

WISCONSIN STATE
LEGISLATURE
COMMITTEE HEARING
RECORDS

2005-06

(session year)

Senate

(Assembly, Senate or Joint)

Committee on
Agriculture and
Insurance
(SC-AI)

File Naming Example:

- Record of Comm. Proceedings ... RCP
- > 05hr_AC-Ed_RCP_pt01a
 - > 05hr_AC-Ed_RCP_pt01b
 - > 05hr_AC-Ed_RCP_pt02

> Committee Hearings ... CH (Public Hearing Announcements)

> **

> Committee Reports ... CR

> **

> Executive Sessions ... ES

> **

> Record of Comm. Proceedings ... RCP

> **

> Appointments ... Appt

> **

> Clearinghouse Rules ... CRule

> **

> Hearing Records ... HR (bills and resolutions)

> **05hr_sb0472_SC-AI_pt01**

> Miscellaneous ... Misc

> **

Vote Record Committee on Agriculture and Insurance

Date: 3-6-06

Moved by: Miller

Seconded by: Brown

AB _____ SB 472 Clearinghouse Rule _____
 AJR _____ SJR _____ Appointment _____
 AR _____ SR _____ Other _____

A/S Amdt _____
 A/S Amdt _____ to A/S Amdt _____
 A/S Sub Amdt _____
 A/S Amdt _____ to A/S Sub Amdt _____
 A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

Be recommended for:
 Passage Adoption Confirmation Concurrence Indefinite Postponement
 Introduction Rejection Tabling Nonconcurrence

<u>Committee Member</u>	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Senator Dan Kapanke, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Neal Kedzie	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Ronald Brown	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Luther Olsen	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Jon Erpenbach	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator David Hansen	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Mark Miller	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals:	<u>5</u>	<u>2</u>	_____	_____

Motion Carried Motion Failed

Vote Record
Committee on Agriculture and Insurance

Date: 3-6-06

Moved by: Keizer

Seconded by: O/m

AB _____ SB 472 Clearinghouse Rule _____
 AJR _____ SJR _____ Appointment _____
 AR _____ SR _____ Other _____

A/S Amdt 92720
 A/S Amdt _____ to A/S Amdt _____
 A/S Sub Amdt _____
 A/S Amdt _____ to A/S Sub Amdt _____
 A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

- Be recommended for:
- Passage Adoption Confirmation Concurrence Indefinite Postponement
 - Introduction Rejection Tabling Nonconcurrence

<u>Committee Member</u>	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Senator Dan Kapanke, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Neal Kedzie	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Ronald Brown	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Luther Olsen	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Jon Erpenbach	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator David Hansen	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Mark Miller	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals:	<u>70</u>	_____	_____	_____

Motion Carried Motion Failed

Vote Record
Committee on Agriculture and Insurance

Date: 7-6-06

Moved by: Olsen

Seconded by: Kedzie

AB _____ SB 472 Clearinghouse Rule _____
 AJR _____ SJR _____ Appointment _____
 AR _____ SR _____ Other _____

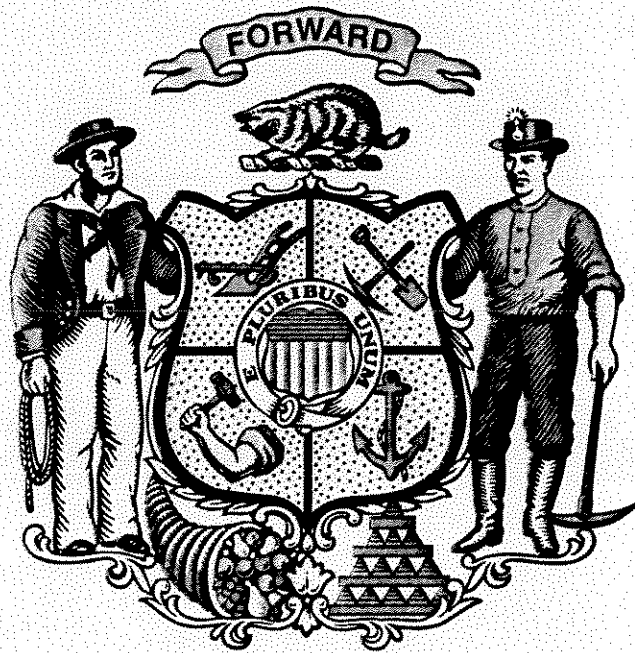
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Be recommended for:
 Passage Adoption Confirmation Concurrence Indefinite Postponement
 Introduction Rejection Tabling Nonconcurrence

<u>Committee Member</u>	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Senator Dan Kapanke, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Neal Kedzie	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Ronald Brown	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Luther Olsen	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Jon Erpenbach	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator David Hansen	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Mark Miller	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals:	<u>3</u>	<u>4</u>	_____	_____

Motion Carried

Motion Failed



Smyrski, Rose

From: Rene Ratchek [reneratchek@yahoo.com]
Sent: Tuesday, August 16, 2005 11:37 AM
To: Smyrski, Rose
Cc: Sen.Kedzie; Brady Jacobson/ Schaller/Jacobson
Subject: RE: Brady Jacobson asked me to email you...

Dear Senator Kapanke and Rose Smyrski:
Thank you for your response. Senator Kedzie already has the information in this email. Your constituent, Brady Jacobson asked me to send you some information after you met with him yesterday afternoon. He thought this email thread would explain the plight of our industry and it's consumers a little bit more in detail to Senator Kapanke. So sorry for any confusion. (especially to you Senator Kedzie- for the email bombardment!)
Thank you.
Rene Ratchek

"Smyrski, Rose" <Rose.Smyrski@legis.state.wi.us> wrote:

Dear Rene:
Thank you for contacting my office, I appreciate your thoughts on this issue.

