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NATIONAL COUNCIL OF INSURANCE LEGISLATORS (NCOIL)

Motor Vehicle Glass Model Act

**Sponsored by Rep. Michael Sarge Pollock (KY)*

**Draft as of June 18, 2024. To be introduced and discussed during the Property & Casualty Insurance Committee on July 20, 2024.*

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Section 1. Title

This Act shall be known as the [State] Motor Vehicle Glass Act.

Section 2. Definitions

As used in this Act, the following terms shall have the following meanings:

(A) "Advanced driver assistance system" means any motor vehicle electronic safety system, as outlined in the most recent version of SAE International's SAE J3016 Levels of Driving Automation, that is designed to support the driver and motor vehicle in a manner intended to:

- (1) Increase motor vehicle safety; and
- (2) Reduce losses associated with motor vehicle crashes.

(B) "Insurance Producer" means an individual or business entity required to be licensed under the laws of [State] to sell, solicit, or negotiate insurance or annuity contracts. "Insurance producer" includes agent, managing general agent, surplus lines broker, reinsurance intermediary

broker and manager, rental vehicle agent and rental vehicle agent managing employee, and consultant.

(C) "Insured" means a person that is entitled, or may be entitled, to receive first-party benefits or payments under an insurance policy.

(D) "Motor vehicle glass" means the glass and non-glass parts associated with the replacement of the glass used in the windshield, doors, or windows.

(E) "Motor vehicle glass repair shop" means any person, including the person's employees and agents, that for consideration engages in the repair or replacement of damaged motor vehicle glass.

(F) "Person" means any individual, or any corporation, limited liability company, partnership, association, or other group existing under or authorized by the laws of either [State] or the United States.

(G) "Repair or replacement of damaged motor vehicle glass" includes:

- (1) Inspecting, repairing, restoring, or replacing damaged motor vehicle glass; and
- (2) Calibrating or recalibrating an advanced driver assistance system when an incident requires the replacement of damaged motor vehicle glass.

(H) "Rights or benefits under the policy" includes the insured's right to receive any and all post-loss benefits or payments available or payable under the policy, including but not limited to claim payments.

Section 3. Post-Loss Benefit Assignment

(A) An insured under a property and casualty insurance policy shall not, either prior to or after a claimed or covered loss, assign or otherwise transfer, in whole or in part, to any other person the insured's:

- (1) Duties under the policy; or
- (2) Rights or benefits under the policy.

(B) Any contract entered in violation of this section shall be void and unenforceable.

(C) Nothing in this section shall be construed to prohibit an insured from authorizing or directing payment to, or paying, a person for services, materials, or any other thing which may be, or is, covered under an insurance policy.

Section 4. Advanced Driver Assistance Systems

(A) Prior to contracting with an insured for a repair or replacement of damaged motor vehicle glass, a motor vehicle glass repair shop shall:

(1) Notify the insured:

(a) Whether the motor vehicle has an advanced driver assistance system;

(b) If the motor vehicle has an advanced driver assistance system:

(i) whether calibration or recalibration of the motor vehicle's advanced driver assistance system is required to make the advanced driver assistance system operable, and ensure that the repair or replacement of damaged motor vehicle glass is performed in a manner that meets the motor vehicle manufacturer's specifications.

(ii) Whether the motor vehicle glass repair shop can calibrate or recalibrate the advanced driver assistance system in a manner that meets the motor vehicle manufacturer's specifications; and

(iii) If the motor vehicle glass repair shop is not capable of performing a calibration or recalibration referenced in subdivision b. of this subparagraph, that the motor vehicle should be taken to the vehicle manufacturer's certified dealership or a qualified specialist capable of performing the calibration or recalibration.

(c) If calibration or recalibration of the motor vehicle's advanced driver assistance system is performed, that the motor vehicle glass repair shop will provide written notice to the insured:

(i) As to whether the calibration or recalibration was successful; and

(ii) If the calibration or recalibration was not successful, that the motor vehicle should be taken to the vehicle manufacturer's certified dealership or a qualified specialist capable of performing the calibration or recalibration.

Section 5. Motor Vehicle Glass Repair Claims and Practices

(A) A motor vehicle glass repair shop shall not contract with a person for a repair or replacement of damaged motor vehicle glass until:

(1) All of the following are satisfied:

(a) The person has made a first-party claim for the repair or replacement of damaged motor vehicle glass under a motor vehicle insurance policy;

(b) The motor vehicle glass repair shop has received a claim or referral number for the claim referenced under subparagraph 1. of this paragraph; and

(c) The requirements of Section (4) of this Act are satisfied; or

(2) The person either:

(a) States, in writing, that the person does not have first-party motor vehicle insurance coverage for the repair or replacement of damaged motor vehicle glass; or

(b) Declines, in writing, to make a first party claim for the repair or replacement of damaged motor vehicle glass under a motor vehicle insurance policy.

