

Automotive Service Association (ASA) Comments

NATIONAL CONFERENCE OF INSURANCE LEGISLATORS (NCOIL)

**Proposed Substitute Amendment to Draft
Model Act Regarding Insurer Auto-Body Steering***

*To be considered by the NCOIL Property-Casualty Insurance Committee on July 10, 2010.
Sponsored for discussion by Sen. Ruth Teichman (KS)*

Table of Contents		Page Numbers
Section 1.	Short Title	(1)
Section 2.	Summary	(1)
Section 3.	Definitions	(1)
Section 4.	Selection of Repair Facility, Insurer Prohibitions	(2)
Section 5.	Disclosure	(2)
Section 6.	Violations and Penalties	(2)
Section 7.	Effective Date	(2)

Section 1. Short Title

This Act shall be known as the *Model Act Regarding Insurer Auto-Body Steering*.

Section 2. Summary

This Act applies to personal lines motor-vehicle insurance policies, provides for consumer choice in selection of a repair facility, mandates certain disclosures, and establishes violations as unfair claims settlement practices.

Section 3. Definitions

For the purposes of this Act,

- A. "Claimant" means an individual other than an insured who requests payment under terms of the insured's insurance policy.
- B. "Insured" means the party named on a policy as the individual with legal rights to the benefits provided by the policy.
- C. "Insurer" means an insurance company and/or any person authorized to represent the insurer with respect to a claim and who is acting within the scope of the person's authority.
- D. "Policy" means a contract issued for private motor-vehicle insurance that is individually underwritten for personal, family, or household use.
- E. "Preferred repair facility" means a repair facility that meets an insurer's customer service and repair standards.
- F. "Repair facility" means a motor vehicle dealer, garage, body shop, or other commercial entity that undertakes the repair or replacement of those parts that generally constitute the exterior

of a motor vehicle.

Section 4. Selection of Repair Facility, Insurer Prohibitions

An insurer authorized to do business in *[insert state]* shall not:

- A. require an insured or claimant to utilize preferred repair facilities as a prerequisite to settling or paying any claim arising under a policy or policies of insurance. An insurer may recommend a repair facility prior to an insured or claimant choosing one. Recommendations should be made based on the level of training, equipment and certifications held by the repair facility and its staff
- B. engage in any act of coercion or intimidation causing or intended to cause an insured or claimant to utilize a preferred repair facility
- C. recommend a repair facility once an insured or claimant has advised the insurer that one has been selected, or interfere with the insured or claimant's selection once it has been made
- D. pay a non-preferred repair facility selected by an insured or claimant less to complete a repair than the insurer would have paid a preferred repair facility for the same work. This could encourage a system seeking the lowest common denominator within the marketplace; punishing those shops with higher standards, etc. If not revised, this provision should be deleted.

Section 5. Disclosure

An insurer authorized to do business in this state shall disclose to an insured or claimant, at such time as the insurer or its third-party representative recommends use of a preferred repair facility, that:

- A. the insured or claimant is under no obligation to use the preferred repair facility
- B. the insurer or its third-party representative has a financial interest in such facility, if such an interest exists
- C. the recommendation is based on the level of shop staff training, equipment criteria and certifications.

Section 6. Violations and Penalties

- A. The *[insert appropriate state agency]* shall investigate, with the written authorization of the insured or claimant, any written complaints received pursuant to this Act, regardless of whether such written complaints are submitted by an individual or a repair facility. For the purpose of this section, any insurer utilizing a third-party representative shall be held accountable for any violation of this section by such third-party representative.
- B. Violations of this Act shall constitute *[insert state]* unfair claims settlement practices and shall be subject to applicable state fines and penalties.

Section 7. Effective Date

This Act shall take effect on *[insert date]*, applying to personal lines motor-vehicle insurance policies either written to be effective or renewed on or after nine (9) months from the effective date of the bill.

* *Based on Rhode Island and Virginia statutes*

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