



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB2330

Introduced 2/16/2005, by Rep. Thomas Holbrook

SYNOPSIS AS INTRODUCED:

215 ILCS 5/155.42 new

Amends the Illinois Insurance Code. Prohibits insurers from requiring vehicles to be repaired at specific repair facilities. Requires that, before an insurer recommends a specific repair facility, the claimant must request a referral. Requires the insurer to prominently display any suggestion or recommendation of a repair facility in the insurance contract and to not limit or discount the reasonable basis of repair costs if the insured chooses another repair facility. Grants powers to the Secretary to enforce this Section. Provides civil penalties. Provides non-exclusive examples of violations. Makes insurers liable to claimants and repair facilities for damages from violations.

LRB094 08411 LJB 38613 b

1 AN ACT concerning insurance.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Insurance Code is amended by adding
5 Section 155.42 as follows:

6 (215 ILCS 5/155.42 new)

7 Sec. 155.42. Auto collision repair facilities.

8 (a) No insurer shall require that a motor vehicle be
9 repaired at a specific repair facility, as defined in
10 subsection (b) of Section 155.29 of this Code.

11 (b) No insurer shall suggest or recommend that a motor
12 vehicle be repaired at a specific repair facility unless a
13 referral is expressly requested by the claimant. If a
14 recommendation is requested and is accepted by the claimant,
15 the insurer shall cause the damaged vehicle to be restored to
16 its condition prior to the loss at no additional cost to the
17 claimant other than as stated in the policy or as otherwise
18 allowed by law.

19 If the recommendation of an automotive repair facility is
20 made orally, and if the oral recommendation is accepted by the
21 claimant, the insurer shall provide the information contained
22 in the written notice required by this paragraph to the
23 claimant at the time the recommendation is made. The insurer
24 shall send the written notice required by this paragraph to the
25 claimant within 5 calendar days from acceptance of the oral
26 recommendation. The written notice required by this paragraph
27 shall include the following statement plainly printed in no
28 less than 10-point type:

29 "WE ARE PROHIBITED BY LAW FROM REQUIRING THAT REPAIRS BE
30 DONE AT A SPECIFIC AUTOMOTIVE REPAIR FACILITY. YOU ARE ENTITLED
31 TO SELECT THE AUTO BODY REPAIR FACILITY TO REPAIR DAMAGE
32 COVERED BY US. WE HAVE RECOMMENDED AN AUTOMOTIVE REPAIR

1 FACILITY THAT WILL REPAIR YOUR DAMAGED MOTOR VEHICLE. IF YOU
2 AGREE TO USE OUR RECOMMENDED AUTOMOTIVE REPAIR FACILITY, WE
3 WILL CAUSE THE DAMAGED MOTOR VEHICLE TO BE RESTORED TO ITS
4 CONDITION PRIOR TO THE LOSS AT NO ADDITIONAL COST TO YOU OTHER
5 THAN AS STATED IN THE INSURANCE POLICY OR OTHERWISE ALLOWED BY
6 LAW. IF YOU EXPERIENCE A PROBLEM WITH THE REPAIR OF YOUR MOTOR
7 VEHICLE, PLEASE CONTACT US IMMEDIATELY FOR ASSISTANCE.".

8 (c) Except as provided in this Section, after the claimant
9 has chosen a repair facility, the insurer shall not suggest or
10 recommend that the claimant select a different automotive
11 repair facility.

12 (d) An insurer that suggests or recommends in the insurance
13 contract that a motor vehicle be repaired at a particular
14 repair facility (i) shall prominently disclose the contractual
15 provision in writing to the insured at the time the insurance
16 is applied for and at the time the claim is acknowledged by the
17 insurer and (ii) if the claimant elects to have the motor
18 vehicle repaired at the repair facility of his or her choice in
19 his or her relevant market area, the insurer shall not limit or
20 discount the reasonable basis of repair costs as defined in
21 paragraph 6 of Section 70 of the Automotive Collision Repair
22 Act based on charges that would have been incurred had the
23 motor vehicle been repaired by the insurer's suggested or
24 recommended repair facility.

25 (e) For purposes of this Section:

26 "Any person" or "person" means any person who is employed
27 by or subcontracted by an insurance company or agent or
28 adjusting firm involved in handling the insurance claim.

29 "Claimant" means a first party claimant or insured or a
30 third party claimant who asserts a right of recovery for motor
31 vehicle repairs under an insurance policy.

32 "Relevant market area" for an automotive collision
33 repairer licensed under Section 5-301 of the Illinois Vehicle
34 Code means the area within 10 miles of the established place of
35 business of the repairer located in a county with a population
36 of 300,000 or more or the area within 15 miles of the

1 established place of business of the repairer located in a
2 county with a population of less than 300,000.

3 (f) The powers of the Secretary to enforce this Section
4 shall include those granted in Section 425 of this Code.

5 (g) Any person who engages in any activity that violates
6 this Section is liable to the State for a civil penalty to be
7 determined by the Secretary not to exceed \$5,000 for each
8 violation or, if the act or practice is willful, a civil
9 penalty not to exceed \$10,000 for each violation. The Secretary
10 shall have the discretion to establish what constitutes a
11 violation. When violations resulting from the issuance,
12 amendment, or servicing of a policy or endorsement are
13 inadvertent, all of those violations shall be a single
14 violation for the purposes of this Section.

15 A violation of this Section shall include, but is not
16 limited to:

17 (1) Alluding to or suggesting that the insurer shall
18 participate in the warranty of or guarantee the repairs by
19 a recommended repair facility, unless the insurer has in
20 writing expressly exercised the option to repair as allowed
21 in the insurance policy. Once the insurer has exercised the
22 option to repair, the insurer shall then assume full
23 warranty and liability for the repairs.

24 (2) Implying or suggesting that an auto body repair
25 shop chosen by the claimant is somehow inferior or
26 inconvenient to a repair shop on the insurance company's
27 list of repair shops.

28 (3) Tying of services. Unless it is in accordance with
29 the insurance policy or applicable law, no person shall
30 imply, suggest, or allude that the insurance company's
31 option to pay for the claimant's losses in money shall be
32 compromised or in any way diminished if the claimant
33 chooses to use the repair facility of his or her choice.

34 (4) Failure to disclose to the claimant at the time
35 that the insurer or third party representative recommends
36 the use of a designated repair facility in connection with

1 settling or paying any claim arising under a policy or
2 policies of insurance that the insurer or third party
3 representative has agreed to discounts or concessions in
4 parts, labor, materials, or procedures as specified by the
5 insurer that is not transferable to the claimant, if the
6 concessions or discounts do exist.

7 (5) Engagement in any act of coercion or intimidation
8 causing or intending to cause any licensed automobile
9 repair shop to violate the Automotive Collision Repair Act
10 as a requirement to join or remain on any insurance company
11 referral list.

12 (h) Violators of this Section are liable for any damages
13 suffered by the claimant or repair facility, including attorney
14 fees.