As a professional courtesy, I have forwarded your email to Senator Neal Kedzie's office. I am confident he will effectively address your request to have the Attorney General examine the insurance industry.

Again, thank you for contacting my office.

Dan Kapanke

From: Rene Ratchek [mailto:reneratchek@yahoo.com]
Sent: Monday, August 15, 2005 4:08 PM
To: Sen.Kapanke
Subject: Brady Jacobson asked me to email you...

Dear Senator Kapanke:
Brady Jacobson met with you today and asked if I would forward you some information surrounding the issue of "steering" and Direct Repair Programs. After you read the following email thread, I am wondering if you would be interested too, in asking the Attorney General's office to investigate the legality of Direct Repair Programs. In a separate email I will also forward you the 2 attachments that are referred to in the last correspondence in the thread from Wade Ebert.

Enjoy! It's very thought provoking reading...

Rene Ratchek
Jim's Auto Body, inc.

The following email I sent to "a few" Wisconsin government officials, government employees, along with some advocacy groups and members of our state auto body legislative committee:

Dear Legislators, Advocacy Groups and Collision-Repairers:

The following email correspondence thread, along with the attached articles would lead anyone to believe that Direct Repair Programs are in fact **already illegal**. Wade Ebert, Regional Director of AASPI, has written a very knowledgeable response to Senator Kedzie's reply to my original letter regarding the plight of the collision-repair industry and its consumers. I mentioned in conversation to Wade- that our (WI) consumer protection laws seem to exclude insurance companies (while engaged in insurance activities). But then he pointed out to me that the business of insurance or insurance activities would include "the setting of rates". The establishment of agreements *outside* of the activities of insurance (regarding consumer vehicle repairs) **without** consumer knowledge is fraud by concealment-(confidentiality agreements within the DRP agreement). Also, the *concessions* within these contracts, along with insurers *dictating* repairs is in direct violation of ACTP 132- (underestimation of repairs). These agreements that (most) shops are economically forced into and are ignorantly signing are setting collision-repairers and more importantly their consumers, out to hang. Meanwhile, the shops that don't sign up are also left out to hang from lack of business. Does that not also point to unfair and anti-competitive business practices?

I have written the the Attorney Generals office on April 25, and again on May 11, 2005 asking them to review the matter of Direct Repair Programs. I have gotten a phone call from an aide, along with a letter back that lacks any effort or exertion from that office as far as an investigation, that suggests (in form letter fashion) that I contact the DOI. Been there, done that.....No thanks.

Therefore I am asking all of you on my State of Wisconsin Email address list to contact the Attorney Generals office or anyone in the Department of Justice and ask or request them to consider investigating the contracts of the insurance Direct Repair Programs that are out there in our state by the multitudes.

I will leave you all with 2 very strong words: (this one is perhaps for you Mr. Bauer)

Eliot Spitzer.....

Thank you very much for your time and consideration!

Rene Ratchek

Jim's Auto Body, Inc.

reneratchek@yahoo.com

The letter that started it all:

Dear Senator Kedzie:

I am writing you as member of the small business community, a consumer and a self-proclaimed consumer advocate. I happen to reside in your district. My father owns a collision-repair shop in Burlington, WI., that hopefully someday I will be able to own. We are also active in our state auto body association: Wisconsin Auto Collision Technicians Associated, Ltd. (WACTAL). Being a 3rd generation collision-repairer, I am concerned with the direction in which my industry and its consumers are being forced to go .

As an industry, both in Wisconsin and nation-wide, we are experiencing "steering" of

not only our *repeat* customers, but also *potential* customers by Insurance companies. Small, independent collision shops are going by the wayside, as they get squeezed into Direct Repair Program (DRP) Contracts, *or* as they get squeezed out of the picture *completely* by not signing on the bottom line with the "partner" insurer, thereby not even getting potential clientele to their front door to even bid the job. The DRP contracts are usually filled with concessions that self-destruct a shop's bottom line(paint and material caps, parts discounts, labor discounts, aftermarket parts usage, etc. along with the fact that repair procedures(or lack thereof) are being dictated by the insurance companies in these contracts. (insurance companies do not recognize the fact that they are NOT collision-repair professionals.....) Even more troubling, these contracts are made behind closed doors without consumer knowledge, complete with confidentiality agreements. And while these insurers and their contracts are **dictating** repairs, all DRP contracts come with an indemnity clause attached protecting the insurers while leaving sh ops out to dry.

Not only do these contracts *change and /or determine* the way business is conducted, but they limit the consumer's right to a proper and safe repair, along with the shop's right to repair the car in such a manner.

Anti-steering legislation is happening all over the country, particularly in the surrounding states of Minnesota and Illinois. Currently our WACTAL legislative committee is working with State Representative Jennifer Shilling's office to combat this issue of "Steering". The state of Wisconsin needs to become involved in taking action to level the playing field in the collision- repair industry while at the same time protecting the consumer's choice in collision repair!

It would help our cause so much if you'd hop on board. Please contact me if you have any further questions or comments~

Thank you for your time and consideration.

Rene Ratchek

and Senator Kedzie's reply to me:

August 11, 2005

Dear Rene,

Thank you for taking time to contact me and share your personal experience with this practice of 'steering' by certain insurance companies. I appreciate hearing from you on this matter.

Following receipt of your message, I contacted Representative Jennifer Shilling's office to determine the status of her proposed legislation. According to her, they are in the drafting stage

right now, but should have an initial version ready soon. The concern of many body shops, and one that you have also raised, is that many times recommendations and requirements of insurance providers are made based solely on cost, without any regard to the quality of work those shops may offer. It is my understanding that her office has been working with both sides on this issue to find a common sense solution.

The goal is to establish some standards to guarantee competitiveness while allowing insurers to continue their practice of establishing preferred service providers. Disclosure seems to be the best option as insurers would be allowed to continue their current practice and recommend certain providers as long as the policyholder is made aware that they may seek out alternatives on their own. It should be noted that Wisconsin law already cover similar practices with auto glass repair.

It is the intent of Representative Shilling to find a solution everyone can live with - insurers, providers, and consumers. That is a laudable goal and I commend her for her efforts, however it is too soon to say whether I could support her bill or not, as I have yet to see the actual language and am not certain if the compromise she seeks has yet been reached. Still, I will keep your thoughts and comments in mind and on file when this bill is eventually circulated for co-sponsorship and introduction.

Again, thank you for writing and please do so with any other questions or concerns of your state government.

Sincerely,

Neal Kedzie

State Senator

11th Senate District

Wade Ebert of AASPI responds to Mr. Kedzie:

Dear Senator Kedzie,

Rene Ratchek forwarded me your reply to her inquiry and asked that I assist her in painting as clear a picture as possible of our troubled industry and what can be done to save consumers from dangerous choices made more and more often by desperate repairers.

Pleas for legislative support like that of Ms. Ratchek are coming to be more common. As the daughter of a collision repair shop owner in your state she has seen her father's business suffer. Their shop and many others have endured decades of mounting losses not due to common market forces of price, quality and availability. The single factor that is at issue is a group of interests well outside of the contract of repair established with the vehicle owner.

Insurers contract or establish agreements with collision repairers which dictate many elements of repair that will be "allowed" under the contract while arbitrarily dis allowing many other necessary repair elements. The very plain problem is that no insurer has any right to establish details of repair on any vehicle they do not own. (see article attached "Keep this Job" by Patrick J. McGuire an attorney licensed in your state who possesses intimate knowledge of the issues)

It seems odd to a legislator I know, that giant corporations could pull the wool over the collective eyes of regulators, the legal system, the legislature etc. I assure you it is "the way things are done".

In terms of regulators, the Departments of Insurance or equivalent in each state are understaffed, underfunded, and rife with staff that was trained by the very entities they are supposed to regulate. The system is set up to minimize the possibility of an actual complaint being filed and the remedy for bad behavior is not generally afforded on a case by case basis. Penalties are assessed during "Market Conduct Surveys" which only generally come after huge amounts of complaints are filed and the company shows signs of insolvency. To consumers, the Departments of Insurance amount to the veritable "foxes in the hen house." (see attached "10 Things Insurers Don't want you to Know" as published in Consumer Reports)

The legal system has a heck of a time achieving remedies for such situations. They often don't realize the obvious consumer fraud issues. Methods of manipulation of the consumer and fraud by concealment are dismissed as "the way things are done". Property damage itself does not typically afford the possibility of litigation. Even if the issues are clear cut, the remedy is generally only for actual damages leaving an injured party at a net loss if they had to hire legal representation. Add to that, the fact that most attorneys are entirely unfamiliar with property loss issues which leaves the damaged consumer to the veritable whims of those who are intimately familiar with the situations - Insurance company attorneys.

First Party losses are to be paid by the insurer to their insured under the terms of the insurance contract. Most are not, as detailed in the attached McGuire article.

Third Party losses (where no insurance contract exists) are often dominated by the will of insurers to the detriment of vehicle owners.

Many agreements exist between repairers and insurers. The legality of these agreements are questionable for several reasons:

1. There is no regulation of insurers with regard to these agreements. Since no regulation exists from the Departments of Insurance, oversight falls to each state's Chief Law Enforcement arm that being the Attorneys General.
2. These agreements and contracts are not reviewed by the Attorneys General to determine their legality under the Consumer Fraud Statutes of each state and any consumer protection statutes more specifically geared to regulate the Automotive Collision Repair Industry and how they handle consumers.
3. Wisconsin's regulation of Automotive Collision Repairers has a specific prohibition against "underestimating repairs". By its stipulation it establishes that repairers will when writing an estimate of repair for a collision damaged vehicle do so with as much completeness and accuracy as is practicable. In this way a consumer is protected by statute from schemes to write low-ball estimates to secure the job and then perform what is in affect a "bait and switch". The DRP, Preferred Provider, or Agreed Figure programs established between repairers and insurers leave the consumer completely out of the loop. They require as a matter of participation in the program specific underestimating practices which are blatant violations of the referenced statute. These agreements also require that elements of the agreement between the shop and the insurer be kept confidential, even from the vehicle owners who are effected. Essentially it amounts to an institutionalized, civil conspiracy to defraud the consumer.

The following anecdote explains it very well.

At an industry seminar with a load of local repairers attending, the presenter took the position that it is a good idea to write as complete an estimate as possible. In that way supplements would be minimal and all would save the administrative time of the duplication of the efforts later in the repair. At this point an estimator from a local shop made the comment that they were "not allowed" by their DRP's to write

complete estimates. To a roomful of nodding heads and "yeah they do that to us too"s, the estimator used the Service First "Agreement" as an example. He stated that the estimate must be written to "guidelines" and they forbade: blending to adjacent panels, R&I of trim on repaired or blended panels, masking of jambs, cover for overspray, tinting the color and the old favorite - finish sand and buff. He didn't stop there, his comments further, perfectly illustrate why such practices compromise the interests of the consumer. He said "You see that way if the owner cashes out or trades it in the insurer save all of that money...." this last comment is the capstone upon which a prudent Attorney General would dance: ..." but that's okay because State Farm knows we have to do those things and they tell us it is okay to supplement for them right away once we capture the job"

The shop and the insurer gang up on the consumer via an agreement kept secret from the consumer. The affect of which is two fold; the first and most obvious is that the consumer doesn't get a legitimate estimate of actual repair cost and if they do indeed "cash out" or trade in..... they lose. The second concern is to affect the consumer in the event that they actually do choose to repair the vehicle. The consumer is likely to look (or be directed to look) at the bottom lines of each estimate. The low-ball sheet held up next to the legitimate sheet would look like a bargain. The conspiracy is used to steer the consumer either passively with an illegitimately low estimate, or actively with threatening language such as "we will not pay any more than our shop has estimated" In this way the contacts/agreements which are well outside the "business of insurance" and therefore are not exempt from antitrust considerations, are used to manipulate the free market in favor of the conspirators and to the detriment of the consumer.

The question remains unexamined; whether program shops would actually repair vehicles the same way if the programs did not exist.

All of this points to the fact that it is important for repairers who ARE on programs, to submit the details of their agreements to their state's AG for review. Should those agreements (including the unwritten "rules") pass the muster of each state's key consumer protection agency.... the situation will finally be laid to rest. We work for the consumer. I'm guessing each state's AG, given the opportunity, will say the same.

Disclosure is a red herring often used by Insurance Lobbyists. Disclosure as an option only weakens the ground for the consumer. If the limit of the responsibility an insurer has to a consumer, is to tell the consumer "we're about to screw (with) you"; I'm sure you'll find them in agreement with such a proposal.

I appreciate your time and attention to the concerns of Wisconsin consumers.

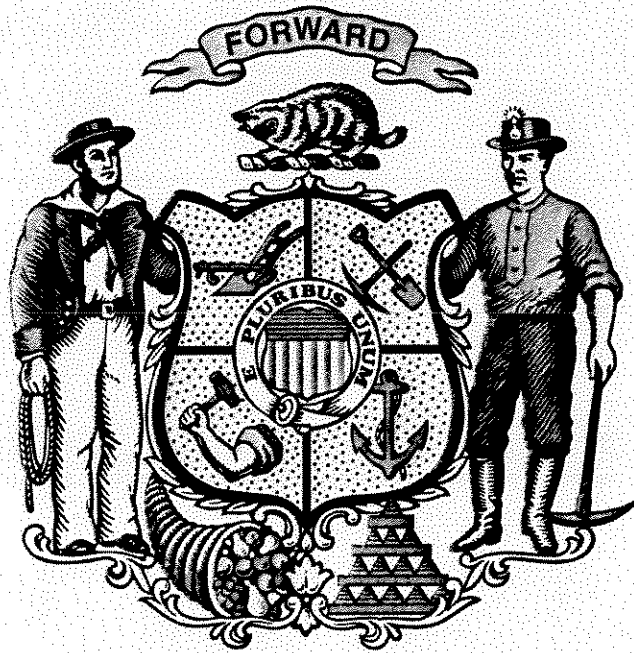
Wade Ebert
American Auto Body
Springfield, IL.
217.789.4000 vox
217.789.4087 fax

Regional Director AASPI

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<http://mail.yahoo.com>



Faxed
Feb 21
2006

Schiefelbein Body Shop, LLC

545 S. ALBERT AVENUE
P.O. BOX 186
REEDSBURG, WI 53959
PH: (608) 524-2714
FAX: (608) 524-3015

Regarding: AB827 and SB472

We've been in the auto-body repair business in Reedsburg for 45 years and we're increasingly concerned with the direction in which our industry is being forced to go.

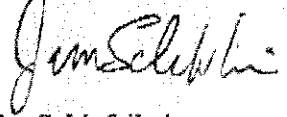
Some insurance companies are more concerned about their financial interests than the consumer's right to safe, quality repairs. Using intimidation and pressure, insurance companies are steering customers to specific repair shops, who do not have the consumers best interest in mind.

The consumer must be able to choose a collision repair facility without undue influence from the insurance industry.

Please made sure they have that right!

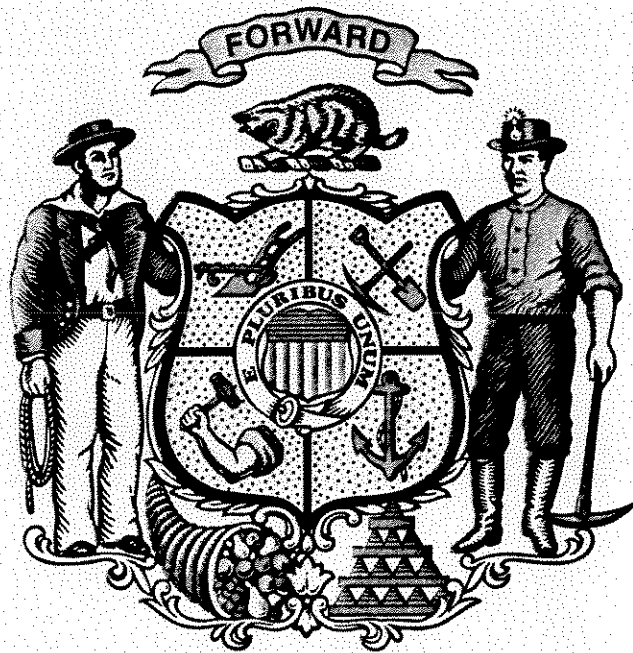
Any questions, please call.

SCHIEFELBEIN BODY SHOP, LLC



Jim Schiefelbein





Sentry Insurance
1800 North Point Drive
Stevens Point, WI 54481
(608) 255-7115 Madison office
(608) 255-2178 fax

Misha Lee
Director of Government Relations

misha.lee@sentry.com



SENTRY
INSURANCE

TO: Senate Committee on Agriculture and Insurance
Assembly Committee on Insurance

FROM: Misha Lee
Director of Government Relations

DATE: February 21, 2006

RE: **OPPOSITION to Senate Bill 472 and Assembly Bill 827**

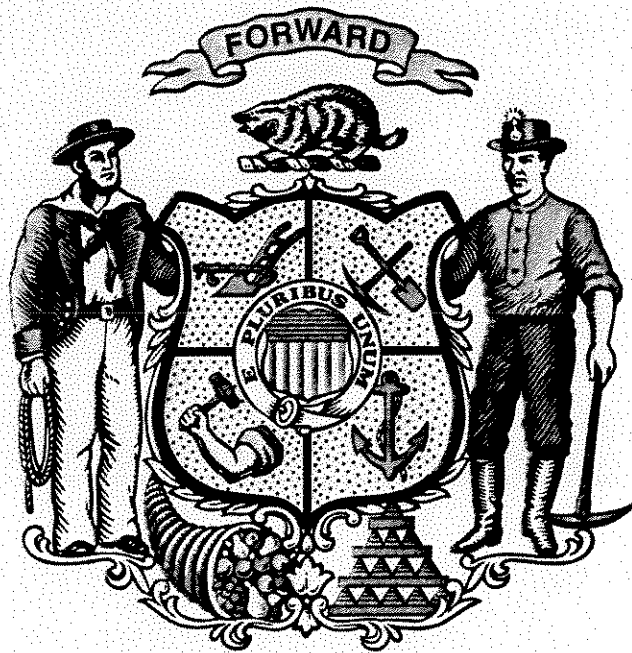
On behalf of Sentry Insurance, we urge you to **OPPOSE** Senate Bill 472 (SB 472) and Assembly Bill 827 (AB 827). We believe this legislation is a solution in search of a problem and ultimately will be detrimental to Sentry and our Wisconsin customers.

As the Legislative Reference Bureau (LRB) acknowledges in its bill analysis, current law already prohibits an insurer from conditioning coverage on the use of a specified repair shop. Sentry always honors our customers' choice of a repair facility. Contrary to what the legislation implies, we do not force any first or third party claimants to use our direct repair program. Sentry offers the option of using a direct repair program because we recognize the benefits it provides our customers. In the normal course of covering an auto claim, Sentry seeks to use professional repair businesses that can provide a high quality repair for our customers at a reasonable price. These repair shops service our customers' needs in a timely, reliable and professional manner. Lower expense means less cost for consumers.

SB 472 and AB 827 mandate by statute that insurers provide notice to our customers of their ability to choose a repair facility. We believe this requirement is unnecessary because we already allow our customers the choice under existing state law.

We respectfully request that you **OPPOSE** Senate Bill 472 and Assembly Bill 827 and preserve current law that already protects consumer choice AND allows for a healthy, competitive marketplace in Wisconsin.

Thank you for your consideration.





State Representative

Samantha J. Kerkman

February 22, 2006

Senate Committee on Agriculture and Insurance
Assembly Committee on Insurance
Senator Kapanke, Senate Chair
Representative Nischke, Assembly Chair

Dear Chair Kapanke, Chair Nischke and members of the committee,

Please accept this letter as a written statement of my support for Assembly Bill 827 and Senate Bill 472 relating to prohibiting an insurer from requiring a certain vendor for repairing a motor vehicle.

I have heard from many constituents of my district regarding this consumer choice in auto repairs legislation. In many of their statements, they have indicated that they felt "steered" to certain auto body shops by their respective insurance companies.

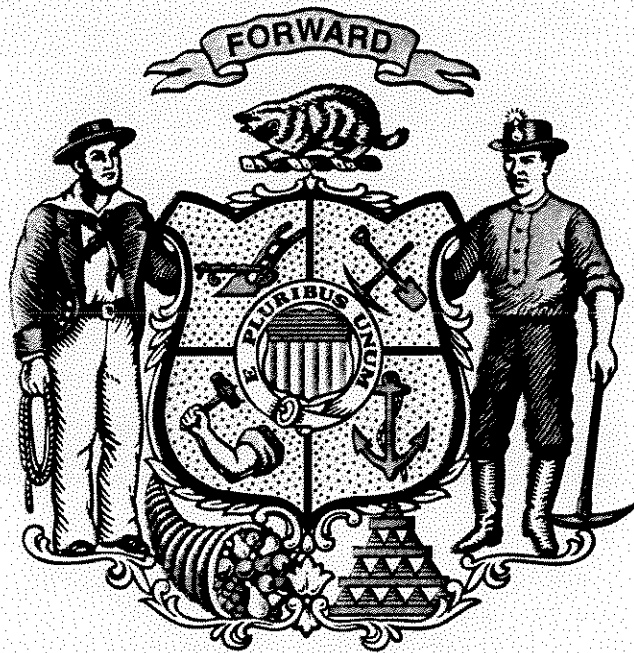
While I am sure that steering is not practiced by all insurance companies, I think that Representative Shilling's and Senator Wirch's legislation will enhance consumer choice for Wisconsinites while also guaranteeing market competition and consumer protection from predatory business practices to protect the consumer when steering practices are used.

Thank you for your consideration of Assembly Bill 827 and Senate Bill 472.

Sincerely,

A handwritten signature in black ink, appearing to read "Samantha J. Kerkman". The signature is fluid and cursive, with a large initial "S" and "J".

Samantha J. Kerkman
State Representative
66th Assembly District





WISCONSIN STATE REPRESENTATIVE
Jennifer Shilling
95TH ASSEMBLY DISTRICT

**Rep. Shilling's Testimony on
AB 827/SB47- Consumer Choice Act**

2/22/06

Thank you chairman Nischke and committee members for holding this hearing.

