

REFERENCE TITLE: **unlawful practices; auto glass repair**

State of Arizona
House of Representatives
Fifty-second Legislature
Second Regular Session
2016

HB 2500

Introduced by
Representatives Livingston, Coleman, Leach, Lovas, Senators Meza, Miranda:
Representatives Allen J, Borrelli, Boyer, Campbell, Fann, Fernandez,
Finchem, Larkin, McCune Davis, Mesnard, Mitchell, Norgaard, Otondo,
Petersen, Thorpe, Weninger, Senator Contreras

AN ACT

AMENDING SECTION 20-463.01, ARIZONA REVISED STATUTES; RELATING TO AUTO GLASS REPAIR UNLAWFUL PRACTICES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 20-463.01, Arizona Revised Statutes, is amended to
3 read:
4 20-463.01. Unlawful practices: auto glass repair:
5 policyholders: insurers
6 A. It is an unlawful practice for a person who sells or repairs auto
7 glass, AN AUTO GLASS REPAIR OR REPLACEMENT FACILITY OR ANY AGENT, CONTRACTOR,
8 VENDOR, REPRESENTATIVE OR ANYONE ACTING ON BEHALF OF THE PERSON OR FACILITY
9 to knowingly:
10 1. Submit a false claim to an insurer for auto glass repair or
11 replacement or for related services:
12 (a) If the services were not provided.
13 (b) Showing work performed in a geographical area that in fact was not
14 the location where the services were provided and that results in a higher
15 payment than would otherwise be paid to the person by the policyholder's
16 insurer.
17 (c) Not authorized in writing by the owner or lessee of the vehicle.
18 (d) Showing work performed on a date other than the date the work was
19 actually performed and resulting in a change of insurance coverage status.
20 2. Advise a policyholder to falsify the date of damage to the auto
21 glass that results in a change of insurance coverage for repair or
22 replacement of the auto glass.
23 3. Falsely sign on behalf of a policyholder or another person a work
24 order, insurance assignment form or other related form in order to submit a
25 claim to an insurer for auto glass repair or replacement or for related
26 services.
27 4. Misrepresent to a policyholder or other person:
28 (a) The price of the proposed repairs or replacement being billed to
29 the policyholder's insurer.
30 (b) That the insurer has approved the repairs or replacement unless
31 the auto glass repair ~~or~~ AND replacement facility has verified coverage or
32 obtained authorization directly from the insurance company or any other third
33 party administrator contracted with the insurance company and the evidence
34 has been confirmed by fax, e-mail or other written and recorded
35 communication.
36 5. Represent to a policyholder or other person WHAT AUTO GLASS
37 COVERAGE IS AVAILABLE UNDER THE INSURANCE POLICY OR that the repair or
38 replacement will be paid for entirely by the policyholder's insurer and at no
39 cost to the policyholder unless the insurance coverage has been verified by a
40 person who is employed by or is a producer contracted with the policyholder's
41 insurer or is a third party administrator contracted with the insurer.
42 6. Add to the damage of auto glass before repair in order to increase
43 the scope of repair or replacement or encourage a policyholder or other
44 person to add to the damage of auto glass before repair.

1 7. Perform work clearly and substantially beyond the level of work
2 necessary to repair or replace the auto glass to put the vehicle back into a
3 safe pre-damaged condition in accordance with accepted or approved reasonable
4 and customary glass repair or replacement techniques.

5 8. THREATEN, COERCE OR INTIMIDATE AN INSURED FOR THE PURPOSE OF
6 INDUCING THE INSURED TO FILE A CLAIM FOR AUTO GLASS REPAIR OR REPLACEMENT.

7 9. INDUCE AN INSURED TO FILE AN AUTO GLASS REPAIR OR REPLACEMENT CLAIM
8 IF THE DAMAGE TO THE AUTO GLASS IS INSUFFICIENT TO WARRANT AUTO GLASS REPAIR
9 OR REPLACEMENT.

10 10. WAIVE OR OFFER TO WAIVE THE INSURED'S DEDUCTIBLE OR OFFER A
11 REBATE, GIFT, GIFT CARD, CASH OR COUPON OR ANYTHING OF VALUE TO ANY PERSON IN
12 EXCHANGE FOR EITHER A REFERRAL OF AN INSURED TO THE AUTO GLASS REPAIR
13 FACILITY IN CONNECTION WITH AN AUTO GLASS REPAIR OR REPLACEMENT CLAIM UNDER
14 AN INSURANCE POLICY OR TO INDUCE THE INSURED TO FILE AN AUTO GLASS REPAIR OR
15 REPLACEMENT CLAIM UNDER AN INSURANCE POLICY.

16 11. REPRESENT VERBALLY, ELECTRONICALLY OR IN ANY OTHER WAY, INCLUDING
17 AN ADVERTISEMENT OR WEBSITE OR ANY MARKETING MATERIALS, THAT A CLAIM FOR A
18 WINDSHIELD REPAIR OR REPLACEMENT UNDER AN INSURANCE POLICY IS FREE.

