

2007 ASSEMBLY BILL 353

May 24, 2007 – Introduced by Representatives VAN ROY, SHILLING, KERKMAN, ALBERS, BIES, FIELDS, HUBLER, KESTELL, LOTHIAN, MOLEPSKE, MONTGOMERY, MURSAU, MURTHA, MUSSER, NELSON, OWENS, PETROWSKI, SEIDEL, SINICKI and SOLETSKI, cosponsored by Senators BRESKE, A. LASEE, ERPENBACH, CARPENTER, JAUCH, KREITLOW and LEHMAN. Referred to Committee on Insurance.

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

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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 geographic 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 also 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 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
11 repairs be made by a particular repair facility; the consumer has the right to choose
12 the repair facility.”

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

2 **632.37** (title) **Motor vehicle glass repair practices; restriction on**
3 **specifying vendor.**

4 **SECTION 3.** 632.37 of the statutes is renumbered 632.37 (1) (a) and amended
5 to read:

6 632.37 (1) RESTRICTIONS ON SPECIFYING REPAIR FACILITY. (a) An insurer that
7 issues a motor vehicle insurance policy covering the repair of a motor vehicle,
8 including the repair or replacement of motor vehicle glass or other parts, may not
9 require, as a condition of that coverage, that an insured, or a 3rd party, making a
10 claim under the policy for the repair ~~or replacement of the~~ motor vehicle glass obtain
11 a damage repair estimate or services or parts from a particular garage, repair shop,
12 or other vendor, or in a particular location, specified by the insurer.

13 **SECTION 4.** 632.37 (1) (b), (c), (d), (e) and (f) of the statutes are created to read:

14 632.37 (1) (b) If an insured or a 3rd party makes a claim specified in par. (a)
15 that is covered under a policy specified in par. (a), the insurer shall, at the time the
16 claim is submitted, do all of the following in the following order:

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

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

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

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

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

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

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

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

19 (f) An insurer that issues a policy specified in par. (a) shall include on every
20 motor vehicle proof of insurance card issued on or after the effective date of this
21 paragraph [revisor inserts date], substantially the following information on its
22 face: "Wisconsin law prohibits an insurance company from requiring that motor
23 vehicle repairs be made by a particular repair facility; the consumer has the right to
24 choose the repair facility."

25 **SECTION 5.** 632.37 (2) and (3) of the statutes are created to read:

