

SENATE BILL NO. 388

INTRODUCED BY KEENAN

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4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT INSURANCE COMPANIES THAT HAVE  
5 DIRECT REPAIR PROGRAMS WITH AUTOMOBILE BODY REPAIR BUSINESSES OR LOCATIONS MAY NOT  
6 LIMIT THE NUMBER OF AUTOMOBILE BODY REPAIR BUSINESSES OR LOCATIONS WITH WHOM ~~IT HAS~~  
7 THEY HAVE DIRECT REPAIR PROGRAMS AS LONG AS THE AUTOMOBILE BODY REPAIR BUSINESSES  
8 OR LOCATIONS MEET ~~OBJECTIVE~~ CERTAIN CRITERIA; PROVIDING THAT A VIOLATION IS SUBJECT TO  
9 CEASE AND DESIST ORDERS OF THE COMMISSIONER OF INSURANCE; AND AMENDING SECTIONS  
10 33-18-224 AND 33-18-1006, MCA."

11  
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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

15 **"33-18-224. Designation of specific automobile body BODY repair shops BUSINESSES prohibited.**

16 (1) An insurance company, including its producers and adjusters, that issues or renews a policy of insurance  
17 in this state covering, in whole or in part, a motor vehicle may not:

18 (a) require that a person insured under the policy use a particular automobile BODY repair business or  
19 location; or

20 (b) engage in any act or practice that intimidates, coerces, or threatens an insured person or that  
21 provides an incentive or inducement for an insured person to use a particular automobile BODY repair business  
22 or location.

23 ~~(2) (a) Except as provided in subsection (2)(b), if~~ IF EXCEPT AS PROVIDED IN SUBSECTION (2)(B), IF AN  
24 insurance company has direct repair programs with automobile BODY repair businesses or locations that allow  
25 insured persons to take their motor vehicles to the automobile repair businesses or locations without the  
26 involvement of adjusters, the insurance company may not limit the number of automobile BODY repair businesses  
27 or locations with whom it maintains direct repair programs.

28 ~~(b) An insurance company may limit the number of automobile repair businesses or locations if the~~  
29 businesses or locations fail to meet the criteria established in subsection (2)(c):

30 (B) AN INSURANCE COMPANY MAY LIMIT THE NUMBER OF AUTOMOBILE BODY REPAIR BUSINESSES OR LOCATIONS

1 PARTICIPATING IN THE INSURANCE COMPANY'S DIRECT REPAIR PROGRAM TO THOSE AUTOMOBILE BODY REPAIR  
 2 BUSINESSES OR LOCATIONS THAT COMPLY WITH THE PROVISIONS OF SUBSECTION (2)(C). AN INSURANCE COMPANY IS  
 3 NOT REQUIRED TO ESTABLISH A DIRECT REPAIR PROGRAM IN A PARTICULAR MARKET AREA IN WHICH THE INSURANCE  
 4 COMPANY'S NUMBER OF POLICYHOLDERS DOES NOT SUPPORT ESTABLISHING A DIRECT REPAIR PROGRAM WITH ANY  
 5 AUTOMOBILE BODY REPAIR BUSINESS OR LOCATION.

6 ~~(e)(b)(c)~~ Upon request, the insurance company shall provide, WITHOUT PREJUDICE OR BIAS, the insured  
 7 person with an alphabetical A list that includes all automobile BODY repair businesses or locations that are  
 8 REASONABLY CLOSE OR CONVENIENT TO THE INSURED PERSON AND willing to provide services and that meet the  
 9 following objective criteria because INSURANCE COMPANY'S CRITERIA REGARDING WHETHER the AUTOMOBILE BODY  
 10 REPAIR business or location:

11 (i) possesses the equipment reasonably necessary to undertake repairs;

12 (ii) undertakes reasonable training of management and technical personnel with respect to repair  
 13 information and the claims process;

14 (iii) agrees to perform quality repairs AT THE PREVAILING COMPETITIVE MARKET PRICE AND and utilize parts  
 15 that serve to return the motor vehicle to its preloss condition THAT MEET REASONABLE INDUSTRY REPAIR STANDARDS;

16 (iv) agrees to warrant the quality of work, including refinishing, in writing to the insured person, for a  
 17 period of not less than 1 year from the date of repair; and

18 (v) AGREES TO INSPECTION OF ITS REPAIRS AND SERVICES BY THE INSURANCE COMPANY AND AGREES THAT THE  
 19 INSURANCE COMPANY MAY TERMINATE THE DIRECT REPAIR PROGRAM WITH THE AUTOMOBILE BODY REPAIR BUSINESS OR  
 20 LOCATION IF THE REPAIRS AND SERVICES ARE BELOW THE STANDARDS OF QUALITY REQUIRED BY THE INSURANCE  
 21 COMPANY; AND

