

NATIONAL CONFERENCE OF INSURANCE LEGISLATORS (NCOIL)



**Society of Collision Repair Specialists (SCRS) Proposed Markup to Substitute Amendment to Draft
Model Act Regarding Insurer Auto-Body Steering***

**Proposed draft endorsed by: The Society of Collision Repair Specialists – U.S.
The Alliance of Automotive Service Providers – U.S.
The Houston Auto Body Association – TX
Vehicle Information Services, LLC - OH**

*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 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 participation requirements, and has entered into a contractual relationship with an insurer.~~
- F. “Repair facility” means a motor vehicle dealer, garage, body shop, or other commercial entity that undertakes the repair ~~of motor vehicles for compensation 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 or suggest that an insured or claimant ~~to~~ **must** utilize preferred repair facilities as a prerequisite to settling or paying any claim arising under a policy or policies of insurance. **If requested by the insured or claimant, An** insurer may recommend a repair facility prior to an insured or claimant choosing one
- B. require an insured or claimant to utilize a preferred repair facility, or specified location, to obtain an estimate as a prerequisite to settling or paying any claim arising under a policy or policies of insurance**
- ~~B-C.~~ engage in any act of **direct or implied coercion, or intimidation, or use of disincentives** causing or intended to cause an insured or claimant to utilize a preferred repair facility, **or to avoid utilizing any non-preferred repair facility**
- ~~C-D.~~ recommend, **or encourage the use of, any 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-E.~~ **pay a non-preferred repair facility selected by an insured or claimant settle a claim for** less to complete a repair than the insurer would have paid a preferred repair facility **for to perform** the same work
- F. utilize agreements negotiated with preferred repair facilities for the cost of labor, materials, rates or procedures to settle claims with an insured or claimant who does not select a preferred repair facility**
- G. suggest to an insured or claimant that utilizing a non-preferred repair facility may result in delays, or handle the claim in a less efficient manner if the customer chooses a non-preferred repair facility**
- H. suggest to an insured or claimant that guarantees apply only with the selection of a preferred repair facility; suggest that another repair facility does not guarantee their repair work unless known to be true and accurate; or suggest that the carrier guarantees or warrants the repair unless the carrier directly provides their warranty of the repair work performed in writing to the consumer.**

Section 5. Disclosure

- A. 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:

- A1.** the insured or claimant is under no obligation to use the preferred repair facility
- B2.** the insurer or its third-party representative has a financial interest in such facility, if such an interest exists
- C3.** **the insurer or its third party representative has a financial interest in repair cost savings through the contractual relationship with a preferred repair facility, if such an interest exists**
 - a.** **the insured or claimant shall be offered a copy of the agreement between the insurer and the preferred repair facility prior to the signing of a repair authorization**
- B.** **An insurer authorized to do business in this state shall file the terms of the agreement used to contract preferred repair facilities in writing to (insert state department).**

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 **by the insurer** and **each occurrence of violation** 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*

Additions indicated by <u>boldface underline</u> . Deletions indicated by boldface strikethrough .
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