

By: Clardy

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. [~~+~~]

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; ~~[or]~~

8 (2) require the third-party claimant 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. In connection with the repair of damage to a motor
22 vehicle covered under an automobile insurance policy, an insurer,
23 an employee or agent of an insurer, an insurance adjuster, or an
24 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 SECTION 4. The change in law made by this Act applies only
20 to an insurance policy that is delivered, issued for delivery, or
21 renewed on or after January 1, 2020. A policy delivered, issued for
22 delivery, or renewed before that date is governed by the law as it
23 existed immediately before the effective date of this Act, and that
24 law is continued in effect for that purpose.

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