

Senate File 54 - Introduced

SENATE FILE 54

BY ZAUN

A BILL FOR

1 An Act relating to unfair motor vehicle repair practices in the
2 practice of insurance and including penalty provisions.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 507B.3A Unfair or deceptive motor
2 vehicle repair practices.

3 1. An adjuster, appraiser, insurance producer, insurer,
4 or employee of an insurer shall not do any of the following
5 in regard to the repair of property damage to a motor vehicle
6 covered by a motor vehicle insurance policy:

7 a. Recommend the use of a specific repair facility or source
8 for the repair of property damage to or replacement of parts on
9 a motor vehicle without informing the claimant or insured that
10 the claimant or insured is not required to use the recommended
11 repair facility or source.

12 b. Require that an appraisal of damage to or repair of a
13 motor vehicle be made in a specific repair facility.

14 c. Require that a claimant or insured use a specific
15 contractor or repair facility for a repair service or repair
16 product.

17 d. Require a repair facility to use a specific vendor
18 or process for the procurement of parts or other materials
19 necessary for the repair of a motor vehicle.

20 e. Intimidate, coerce, or threaten a claimant or insured
21 to use a specific contractor or repair facility for a repair
22 service or repair product.

23 2. An adjuster or appraiser shall not accept a gratuity
24 or other form of remuneration from a repair facility for
25 recommending that repair facility to a claimant or insured.

26 3. An insurer that issues or delivers a policy of motor
27 vehicle liability insurance in this state that provides
28 coverage for the repair of property damage to an insured motor
29 vehicle shall do all of the following:

30 a. Authorize repairs to be made to the insured motor
31 vehicle using genuine crash parts sufficient to maintain the
32 manufacturer's warranty for fit, finish, structural integrity,
33 corrosion resistance, dent resistance, and crash performance.

34 b. Shall not require repairs to be made to the insured motor
35 vehicle using aftermarket crash parts.

1 4. Notwithstanding subsection 3, an insured may consent in
2 writing at the time of repair of the insured motor vehicle to
3 the use of aftermarket crash parts.

4 5. This section applies to repairs made to an insured motor
5 vehicle during the five-year period after the date of the
6 vehicle's manufacture.

7 6. A violation of this section is an unfair or deceptive act
8 or practice in the business of insurance as provided in section
9 507B.4, subsection 3.

10 7. As used in this section:

11 a. "Adjuster" or "appraiser" means a person that is employed
12 by an insurer as, solicits business as, or represents to an
13 insured that the person is an adjuster or appraiser of claims
14 for loss or damage covered by a motor vehicle insurance policy.

15 b. "Aftermarket crash parts" means crash parts that are all
16 of the following:

17 (1) Manufactured by a person other than the original
18 manufacturer of the motor vehicle to be repaired.

19 (2) For which the original manufacturer of the motor vehicle
20 has not authorized the use of its name or trademark by the
21 manufacturer of the crash parts.

22 c. "Crash parts" means exterior or interior sheet metal or
23 fiberglass panels and parts that form the superstructure or
24 body of a motor vehicle, including all of the following:

25 (1) Fenders.

26 (2) Bumpers.

27 (3) Door panels.

28 (4) Hoods.

29 (5) Grills.

30 (6) Wheel wells.

31 (7) Front and rear lamp display panels.

32 d. "Genuine crash parts" means crash parts that are all of
33 the following:

34 (1) Manufactured by or for the original manufacturer of the
35 motor vehicle to be repaired.

1 (2) Authorized to carry the name or trademark of the
2 original manufacturer of the motor vehicle.

3 Sec. 2. Section 507B.6, subsection 1, Code 2015, is amended
4 to read as follows:

5 1. Whenever the commissioner believes that any person has
6 been engaged or is engaging in this state in any unfair method
7 of competition or any unfair or deceptive act or practice
8 whether or not defined in section 507B.3A, 507B.4, 507B.4A, or
9 507B.5 and that a proceeding by the commissioner in respect
10 to such method of competition or unfair or deceptive act or
11 practice would be in the public interest, the commissioner
12 shall issue and serve upon such person a statement of the
13 charges in that respect and a notice of a hearing on such
14 charges to be held at a time and place fixed in the notice,
15 which shall not be less than ten days after the date of the
16 service of such notice.

17 Sec. 3. Section 507B.12, unnumbered paragraph 1, Code 2015,
18 is amended to read as follows:

19 The commissioner may, after notice and hearing, promulgate
20 reasonable rules, as are necessary or proper to identify
21 specific methods of competition or acts or practices which are
22 prohibited by section 507B.3A, 507B.4, 507B.4A, or 507B.5,
23 but the rules shall not enlarge upon or extend the provisions
24 of such sections. Such rules shall be subject to review in
25 accordance with chapter 17A.

26 EXPLANATION

27 The inclusion of this explanation does not constitute agreement with
28 the explanation's substance by the members of the general assembly.

29 This bill relates to certain unfair or deceptive motor
30 vehicle repair practices. The bill prohibits an adjuster,
31 appraiser, insurance producer, insurer, or employee of an
32 insurer from recommending the use of a specific repair facility
33 or source for the repair or replacement of property damage to a
34 motor vehicle without informing the claimant or insured that
35 use of the recommended facility or source is not required;

1 requiring that an appraisal of damage or repair to a motor
2 vehicle be made in a specific repair facility; requiring
3 a repair facility to use a specific vendor or process for
4 procurement of parts or other materials necessary for the
5 repair; or intimidating, coercing, or threatening a claimant or
6 insured to use a specific contractor or repair facility.

7 An adjuster or appraiser is prohibited from accepting a
8 gratuity or other form of remuneration from a repair facility
9 for recommending that repair facility to a claimant or insured.

10 An insurer that issues or delivers a policy of motor vehicle
11 liability insurance in this state that provides coverage for
12 the repair of property damage to an insured motor vehicle
13 is required to authorize repairs using genuine crash parts
14 sufficient to maintain the manufacturer's warranty on the
15 vehicle and is prohibited from requiring that repairs be made
16 using aftermarket crash parts.

17 The bill applies to repairs made to an insured motor vehicle
18 during the five-year period after the date of the vehicle's
19 manufacture.

20 A violation of the bill's provisions is an unfair or
21 deceptive act or practice in the business of insurance under
22 Code section 507B.4(3). The cease and desist orders and civil
23 penalties available under Code chapter 507B are applicable to
24 violations of the bill's provisions. Such civil penalties may
25 not exceed \$1,000 for each act, not exceeding an aggregate
26 of \$10,000. For a knowing violation a civil penalty of not
27 more than \$5,000 for each act or violation, not exceeding an
28 aggregate of \$50,000 is possible.