Imagine you are back in your district attending a meeting. As you leave the meeting you are stopped at a red light and are suddenly rear ended. You and the other driver get out, inspect the damage and exchange insurance information.

Your insurance company recommends auto body shop A; your neighbor recommend's body shop B because he's had excellent service there for a low cost. Or perhaps, your preference is simply any shop *besides* shop A, because you know they have a reputation for a poor quality work.

Should you really be forced to take your business to them?

Under current law, if your windshield was damaged, you can go to your neighbor's recommended shop.

But if it was your bumper that needs replacement, depending on your insurer, you may be forced to take your business to body shop A.

This bill is simply about fairness and consumer choice. Fairness to the consumer to have a choice in where they take their business. Fairness to our local auto body shop owners to gain business by reputation and quality of service, not by being forced into deals with insurers. And fairness in our laws, so that one part of your car is not insured differently than another.

In the automotive repair industry, insurance companies routinely direct their customers to shops based on the cost and comprehensiveness of the repairs involved. While some "Direct Repair Programs" are perfectly legitimate, other DRP's are designed solely to limit the cost to the insurer – resulting in a decrease in quality of repair to the vehicle. In these cases, insurers require policyholders to have work completed only at shops with which they have established a DRP.

This process, called "steering," occurs regularly in the auto insurance industry, and unfortunately, automobile owners and policy holders are rarely informed of these relationships. The existence of steering programs is often not disclosed at the time an insurance policy is purchased.



Auto body repair shops generally guarantee that covered repairs will restore the policy holder's vehicle to its pre-accident state. But a preference for bottom line-driven repairs pushes shops to cut corners or use sub-standard replacement parts to limit costs. In these cases, the agreements could endanger the safety of the driver. In addition, steering places unnecessary restrictions on the free market system.

Small and large business owners dedicated to protecting the safety of their customers by providing quality, comprehensive repairs find it difficult to compete in a controlled marketplace that rewards low-cost, sub-standard work. Economic efficiency is discouraged as fewer and fewer shops look to enter the automotive repair market.

Under current law in Wisconsin, the practice of steering is already prohibited in auto glass work. Representative Kerkman and I have introduced this legislation to expand current safeguards to guarantee consumer choice in all automobile repairs.

Michigan, Minnesota, and Illinois have all implemented Consumer Choice legislation in recent years to address this issue. Some states have required the insurance companies or the shops to notify the customer of any relationships they may have with an insurer--though not what the conditions of those agreements may be. Our bill does not. Other states have even gone so far as to completely ban insurance companies from forming direct relationships with repair shops and other vendors all together. Our bill does not. Many states have hefty penalties and fines for engaging in DRP agreements. Our bill does not.

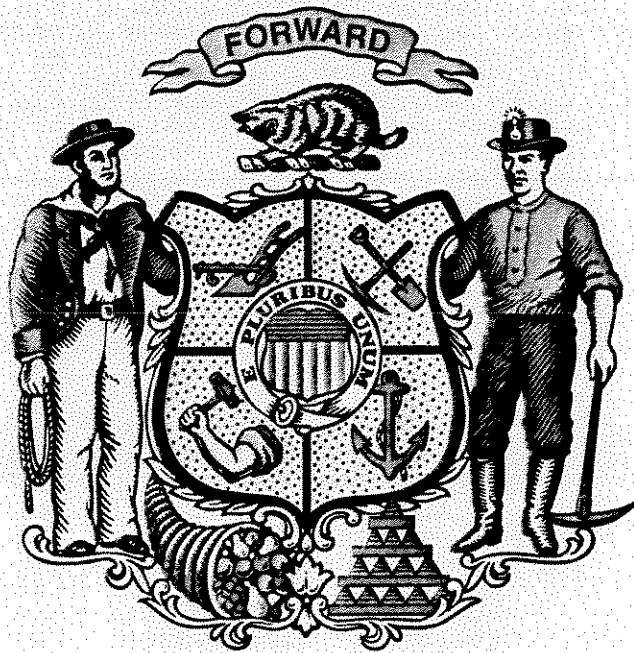
Our legislation is a common-sense compromise that guarantees market competition and protects consumers from predatory business practices. The Consumer Choice in Auto Repairs Act does not prohibit insurers from forming positive working relationships or DRP's with vendors. It merely ensures that the reasonable cost of auto repairs and service will be covered at the location the policy holder has chosen.

In the case of our hypothetical accident, under this bill my insurer would be required to inform me that I may choose any garage, repair shop, or vender for repair and that they will pay the reasonable cost of my repair regardless of my choice. They would ask if I have selected a repair shop. If I say "no," or request a recommendation, they can recommend a shop to me. If I say "yes, I have a body shop" they can no longer attempt to influence my decision.

Insurer referrals to preferred providers are still allowed under this proposal. This legislation is simply about consumer choice.

Thank you.

Jennifer Shilling
Representative
95th Assembly District



Perlich, John H.

From: OBrien, John
Sent: Monday, February 27, 2006 8:04 AM
To: Perlich, John H.
Subject: FW: Testimony given in favor of SB 472 on 2/22/06
Attachments: 256223651-My name is Rene Ratchek.doc

John O'Brien, Staff
Sen. Dan Kapanke
32nd Senate District
608 26 6-5490
800 385 3385
john.obrien@legis.state.wi.us

From: Rene Ratchek [mailto:reneratchek@yahoo.com]
Sent: Friday, February 24, 2006 12:13 PM
To: Sen.Kapanke
Subject: Testimony given in favor of SB 472 on 2/22/06

Dear Chairman Kapanke:

Please allow the testimony I gave at the public hearing regarding SB 472 on February 22nd, to be made available to those unable to attend the hearing.

