

SECOND REGULAR SESSION

SENATE BILL NO. 775

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SHOEMYER.

Pre-filed December 1, 2007, and ordered printed.

TERRY L. SPIELER, Secretary.

3504S.04I

AN ACT

To amend chapter 379, RSMo, by adding thereto one new section relating to the handling of motor vehicle repair claims by the insurance industry.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 379, RSMo, is amended by adding thereto one new
2 section, to be known as section 379.109, to read as follows:

**379.109. 1. An insurer shall inform a vehicle owner immediately
2 on first contact that they have the right to choose the repair facility of
3 their choice to repair their vehicle. The insurer shall halt any efforts
4 to re-direct, refer or otherwise influence the vehicle owner in the
5 choice of repair facility or program other than the repair facility
6 chosen by the vehicle owner once the vehicle owner has stated they
7 have chosen a repair facility.**

8 **2. All claims paid by an insurer, a holding company of an
9 insurer, or a wholly owned subsidiary of an insurer for any loss to a
10 motor vehicle or any claim for damages to a motor vehicle shall be paid
11 to the claimant, or to a repair facility that has a signed authorization
12 by the owner of the vehicle, by check, electronic transfer, or other
13 means that provides the claimant or repair facility immediate access
14 to the funds. The insurer may not limit or discount the amount that the
15 insurer pays for the repair on the basis that the repair would have cost
16 less if it had been made at a particular garage, repair shop, or other
17 vendor, or in a particular location, specified by the insurer.**

18 **3. The labor rate for the repair of damages to motor vehicles that
19 is paid by an insurer, a holding company of an insurer, or a wholly
20 owned subsidiary of an insurer to the claimant shall be based on the
21 usual and customary rate for such repairs. For the purposes of this**

22 subsection, "usual and customary rate" means the labor rate that the
23 general public commonly pays for similar repairs on similar motor
24 vehicles in the same geographic area of the state.

25 4. Any violation of the provisions of this section by an insurer
26 shall be deemed an unfair trade practice under sections 375.930 to
27 375.948, RSMo.

28 5. No automobile physical damage appraiser or insurer shall
29 request or require that appraisals or repairs should or should not be
30 made in a specified facility or repair shop. When a customer has
31 chosen a repair facility, any attempt to change or restrict the vehicle
32 owner's decision shall cease.

33 6. All appraisals shall include on the heading of the appraisal the
34 following notice, printed in not less than ten point boldfaced type:

35 "NOTICE UNDER MISSOURI LAW, THE CONSUMER AND/OR
36 LESSEE HAS THE RIGHT TO CHOOSE THE REPAIR FACILITY TO
37 MAKE REPAIRS TO THEIR MOTOR VEHICLE. NO ONE SHALL USE
38 INTIMIDATION OR COERCIVE TACTICS TO ALTER THE OWNER'S
39 CHOICE."

40 This notice shall also appear in boldfaced type on any evidence of proof
41 of financial responsibility or security concerning any policy of
42 insurance issued in the state of Missouri.

43 7. No insurance company doing business in this state, producer,
44 agent, or adjuster for such company, shall request or require any
45 insured or third party claimant to use a specific person or business for
46 the provision of automobile physical damage repairs, automobile
47 physical damage appraisals, automobile glass replacement, automobile
48 parts, glass repair service, or glass products.

49 8. No insurance company doing business in this state, producer,
50 agent, or adjuster for such company, shall engage in a deceptive
51 referral practice whereby the consumer is misled into thinking that a
52 particular repair shop, facility, vendor, or supplier must be used for
53 motor vehicle repairs.

54 9. For the purposes of this section, "request or require" includes
55 any act to influence a consumer's decision.

56 10. Deceptive referral for the purpose of this section shall
57 include any trade practice wherein the consumer's choice is swayed,
58 changed, or limited from what that consumer freely would or has

59 chosen to do, to the choice of another party by misleading statements,
60 omissions, threats, partial truths, deception, promises, or inducements.

61 11. Any physical damage appraiser preparing an estimate of
62 damage on a motor vehicle shall:

63 (1) Conduct a thorough inspection of the damaged vehicle; or

64 (2) If the appraisal is not completed by a licensed facility, the
65 person writing the appraisal shall leave in readable form an estimate
66 of the damages inspected with the repair facility.

67 12. (1) Any person altering or changing an estimate of repair
68 damage on a vehicle shall make a physical inspection of that vehicle if
69 there is any dispute over that estimate;

70 (2) Any person or business other than the original preparing
71 repair facility agreeing to the terms on any physical damage estimate
72 shall have physically inspected the damage to the vehicle before
73 making such agreement to repair or price to repair;

74 (3) Personnel directly employed as the insurance company
75 appraiser or adjuster by an insurance company may conduct
76 investigative dialogue with the physical damage repair facility who
77 prepared the appraisal, but if there is any dispute on the appraisal,
78 that person or a duly employed insurance physical damage appraiser
79 shall inspect the vehicle in an attempt to resolve the dispute;

80 (4) Any person altering or changing a physical damage appraisal
81 shall be duly licensed to conduct business within the state of Missouri.

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