

BUCKLEY & WYNNE

ATTORNEYS AT LAW

685 STATE STREET

NEW HAVEN, CONNECTICUT 06511

(203) 776-2276

FAX (203) 776-3368

HARTFORD OFFICE

100 PEARL STREET

14TH FLOOR

HARTFORD, CONNECTICUT 06103

(860) 560-2278

PLEASE REPLY TO NEW HAVEN

6446

JOHN F. BUCKLEY, JR.

JOHN F. WYNNE, JR.

JOHN M. PARESE

February 17, 2009

Senator Joseph J. Crisco, Jr.,  
State Representative Steve Fontana  
& Members of the Insurance and Real Estate Committee  
Room 2800, Legislative Office Building  
Hartford, CT 06106

Re: **HB-6446**  
*An Act Concerning Motor Vehicle Repairs*

Dear Senator Crisco, Representative Fontana and Members of the Committee:

I respectfully offer the following comments regarding House Bill 6446.

**Section One [Premium Discount for VIN Etching]**

It stands to reason that mandating a premium discount for VIN etching will promote more VIN etching. This will deter auto theft and the myriad of corollary problems associated with auto theft. Moreover, mandating a premium discount will help consumers recoup some of the cost they spent to, in effect, save insurers money on theft-loss claims.

I believe vehicle part marking is even more important than window etching, however. Thus, I would encourage your committee to amend this bill to include premium discounts for VIN marked parts. Part marking is an effective anti-theft tool aiding both law enforcement and insurers. Part marking serves as a deterrent to auto theft and impedes chop shop operations by making it more difficult to break down and sell stolen auto parts.

Moreover, legislation is needed to clarify the obligations concerning the replacement of VIN marked parts after a collision. Although our common law clearly requires vehicles be restored to pre-loss condition, many insurers are arbitrarily refusing to pay the expense of marking previously marked parts. This has created a great deal of anxiety and confusion, which could be aided by legislative guidance. I would, therefore, encourage revisions to address these issues.

**Section Two [Steering]**

One of the most pervasive and detrimental forces in the collision repair market is insurer steering. Insurer steering is designed to give insurers control over repair decisions and repair costs. Steering causes a distortion of incentives whereby insurers are driven to promote faster repairs for less money, sometimes at the expense of safe and quality repairs.

Last year, the legislature amended the law to require insurers to advise claimants that they had the right to choose the repair shop of their choice. The law was inspired by the prevalence of steering and its adverse consequences on the motoring public. Unfortunately, the law did not address constructive or “soft” steering, which, if anything has gotten worse.

Even after the reforms implemented last year, insurers continue to steer business by offering discounts and benefits and by misleading claimants to think there are countless advantages and protections for using the insurer’s preferred repair shop and countless disadvantages and risks associated with using an independent facility. Thus, for example, under existing law, an adjuster may advise a claimant as follows:

*Yes sir, you have the right to chose the repair shop of your choice, but let me caution you: if you do not use our preferred shop, you will likely have to pay out of pocket for repairs; you may end up paying more money for your rental car; you will not receive premium discounts; and we cannot guarantee that the work will be done properly. If you use our preferred program, however, we will save you money, we will get you in a rental car immediately and we will guarantee that the work is done quickly and properly. It's your choice.*

In addition to being misleading and often untrue, this type of practice does not give consumers a real choice. This is steering.

The proposed amendments to § 38a-354 would help tighten the above loophole – provided one important change is made to the proposed language. Under Section (b)(2), insurers reserve the right to steer customers so long as it is authorized in the insurance policy. This is entirely self-defeating. All of the valuable and needed anti-steering language subsequent to this reservation is moot. Insurers will simply write into the policy their right to steer. This completely defeats the intent and purpose of the anti-steering law: i.e. to give consumers a real opportunity to choose the repair shop of his or her choice.

Insurance and Real Estate Committee  
Statement in Support of HB-6446  
February 17, 2009  
- Page 3-

Ultimately, an insurer's obligation is to indemnify for loss, not dictate repair decisions or steer customers to its controlled repair facility. The absence of clear anti-steering laws and lack of enforcement at the Insurance Department have created an environment where insurers have come to dictate repair costs and procedures almost entirely inspired by speed and cost savings. This distortion of the repair process harms consumers and repair facilities, both of which are being manipulated into repair decisions that best serve the insurer.

We need to take insurer influence out of the repair process and restore decision-making authority the consumer.

As written, this bill is dangerous and must be opposed. It has the potential to embolden the practice of steering by mass adoption of new policy clauses enabling steering to proliferate. The auto repair business would be captive to insurer control and the auto repair market would more resemble the managed care market. This would be very bad for consumers. On the other hand, the anti-steering language, absent the caveat allowing insured to put steering in the policy, is much needed and would benefit consumers immensely.

Thus, with appropriate modification, this bill could strengthen anti-steering laws, help take insurer influence out of the repair process and implement common sense and much needed reforms. Without modification, however, the bill is very dangerous and should not be passed.

Thank you for your consideration.

Very truly yours,

John M. Parese

JMP/efk

cc: Robert Skrip, ABAC President