Thank you once again for scheduling that hearing and for the opportunity to testify at it!

I will look forward to hearing about a date scheduled for the committee to vote on SB 472!

Thank you so much~
Rene Ratchek
Collision-repairer and Consumer Advocate!

Brings words and photos together (easily) with
PhotoMail - it's free and works with Yahoo! Mail.

My name is Rene Ratchek. I'm a 3rd generation collision-repairer. I've been involved in my industry for 25 years now. I work at my Father's shop in Burlington, WI.

The act of "steering" has been going on since *at least* my grandfather's day. With or without the Direct Repair Programs of today- it will continue unless changes are made. The glass statute that this legislation amends was a grand first attempt, but it did not cure the problem. The glass industry still has major problems with insurer steering.

We believe that the language added to this bill specifically the section 2 language will allow consumers to play a huge part in creating a "free-er" market. This language creates **unhindered** competition and allows the market place to determine and control costs, quality and the consumer's "right to use".

With the section 2 language we are asking that you allow repeat customers to come freely through our doors. We are asking that you allow possible new customers referred by friends and family to come no holds barred through our doors, and we are asking that you allow us to have brand new customers come walking freely through our doors on their own accord.- (this might sound a little gutsy, but...) After this legislation becomes law, the only changes noticed will be that we will not have to listen

to our repeat customers calling their agent from our office phone, explaining himself 3 times to his agent why he will NOT be going to the shop down the street. We will not have to listen to Progressive adjusters on a 3 way call telling our customer who has signed a repair authorization that the repairs won't be guaranteed if he leaves his car at our shop. We won't have to listen to the stories of consumers that have the guts to hold their ground when they've been heavily steered (although these do bring a smile to a collision-repairer's face!)

And we won't ever have to wonder how many stories we've never ever even had to opportunity to hear-
When the consumer gets buffaloed into giving up and giving in on their right to choose.

And who knows, maybe it was a great experience for them to get their car repaired at "the specified shop" -but bottom line is that the consumer was never given responsible, reliable, accurate information that allowed them to know that they do in fact have a right to have repairs done at a shop of their choice.

This bill is not about deflating Direct Repair Programs. That is a business decision that all of collision repairers have had to face. We are not coming in here today denouncing DRP's. They are well and alive. I don't know why this has turned into a fight or discussion about DRP's.(?!)

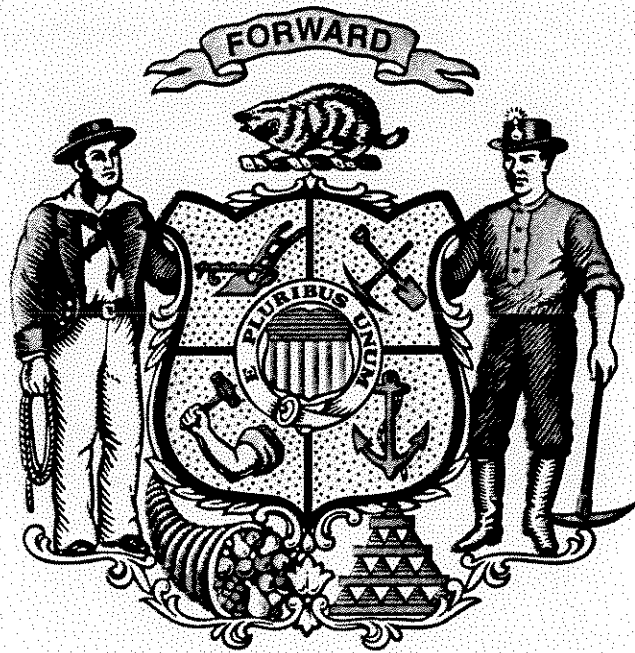
I also have three points regarding the previous insurers testimonies:

1) The Insurance claim settlement practices act mentioned by American Family- does *not* have an anti-steering rule in it.

2) Regarding the insurers who have said that they already have consumer choice practices in place: WHY ARE THEY HERE? I find it hard to believe that they would spend the time and effort for **3 sentences!** (section 2 wording) These **3** sentences that would allow insurers to better serve their insureds by giving them responsible information.

3) Regarding insurer testimony that has expressed concern regarding the *costs* of implementing the section 2 wording: Collision repairers have already eliminated adjuster jobs for insurers by taking on much of the insurer paperwork and administrative costs.

Thank you for this opportunity to speak before this hearing regarding Consumer Choice Legislation.



SCHALLER / JACOBSON 4115 MORMON COULEE CT LA CROSSE, WI 54601

FAX

Date: May 2, 2006

Number of pages including cover sheet: 3

To: Senator Dan Kapanke

Phone: _____

Fax phone: 608-267-5173

CC: _____

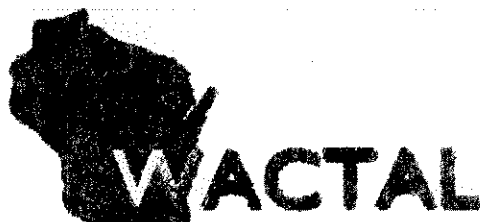
From: Brady Jacobson

Phone: 608-788-2545

Fax phone: 608-788-3558

REMARKS: Urgent For your review Reply ASAP Please comment

Modifications to SB472



May 2, 2006

VIA FACSIMILE: 608/267-5173

Honorable Senator Dan Kapanke

RE: SB 472

Dear Senator Kapanke:

We thank you for your sustaining efforts surrounding SB 472. Your idea to meet with Senator Olsen was greatly appreciated. We feel our conversation with Senator Olsen was enlightening and productive to both ourselves and the Senator. With that said, after speaking with the Senator, we have come to a conclusion that the bill *could* use some minor adjustments to address his concerns which will in turn offer a more sound interpretation of this bill's intent.

