

1999 SENATE BILL 63

February 24, 1999 – Introduced by Senators GROBSCHMIDT, WELCH, ERPENBACH, DARLING, ROESSLER, PLACHE, BAUMGART, PANZER, CLAUSING, DECKER, DRZEWIECKI, RISSER, COWLES, BURKE, JAUCH, ROBSON and MOEN, cosponsored by Representatives FREESE, URBAN, AINSWORTH, BLACK, BOCK, CARPENTER, COLON, HANDRICK, HASENOHRL, HUEBSCH, KESTELL, KREUSER, LEIBHAM, MEYER, MEYERHOFER, MILLER, MONTGOMERY, MUSSER, OWENS, PETTIS, POCAN, PORTER, REYNOLDS, RHOADES, RYBA, TRAVIS, WASSERMAN and WOOD. Referred to Committee on Judiciary and Consumer Affairs.

1 **AN ACT to repeal** 632.38 (2) (b), 632.38 (3) (c), 632.38 (3) (d) and 632.38 (4); **to**
 2 **amend** 632.38 (1) (c), 632.38 (2) (intro.), 632.38 (2) (a), 632.38 (3) (title), 632.38
 3 (3) (a) and 632.38 (3) (b); and **to create** 632.38 (2) (c), 632.38 (2) (d) and 632.38
 4 (2) (e) of the statutes; **relating to:** requiring authorization for the use of
 5 nonoriginal manufacturer replacement parts in the repair of a motor vehicle.

Analysis by the Legislative Reference Bureau

Under current law, an insurer may not use nonoriginal manufacturer replacement parts in the repair of an insured's motor vehicle unless the insurer complies with specific notice requirements. (Nonoriginal manufacturer replacement parts are nonmechanical sheet metal or plastic parts for the repair of the exterior of a motor vehicle that are not made by or for the manufacturer of the insured's motor vehicle.) The notice must clearly identify the replacement parts as nonoriginal manufacturer replacement parts and advise the insured that warranties on the parts are provided by the manufacturer of the parts, not the manufacturer of the insured's motor vehicle. The notice must be on or attached to any repair estimate prepared by the insurer that is based on the use of one or more nonoriginal manufacturer replacement parts. If the insured has obtained one or more estimates and the insurer approves an estimate that is based on the use of one or more nonoriginal manufacturer replacement parts, the insurer must make sure that the insured receives the notice before the motor vehicle is repaired. The insurer may give the notice by telephone after repairs have begun if the insured authorizes repairs to

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begin before the insurer approves the estimate. The insurer may not require the person repairing the vehicle to give the notice.

This bill changes the requirements that apply in order for an insurer to require the use of nonoriginal manufacturer replacement parts in the repair of an insured's motor vehicle. An insurer must provide an insured with a notice and authorization form. The notice must clearly identify any nonoriginal manufacturer replacement parts that will be used in the repair, if the insured authorizes the use. The notice must also explain that the insured may choose to have replacement parts made by or for the manufacturer of the insured's vehicle used in the repair and that the insurer's obligation to cover the repair is not affected by the type of replacement parts that the insured chooses. The authorization part of the form must allow the insured to choose either a nonoriginal or original manufacturer replacement part for each replacement part that will be used in the repair. The insurer may require the use of a nonoriginal manufacturer replacement part only if so authorized on the form by the insured. The notice and authorization form must be attached to a repair estimate prepared by the insurer or delivered before repairs begin if the insurer approves an estimate obtained by the insured. The bill removes the authority to provide the notice by telephone and removes the prohibition against an insurer requiring the person repairing the vehicle to give the notice.

The provisions in current law do not apply to mopeds, semitrailers or trailers designed for use in combination with a truck or truck tractor. The bill provides that the provisions do not apply to motorcycles, either.

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

1 **SECTION 1.** 632.38 (1) (c) of the statutes is amended to read:

2 632.38 (1) (c) "Motor vehicle" means any motor-driven vehicle required to be
3 registered under ch. 341 or exempt from registration under s. 341.05 (2), including
4 a demonstrator or executive vehicle not titled or titled by a manufacturer or a motor
5 vehicle dealer. "Motor vehicle" does not mean a moped, as defined in s. 340.01 (29m),
6 motorcycle, as defined in s. 340.01 (32), semitrailer or trailer designed for use in
7 combination with a truck or truck tractor.

