

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 599**

4 (By Senators Jenkins and Plymale)

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6 [Originating in the Committee on Banking and Insurance;
7 reported February 23, 2012.]
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10 A BILL to amend and reenact §33-6D-1, §33-6D-2 and §33-6D-3 of the
11 Code of West Virginia, 1931, as amended, all relating to use
12 of particular companies or locations providing automobile
13 glass replacement or repair services; adding third-party
14 administrator to those who may not require particular
15 companies or locations when a claim is made under an insurance
16 policy; adding third-party administrators to the list of
17 insurers, agents and adjusters; providing that an insurer or
18 third-party administrator that has a financial interest in an
19 automobile glass company on a recommendation list must
20 disclose such fact on the list; and providing that any list
21 must contain at least two different automobile glass
22 companies.

23 *Be it enacted by the Legislature of West Virginia:*

24 That §33-6D-1, §33-6D-2 and §33-6D-3 of the Code of West
25 Virginia, 1931, as amended, be amended and reenacted, all to read
26 as follows:

27 **ARTICLE 6D. MOTOR VEHICLE REPAIR AND REPLACEMENT REFERRALS.**

28 **§33-6D-1. Required use of particular companies or locations**

1 **providing automobile glass replacement or repair**
2 **services or products prohibited.**

3 No insurer issuing or renewing in this state ~~any~~ a motor
4 vehicle insurance policy, nor any agent, ~~or~~ adjuster or third-party
5 administrator thereof, may require the insured or ~~any~~ a person
6 making a claim under such policy to use a particular company or
7 location to obtain automobile glass replacement or repair services
8 or products insured, in whole or in part, by that policy.

9 **§33-6D-2. Intimidation, coercion and other acts prohibited;**
10 **permissive agreements.**

11 No such insurer, agent, ~~or~~ adjuster or third-party
12 administrator may engage in any act or practice of intimidation,
13 coercion or threat for or against any such insured or claimant to
14 use a particular company or location to obtain automobile glass
15 replacement or repair services or products covered, in whole or in
16 part, by the insurance policy: *Provided*, That nothing contained in
17 this article shall prohibit an insurer, agent, ~~or~~ adjuster or
18 third-party administrator from entering into an agreement or
19 arrangement with any company regarding automobile glass prices or
20 services for the repair or replacement of automobile glass.

21 **§33-6D-3. Permissible referrals; freedom of choice; payment of**
22 **costs at prevailing market rates.**

23 (a) Nothing contained in this article prohibits any insurer,
24 agent, ~~or~~ adjuster or third-party administrator from providing to
25 an insured or claimant a list that includes the names of automobile
26 glass companies or locations that are reasonably close and
27 convenient to the insured or claimant, and with which the insurer
28 may have made special arrangements with respect to automobile glass

1 prices or services. An insurer or third-party administrator that
2 has a financial interest in an automobile glass company on such
3 list must disclose such fact on the list. A list must contain at
4 least two different automobile glass companies.

5 (b) If an insurer, agent, ~~or~~ adjuster or third-party
6 administrator provides an insured or claimant with a list of
7 automobile glass companies or locations, such insurer, agent, ~~or~~
8 adjuster or third-party administrator shall advise the insured or
9 claimant that he or she may use any other automobile glass company
10 or location of his or her choice.

11 (c) All insurers shall fully and promptly pay the cost of
12 automobile glass replacement or repair services or products from
13 any nonlisted automobile glass company or location, less any
14 applicable deductible amount payable by the insured according to
15 the terms of the insurance policy, at no less than the prevailing
16 market price charged by other automobile glass companies or
17 locations providing comparable services or products in the same
18 geographic area within the state.

19 (d) No automobile glass company or location may waive
20 insurance deductibles or offer rebates, discounts or other
21 incentives for automobile glass repair which is being reimbursed by
22 insurance. An insurer may limit payment of all glass claims to a
23 glass company or location that has violated this provision to the
24 lowest competitive price. The glass company or location may not
25 seek reimbursement for any amounts not paid directly from the
26 insured or claimant.

(NOTE: The purpose of this bill is to add third-party administrator to those who may not require particular companies or locations to replace glass or perform repairs on automobiles when a claim is made under an insurance policy; add that an insurer or third-party administrator that has a financial interest in an automobile glass company on a recommendation list must disclose such fact on the list; and add that any recommendation list must contain at least two different automobile glass companies.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.)