

By: Clardy, J. Johnson of Dallas, Lambert,  
Vo, et al.

H.B. No. 1348

Substitute the following for H.B. No. 1348:

By: Lucio III

C.S.H.B. No. 1348

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:

(1) "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.

(2) "Repair person or facility" does not include a  
person who exclusively provides automobile glass replacement,  
glass repair services, or glass products.

(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

1 and estimating systems required to repair a vehicle to the  
2 condition before the covered damage to the vehicle occurred.

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

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

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

14 (a-1) An insurer described by Subsection (a) may not require  
15 that:

16 (1) a vehicle be repaired with a part or product on the  
17 basis that the part or product is the least expensive part or  
18 product available; or

19 (2) the beneficiary of a policy purchase any part or  
20 product from any vendor or supplier, including an out-of-state  
21 vendor or supplier, on the basis that the part or product is the  
22 least expensive part or product available.

23 (a-2) An insurer described by Subsection (a) may not  
24 consider a specified part or product for the repair of a motor  
25 vehicle to be of like kind and quality as an original equipment  
26 manufacturer part or product for any purpose unless the insurer or  
27 the manufacturer of the specified part or product has conclusively

1 demonstrated that the specified part or product:

2 (1) meets the fit, finish, and quality criteria  
3 established for the part or product by the original equipment  
4 manufacturer of the part or product;

5 (2) is the same weight and metal hardness established  
6 for the part or product by the original equipment manufacturer of  
7 the part or product; and

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

11 (a-3) Under an automobile insurance policy that is  
12 delivered, issued for delivery, or renewed in this state, an  
13 insurer described by Subsection (a), an employee or agent of the  
14 insurer, an insurance adjuster, or an entity that employs an  
15 insurance adjuster may not directly or indirectly limit the  
16 insurer's coverage under a policy covering damage to a motor  
17 vehicle by:

18 (1) [~~2~~] limiting the beneficiary of the policy from  
19 selecting a repair person or facility to repair damage to the  
20 vehicle to the vehicle's condition before the damage occurred in  
21 order for the beneficiary to obtain the repair without owing any  
22 out-of-pocket cost other than the deductible;

23 (2) intimidating, coercing, or threatening the  
24 beneficiary to induce the beneficiary to use a particular repair  
25 person or facility; or

26 (3) offering an incentive or inducement, other than a  
27 warranty issued by a repair person or facility, for the beneficiary

1 to use a particular repair person or facility.

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

6 (1) require the third-party claimant to have repairs  
7 made by a particular repair person or facility;

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

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

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

18 SECTION 3. Section 1952.302, Insurance Code, is amended to  
19 read as follows:

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

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

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

6           (3) restrict the right of a beneficiary or third-party  
7 claimant to choose a repair person or facility by requiring the  
8 beneficiary or third-party claimant to travel a [an-unreasonable]  
9 distance considered inconvenient by a beneficiary or third-party  
10 claimant to repair the damage;

11           (4) offer, communicate, or suggest in any manner that  
12 a particular repair person or facility will provide faster repair  
13 times, faster service, or more efficient claims handling than  
14 another repair person or facility; or

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

19           (b) Notwithstanding Subsection (a)(5), a motor vehicle  
20 covered under an automobile insurance policy may be repaired with a  
21 part or product that is of like kind and quality as an original  
22 equipment manufacturer part or product as authorized by Section  
23 1952.301(a-2).

24           SECTION 4. The change in law made by this Act applies only  
25 to an insurance policy that is delivered, issued for delivery, or  
26 renewed on or after January 1, 2020. A policy delivered, issued for  
27 delivery, or renewed before that date is governed by the law as it

1 existed immediately before the effective date of this Act, and that  
2 law is continued in effect for that purpose.

3 SECTION 5. This Act takes effect September 1, 2019.