

By: Clardy

H.B. No. 1321

A BILL TO BE ENTITLED

AN ACT

relating to certain insurance practices with respect to repair of motor vehicles.

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

SECTION 1. Subchapter G, Chapter 1952, Insurance Code, is amended by adding Section 1952.300 to read as follows:

Sec. 1952.300. DEFINITIONS. (a) In this subchapter, "estimating system" means an automobile collision damage estimating system that is generally accepted by the automobile repair industry for use in writing an automobile repair estimate.

(b) For purposes of enforcement of this subchapter:

(1) "Prevailing rate" means the rate identified by a rate survey that is:

(A) conducted by a third party;

(B) designed to be transparent and unbiased; and

(C) based on the posted retail labor rates and not direct repair program shop rates that operate under a contract with an insurer.

(2) "Reasonable and necessary amount" means the amount determined by the original equipment manufacturer's manufacturer and estimating systems required to repair a vehicle to the condition before the covered damage to the vehicle occurred.

SECTION 2. Section 1952.301, Insurance Code, is amended to read as follows:

1 Sec. 1952.301. LIMITATION ON PARTS, PRODUCTS, OR REPAIR
2 PERSONS OR FACILITIES PROHIBITED. (a) Except as provided by rules
3 adopted by the commissioner, under an automobile insurance policy
4 that is delivered, issued for delivery, or renewed in this state, an
5 insurer may not directly or indirectly limit the insurer's coverage
6 under a policy covering damage to a motor vehicle by[+]

7 [~~(1)~~] specifying the brand, type, kind, age, vendor,
8 supplier, or condition of parts or products that may be used to
9 repair the vehicle.~~[+or]~~

10 (a-1) An insurer may not require that:

11 (1) a vehicle be repaired with a part or product on the
12 basis that the part or product is the least expensive part or
13 product available; or

14 (2) the beneficiary of a policy purchase any part or
15 product from any vendor or supplier, including an out-of-state
16 vendor or supplier, on the basis that the part or product is the
17 least expensive part or product available.

18 (a-2) An insurer may not consider a specified part or
19 product for the repair of a motor vehicle to be of like kind and
20 quality as an original equipment manufacturer part or product for
21 any purpose unless the insurer or the manufacturer of the specified
22 part or product has conclusively demonstrated that the specified
23 part or product:

24 (1) meets the fit, finish, and quality criteria
25 established for the part or product by the original equipment
26 manufacturer of the part or product;

27 (2) is the same weight and metal hardness established

1 for the part or product by the original equipment manufacturer of
2 the part or product; and

3 (3) has been tested using the same crash and safety
4 test criteria used by the original equipment manufacturer of the
5 part or product.

6 (a-3) Under an automobile insurance policy that is
7 delivered, issued for delivery, or renewed in this state, an
8 insurer, an employee or agent of the insurer, an insurance
9 adjuster, or an entity that employs an insurance adjuster may not
10 directly or indirectly limit the insurer's coverage under a policy
11 covering damage to a motor vehicle by:

12 (1) [~~(2)~~] limiting the beneficiary of the policy from
13 selecting a repair person or facility to repair [~~damage to~~ the
14 vehicle to the vehicle's condition before the damage occurred in
15 order for the beneficiary to obtain the repair without owing any
16 out-of-pocket cost other than the deductible;

17 (2) intimidating, coercing, or threatening the
18 beneficiary to induce the beneficiary to use a particular repair
19 person or facility; or

20 (3) offering an incentive or inducement, other than a
21 warranty issued by a repair person or facility, for the beneficiary
22 to use a particular repair person or facility.

23 (b) In settling a liability claim by a third party against
24 an insured for property damage claimed by the third party, an
25 insurer, an employee or agent of an insurer, an insurance adjuster,
26 or an entity that employs an insurance adjuster may not:

27 (1) require the third-party claimant to have repairs

1 made by a particular repair person or facility;

2 (2) require the third-party claimant [~~or~~] to use a
3 particular brand, type, kind, age, vendor, supplier, or condition
4 of parts or products to repair the vehicle to the vehicle's
5 condition before the damage occurred;

6 (3) intimidate, coerce, or threaten the third-party
7 claimant to induce the claimant to use a particular repair person or
8 facility; or

9 (4) offer an incentive or inducement, other than a
10 warranty issued by a repair person or facility, for the third-party
11 claimant to use a particular repair person or facility.

12 SECTION 3. Section 1952.302, Insurance Code, is amended to
13 read as follows:

14 Sec. 1952.302. PROHIBITED ACTS IN CONNECTION WITH REPAIR OF
15 MOTOR VEHICLE. (a) In connection with the repair of damage to a
16 motor vehicle covered under an automobile insurance policy, an
17 insurer, an employee or agent of an insurer, an insurance adjuster,
18 or an entity that employs an insurance adjuster may not:

19 (1) solicit or accept a referral fee or gratuity in
20 exchange for referring a beneficiary or third-party claimant to a
21 repair person or facility to repair the damage;

22 (2) state or suggest, either orally or in writing, to a
23 beneficiary that the beneficiary must use a specific repair person
24 or facility or a repair person or facility identified on a preferred
25 list compiled by an insurer for the damage repair or parts
26 replacement to be covered by the policy; [~~or~~]

27 (3) restrict the right of a beneficiary or third-party

1 claimant to choose a repair person or facility by requiring the
2 beneficiary or third-party claimant to travel a [an-unreasonable]
3 distance considered inconvenient by a beneficiary or third-party
4 claimant to repair the damage;

5 (4) offer, communicate, or suggest in any manner that
6 a particular repair person or facility will provide faster repair
7 times, faster service, or more efficient claims handling than
8 another repair person or facility; or

9 (5) disregard a repair operation or cost identified by
10 an estimating system, including the system's procedural pages and
11 any repair, process, or procedure recommended by the original
12 equipment manufacturer of a part or product.

13 (b) Notwithstanding Subsection (a)(5), a motor vehicle
14 covered under an automobile insurance policy may be repaired with a
15 part or product that is of like kind and quality as an original
16 equipment manufacturer part or product as authorized by Section
17 [1952.301\(a-2\)](#).

18 SECTION 4. The change in law made by this Act applies only
19 to an insurance policy that is delivered, issued for delivery, or
20 renewed on or after January 1, 2024. A policy delivered, issued for
21 delivery, or renewed before that date is governed by the law as it
22 existed immediately before the effective date of this Act, and that
23 law is continued in effect for that purpose.

24 SECTION 5. This Act takes effect September 1, 2023.