

## **HB 2463 – HB 2464 B & I Committee Meeting**

After attending the Banking and Insurance Committee on the above two listed bills, my assumption this bill was written by insurance companies for insurance companies was correct. The committee members were surprised to learn no Auto Glass Companies were asked to review this bill before its introduction.

This one fact should make the bills get removed but it passed this committee, to my surprise, but I feel the vote was pre determined before we got there. After listening to the testimony of the insurance companies' representatives, I have a better understanding as to how this can happen.

There are some glaring issues I would like to address to the committee members and to the rest of the legislative body regarding these two bills. The insurance companies' representatives made a couple of misstatements in the committee meeting which I brought to the attention of the committee who quickly asked them for their corrections. One of the representatives left the room and was not heard from again.

As I have clearly stated in the past, the fraudulent practices addressed in this bill are already against the law. Some of the practices listed in this bill are not deserving of a felony and should be re addressed. Some of the members of the committee agreed with me on this point.

From all of the comments and questions by the committee, I feel there are some very disturbing misunderstandings by the committee members I would like to clear up.

### **HB 2463**

1. The Department of Insurance does not regulate or oversee Auto Glass Companies currently. They do prosecute insurance fraud committed in the state by any industry. The Auto Glass Industry is not the "only" industry where insurance fraud is committed.
2. The "Presumption of Innocence" is a very glaring problem with this bill and needs to be changed or dropped entirely. The way the language reads and the way the insurance companies representatives answered this question was "we would not prosecute for mistakes" but the language of the bill "allows" them to. They want to determine the definition of a "mistake". This is wrong and I'm sure unconstitutional.
3. The bill takes away "Private Right of Action" from the insured. This was not discussed in this committee meeting but is another very serious mistake in the language of this bill. Of course, the insurance company wants to go after auto glass companies "without" the cooperation of the insured's. If that is the case, why is this bill taking the "injured party"

out of the equation? It's obvious to me; the insurance companies must have a problem with their insured's cooperating for prosecution of these actions because "current law" allows for prosecuting these actions. Is it possible the insured's don't think it's as big a problem as the insurance company? One of the committee members made a statement "We pass all of these laws for the insurance companies but it never seems to come back to us in reduced premiums." This won't help either.

4. No Auto Glass Companies were asked for their input on this bill. No stakeholder meetings as the committee called them. I'm not even sure that is legal.
5. Crooks are crooks. This bill will not stop fraud from being committed by auto glass companies who are engaging in fraud or any other company for that matter. As I have stated, these laws are already on the books and new laws are not going to change anything with these companies and operators. Active enforcement of the laws we have is needed to help police these issues.

#### **HB2464**

1. Changing the word "shall" to "may" gives the insurance companies the right to "not offer" \$0 deductible auto glass coverage. One of the insurance companies' representative stated in the committee meeting they would "probably offer" a \$100 Deductible coverage to their clients. Some of the committee members are insured by this company. Were you paying attention to what was being said? You will no longer have Auto Glass Coverage at a \$0 deductible. She also stated **59% of all of the clients** for this company have "purchased" this coverage from her company. This means 59% of all the insured's of this company will be offered a \$100 deductible for their "now" \$0 deductible glass coverage. This is a lot of voters. I would have liked to have asked the other insurance company representative how many of his clients currently have "purchased" \$0 glass coverage from his company but he had left the room
2. In the states where these companies have the option of offering \$0 deductible glass coverage, they do "not" offer it. In some states, we have seen where the insurance companies will actually raise an insured's comprehensive deductible on renewal "without" their knowledge or consent. Unfortunately, for these clients they usually find out about it when they go to have their "windshield" replaced. Of course, everyone gets their "10 Day Free Look" period of a policy when they receive it and have the option of dropping it if they didn't like it. How many people read their insurance policies when they receive them on renewal? This happens every day.

