

NEW AUTO GLASS BILL

Chapter 0161 – 501R-H Ver of SB1238

Be it enacted by the Legislature of the State of Arizona:

Section 1. Title 20, chapter 2, article 6, Arizona Revised Statutes, is amended by adding section 20-469.01, to read:

20-469.01. Third party administrator; glass; classification; definition

- A. If a third party administrator recommends or provides information about a glass repair facility to a customer, the third party administrator shall inform the person of the person's right prescribed in section 20-469 to choose any glass repair facility for the repair of the loss relating to motor vehicle glass at the same time as making the recommendation or providing information. An independent adjuster or a third party administrator's automotive physical damage appraiser or claims inspector for automotive glass repair or replacement work in connection with an inspection limited to automotive glass repair or replacement shall not recommend any particular glass repair facility.**
- B. This section shall not apply to any employee or insurance producer of an insurer.**
- C. This section shall not create a private right of action.**
- D. A person who knowingly violates this section is guilty of a petty offense for a first violation and, notwithstanding section 13-802. Shall pay a fine of one thousand five hundred dollars for a second violation within eighteen months after a prior violation of this section and three thousand dollars for any subsequent violation within eighteen months after a prior violation of this section.**
- E. For the purposes of determining whether a defendant acted knowingly, it may be presumed that the person had knowledge if the person was engaged in a regular and consistent pattern of the prohibited activity.**
- F. For the purposes of this section "third party administrator" means any person who provides administrative service or adjusts or settles claims in connection with automobile glass repair insurance coverage.**

Approved by the Governor April 18, 2011

Filed in the office of the Secretary of State April 18, 2011

The following is the AAGA'S official opinion of the SB1238 passed on April 18, 2011. If you have any questions, please call me directly at 480-339-8000.

Rex Altree
AAGA

Paragraph A: sentence 1: If a third party administrator recommends or provides information about a glass repair facility to a customer, the third party administrator shall inform the person of the person's right prescribed in section 20-469 to choose any glass repair facility for the repair of the loss relating to motor vehicle glass at the same time as making the recommendation or providing information.

Sentence 1 – The purpose of this sentence is for the Third Party Administrator (TPA) representative speaking on the phone or conducting a 3 way call with the shop and the customer or the customer only. The only information they should be providing is whether or not the shop is a participant in the LYNXS/Safelite program or has an agreement with LYNXS/Safelite. The TPA is supposed to disclose that the Auto Glass customer has the right to choose any facility to do their repair or replacement. Currently, this disclosure is being done via a recording at the beginning of the phone call to the TPA and is not heard by the customer. Going forward, because of this law (SB1238) the right to choose disclosure must be verbally communicated at the "SAME TIME" when providing any information about another Auto Glass Facility.

Paragraph A: sentence 2: An independent adjuster or a third party administrator's automotive physical damage appraiser or claims inspector for automotive glass repair or replacement work in connection with an inspection limited to automotive glass repair or replacement shall not recommend any particular glass repair facility.

Sentence 2- This is speaking to or about the Safelite installers or Safelite installers who inspect the chip or break in the windshield. This sentence specifically specifies that they are not allowed to recommend themselves/imply or steal the repair or replacement job from the Auto Glass Company that initiated the claim/inspection. Simply they can only inspect and not recruit or steal business.

Paragraph B: This section shall not apply to any employee or insurance producer of an insurer

This sentence clarifies that paragraph A is only about the Safelite TPA representative speaking on the phone or doing an inspection of the glass. It does not give "any employee or insurance producer" the right to steer or disparage, speak contemptuously of or to be little or to say anything that could damage the reputation of the Auto Glass shop that initiated the claim/inspection.

Paragraph C: *This section shall not create a private right of action.*

A private right of action would be the ability to personally sue the TPA's or Insurance Companies and Paragraph C takes the ability to sue the Third Party Administrators or the Insurance Companies away.

Paragraph D: *A person who knowingly violates this section is guilty of a petty offense for a first violation and, notwithstanding section 13-802. The violator shall pay a fine of one thousand five hundred dollars for a second violation within eighteen months after a prior violation of this section and three thousand dollars for any subsequent violation within eighteen months after a prior violation of this section.*

This is important because we do not have to go through the Department of Insurance to file a complaint. Senate Bill 1238 will be enforced by any Law enforcement representative in the State of Arizona. This includes the Arizona Attorney General, your local prosecutor or your local city police officer. Complaint forms can be obtained through the AAGA by calling Carla at 480-428-1360 or you will soon be able to go to our website @ Azglass.org and download the complaint forms. We recommend that you send a copy into the AAGA and keep a copy for your records.

Paragraph E: *For the purposes of determining whether a defendant acted knowingly, it may be presumed that the person had knowledge if the person was engaged in a regular and consistent pattern of the prohibited activity.*

We consider 2 or more complaints a pattern of regular and consistent pattern of the prohibited activity. We recommend that you go to your local city prosecutor. And please notify the AAGA whenever you file a complaint. When we receive 10 to 12 complaint forms from 5 or 6 different companies the AAGA will then also file on your behalf with the Arizona Attorney General.

Paragraph F: *For the purposes of this section "third party administrator" means, any person who provides administrative service or adjusts or settles claims in connection with automobile glass repair insurance coverage.*

Self - explanatory no commented needed.
