SENATE BILL NO. 204

INTRODUCED BY D. RYAN

A BILL FOR AN ACT ENTITLED: "AN ACT PREVENTING AN INSURER FROM REQUIRING MOTOR VEHICLE REPAIR ESTIMATES OR REPAIRS FROM CERTAIN BUSINESSES BY CLAIMANTS; ALLOWING ACCESS FOR COMPETITIVE ESTIMATES; AND AMENDING SECTION 33-18-224, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 33-18-224, MCA, is amended to read:

"33-18-224. Designation of specific automobile body repair businesses prohibited. (1) (A) An insurance company, including its producers and adjusters, that issues or renews a policy of insurance in this state covering, in whole or in part, a motor vehicle may not:

~~(a)~~(I) require that a ~~person insured~~ CLAIMANT under the policy use a particular automobile body repair business or location for an estimate or a repair; or

~~(b)~~(II) engage in any act or practice that intimidates, coerces, or threatens ~~an insured person~~ A CLAIMANT or that provides an incentive or inducement for ~~an insured person~~ A CLAIMANT to use a particular automobile body repair business or location.

(B) AN INSURANCE COMPANY, INCLUDING ITS PRODUCERS AND ADJUSTERS, THAT ISSUES OR RENEWS A POLICY OF INSURANCE IN THIS STATE COVERING, IN WHOLE OR IN PART, A MOTOR VEHICLE MAY HAVE ACCESS TO THE MOTOR VEHICLE FOR PURPOSES OF PREPARING A COMPETITIVE ESTIMATE.

(2) (a) Except as provided in subsection (2)(b), if an insurance company has direct repair programs with automobile body repair businesses or locations, the insurance company may not limit the number of automobile body repair businesses or locations with whom it maintains direct repair programs.

(b) An insurance company may limit the number of automobile body repair businesses or locations participating in the insurance company's direct repair program to those automobile body repair businesses or locations that comply with the provisions of subsection (2)(c). An insurance company is not required to establish a direct repair program in a particular market area in which the insurance company's number of policyholders does not support establishing a direct repair program with any automobile body repair business or location.

(c) Upon request, the insurance company shall provide, without prejudice or bias, the ~~insured person~~

CLAIMANT with a list that includes all automobile body repair businesses or locations that are reasonably close or convenient to the ~~insured person~~ CLAIMANT and willing to provide services and that meet the insurance company's criteria regarding whether the automobile body repair business or location:

(i) possesses the equipment necessary to undertake repairs;

(ii) undertakes training of management and technical personnel with respect to repair information and the claims process;

(iii) agrees to perform quality repairs at the prevailing competitive market price and that meet reasonable industry repair standards;

(iv) agrees to warrant the quality of work, including refinishing, in writing to the ~~insured person~~ CLAIMANT, for a period of not less than 1 year from the date of repair;

(v) agrees to inspection of its repairs and services by the insurance company and agrees that the insurance company may terminate the direct repair program with the automobile body repair business or location if the repairs and services are below the standards of quality required by the insurance company; and

(vi) if requested, agrees to execute an agreement with the insurance company that may contain additional criteria that are not designed to unfairly limit the number of automobile body repair businesses or locations with whom the insurance company maintains direct repair programs. The additional criteria may include criteria determined to be necessary by the insurance company and designed to ensure that the automobile body repair business or location has the necessary estimating systems and programs and equipment to communicate electronically with the insurance company and that the automobile body repair business or location has taken steps to ensure the privacy of the insurance company and the ~~insured person~~ CLAIMANT.

(d) If the ~~insured person~~ CLAIMANT requests the list provided for in subsection (2)(c), the insurance company shall inform the ~~insured person~~ CLAIMANT that the ~~insured person~~ CLAIMANT may use an automobile body repair business or location at the sole discretion of the ~~insured person~~ CLAIMANT.

(3) For the purposes of this section, an incentive or inducement does not include:

(a) providing ~~an insured person~~ A CLAIMANT with the list provided for in subsection (2)(c); or

(b) referring to a warranty issued by an automobile body repair business or location.

(4) The ~~insured~~ CLAIMANT may use an automobile body repair business or location at the ~~insured's~~ CLAIMANT'S sole discretion, and the insurance company shall pay for the reasonable and necessary cost of the automobile body repair services for covered damages, less any deductible under the terms of the policy. This section does not require an insurer to pay more for automobile body repair services than the lowest prevailing

market price, as defined in 33-18-222.

(5) If the ~~insured person~~ CLAIMANT uses an automobile body repair business or location that is not on a list provided for in subsection (2)(c), the insurance company may not be held liable for any repair work performed by the automobile body repair business or location chosen by the ~~insured person~~ CLAIMANT.

(6) It is unlawful for an automobile body repair business or location to charge or agree to charge ~~an insured customer~~ A CLAIMANT more than an uninsured customer for any automobile body repair service.

(7) An insurance company that contracts with an independent adjuster may not be held liable for the independent adjuster's failure to comply with the terms of this section.

(8) For purposes of this section~~,~~:

(A) "automobile body repair business or location" does not include a business or location that exclusively provides automobile glass replacement, glass repair services, or glass products;

(B) "CLAIMANT" MEANS THE PERSON SEEKING REPAIR OF A MOTOR VEHICLE WHETHER THAT PERSON IS THE INSURED PERSON OR A THIRD PARTY MAKING A CLAIM AGAINST THE INSURER."

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