2011 ASSEMBLY BILL 189

June 21, 2011 – Introduced by Representatives BROOKS, SHILLING, SPANBAUER, VAN ROY, KERKMAN and NERISON, cosponsored by Senators MOULTON, KAPANKE, HOLPERIN and WIRCH. Referred to Committee on Jobs, Economy and Small Business.

AN ACT to renumber and amend 632.37; to amend 632.37 (title); and to create 134.82, 632.37 (1) (title), 632.37 (1) (b), (c), (d), (e) and (f) and 632.37 (2) and (3) of the statutes; relating to: prohibiting an insurer from requiring a certain vendor for repairing a motor vehicle, requiring adjusters to inspect motor vehicle damage, 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 all reasonable and necessary 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 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 local market
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 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 bill also prohibits an insurer or anyone acting on
behalf of an insurer from unilaterally and arbitrarily disregarding a repair operation
or cost identified under a damage repair estimate system.

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

SECTION 1. 134.82 of the statutes is created to read:

134.82 Notice of right to choose repairer. (1) An auto body repair facility
or automobile insurance claim facility shall post in a conspicuous location a sign that
states, in boldface letters not less than 2 inches high: “Wisconsin law prohibits an
insurance company from requiring that motor vehicle repairs be made by a
particular repair facility; the consumer has the right to choose the repair facility.”

(2) Every motor vehicle damage repair estimate prepared by an auto body
repair facility or automobile insurance claim facility shall include at the top of the
estimate, printed in not less than 10-point boldface type, the following notice:
“Wisconsin law prohibits an insurance company from requiring that motor vehicle
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reparis be made by a particular repair facility; the consumer has the right to choose
the repair facility.”

Section 2. 632.37 (title) of the statutes is amended to read:

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

Section 3. 632.37 of the statutes is renumbered 632.37 (1) (a) and amended
to read:

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

Section 4. 632.37 (1) (title) of the statutes is created to read:

632.37 (1) (title) Restrictions on specifying repair facility.

Section 5. 632.37 (1) (b), (c), (d), (e) and (f) of the statutes are created to read:

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

1. Orally inform the insured or 3rd party that he or she may select any garage,
repair shop, or other vendor to prepare a damage repair estimate or to repair the
motor vehicle.
2. Orally inform the insured or 3rd party that the insurer will pay all reasonable and necessary costs of the repair regardless of which garage, repair shop, or other vendor the insured or 3rd party selects to make the repair.

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

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

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

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

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

(e) An insurer that makes a referral under par. (d) may not engage in any actions intended to influence the insured's or 3rd party's decision, such as by agreeing to reduce the amount of the premium or deductible or by offering any warranties if the insured or 3rd party selects a particular garage, repair shop, or other vendor, or by suggesting that if repairs are not made at a particular garage, repair shop, or other vendor the repairs will cost more, be delayed, or not be guaranteed.
(f) An insurer that issues a policy specified in par. (a) shall include on every
motor vehicle proof of insurance card issued on or after the effective date of this
paragraph .... [LRB inserts date], substantially the following information on its face:
“Wisconsin law prohibits an insurance company from requiring that motor vehicle
repairs be made by a particular repair facility; the consumer has the right to choose
the repair facility.”

SECTION 6. 632.37 (2) and (3) of the statutes are created to read:

632.37 (2) REPAIR ESTIMATES. (a) An adjuster, as defined in s. 601.02 (1), may
not prepare a motor vehicle damage repair estimate, or alter an estimate that was
prepared by another party, without first making a physical inspection of the damage
to the vehicle.

(b) An insurer, representative of an insurer, or other person acting on behalf
of an insurer may not unilaterally and arbitrarily disregard a repair operation or cost
identified under a damage repair estimating system.

(3) PAYMENT OF REPAIR COSTS. Except as otherwise agreed between the insurer
and the garage, repair shop, or other vendor making the repair, an insurer that pays
for the repair of a motor vehicle shall pay for the repair at the same rate that the
general public pays for the repair in the local market area in which the repair is
made. The insurer may not limit or discount the amount that the insurer pays for
the repair on the basis that the repair would have cost less if it had been made at a
particular garage, repair shop, or other vendor, or in a particular location, specified
by the insurer.

SECTION 7. Initial applicability.
(1) If a motor vehicle insurance policy that is in effect on the effective date of this subsection contains a provision that is inconsistent with this act, this act first applies to that motor vehicle insurance policy on the date on which it is renewed.

**SECTION 8. Effective dates.** This act takes effect on the day after publication, except as follows:

(1) **Proof of insurance card.** The treatment of section 632.37 (1) (f) of the statutes takes effect on the 61st day after publication.