Our proposed amendments are as follows:

Page 2, Line 7: after "obtain services or" Insert: "original equipment, salvage, aftermarket". This wording clarifies *all* available options of parts usage that can be utilized in the repair process.

Page 2, Line 13: after "shall do all of the following" Insert: "at the time a claim is reported". This wording leaves NO question as to when the 3 sentences must be disclosed to the consumer. Minnesota has this exact wording in their law. We know this wording is already used by one of the nation's largest insurers, State Farm Insurance, at the time of claim reporting. GMAC Insurance uses a similar disclosure at the point of *quoting* insurance by phone.

We hope that these logical modifications can lead to an agreement that will deliver a deserved floor vote to SB 472.

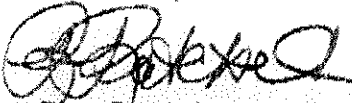
Honorable Senator Kapanke

May 2, 2006

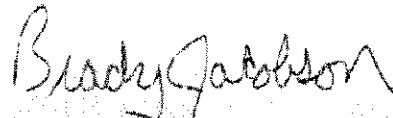
-Page 2-

Thank you for your time and devoted consideration regarding this Consumer Choice Legislation. Please don't hesitate to contact us if you have any further questions or comments.

Very truly yours,

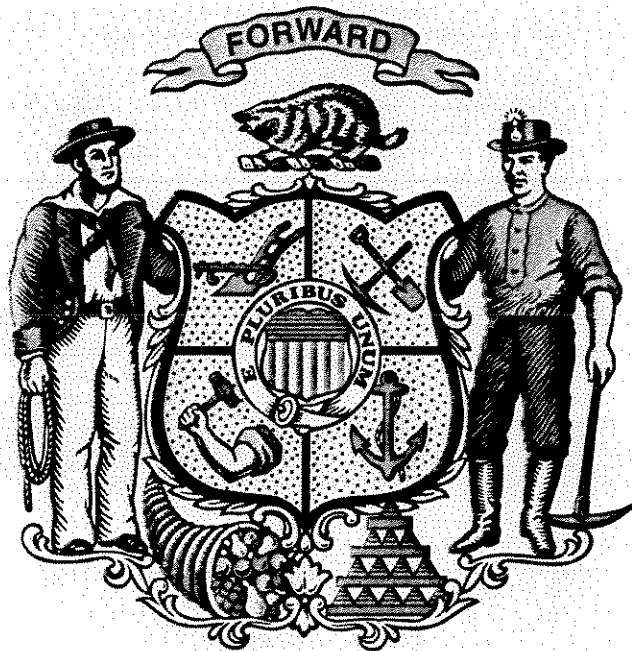


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cc: Senator Laess 608/267-6792
Senator Olsen 608/267-4350
Senator Schultz 608/267-0375



TALKING POINTS SB 472

TO THE BILL:

- * Direct repair programs benefit consumers. Direct repair programs hold down costs, increase efficiency of repairs, and ensure quality.
- * Direct repair programs are set up in the same manner as PPOs. Consumers can choose to go to a repair shop in the network or they may choose to go to a repair shop outside of the network. However, if they go outside the network, the repairs can not be guaranteed and the consumer must pay out-of-pocket for any price differential.
- * Insurance companies want to please their customers. They want repairs to be efficient, cost-effective and of high quality. If they are not, it will result in complaints from their insureds and potential loss of business.
- * Despite arguments from proponents, this bill will not only drive up costs but jeopardize quality repair work. Insurance companies inspect repair shops in their networks. Insurance companies also guarantee the work performed by in-network repair shops. Repair shops must also meet certain standards to be approved for an insurance company's direct repair shop network.
- * Despite arguments from proponents, inability to negotiate price is not the only reason certain auto repair shops are not in networks. Some fail to meet the quality standards set by the insurer.
- * Consumers do not have problems with direct repair shop programs. OCI has stated that they have received no complaints from consumers related to steering involving direct repair programs. This is a solution in search of a problem. If these programs reward substandard work as proponents argue, ask yourself why hasn't OCI or legislators heard from constituents.
- * OCI has stated they currently have the authority to investigate and penalize for steering under the Fair Claims Practice regulations.
- * This is special interest driven legislation. The only contacts legislators and OCI have received regarding this issue are from auto body shops. This legislation will only benefit auto repair shops that have for some reason failed to establish themselves in one or more direct repair shop programs.
- * Wisconsin has some of the lowest auto insurance rates in the nation because the Legislature has refrained from interfering with the free market system. Bills such as this will drive costs up. Worst of all it will be of no benefit to consumers.

TO THE AMENDMENT

- * Section 2 of the bill directly interferes with the ability of the insurer to communicate with the consumer. This will result in the consumer not being informed of all available options up front, information that could save them time and money.
- * Section 2 will make the claim adjustment process more complicated and cumbersome that will likely result in higher costs, more disputes, and less timely repairs.
- * This bill would prevent an insurer from mentioning a direct repair program unless specifically asked for a referral. Again go back to the PPO example, would it make any sense to prevent a PPO from informing insureds which providers are in the network unless asked for a referral? Neither would it make sense in a direct repair program.
- * Despite arguments by proponents of the bill, the amendment does not gut the bill. Instead, it limits the bill to what it has been advertised to do, prevent steering. Proponents have argued that insurance

companies require people to go to certain auto body shops, a practice which most insurance companies do not participate in. Section 2 goes far beyond the prevention of steering. Instead it is intended to dismantle direct repair shop programs.

* Mandating what insurance companies must say to consumers is over engineering at its worst and will make the process less helpful to the consumer.