

State of Arizona
House of Representatives
Forty-ninth Legislature
Second Regular Session
2010

HOUSE BILL 2463

AN ACT

AMENDING TITLE 20, CHAPTER 2, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING SECTION 20-463.01; AMENDING SECTIONS 20-466.01 AND 20-466.02, ARIZONA REVISED STATUTES; RELATING TO AUTO GLASS REPAIR.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 20, chapter 2, article 6, Arizona Revised Statutes,
3 is amended by adding section 20-463.01, to 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 TO KNOWINGLY:

8 1. SUBMIT A FALSE CLAIM TO AN INSURER FOR AUTO GLASS REPAIR OR
9 REPLACEMENT OR FOR RELATED SERVICES:

10 (a) IF THE SERVICES WERE NOT PROVIDED.

11 (b) SHOWING WORK PERFORMED IN A GEOGRAPHICAL AREA THAT IN FACT WAS NOT
12 THE LOCATION WHERE THE SERVICES WERE PROVIDED AND THAT RESULTS IN A HIGHER
13 PAYMENT THAN WOULD OTHERWISE BE PAID TO THE PERSON BY THE POLICYHOLDER'S
14 INSURER.

15 (c) NOT AUTHORIZED IN WRITING BY THE OWNER OR LESSEE OF THE VEHICLE.

16 (d) SHOWING WORK PERFORMED ON A DATE OTHER THAN THE DATE THE WORK WAS
17 ACTUALLY PERFORMED AND RESULTING IN A CHANGE OF INSURANCE COVERAGE STATUS.

18 (e) ADVISING A POLICYHOLDER TO FALSIFY THE DATE OF DAMAGE TO THE AUTO
19 GLASS THAT RESULTS IN A CHANGE OF INSURANCE COVERAGE FOR REPAIR OR
20 REPLACEMENT OF THE AUTO GLASS.

21 2. FALSELY SIGN ON BEHALF OF A POLICYHOLDER OR ANOTHER PERSON A WORK
22 ORDER, INSURANCE ASSIGNMENT FORM OR OTHER RELATED FORM IN ORDER TO SUBMIT A
23 CLAIM TO AN INSURER FOR AUTO GLASS REPAIR OR REPLACEMENT OR FOR RELATED
24 SERVICES.

25 3. MISREPRESENT TO A POLICYHOLDER OR OTHER PERSON:

26 (a) THE PRICE OF THE PROPOSED REPAIRS OR REPLACEMENT BEING BILLED TO
27 THE POLICYHOLDER'S INSURER.

28 (b) THAT THE INSURER HAS APPROVED THE REPAIRS OR REPLACEMENT UNLESS
29 THE AUTO GLASS REPAIR OR REPLACEMENT FACILITY HAS VERIFIED COVERAGE OR
30 OBTAINED AUTHORIZATION DIRECTLY FROM THE INSURANCE COMPANY OR ANY OTHER THIRD
31 PARTY ADMINISTRATOR CONTRACTED WITH THE INSURANCE COMPANY AND THE EVIDENCE
32 HAS BEEN CONFIRMED BY FAX, E-MAIL OR OTHER WRITTEN AND RECORDED
33 COMMUNICATION.

34 4. REPRESENT TO A POLICYHOLDER OR OTHER PERSON THAT THE REPAIR OR
35 REPLACEMENT WILL BE PAID FOR ENTIRELY BY THE POLICYHOLDER'S INSURER AND AT NO
36 COST TO THE POLICYHOLDER UNLESS THE INSURANCE COVERAGE HAS BEEN VERIFIED BY A
37 PERSON WHO IS EMPLOYED BY OR IS A PRODUCER CONTRACTED WITH THE POLICYHOLDER'S
38 INSURER OR IS A THIRD PARTY ADMINISTRATOR CONTRACTED WITH THE INSURER.

39 5. ADD TO THE DAMAGE OF AUTO GLASS BEFORE REPAIR IN ORDER TO INCREASE
40 THE SCOPE OF REPAIR OR REPLACEMENT OR ENCOURAGE A POLICYHOLDER OR OTHER
41 PERSON TO ADD TO THE DAMAGE OF AUTO GLASS BEFORE REPAIR.

42 6. PERFORM WORK CLEARLY AND SUBSTANTIALLY BEYOND THE LEVEL OF WORK
43 NECESSARY TO REPAIR OR REPLACE THE AUTO GLASS TO PUT THE VEHICLE BACK INTO A
44 SAFE PRE-DAMAGED CONDITION IN ACCORDANCE WITH ACCEPTED OR APPROVED REASONABLE
45 AND CUSTOMARY GLASS REPAIR OR REPLACEMENT TECHNIQUES.

1 B. IT IS UNLAWFUL FOR A PERSON WHO SELLS OR REPAIRS AUTO GLASS TO
2 INTENTIONALLY MISREPRESENT THE RELATIONSHIP OF THE GLASS REPAIR FACILITY TO
3 THE POLICYHOLDER'S INSURER. FOR THE PURPOSES OF DETERMINING WHETHER A PERSON
4 INTENDED THE MISREPRESENTATION, IT MAY BE PRESUMED THAT THE PERSON INTENDED
5 THE MISREPRESENTATION IF THE PERSON WAS ENGAGED IN A REGULAR AND CONSISTENT
6 PATTERN OF MISREPRESENTATION.

7 C. A VIOLATION OF THIS SECTION IS SUBJECT TO ENFORCEMENT UNDER THIS
8 ARTICLE.

9 D. FOR THE PURPOSES OF DETERMINING WHETHER A DEFENDANT KNEW OF ANY
10 PARTICULAR ELEMENT OF THE PROHIBITED ACTIVITY, IT MAY BE PRESUMED THAT THE
11 PERSON HAD KNOWLEDGE IF THE PERSON WAS ENGAGED IN A REGULAR AND CONSISTENT
12 PATTERN OF THE PROHIBITED ACTIVITY.

13 Sec. 2. Section 20-466.01, Arizona Revised Statutes, is amended to
14 read:

15 20-466.01. Fraud; classification

16 A person who violates section 20-463 OR 20-463.01 with the intent to
17 injure, defraud or deceive an insurer is guilty of a class 6 felony.

18 Sec. 3. Section 20-466.02, Arizona Revised Statutes, is amended to
19 read:

20 20-466.02. Injunction; restitution; civil penalties; costs

21 A. On request by the director, the attorney general may seek and
22 obtain in an action in the superior court an injunction that prohibits a
23 person from engaging in practices or doing any acts that violate section
24 20-463, 20-463.01 or 23-1028. The court may enter any order or judgment that
25 is necessary to:

26 1. Prevent any act or practice that is unlawful under section 20-463,
27 20-463.01 or 23-1028.

28 2. Return any monies, interest or real or personal property that was
29 acquired by an act or practice that is unlawful under section 20-463,
30 20-463.01 or 23-1028.

31 B. An order of restitution may also include expenses incurred and paid
32 by an insurer in connection with any medical evaluation or treatment
33 services.

34 C. If the court finds that a person has violated section 20-463,
35 20-463.01 or 23-1028, the attorney general on petition or complaint to the
36 court may recover from that person on behalf of the state a civil penalty of
37 not more than five thousand dollars for each violation.

38 D. In any action pursuant to this section, the court may award the
39 attorney general costs including reasonable attorney fees and investigative
40 costs for the services rendered.