

2007 DRAFTING REQUEST**Assembly Substitute Amendment (ASA-AB353)**Received: **07/03/2007**Received By: **pkahler**Wanted: **Soon**

Identical to LRB:

For: **Karl Van Roy (608) 266-0616**By/Representing: **Tanya Hein**This file may be shown to any legislator: **NO**Drafter: **pkahler**

May Contact:

Addl. Drafters:

Subject: **Insurance - auto**

Extra Copies:

Submit via email: **YES**Requester's email: **Rep.VanRoy@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Motor vehicle repair practices

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	pkahler 07/03/2007	kfollett 07/03/2007		_____			
/1			pgreensl 07/03/2007	_____	cduerst 07/03/2007	cduerst 07/03/2007	

FE Sent For:

<END>

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1/?	pkahler	11/15/07 7/13/07	1/13 p8	7/13 selo			

FE Sent For:

<END>

Kahler, Pam

From: Duerst, Christina
Sent: Tuesday, July 03, 2007 2:53 PM
To: Kahler, Pam; Sundberg, Christopher
Subject: FW: LRB 07s0109 Topic: Motor vehicle repair practices

From: Hein, Tanya
Sent: Tuesday, July 03, 2007 2:43 PM
To: Duerst, Christina
Subject: RE: LRB 07s0109 Topic: Motor vehicle repair practices

Are you preparing an Assembly version for us, for AB 353? I need it for a public hearing next week. Thanks.

Tanya R. Hein
Legislative Aide
Rep. Karl Van Roy

From: Duerst, Christina
Sent: Tuesday, July 03, 2007 2:15 PM
To: Rep. Van Roy
Subject: LRB 07s0109 Topic: Motor vehicle repair practices

The attached proposal has been jacketed for introduction.

A copy has also been sent to:

<< File: LRB s0109_1 >>

Kahler, Pam

From: Hein, Tanya
Sent: Monday, July 02, 2007 1:26 PM
To: Kahler, Pam
Subject: FW: AB 353 Auto body shops

Hi Pam,

I mentioned another change. I think we have decided to leave that change out for now, and do it as a simple amendment later, if necessary. We'll see how the hearing goes. So, if you could get the other change as a substitute amendment right away, I would appreciate it. Thanks!

Tanya R. Hein
Legislative Aide
Rep. Karl Van Roy

From: Hein, Tanya
Sent: Friday, June 29, 2007 3:04 PM
To: Kahler, Pam
Subject: RE: AB 353 Auto body shops

That is exactly what I want -- a substitute that incorporates everything. Plus...I think I have one more change for you. I will get back to you on Monday about that. Have a great weekend.

Tanya R. Hein
Legislative Aide
Rep. Karl Van Roy

From: Kahler, Pam
Sent: Friday, June 29, 2007 2:28 PM
To: Hein, Tanya
Subject: RE: AB 353 Auto body shops

Tanya:

Rather than drafting the new language as an amendment to SSA1, you want another sub with the inclusion of the new language?

Pam

From: Hein, Tanya
Sent: Friday, June 29, 2007 9:39 AM

07/02/2007

To: Kahier, Pam; Sundberg, Christopher

Subject: AB 353 Auto body shops

Importance: High

We need an amendment drafted for a public hearing coming up very soon on our bill. Please draft a substitute amendment similar to SB 181 SSA1 (<http://www.legis.state.wi.us/2007/data/SB181-SSA1.pdf>) but with the added language shown below:

"Nothing in this section shall be construed as limiting an insurance company's right or obligation to physically inspect a motor vehicle for the purpose of confirming or documenting damage to a vehicle that is the subject of an insurance claim. However, no insurer shall require such an inspection to be conducted at a particular garage, repair shop, or other facility specified by the insurer."

An insurance lobbyist was under the assumption that insurers could not inspect the vehicle with the current language in 632.37(1). An attorney that WACTAL and General Motors consults with, Patrick J. McGuire, came up with the attached language to address their concerns.

Let me know if you have any questions or concerns.

Tanya R. Hein

Legislative Aide

Rep. Karl Van Roy

608-266-0617



State of Wisconsin
2007 - 2008 LEGISLATURE

50111/1
LRBs 0109/1
PJK&CTS:kjf:awn

GF

ASSEMBLY

SENATE SUBSTITUTE AMENDMENT,

TO 2007 SENATE BILL 181

353

SOON
(in 7-3)

ASSEMBLY

Regen

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) and (d), 632.37 (2) and 632.37 (3) of
3 the statutes; relating to: prohibiting an insurer from requiring a certain
4 vendor for repairing a motor vehicle and insurance payments for motor vehicle
5 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 substitute amendment expands that prohibition. Under the substitute amendment, 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 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 substitute amendment 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. In addition, the substitute amendment specifies that nothing in the motor vehicle repair restrictions or requirements may be construed as limiting an insurer's right or obligation to physically inspect a motor vehicle that is the subject of a claim, and that the insurer may not require that the inspection be conducted at a particular garage, repair shop, or other facility specified by the insurer.

Also under the substitute amendment, 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 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

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) (a) and amended
7 to 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) and (d) 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.

1 2. Orally inform the insured or 3rd party that the insurer will pay the
2 reasonable costs of the repair regardless of which garage, repair shop, or other
3 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. (b)
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 **SECTION 6.** 632.37 (2) of the statutes is created to read:

19 632.37 (2) PAYMENT OF REPAIR COSTS. Except as otherwise agreed between the
20 insurer and the garage, repair shop, or other vendor making the repair, an insurer
21 that pays for the repair of a motor vehicle shall pay for the repair at the same rate
22 the general public pays in the geographic area in which the repair is made for the
23 same or a similar type of repair to the same or a similar type of motor vehicle. The
24 insurer may not limit or discount the amount that the insurer pays for the repair on
25 the basis that the repair would have cost less if it had been made at a particular

1 garage, repair shop, or other vendor, or in a particular location, specified by the
2 insurer.

3 **SECTION 7.** 632.37 (3) of the statutes is created to read:

4 632.37 (3) DAMAGE INSPECTION. Nothing in this section shall be construed as
5 limiting an insurer's right or obligation to physically inspect a motor vehicle for the
6 purpose of confirming or documenting damage to a motor vehicle that is the subject
7 of a claim specified in sub. (1) (a). However, an insurer may not require that the
8 inspection be conducted at a particular garage, repair shop, or other vendor or facility
9 specified by the insurer.

10 **SECTION 8. Initial applicability.**

11 (1) If a motor vehicle insurance policy that is in effect on the effective date of
12 this subsection contains a provision that is inconsistent with this act, this act first
13 applies to that motor vehicle insurance policy on the date on which it is renewed.

14 (END)