

January 28, 2010

The Arizona Glass Association, an Arizona non-for-profit organization composed of Arizona based automobile glass repair or replacement businesses, would like to take a formal position in opposition to House Bill 2463, entitled "Unlawful practices; auto glass repair; policyholders; insurers". This proposed legislation attempts to criminalize market practices in insurance claims by singling out the auto glass industry for practices that are, in almost all instances, already prohibited. In addition, it attempts to create a felony offense and shift the presumption of innocence, a constitutional right, against local auto glass shops. The proposed legislation is vague, duplicative of other areas of the statutes, and addresses that auto glass market in the insurance statutes unfair claims sections, whose purpose is to regulate trade practices in the business of insurance, not the auto glass industry.

This bill has been introduced without a request for comment by the auto glass industry. The Arizona Auto Glass Association requests that all committee actions on this bill be delayed until Arizona auto glass businesses are accorded the opportunity to comment on the proposed bill.

We believe the bill is undeserving of the public's attention; time wasted by the legislature, and does not benefit the citizens of Arizona in its present form.

1. The bill is wrongly placed in the statutes. It is being placed under the statutes regarding the insurance codes which was not created to regulate "vendors," but to regulate insurance companies operating in the state of Arizona.
2. The bill's main lists of fraudulent practices are already prohibited by other Arizona statutes. This bill does not protect the citizens of Arizona from anything not already covered by Arizona law, but is an attempt to introduce a criminal statute aimed at one industry.
3. The bill improperly attempts to create a private action by insurance companies to enforce a criminal statute.
4. The bill covers only one industry, the auto glass industry, and does not address all vendors in the auto service industries served daily by Arizona businesses.
5. The bill is vague in its definitions of what it is being made illegal by this bill.
6. This bill in its present form is detrimental to small business in Arizona. This bill subjects honest, hard working, small business auto glass dealers to "felony criminal actions" for following insurance and third party billing companies' billing practices.
7. The proposed legislation fails to protect Arizona small business owners from insurance and third party billing companies creating billing systems to foster a monopoly within the Arizona Auto Glass Industry, but instead could "create" an environment tending to allow third party billing companies to monopolize the auto glass market in Arizona.
8. This bill provides enforcement action to the insurance companies and takes "private right of action" away for the citizens of Arizona.

9. This bill takes the “presumption of innocence” away from any persons charged under this bill. The bill, as written, could allow insurance companies to “add up” the charges by the number of invoices (jobs) performed by the auto glass company to foster multiple felony charges thereby creating “plea bargains” and guilty pleas, rather than getting down to real guilt or innocence. The Arizona auto glass dealers should have the right to be presumed innocent until proven guilty.
10. This bill would be subject to a constitutionally test, thereby creating more cost and expense to the citizens of Arizona at a time when the state doesn’t need the cost of defending it.

We respectfully request the authors of this bill to “remove this bill” in its present form from the docket.

We would be open to assisting in the re-writing a more comprehensive bill, along with the input from the other auto service industries, to help create a bill to protect the citizens of Arizona from fraudulent actions within the auto service industries, not just directed at the auto glass industry.

We, as an association, are not protecting “fraudulent practices” in the auto glass industry. Legitimate auto glass dealers already abide by these laws and should not be threatened with the draconian criminal enforcement this proposed legislation presents. The other parts of the bill attempting to cover fraudulent practices are merely billing issues with insurance company claims processing issues. We do not believe they rise to the level of a class 6 felony as written by this bill in its present form.

We want to thank you for taking the time to consider our views on this issue and hope you arrive at a speedy decision to withdraw this bill.

Sincerely,

Rex Altree
President
The Arizona Glass Association