

HOUSE BILL NO. 265

INTRODUCED BY G. VANCE, SONJU

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4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT AN INSURANCE COMPANY MAY NOT
5 UNILATERALLY ~~AND ARBITRARILY~~ DISREGARD A REPAIR OPERATION OR COST IDENTIFIED BY AN
6 ESTIMATING SYSTEM THAT THE INSURER AND AN AUTOMOBILE BODY REPAIR BUSINESS OR
7 LOCATION HAVE AGREED TO UTILIZE IN DETERMINING THE COST OF REPAIR; AND AMENDING
8 SECTION 33-18-224, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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12 **Section 1.** Section 33-18-224, MCA, is amended to read:

13 **"33-18-224. Designation of specific automobile body repair businesses prohibited.** (1) (a) An
14 insurance company, including its producers and adjusters, that issues or renews a policy of insurance in this state
15 covering, in whole or in part, a motor vehicle may not:

16 (i) require that a claimant under the policy use a particular automobile body repair business or location
17 for an estimate or a repair; ~~or~~

18 (ii) engage in any act or practice that intimidates, coerces, or threatens a claimant or that provides an
19 incentive or inducement for a claimant to use a particular automobile body repair business or location; ~~or~~

20 (iii) unilaterally and arbitrarily disregard a repair operation or cost identified by an estimating system that
21 the insurer and an automobile body repair business or location have agreed to utilize in determining the cost of
22 repair.

23 (b) An insurance company, including its producers and adjusters, that issues or renews a policy of
24 insurance in this state covering, in whole or in part, a motor vehicle may have access to the motor vehicle for
25 purposes of preparing a competitive estimate.

26 (2) (a) Except as provided in subsection (2)(b), if an insurance company has direct repair programs with
27 automobile body repair businesses or locations, the insurance company may not limit the number of automobile
28 body repair businesses or locations with whom it maintains direct repair programs.

29 (b) An insurance company may limit the number of automobile body repair businesses or locations
30 participating in the insurance company's direct repair program to those automobile body repair businesses or

1 locations that comply with the provisions of subsection (2)(c). An insurance company is not required to establish
2 a direct repair program in a particular market area in which the insurance company's number of policyholders
3 does not support establishing a direct repair program with any automobile body repair business or location.

4 (c) Upon request, the insurance company shall provide, without prejudice or bias, the claimant with a
5 list that includes all automobile body repair businesses or locations that are reasonably close or convenient to
6 the claimant and willing to provide services and that meet the insurance company's criteria regarding whether
7 the automobile body repair business or location:

8 (i) possesses the equipment necessary to undertake repairs;

9 (ii) undertakes training of management and technical personnel with respect to repair information and
10 the claims process;

11 (iii) agrees to perform quality repairs at the market price and that meet reasonable industry repair
12 standards;

13 (iv) agrees to warrant the quality of work, including refinishing, in writing to the claimant, for a period of
14 not less than 1 year from the date of repair;

15 (v) agrees to inspection of its repairs and services by the insurance company and agrees that the
16 insurance company may terminate the direct repair program with the automobile body repair business or location
17 if the repairs and services are below the standards of quality required by the insurance company; and

18 (vi) if requested, agrees to execute an agreement with the insurance company that may contain additional
19 criteria that are not designed to unfairly limit the number of automobile body repair businesses or locations with
20 whom the insurance company maintains direct repair programs. The additional criteria may include criteria
21 determined to be necessary by the insurance company and designed to ensure that the automobile body repair
22 business or location has the necessary estimating systems and programs and equipment to communicate
23 electronically with the insurance company and that the automobile body repair business or location has taken
24 steps to ensure the privacy of the insurance company and the claimant.

25 (d) If the claimant requests the list provided for in subsection (2)(c), the insurance company shall inform
26 the claimant that the claimant may use an automobile body repair business or location at the sole discretion of
27 the claimant.

28 (3) For the purposes of this section, an incentive or inducement does not include:

29 (a) providing a claimant with the list provided for in subsection (2)(c); or

30 (b) referring to a warranty issued by an automobile body repair business or location.

1 (4) The claimant may use an automobile body repair business or location at the claimant's sole
2 discretion, and the insurance company shall pay for the reasonable and necessary cost of the automobile body
3 repair services for covered damages, less any deductible under the terms of the policy. This section does not
4 require an insurer to pay more for automobile body repair services than the market price, as defined in 33-18-222.

5 (5) If the claimant uses an automobile body repair business or location that is not on a list provided for
6 in subsection (2)(c), the insurance company may not be held liable for any repair work performed by the
7 automobile body repair business or location chosen by the claimant.

8 (6) It is unlawful for an automobile body repair business or location to charge or agree to charge a
9 claimant more than an uninsured customer for any automobile body repair service.

10 (7) An insurance company that contracts with an independent adjuster may not be held liable for the
11 independent adjuster's failure to comply with the terms of this section.

12 (8) For purposes of this section:

13 (a) "automobile body repair business or location" does not include a business or location that exclusively
14 provides automobile glass replacement, glass repair services, or glass products;

15 (b) "claimant" means the person seeking repair of a motor vehicle whether that person is the insured
16 person or a third party making a claim against the insurer."

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18 NEW SECTION. **Section 2. Effective date.** [This act] is effective on passage and approval.

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