19 12. PERFORM AUTO GLASS REPAIR OR REPLACEMENT SERVICES IN THIS STATE
20 WITHOUT OBTAINING A TRANSACTION PRIVILEGE TAX LICENSE NUMBER ISSUED BY THE
21 DEPARTMENT OF REVENUE PURSUANT TO SECTION 42-5005.

22 13. IF THE PERSON REPAIRING OR REPLACING THE AUTO GLASS DOES NOT
23 ACCEPT THE INSURER'S RATE, PERFORM WORK WITHOUT PROVIDING A WRITTEN ESTIMATE
24 TO THE INSURED BEFORE THE WORK BEGINS THAT INCLUDES ALL OF THE FOLLOWING:

25 (a) A STATEMENT WHETHER THE PERSON REPAIRING OR REPLACING THE AUTO
26 GLASS AGREES TO ACCEPT THE INSURER'S RATE FOR PARTS, KITS AND LABOR.

27 (b) THE ACTUAL RATE THAT WILL BE CHARGED FOR THAT WORK AND THE
28 DIFFERENCE BETWEEN THAT RATE AND THE INSURER'S RATE.

29 (c) A STATEMENT THAT THE INSURED MAY BE FINANCIALLY RESPONSIBLE TO PAY
30 THE DIFFERENCE BETWEEN THE ACTUAL RATE THAT WILL BE CHARGED FOR THAT WORK AND
31 THE INSURER'S RATE.

32 (d) THE SIGNATURE OF THE INSURED.

33 (e) THE BUSINESS'S TRANSACTION PRIVILEGE TAX LICENSE NUMBER ISSUED BY
34 THE DEPARTMENT OF REVENUE PURSUANT TO SECTION 42-5005.

35 14. PERFORM AUTO GLASS REPAIR OR REPLACEMENT SERVICES UNDER AN
36 INSURANCE POLICY WITHOUT FIRST OBTAINING THE INSURED'S AND INSURER'S APPROVAL
37 FOR THE SPECIFIC WORK TO BE PERFORMED.

38 15. TRANSPOSE OR DUPLICATE, EITHER ELECTRONICALLY OR IN ANY OTHER
39 FORM, AN INSURED'S SIGNATURE ONTO A DOCUMENT THAT IS REQUIRED TO AUTHORIZE
40 THE REPAIR OR REPLACEMENT OF AUTO GLASS. FOR THE PURPOSES OF THIS PARAGRAPH,
41 DUPLICATE DOES NOT INCLUDE MAKING COPIES OF A DOCUMENT FOR RECORD RETENTION
42 PURPOSES.

43 16. BILL THE INSURER FOR MORE THAN THE REPAIR OR REPLACEMENT COST
44 AGREED ON WITH THE INSURED, A THIRD-PARTY ADMINISTRATOR OF THE INSURER OR AN
45 AGENT REPRESENTING THE INSURER FOR THE WRITTEN ESTIMATE.

1 B. IF THE PERSON REPAIRING OR REPLACING THE AUTO GLASS FAILS TO
2 PROVIDE THE STATEMENT REQUIRED IN SUBSECTION A, PARAGRAPH 13, SUBDIVISION (c)
3 OF THIS SECTION IN WRITING TO THE INSURED, NEITHER THE INSURED OR THE INSURER
4 IS RESPONSIBLE FOR THE PAYMENT OF ANY AMOUNTS IN EXCESS OF THE REPAIR OR
5 REPLACEMENT ESTIMATE NOT EXPRESSLY AUTHORIZED BY THE INSURED OR INSURER.

6 ~~B.~~ C. It is unlawful for a person who sells or repairs auto glass to
7 intentionally misrepresent the relationship of the glass repair facility to
8 the policyholder's insurer. For the purposes of determining whether a person
9 intended the misrepresentation, it may be presumed that the person intended
10 the misrepresentation if the person was engaged in a regular and consistent
11 pattern of misrepresentation.

12 D. IT IS UNLAWFUL FOR A PERSON WHO SELLS OR REPAIRS AND REPLACES AUTO
13 GLASS TO FAIL TO MAKE THE VEHICLE AVAILABLE FOR INSPECTION AT THE REQUEST OF
14 THE INSURER BEFORE PERFORMING AUTO GLASS REPAIR AND REPLACEMENT SERVICES ON
15 AN INSURED VEHICLE.

16 ~~C.~~ E. A violation of this section is subject to enforcement under
17 this article.

18 ~~D.~~ F. For the purposes of determining whether a defendant knew of any
19 particular element of the prohibited activity, it may be presumed that the
20 person had knowledge if the person was engaged in a regular and consistent
21 pattern of the prohibited activity.