

By: Zaffirini

S.B. No. 2404

A BILL TO BE ENTITLED

1 AN ACT
2 relating to certain agreements between insurers, policyholders,
3 and motor vehicle storage persons or facilities.

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

5 SECTION 1. Section 1952.302, Insurance Code, is amended to
6 read as follows:

7 Sec. 1952.302. PROHIBITED ACTS IN CONNECTION WITH REPAIR OF
8 MOTOR VEHICLE; EXCEPTIONS. (a) In connection with the repair of
9 damage to a motor vehicle covered under an automobile insurance
10 policy, an insurer, an employee or agent of an insurer, an insurance
11 adjuster, or an entity that employs an insurance adjuster may not:

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

15 (2) state or suggest, either orally or in writing, to a
16 beneficiary that the beneficiary must use a specific repair person
17 or facility or a repair person or facility identified on a preferred
18 list compiled by an insurer for the damage repair or parts
19 replacement to be covered by the policy; or

20 (3) restrict the right of a beneficiary or third-party
21 claimant to choose a repair person or facility by requiring the
22 beneficiary or third-party claimant to travel an unreasonable
23 distance to repair the damage.

24 (b) Notwithstanding Subsection (a), an employee or agent of

1 an insurer, an insurance adjuster, or an entity that employs an
2 insurance adjuster may request that a vehicle covered under an
3 automobile insurance policy that is involved in an accident be
4 taken to a state licensed vehicle storage facility, as a temporary
5 insurance holding lot, that is not owned or operated by the insurer
6 or vehicle repair facility. The operator of such vehicle storage
7 facility shall be required to post a surety bond in an amount not
8 less than \$500,000.00 for the protection of vehicle owners.

9 (c) If the beneficiary of the policy agrees to use the
10 repair facility selected under Subsection (b), the insurer may
11 require that the policyholder and insurer mutually:

12 (1) determine whether the insured vehicle may be
13 repaired or totaled; and

14 (2) if the vehicle is to be repaired, agree on a repair
15 person or facility for the repair of the vehicle.

16 (d) The insurer shall notify the insurer's
17 policyholder and the police department of the jurisdiction in which
18 the accident occurred of the repair facility selected under
19 Subsection (b) in the manner established by the commissioner by
20 rule.

21 SECTION 2. This Act applies only to an insurance policy or
22 contract that is delivered, issued for delivery, or renewed on or
23 after January 1, 2010. An insurance policy or contract delivered,
24 issued for delivery, or renewed before January 1, 2010, is governed
25 by the law as it existed immediately before the effective date of
26 this Act, and that law is continued in effect for that purpose.

27 SECTION 3. This Act takes effect September 1, 2009.