

**2010 AZ H 2463**

**AUTHOR:** McLain  
**VERSION:** Introduced  
**VERSION DATE:** 01/15/2010

REFERENCE TITLE: auto glass repair; fraudulent practices

State of Arizona

House of Representatives

Forty-ninth Legislature

Second Regular Session

2010

HB 2463

Introduced by

Representatives McLain, Ash, Seel: Bradley, Campbell CL, Goodale, Meza, Reagan

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.

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

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

20-463.01. Unlawful practices; auto glass repair; policyholders; insurers

A. IT IS AN UNLAWFUL PRACTICE FOR A PERSON WHO SELLS OR REPAIRS AUTO GLASS TO KNOWINGLY:

1. SUBMIT A FALSE CLAIM TO AN INSURER FOR AUTO GLASS REPAIR OR REPLACEMENT OR FOR RELATED SERVICES, INCLUDING A BILL FOR AUTO GLASS REPAIR OR REPLACEMENT OR FOR RELATED SERVICES:

(a) IF THE SERVICES WERE NOT PROVIDED.

(b) SHOWING WORK PERFORMED IN A GEOGRAPHICAL AREA THAT IN FACT WAS NOT THE LOCATION WHERE THE SERVICES WERE PROVIDED.

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

(d) SHOWING WORK PERFORMED ON A DATE OTHER THAN THE DATE THE WORK WAS ACTUALLY PERFORMED.

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

3. MISREPRESENT TO A POLICYHOLDER OR OTHER PERSON:

(a) THE RELATIONSHIP OF THE GLASS REPAIR FACILITY TO THE POLICYHOLDER'S INSURER.

(b) THE COST OF THE PROPOSED REPAIRS.

(c) THAT THE INSURER HAS APPROVED THE REPAIRS OR REPLACEMENT.

4. REPRESENT TO A POLICYHOLDER OR OTHER PERSON THAT THE REPAIR OR REPLACEMENT WILL BE PAID FOR ENTIRELY BY THE POLICYHOLDER'S INSURER AND AT NO COST TO THE POLICYHOLDER UNLESS THE PERSON MAKING THE STATEMENT IS EMPLOYED BY OR IS A PRODUCER CONTRACTED WITH THE POLICYHOLDER'S INSURER.

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

6. PERFORM WORK SUBSTANTIALLY BEYOND THE LEVEL OF WORK NECESSARY TO REPAIR OR REPLACE THE AUTO GLASS.

B. A VIOLATION OF THIS SECTION IS SUBJECT TO ENFORCEMENT UNDER THIS ARTICLE.

C. FOR THE PURPOSES OF ENFORCEMENT, A POLICYHOLDER'S INSURER IS CONSIDERED TO BE AN AGENT OF THE INSURED FOR DETERMINING LIABILITY UNDER THIS SECTION. FOR THE PURPOSES OF DETERMINING WHETHER A DEFENDANT KNEW OF ANY PARTICULAR ELEMENT OF THE PROHIBITED ACTIVITY, IT MAY BE PRESUMED THAT THE PERSON HAD KNOWLEDGE IF THE PERSON WAS ENGAGED IN A PATTERN OF THE PROHIBITED ACTIVITY.

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

20-466.01. Fraud; classification

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

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

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

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

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

2. Return any monies, interest or real or personal property that was acquired by an act or practice that is unlawful under section 20-463, [20-463.01](#) or 23-1028.

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

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

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