

**Belron US Comments**

**NATIONAL CONFERENCE OF INSURANCE LEGISLATORS (NCOIL)**

**Proposed Substitute Amendment to Draft  
Model Act Regarding ~~Insurer~~Consumer Choice in Auto- Body ~~Steering~~Repair**

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

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**Section 1. Short Title**

This Act shall be known as the *Model Act Regarding ~~Insurer~~Consumer Choice in Auto- Body ~~Steering~~Repair*.

**Section 2. Summary**

This Act applies to personal lines motor-vehicle insurance policies, provides for consumer choice in selection of an auto body repair facility, ~~mandates certain disclosures, and establishes violations as unfair claims settlement practices~~and prohibits the offering and acceptance of incentives in exchange for the referral of a particular insured to a repair facility.

**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.~~ B. “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.~~ C. “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.~~

~~FD.~~ “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. Honoring Consumer Choice In The Selection of Auto Body Repair Facility, Insurer Prohibitions No Incentives For Referral**

A An insurer authorized to do business in ~~insert this~~ state shall not:

~~A. require an~~ 1. Require that the 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 utilize a particular repair facility as a condition of payment of a claim unless otherwise provided pursuant to the terms of the motor vehicle insurance policy

2. Threaten, coerce or intimidate an insured into selecting a particular repair facility

3. Accept a rebate, gift, gift card, cash, or anything of value from a repair facility in exchange for the referral of a particular insured to that repair facility

~~B. engage in any act of coercion or intimidation causing or intended to cause an insured or claimant to utilize a preferred repair facility~~ An insurer authorized to do business in this state may:

1. recommend a repair facility

2. educate the insured as to the features and benefits available to the insured under the policy

~~C. recommend a~~ No 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~~ shall offer a rebate, gift, gift card, cash, or anything of value to an insurer in exchange for the referral of a particular insured to that repair facility

~~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~~

D. No repair facility shall offer a rebate, gift, gift card, cash, or anything of value to an insured in exchange for that insured filing an insurance claim for auto body services

E. Nothing in this section shall prohibit an insurer from entering into a preferred provider agreement or from participating in any direct repair program or direct repair network with repair facilities

**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~~**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.~~

Due to variations in penalties and violations and governance thereof in various jurisdictions, states will necessarily need to refer to their own statutes for the purposes of enforcement

### **Section 7.6. 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*