3. This bill does not make “Windshield Repairs” “not free” to clients. Windshield Repairs are “free”, “no out of pocket”, “deductible waived”, “call it what you want” and paid by all of the major insurance companies but State Farm. State Farm does not “waive” deductibles for repairs and makes the insured subject to their deductibles when obtaining windshield repairs. In the state of Arizona where we have the \$0 deductible option, windshield repairs are paid for by State Farm. This bill may have been introduced to “eliminate” the \$0 deductible so they can get out of paying for “any” windshield repairs as they have in other states. Most of the major insurance companies recognize the fact that paying \$50 for a repair can effectively “save” the windshield from replacement later and have elected to “pay for it” by “waiving a deductible” instead of allowing the client to wait for it to crack out and pay for the replacement at a later date, deductible or not. I discussed this personally with the head claims manager of State Farm and suggested they offer the “\$0 Deductible Glass Coverage” in all the states and allow their clients to purchase it like Arizona. This would allow all of their clients to purchase coverage to cover their windshield repairs. His answer to me was “We are required by law to offer it in Arizona, not the other states.”
4. Even in all the states “without” \$0 deductible, windshield repairs are “free” to the client and paid for by their insurance company (except State Farm). This means with the passage of HB 2464, **car washes will still be in the business of windshield repairs.** Nothing will change in that regard as some of the committee members were wrongly under the assumption it would. Nothing changes for the car washes except the offer of auto glass replacement if that’s what the client wants, and the insured will be subject to their deductible.
5. The future of the auto glass business is becoming increasing more prevalent to the safety of the vehicles. In fact, future cars will have windshields that extend all the way to the back of the car with a “full” glass roof. The glass is becoming more of an integral part of the structure of the vehicle and obviously, will become more costly in the very near future. The insurance companies are introducing this bill to get out of this coverage while they can. They are also counting your ignorance of this issue and of course, asking for the Auto Glass Industries’ input would bring this out in the open as was eloquently explained by Cindy Ketcherside. The implementing and adherence to the AGRSS (Auto Glass Replacement Safety Standard) may have to be legislated at a later date.
6. HB 2464 is not necessary for Insurance Companies to quit writing \$0 deductible comprehensive coverage. **It is an option added to an insured’s policy at a cost to the**

**insured.** It is not “mandated” by the current statute. As Rex Altree stated in the committee meeting, if they wanted to eliminate the \$0 Deductible, they have the option of raising the premium to a level their insured’s might be willing to forgo coverage and accept the risk themselves. HB 2464 takes the **“choice” away from the insured** and makes it a “choice” by the insurance company. This bill only hurts “the poor” who will no longer have an option of “purchasing coverage” making sure their safety equipment is in good working condition. This bill is very wrong and puts the battle of 22 years ago on the table again. Nothing has changed since then, “if it’s not broke don’t fix it”.

7. As for a larger number of claims in Arizona, it was mistakenly stated by the insurance companies’ representatives the \$0 deductible has something to do with it. Of course, a \$0 deductible makes more damage “covered” by the insurance companies but it doesn’t have anything to do with the amount of damage Arizona has. Our frequency of damage is higher in this state than most states. Arizona, Colorado, Wyoming, and Montana are states with the highest frequency of damage for rock chips. This is due to “rocks on the road”. In Arizona, we have “rocks” in our yards. I am not aware of any other state that has as much “desert landscaping” as Arizona thereby leading to the amount of auto glass damage. Rocks getting in tires and flying off on the freeways are how most windshield damage occurs. If you wanted to lower the amount of damage to windshields and lower the number of claims to the insurance companies, you would have to outlaw “desert landscaping”. I could no longer tell someone I “rake my rocks” instead of my yard.

I would like to make a suggestion to help alleviate these bills. The bills need to be removed and new legislation should be started to accommodate the problems and issues facing, not only the insurance companies, but the Department of Insurance in its enforcement. As I stated earlier, the Auto Glass Industry is not the only industry doing fraudulent actions in the marketplace. Any company billing insurance companies should be covered by these statutes.

The public does not know the battles Auto Glass Companies and the Auto Body Shops go through in processing billing and claims with Insurance companies. Some of the actions stated in these bills are to give the insurance companies more teeth in getting their “vendors under control”.

If you would first consider, an insurance policy is a contract between a policyholder and the insurance company and not the vendor it will make this suggestion easier to understand.

Insurance companies “take over” the claims handling process from the insured to “contain costs” not to provide service and convenience. They know they can professionally negotiate lower costs than an insured walking through the door as a “retail customer”.

If it wasn't about money, they would have the insured pay for the damage and reimburse them for the damage "according" to the policy. They would subtract the deductible and issue a check to the insured. I have always wondered why when I have a large claim they tell me to get 3 "estimates", bring them in where we negotiate a fair price, they deduct the deductible and write me a check. They then tell me I "can go anywhere" to get the work done, but not in the Auto Glass business. The insurance companies control everything from where you call the claim into to, where and who can do the work, and of course, they tell us, the vendor, the price.

If you would look deeper into this process, you will see companies have sprung up called "third party billers" who have taken over the entire "auto glass claims" process from the insurance company to the point of calling any auto glass vendor who does the job a "sub contractor".

