

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 599

(By Senators Jenkins and Plymale)

[Originating in the Committee on Banking and Insurance;
reported February 23, 2012.]

A BILL to amend and reenact §33-6D-1, §33-6D-2 and §33-6D-3 of the Code of West Virginia, 1931, as amended, all relating to use of particular companies or locations providing automobile glass replacement or repair services; adding third-party administrator to those who may not require particular companies or locations when a claim is made under an insurance policy; adding third-party administrators to the list of insurers, agents and adjusters; providing that an insurer or third-party administrator that has a financial interest in an automobile glass company on a recommendation list must disclose such fact on the list; and providing that any list must contain at least two different automobile glass companies.

Be it enacted by the Legislature of West Virginia:

That §33-6D-1, §33-6D-2 and §33-6D-3 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

**ARTICLE 6D. MOTOR VEHICLE REPAIR AND REPLACEMENT
REFERRALS.**

**§33-6D-1. Required use of particular companies or locations
providing automobile glass replacement or repair
services or products prohibited.**

1 No insurer issuing or renewing in this state ~~any~~ a motor
2 vehicle insurance policy, nor any agent, ~~or~~ adjuster or third-
3 party administrator thereof, may require the insured or ~~any~~
4 a person making a claim under such policy to use a particu-
5 lar company or location to obtain automobile glass replace-
6 ment or repair services or products insured, in whole or in
7 part, by that policy.

**§33-6D-2. Intimidation, coercion and other acts prohibited;
permissive agreements.**

1 No such insurer, agent, ~~or~~ adjuster or third-party
2 administrator may engage in any act or practice of intima-
3 tion, coercion or threat for or against any such insured or
4 claimant to use a particular company or location to obtain

5 automobile glass replacement or repair services or products
6 covered, in whole or in part, by the insurance policy: *Pro-*
7 *vided*, That nothing contained in this article shall prohibit
8 an insurer, agent, ~~or~~ adjuster or third-party administrator
9 from entering into an agreement or arrangement with any
10 company regarding automobile glass prices or services for
11 the repair or replacement of automobile glass.

**§33-6D-3. Permissible referrals; freedom of choice; payment of
costs at prevailing market rates.**

1 (a) Nothing contained in this article prohibits any
2 insurer, agent, ~~or~~ adjuster or third-party administrator from
3 providing to an insured or claimant a list that includes the
4 names of automobile glass companies or locations that are
5 reasonably close and convenient to the insured or claimant,
6 and with which the insurer may have made special arrange-
7 ments with respect to automobile glass prices or services. An
8 insurer or third-party administrator that has a financial
9 interest in an automobile glass company on such list must
10 disclose such fact on the list. A list must contain at least two
11 different automobile glass companies.

12 (b) If an insurer, agent, ~~or~~ adjuster or third-party
13 administrator provides an insured or claimant with a list of

14 automobile glass companies or locations, such insurer, agent,
15 ~~or~~ adjuster or third-party administrator shall advise the
16 insured or claimant that he or she may use any other auto-
17 mobile glass company or location of his or her choice.

18 (c) All insurers shall fully and promptly pay the cost of
19 automobile glass replacement or repair services or products
20 from any nonlisted automobile glass company or location,
21 less any applicable deductible amount payable by the
22 insured according to the terms of the insurance policy, at no
23 less than the prevailing market price charged by other
24 automobile glass companies or locations providing compara-
25 ble services or products in the same geographic area within
26 the state.

27 (d) No automobile glass company or location may waive
28 insurance deductibles or offer rebates, discounts or other
29 incentives for automobile glass repair which is being reim-
30 bursed by insurance. An insurer may limit payment of all
31 glass claims to a glass company or location that has violated
32 this provision to the lowest competitive price. The glass
33 company or location may not seek reimbursement for any
34 amounts not paid directly from the insured or claimant.

(NOTE: The purpose of this bill is to add third-party administrator to those who may not require particular companies or locations to replace glass or perform repairs on automobiles when a claim is made under an insurance policy; add that an insurer or third-party administrator that has a financial interest in an automobile glass company on a recommendation list must disclose such fact on the list; and add that any recommendation list must contain at least two different automobile glass companies.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.)