22 ~~(v)~~ (vi) if requested, agrees to execute an agreement with the insurance company that may contain  
 23 additional objective criteria that are not designed to unfairly limit the number of automobile BODY repair  
 24 businesses or locations with whom the insurance company maintains direct repair programs. THE ADDITIONAL  
 25 CRITERIA MAY INCLUDE CRITERIA DETERMINED TO BE NECESSARY BY THE INSURANCE COMPANY AND DESIGNED TO ENSURE  
 26 THAT THE AUTOMOBILE BODY REPAIR BUSINESS OR LOCATION HAS THE NECESSARY ESTIMATING SYSTEMS AND PROGRAMS  
 27 AND EQUIPMENT TO COMMUNICATE ELECTRONICALLY WITH THE INSURANCE COMPANY AND THAT THE AUTOMOBILE BODY  
 28 REPAIR BUSINESS OR LOCATION HAS TAKEN STEPS TO ENSURE THE PRIVACY OF THE INSURANCE COMPANY AND THE  
 29 INSURED PERSON.

30 (D) IF THE INSURED PERSON REQUESTS THE LIST PROVIDED FOR IN SUBSECTION (2)(C), THE INSURANCE

1 COMPANY SHALL INFORM THE INSURED PERSON THAT THE INSURED PERSON MAY USE AN AUTOMOBILE BODY REPAIR  
 2 BUSINESS OR LOCATION AT THE SOLE DISCRETION OF THE INSURED PERSON.

3 (3) FOR THE PURPOSES OF THIS SECTION, AN INCENTIVE OR INDUCEMENT DOES NOT INCLUDE:

4 (A) PROVIDING AN INSURED PERSON WITH THE LIST PROVIDED FOR IN SUBSECTION (2)(C); OR

5 (B) REFERRING TO A WARRANTY ISSUED BY AN AUTOMOBILE BODY REPAIR BUSINESS OR LOCATION.

6 ~~(2) For the purposes of this section, an incentive or inducement does not include:~~

7 ~~—— (a) providing an insured person or a customer with a list of all established automobile repair businesses~~  
 8 ~~or locations reasonably close to the insured person or customer that offer a warranty for the automobile repair~~  
 9 ~~services provided by the businesses or locations;~~

10 ~~—— (b) providing an insured person or a customer with a list of particular body shops meeting reasonable~~  
 11 ~~standards of quality, service, and safety when the list is requested by the insured person or customer; or~~

12 ~~—— (c) referring to a warranty issued by an automobile repair business or location.~~

13 ~~(3)~~(4) The insured may use a an automobile BODY repair business or location at the insured's sole  
 14 discretion, and the insurance company shall pay for the reasonable and necessary cost of the automobile ~~body~~  
 15 BODY repair services for covered damages, less any deductible under the terms of the policy. This section does  
 16 not require an insurer to pay more for automobile ~~body~~ BODY repair services than the lowest prevailing market  
 17 price, as defined in 33-18-222.

18 ~~(4) If the insured person uses an automobile repair business or location not on a list provided under~~  
 19 ~~subsection (2)(a) or (2)(b), the insurance company may not be held liable for any repair work performed by the~~  
 20 ~~automobile repair business or location that the insured person chooses to use.~~

21 (5) IF THE INSURED PERSON USES AN AUTOMOBILE BODY REPAIR BUSINESS OR LOCATION THAT IS NOT ON A LIST  
 22 PROVIDED FOR IN SUBSECTION (2)(C), THE INSURANCE COMPANY MAY NOT BE HELD LIABLE FOR ANY REPAIR WORK  
 23 PERFORMED BY THE AUTOMOBILE BODY REPAIR BUSINESS OR LOCATION CHOSEN BY THE INSURED PERSON.

24 ~~(5)~~(4)(6) It is unlawful for an automobile BODY repair business or location to charge or agree to charge  
 25 an insured customer more than an uninsured customer for any automobile BODY repair service.

26 ~~(6)~~(5)(7) An insurance company that contracts with an independent adjuster may not be held liable for  
 27 the independent adjuster's failure to comply with the terms of this section.

28 ~~(7)~~(6)(8) For purposes of this section, "automobile BODY repair business or location" does not include  
 29 a business or location that exclusively provides automobile glass replacement, glass repair services, or glass  
 30 products."

