

By: Clardy

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;

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

13 (3) offering an incentive or inducement, other than
14 the list described by Section 1952.309 or a warranty issued by a
15 repair person or facility, for the beneficiary to use a particular
16 repair person or facility.

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

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

23 (2) require the third-party claimant to use a
24 particular brand, type, kind, age, vendor, supplier, or condition
25 of parts or products;

26 (3) intimidate, coerce, or threaten the third-party
27 claimant to induce the claimant to use a particular repair person or

1 facility; or

2 (4) offer an incentive or inducement, other than the
3 list described by Section 1952.309 or a warranty issued by a repair
4 person or facility, for the third-party claimant to use a
5 particular repair person or facility.

6 SECTION 3. Section 1952.302, Insurance Code, is amended to
7 read as follows:

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

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

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

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

25 (4) disregard a repair operation or cost identified by
26 an estimating system that was previously agreed on by the insurer
27 and the repair person or facility to determine the cost of repair;

1 or

2 (5) refuse to pay the reasonable and necessary cost of
3 a repair operation for covered damages less any portion of the cost
4 that is the insured's responsibility under the policy.

5 (b) For purposes of Subsection (a)(5), the cost of a repair
6 operation is reasonable and necessary if the repair operation and
7 its cost are in accordance with an estimating system that is
8 recognized by the commissioner.

9 SECTION 4. Subchapter G, Chapter 1952, Insurance Code, is
10 amended by adding Sections 1952.308, 1952.309, and 1952.310 to read
11 as follows:

12 Sec. 1952.308. INSURER ACCESS TO MOTOR VEHICLE. If a
13 beneficiary or third-party claimant makes a claim seeking repair of
14 an automobile, the insurer, including the insurer's agent or
15 broker, may have access to the automobile to prepare a competitive
16 estimate.

17 Sec. 1952.309. LIST OF REPAIR PERSONS AND FACILITIES. (a)
18 Upon request, an insurer shall provide, without prejudice or bias,
19 to a beneficiary or third-party claimant a list of all repair
20 persons and facilities that:

21 (1) are reasonably close or convenient to the
22 beneficiary or third-party claimant;

23 (2) agree to perform quality repairs that meet
24 reasonable industry repair standards; and

25 (3) agree to provide a warranty for the quality of
26 work, including refinishing, in writing to the beneficiary or
27 third-party claimant, for a period of not less than one year from

1 the date of repair.

2 (b) If a beneficiary or third-party claimant requests a list
3 under Subsection (a), the insurer shall notify the beneficiary or
4 claimant that the beneficiary or claimant may select a repair
5 person or facility at the sole discretion of the beneficiary or
6 claimant.

7 Sec. 1952.310. IMMUNITY FROM LIABILITY. An insurer is not
8 liable for damages arising from the work performed by a repair
9 person or facility selected by the beneficiary or third-party
10 claimant.

11 SECTION 5. The change in law made by this Act applies only
12 to an insurance policy that is delivered, issued for delivery, or
13 renewed on or after January 1, 2018. A policy delivered, issued for
14 delivery, or renewed before that date is governed by the law as it
15 existed immediately before the effective date of this Act, and that
16 law is continued in effect for that purpose.

17 SECTION 6. This Act takes effect September 1, 2017.