(B) A motor vehicle glass repair shop shall provide the insured an invoice, which shall, at a minimum, include:

(1) An estimate of the fees and costs that are anticipated to be charged to the insured by the motor vehicle glass repair shop for the repair or replacement of damaged motor vehicle glass;

(2) The shop's standard fees and costs for a repair or replacement of damaged motor vehicle glass; and

(3) Notice that the motor vehicle glass repair shop is prohibited under Section 6(2) of this Act from charging higher fees and costs to an insured for a repair or replacement of damaged motor vehicle glass than are reasonable and customarily charged in [State].

(C) A motor vehicle glass repair shop shall provide the insured upon completion of a repair or replacement of damaged motor vehicle glass:

(1) A receipt; and

(2) For any calibration or recalibration of an advanced driver assistance system, a notice that states whether the advanced driver assistance system is in working order.

Section 6. Prohibited Acts

(A) A motor vehicle glass repair shop, or any other person who is compensated for the solicitation of insurance claims, shall not offer a rebate, gift, gift card, cash, coupon, fee, prize, bonus, payment, incentive, inducement, or any other thing of value to any insured, insurance producer, or other person in exchange for directing or making a claim under a motor vehicle insurance policy for a repair or replacement of damaged motor vehicle glass.

(B) A motor vehicle glass repair shop shall not:

(1) Charge higher fees and costs to an insured for a repair or replacement of damaged motor vehicle glass than are reasonable and customarily charged in [State];

- (2) Submit false, misleading, or incomplete documentation or information to an insured or an insured's insurer, including any agent of the insured or insurer, for a repair or replacement of damaged motor vehicle glass;
- (3) With respect to an insured's claim, or potential claim, for a repair or replacement of damaged motor vehicle glass, do the following, which results, or would result, in a higher insurance payment or a change of insurance coverage status:
 - (a) Indicate that work was performed in a geographical area that was not the geographical area where the work occurred; or
 - (b) Advise an insured to falsify the date of damage;
- (4) Falsely sign a work order or other insurance-related form relating to an insured's claim, or potential claim, for a repair or replacement of damaged motor vehicle glass;
- (5) Misrepresent to an insured or the insured's insurer, including any agent of the insured or insurer, the price of a proposed repair or replacement of damaged motor vehicle glass;
- (6) State that an insured's insurer has approved a repair or replacement of damaged motor vehicle glass without:
 - (a) Verifying coverage directly with, or obtaining approval directly from, the insurer or the insurer's agent; and
 - (b) Obtaining confirmation of the coverage or approval by facsimile, email, or other written or recorded communication;
- (7) State that a repair or replacement of damaged motor vehicle glass will be paid for entirely by an insurer and at no cost to the insured unless the coverage has been verified by the insurer or the insurer's agent;
- (8) With respect to an insured's claim, or potential claim, for a repair or replacement of damaged motor vehicle glass:
 - (a) Damage, or encourage an insured to damage, the motor vehicle in order to increase the scope of the repair or replacement of damaged motor vehicle glass;
 - (b) Perform work that is clearly and substantially beyond the level of work necessary to restore the motor vehicle to a safe pre-damaged condition in accordance with accepted or approved reasonable and customary techniques for the repair or replacement of damaged motor vehicle glass;
 - (c) Misrepresent the motor vehicle glass repair shop's relationship to an insurer or the insurer's agent; or

(d) Perform any other act that constitutes fraud or misrepresentation.

(C) Any notice or invoice required under this Act shall not be issued in any font size lesser than twelve (12) point font.

Section 7. Anti-Steering

(A) An insured that makes a first party claim for a repair or replacement of damaged motor vehicle glass under a motor vehicle insurance policy shall not be required to use a particular motor vehicle glass repair shop to receive claim payments or other benefits under the policy.

(B) This section shall not be construed to:

- (1) Prohibit an insurer, insurance producer, insurance adjuster, or any person acting on behalf of an insurer, insurance producer, or insurance adjuster from providing an explanation to an insured of the coverage available, and any applicable liability limit, under any insurance policy.
- (2) Prohibit an insurer from maintaining a network of motor vehicle glass repair shops; or
- (3) Create a private cause of action.

Section 8. Presumption

It may be presumed that a motor vehicle glass repair shop is acting knowingly in violation of Section 6 if the motor vehicle glass repair shop engages in a regular and consistent pattern of the prohibited activity.

Section 9. Penalties

Drafting Note: Legislators may wish to consider provisions that establish rules that allow for [regulatory body] to be responsible for the administration and enforcement, including penalties, of all motor vehicle glass repair shops in [State].

Section 10. Application

This Act applies to insurance policies issued or renewed on or after the effective date.

Section 11. Effective Date

This Act is effective [xxxxxxx].