
11 to the vehicle.

12 (b) An insurer, representative of an insurer, or other person acting on behalf
13 of an insurer may not unilaterally and arbitrarily disregard a repair operation or cost
14 identified under a damage repair estimating system.

15 **(3) PAYMENT OF REPAIR COSTS.** Except as otherwise agreed between the insurer
16 and the garage, repair shop, or other vendor making the repair, an insurer that pays
17 for the repair of a motor vehicle shall pay for the repair at the same rate that the
18 general public pays for the repair in the local market area in which the repair is
19 made. The insurer may not limit or discount the amount that the insurer pays for
20 the repair on the basis that the repair would have cost less if it had been made at a
21 particular garage, repair shop, or other vendor, or in a particular location, specified
22 by the insurer.

23 **SECTION 7. Initial applicability.**