8 **SECTION 2.** 632.38 (2) (intro.) of the statutes is amended to read:

9 632.38 (2) ~~NOTICE OF INTENDED~~ AND AUTHORIZATION FOR USE. (intro.) An insurer
10 or the insurer's representative may not require directly or indirectly the use of a

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1 nonoriginal manufacturer replacement part in the repair of an insured's motor
2 vehicle, unless the insurer or the insurer's representative provides to the insured the
3 notice and authorization form described in this subsection in the manner required
4 in sub. (3) ~~or (4)~~ and receives written authorization from the insured before any
5 nonoriginal manufacturer replacement part is installed on the insured's motor
6 vehicle. The notice ~~shall be in writing and shall include all of~~ must be given, and
7 authorization must be obtained, on a form that is entitled "Replacement Parts Notice
8 and Authorization Form" and that includes only the following information:

9 **SECTION 3.** 632.38 (2) (a) of the statutes is amended to read:

10 632.38 (2) (a) A clear identification of each nonoriginal manufacturer
11 replacement part that ~~is intended for use~~ will be used in the repair of the insured's
12 motor vehicle if the insured provides authorization for the part's use.

13 **SECTION 4.** 632.38 (2) (b) of the statutes is repealed.

14 **SECTION 5.** 632.38 (2) (c) of the statutes is created to read:

15 632.38 (2) (c) A statement that the insured may choose to have replacement
16 parts made by or for the manufacturer of the insured's motor vehicle used in the
17 repair of the insured's motor vehicle.

18 **SECTION 6.** 632.38 (2) (d) of the statutes is created to read:

19 632.38 (2) (d) A statement that the insurer's obligation to cover repairs to the
20 insured's motor vehicle will not be affected by the insured's choice under par. (c).

21 **SECTION 7.** 632.38 (2) (e) of the statutes is created to read:

22 632.38 (2) (e) Two signature lines for the insured's signature, with one line
23 designated as authorizing the use of nonoriginal manufacturer replacement parts in
24 the repair and the other line designated as requiring the use of only original
25 manufacturer replacement parts in the repair. In addition, the form shall allow the

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1 insured to authorize the use of a nonoriginal manufacturer replacement part or to
2 require the use of an original manufacturer replacement part with respect to each
3 replacement part to be used in the repair.

4 **SECTION 8.** 632.38 (3) (title) of the statutes is amended to read:

5 632.38 (3) (title) DELIVERY OF NOTICE AND AUTHORIZATION FORM.

6 **SECTION 9.** 632.38 (3) (a) of the statutes is amended to read:

7 632.38 (3) (a) The notice and authorization form described in sub. (2) shall
8 ~~appear on or~~ be attached to the estimate of the cost of repairing the insured's motor
9 vehicle if the estimate is based on the use of one or more nonoriginal manufacturer
10 replacement parts and is prepared by the insurer or the insurer's representative.
11 The insurer or the insurer's representative shall deliver the estimate and notice and
12 authorization form to the insured before the motor vehicle is repaired.

13 **SECTION 10.** 632.38 (3) (b) of the statutes is amended to read:

14 632.38 (3) (b) If the insurer or the insurer's representative directs the insured
15 to obtain one or more estimates of the cost of repairing the insured's motor vehicle
16 and the estimate approved by the insurer or the insurer's representative clearly
17 identifies one or more nonoriginal manufacturer replacement parts to be used in the
18 repair, the insurer or the insurer's representative shall ~~assure delivery of the notice~~
19 ~~described in sub. (2)~~ deliver the estimate approved by the insurer or the insurer's
20 representative, with the notice and authorization form attached, to the insured
21 before the motor vehicle is repaired.

22 **SECTION 11.** 632.38 (3) (c) of the statutes is repealed.

23 **SECTION 12.** 632.38 (3) (d) of the statutes is repealed.

24 **SECTION 13.** 632.38 (4) of the statutes is repealed.

25 **SECTION 14. Initial applicability.**

