

HOUSE BILL No. 2653

By Committee on Transportation

1-23

9 AN ACT relating to motor vehicles; concerning the handling of repair
10 claims by insurance companies.

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12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. (a) As used in this section:

14 (1) "Usual and customary rate" means the labor rate that the general
15 public commonly pays for similar repairs on similar motor vehicles in the
16 same geographic area of the state;

17 (2) "request or require" means any act to influence a consumer's
18 decision; and

19 (3) "deceptive referral" means any trade practice wherein the con-
20 sumer's choice is swayed, changed or limited from what that consumer
21 freely would or has chosen to do, to the choice of another party by mis-
22 leading statements, omissions, threats, partial truths, deceptions, prom-
23 ises or inducements.

24 (b) An insurer shall inform a motor vehicle owner immediately on
25 first contact that they have the right to choose the repair facility of their
26 choice to repair their vehicle. The insurer shall halt any efforts to redirect,
27 refer or otherwise influence the motor vehicle owner in the choice of
28 repair facility or program other than the repair facility chosen by the
29 vehicle owner once the vehicle owner has stated they have chosen a repair
30 facility.

31 (c) All claims paid by an insurer, a holding company of an insurer, or
32 a wholly owned subsidiary of an insurer for any loss to a motor vehicle or
33 any claim for damages to a motor vehicle shall be paid to the claimant,
34 or to a repair facility that has a signed authorization by the owner of the
35 motor vehicle, by check, electronic transfer or other means that provides
36 the claimant or repair facility immediate access to the funds. The insurer
37 may not limit or discount the amount that the insurer pays for the repair
38 on the basis that the repair would have cost less if it had been made at a
39 particular garage, repair shop or other vendor, or in a particular location,
40 specified by the insurer.

41 (d) The labor rate for the repair of damages to motor vehicles that is
42 paid by an insurer, a holding company of an insurer or a wholly owned
43 subsidiary of an insurer to the claimant shall be based on the usual and

1 customary rate for such repairs. For the purposes of this section, “usual
2 and customary” means the labor rate that the general public commonly
3 pays for similar repairs on similar motor vehicles in the same geographic
4 area of the state.

5 (e) Any violation of the provisions of this section by an insurer shall
6 be deemed a violation of the unfair trade practice law.

7 (f) No automobile physical damage appraiser or insurer shall request
8 or require that appraisals or repairs should or should not be made in a
9 specified facility or repair shop. When a customer has chosen a repair
10 facility, any attempt to change or restrict the vehicle owner’s decision
11 shall cease.

12 (g) All appraisals shall include on the heading of the appraisal the
13 following notice, printed in not less than ten point boldfaced type:

14 “NOTICE UNDER KANSAS LAW, THE CONSUMER AND/OR
15 LESSEE HAS THE RIGHT TO CHOOSE THE REPAIR FACILITY
16 TO MAKE REPAIRS TO THEIR MOTOR VEHICLE. NO ONE
17 SHALL USE INTIMIDATION OR COERCIVE TACTICS TO ALTER
18 THE OWNER’S CHOICE.”

19 This notice shall also appear in boldfaced type on any evidence of proof
20 of financial responsibility or security concerning any policy of insurance
21 issued in the state of Kansas.

22 (h) Except as otherwise provided in K.S.A. 40-2,155, and amend-
23 ments thereto, no insurance company doing business in this state, pro-
24 ducer, agent or adjuster for such company, shall request or require any
25 insured or third party claimant to use a specific person or business for
26 the provisions of automobile physical damage repairs, automobile physical
27 damage appraisals or automobile parts.

28 (i) No insurance company doing business in this state, producer,
29 agent or adjuster for such company, shall engage in a deceptive referral
30 practice whereby the consumer is misled into thinking that a particular
31 repair shop, facility, vendor or supplier must be used for motor vehicle
32 repairs.

33 (j) Any physical damage appraiser preparing an estimate of damage
34 on a motor vehicle shall:

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

36 (2) if the appraisal is not completed by a licensed facility, the person
37 writing the appraisal shall leave in readable form an estimate of the dam-
38 ages inspected with the repair facility.

39 (k) (1) Any person altering or changing an estimate of repair damage
40 on a motor vehicle shall make a physical inspection of that motor vehicle
41 if there is any dispute over that estimate;

42 (2) any person or business other than the original preparing repair
43 facility agreeing to the terms on any physical damage estimate shall have

1 physically inspected the damage to the motor vehicle before making such
2 agreement to repair or price to repair;

3 (3) personnel directly employed as the insurance company appraiser
4 or adjuster by an insurance company may conduct investigative dialogue
5 with the physical damage repair facility who prepared the appraisal, but
6 if there is any dispute on the appraisal, that person or a duly employed
7 insurance physical damage appraiser shall inspect the vehicle in an at-
8 tempt to resolve the dispute; and

9 (4) any person altering or changing a physical damage appraisal shall
10 be duly licensed to conduct business within the state of Kansas.

11 Sec. 2. This act shall take effect and be in force from and after its
12 publication in the statute book.