

**Senate Bill No. 34**

(By Senators Jenkins and McCabe)

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[Introduced February 13, 2013; referred to the Committee on  
Banking and Insurance; and then to the Committee on the  
Judiciary.]

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11 A BILL to amend and reenact §33-6D-1, §33-6D-2 and §33-6D-3 of the  
12 Code of West Virginia, 1931, as amended, all relating to use  
13 of particular companies or locations providing automobile  
14 glass replacement or repair services; adding third-party  
15 administrators to those who may not require particular  
16 companies or locations when a claim is made under an insurance  
17 policy; adding third-party administrators to the list of  
18 insurers, agents and adjusters; providing that an insurer or  
19 third-party administrator that has a financial interest in an  
20 automobile glass company on a recommendation list must  
21 disclose that fact on the list of names of automobile glass  
22 companies or locations that are reasonably close and  
23 convenient to the insured or claimant; and providing that the

1 list must contain at least two different automobile glass  
2 companies.

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

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

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

8 **§33-6D-1. Required use of particular companies or locations**  
9 **providing automobile glass replacement or repair**  
10 **services or products prohibited.**

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

17 **§33-6D-2. Intimidation, coercion and other acts prohibited;**  
18 **permissive agreements.**

19 No such insurer, agent, ~~or~~ adjuster or third-party  
20 administrator may engage in any act or practice of intimidation,  
21 coercion or threat for or against any such insured or claimant to  
22 use a particular company or location to obtain automobile glass

1 replacement or repair services or products covered, in whole or in  
2 part, by the insurance policy: *Provided*, That nothing contained in  
3 this article shall prohibit an insurer, agent, ~~or~~ adjuster or  
4 third-party administrator from entering into an agreement or  
5 arrangement with any company regarding automobile glass prices or  
6 services for the repair or replacement of automobile glass.

7 **§33-6D-3. Permissible referrals; freedom of choice; payment of**  
8 **costs at prevailing market rates.**

9 (a) Nothing contained in this article prohibits any insurer,  
10 agent, ~~or~~ adjuster or third-party administrator from providing to  
11 an insured or claimant a list that includes the names of automobile  
12 glass companies or locations that are reasonably close and  
13 convenient to the insured or claimant, and with which the insurer  
14 may have made special arrangements with respect to automobile glass  
15 prices or services. An insurer or third-party administrator that  
16 has a financial interest in an automobile glass company on such  
17 list must disclose such fact on the list. A list must contain at  
18 least two different automobile glass companies.

19 (b) If an insurer, agent, ~~or~~ adjuster or third-party  
20 administrator provides an insured or claimant with a list of  
21 automobile glass companies or locations, such insurer, agent, ~~or~~  
22 adjuster or third-party administrator shall advise the insured or  
23 claimant that he or she may use any other automobile glass company

1 or location of his or her choice.

2 (c) All insurers shall fully and promptly pay the cost of  
3 automobile glass replacement or repair services or products from  
4 any nonlisted automobile glass company or location, less any  
5 applicable deductible amount payable by the insured according to  
6 the terms of the insurance policy, at no less than the prevailing  
7 market price charged by other automobile glass companies or  
8 locations providing comparable services or products in the same  
9 geographic area within the state.

10 (d) No automobile glass company or location may waive  
11 insurance deductibles or offer rebates, discounts or other  
12 incentives for automobile glass repair which is being reimbursed by  
13 insurance. An insurer may limit payment of all glass claims to a  
14 glass company or location that has violated this provision to the  
15 lowest competitive price. The glass company or location may not  
16 seek reimbursement for any amounts not paid directly from the  
17 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. The bill requires an insurer or third-party administrator that has a financial interest in an automobile glass company on a recommendation list must disclose that fact on the list. The bill also requires that the list of names of automobile glass companies that are reasonably close and convenient to the insured or claimant 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.