

367.361 Definitions for section -- Prohibition against motor vehicle glass repair shop offering inducement to insured or insurance provider -- Requirements for contract for repair or replacement of damaged motor vehicle glass -- Fees -- Prohibited actions -- Civil action -- Remedies.

- (1) As used in this section:
 - (a) The following have the same meaning as in KRS 304.20-060:
 1. "Advanced driver assistance system";
 2. "Motor vehicle glass";
 3. "Motor vehicle glass repair shop";
 4. "Person"; and
 5. "Repair or replacement of damaged motor vehicle glass"; and
 - (b) "Insured" means a person that:
 1. Has made a first-party claim for a repair or replacement of damaged motor vehicle glass under a motor vehicle insurance policy; and
 2. Is entitled to insurance benefits or payments as a result of the claim referenced under subparagraph 1. of this paragraph.
- (2) 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 as defined in KRS 304.9-020, 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.
- (3) A motor vehicle glass repair shop shall not contract with a person for a repair or replacement of damaged motor vehicle glass until:
 - (a) All of the following are satisfied:
 1. The person has made a first-party claim for the repair or replacement of damaged motor vehicle glass under a motor vehicle insurance policy;
 2. The motor vehicle glass repair shop has received a claim or referral number for the claim referenced under subparagraph 1. of this paragraph; and
 3. The requirements of subsection (4) of this section are satisfied; or
 - (b) The person either:
 1. 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
 2. 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.
- (4) Prior to contracting with an insured for a repair or replacement of damaged motor vehicle glass, a motor vehicle glass repair shop shall:
 - (a) Notify the insured:

1. Whether the motor vehicle has an advanced driver assistance system;
 2. If the motor vehicle has an advanced driver assistance system:
 - a. Whether calibration or recalibration of the motor vehicle's advanced driver assistance system is required to:
 - i. Make the advanced driver assistance system operable; and
 - ii. Ensure that the repair or replacement of damaged motor vehicle glass is performed in a manner that meets the motor vehicle manufacturer's specifications;
 - b. 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
 - c. 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; and
 3. 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:
 - a. As to whether the calibration or recalibration was successful; and
 - b. 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; and
- (b) 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 subsection (5)(a) of this section 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 Kentucky.
- (5) A motor vehicle glass repair shop:
- (a) Shall not 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 Kentucky;
 - (b) Upon completion of a repair or replacement of damaged motor vehicle glass, shall provide an insured:
 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; and

- (c) Shall not knowingly:
 - 1. 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;
 - 2. 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;
 - 3. 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;
 - 4. 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;
 - 5. 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;
 - 6. 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; or
 - 7. 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; or
 - c. Misrepresent the motor vehicle glass repair shop's relationship to an insurer or the insurer's agent.
- (6) It may be presumed that a motor vehicle glass repair shop is acting knowingly in violation of subsection (5)(c) of this section if the motor vehicle glass repair shop engages in a regular and consistent pattern of the prohibited activity.
- (7) Any notice or invoice required under this section shall be in at least twelve (12)

point font.

- (8) (a) An insurer or insured may institute an action in any court of competent jurisdiction against any motor vehicle glass repair shop or other person alleged to have violated this section.
- (b) In any action brought under this subsection, if the court finds that the motor vehicle glass repair shop or other person has violated this section, the plaintiff may:
 - 1. Obtain an injunction to enjoin a continuance of any act in violation of this section;
 - 2. Recover damages at two (2) times the amount of any actual economic damages sustained; and
 - 3. Be awarded reasonable attorney's fees and costs.
- (c) It shall not be necessary that actual damages be alleged or proved in order to recover injunctive relief or attorney's fees and costs.
- (9) All of the remedies, powers, and duties delegated to the Attorney General by KRS 367.110 to 367.300, and the penalties provided in KRS 367.990, pertaining to acts and practices declared unlawful by KRS 367.170, shall apply with equal force and effect to acts and practices declared unlawful in this section.
- (10) (a) The remedies and penalties prescribed in this section shall be cumulative.
- (b) Nothing in this section shall be construed to limit or restrict the powers, duties, remedies, or penalties available to the Attorney General, the Commonwealth, or any other person under any other statutory or common law.
- (11) The Attorney General may promulgate any administrative regulations necessary to effectuate, or as an aid to the effectuation of, the proper enforcement of this section.

Effective: April 2, 2024

History: Created 2024 Ky. Acts ch. 27, sec. 3, effective April 2, 2024.

Legislative Research Commission Note (4/2/2024). 2024 Ky. Acts ch. 27, sec. 6, provides that this statute shall apply to insurance policies issued or renewed on or after April 2, 2024.