

By: Clardy, Muñoz, Jr.

H.B. No. 3804

Substitute the following for H.B. No. 3804:

By: Phillips

C.S.H.B. No. 3804

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) In this subchapter, "repair person or facility" does not include a person who exclusively provides automobile glass replacement, glass repair services, or glass products.

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

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

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

1 (a-1) Under an automobile insurance policy that is
2 delivered, issued for delivery, or renewed in this state, an
3 insurer, an employee or agent of an insurer, an insurance adjuster,
4 or an entity that employs an insurance adjuster may not directly or
5 indirectly limit the insurer's coverage under a policy covering
6 damage to a motor vehicle by:

7 (1) [~~(2)~~] limiting the beneficiary of the policy from
8 selecting a repair person or facility to repair damage to the
9 vehicle to the vehicle's condition before the damage occurred in
10 order for the beneficiary to obtain the repair without owing any
11 out-of-pocket cost other than the deductible;

12 (2) intimidating, coercing, or threatening the
13 beneficiary to induce the beneficiary to use a particular repair
14 person or facility; or

15 (3) offering an incentive or inducement, other than a
16 warranty issued by the insurer or a repair person or facility, for
17 the beneficiary to use a particular repair person or facility.

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

22 (1) require the third-party claimant to have repairs
23 made by a particular repair person or facility; [~~or~~]

24 (2) require the third-party claimant to use a
25 particular brand, type, kind, age, vendor, supplier, or condition
26 of parts or products to repair damage to the vehicle to the
27 vehicle's condition before the damage occurred;

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

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

8 SECTION 3. Section 1952.302, Insurance Code, is amended to
9 read as follows:

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

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

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

23 (3) restrict the right of a beneficiary or third-party
24 claimant to choose a repair person or facility by requiring the
25 beneficiary or third-party claimant to travel a [an-unreasonable]
26 distance considered inconvenient by a beneficiary or third-party
27 claimant to repair the damage; or

1 (4) disregard a repair operation or cost identified by
2 an estimating system, including the system's procedural pages,
3 selected by the insurer for use in writing the automobile repair
4 estimate for the motor vehicle.

5 SECTION 4. The change in law made by this Act applies only
6 to an insurance policy that is delivered, issued for delivery, or
7 renewed on or after January 1, 2018. A policy delivered, issued for
8 delivery, or renewed before that date is governed by the law as it
9 existed immediately before the effective date of this Act, and that
10 law is continued in effect for that purpose.

11 SECTION 5. This Act takes effect September 1, 2017.