Some of these "third party billers" are large auto glass companies who have already "**pre-negotiated**" the auto glass claims with the insurance companies for "**all**" of the auto glass claims from that insurance company regardless of what auto glass company has actually done the work. If this was looked into more thoroughly I believe you will find this is "**re-insuring**" the auto glass claims by pre-negotiating the prices for future claims. (Re-Insurance) I also believe these companies should be "licensed" to "re-insure" in the state of Arizona for these contracts with the insurance companies.

These companies have been created to accomplish, the avoidance of the existing insurance laws in every state they work in and to lower the "average cost per claim" to the insurance company. These companies are not regulated by the Department of Insurance because most are Auto Glass Companies, not Insurance Companies. The Department of Insurance has registered many complaints about these billing companies but is helpless in dealing with this issue. The answer I get from them is "We regulate insurance companies, not auto glass companies".

They are avoiding the customers "free right of choice" to which auto glass company they use. This is called steering and an illegal action by an insurance company in the state of Arizona but since it is not the insurance company doing this action the Department of Insurance cannot take any action to stop this.

The Department of Insurance might be thinking HB 2463 will give them some power to deal with this issue. These "third party billers" are also known to hold payment for claims for as long 90 days which would be illegal for insurance companies but here again, the insurance company statutes do not apply to them. The direct negotiation of pricing with a direct competitor should also be illegal under Arizona State Statutes. I really do not know how this practice can be allowed to continue.

According to this bill, these companies may be in violation of “providing re-insurance without a license”, they would be subject to a **felony count** for “each incident” (invoice-job) which would “show a pattern of activity” and the “knowledge they engaged in a pattern of the activity”.

Call any 800 claims number and see if you are prompted to dial another key to be directed to their “Auto Glass Claims” administrators. Are there any other keys to hit for any other type of claims?

It is necessary to give the Department of Insurance the ability to handle “all complaints” when dealing with Insurance Companies, Policyholders, and Vendors who do business with Insurance Companies.

Consider for one moment, you, as the elected official, who has run a hotly debated election, are now forced to call your opponent, the “losing candidate”, to get permission to look at every bill in front of you and then argue with him/her on how to vote on the bill. This is what the Auto Glass Dealers face on a daily basis. Name one other industry faced with this same business practice.

I recommend legislation to allow the licensing or registration of each company, from all industries, that want to do business with Insurance Companies in the state of Arizona. This doesn't mean you regulate these industries on how they do their jobs; free enterprise will take care of that, but put the registration under the Department of Insurance and allow the Department to handle all complaints in the insurance industry whether it is an insurance company, a policyholder or a vendor.

Only vendors who wish to deal with and direct bill insurance companies would be required to register for licensing. All other companies who would like to operate retail or wholesale businesses “without” billing insurance companies wouldn't need to register and submit to oversight by the Department of Insurance. This would keep a free market in place without adding more regulation in the business place “unless” the company wanted to operate in the insurance company environment.

Licensing should be limited to a registration of the company's owners, address, pertinent business information and location for operating in the state of Arizona. All owners and operators should be required to attend a “Business Ethics, What constitutes Right and Wrong when dealing with Insurance Companies and Insured's, Claims Processing and Dealing with Insurance Companies class.” We require speeders to attend traffic school, why not companies doing business with Insurance Companies?

This bill should also cover the timely payment of claims by the insurance companies and deal with this issue of “third party billing” companies to hold them to the same regulations in

handling claims as the insurance companies they represent. If they have “pre negotiated” future claims it is important they are abiding by the Arizona Insurance Licensing Laws. These companies should also submit to oversight by the Department of Insurance.

The Madam Chairperson, Representative Nancy McLain, made comments regarding the “training of Auto Glass operators” with regards to ethical operations by the Auto Glass Companies. She asked Rex Altree if the Arizona Glass Association had any input into its members regarding fraudulent practices. Rex stated “we don’t” because they are all independent business operators and we are there for advice or guidance provided on a need basis. I believe the Arizona Glass Association will offer more guidance in this direction very soon.

As a manufacturer and trainer for the Auto Glass Industry, my operators are trained and monitored for their operating activities. Even with a close working relationship like my company, it is their business to run and operate. Some of my operators have even had issues in these areas and we have dealt with them accordingly.

By focusing the legislation to the main issues the Insurance and Auto Glass companies deal with on a daily basis, we could create a bill and new laws needed in the state of Arizona. I believe if this is dealt with thoroughly it will become a precedent setting law for the rest of the country to follow and we can get rid of these two bills and truly focus on the problems at hand.

Sincerely;

Kerry D. Soat  
CEO  
Fas-Break, Inc.  
480-967-4884

Vice President  
Arizona Glass Association