

HOUSE BILL NO. HB0065

Automobile repair-consumer choice.

Sponsored by: Representative(s) Illoway and Senator(s) Johnson

A BILL

for

1 AN ACT relating to insurance and motor vehicle repairs;
2 prohibiting the designation of specific automobile repair
3 locations by insurers as specified; prohibiting a repair
4 business from charging more for insured repairs than
5 uninsured repairs; specifying that the lowest prevailing
6 market rate may not be less than the cost to provide the
7 repair; providing definitions; and providing for an
8 effective date.

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10 *Be It Enacted by the Legislature of the State of Wyoming:*

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12 **Section 1.** W.S. 26-13-125 is created to read:

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14 **26-13-125. Designation of specific automobile body**
15 **repair businesses prohibited.**

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1 (a) No insurer of a motor vehicle shall:

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3 (i) Require that a claimant under a policy use a
4 particular automobile body repair business or location for
5 an estimate or a repair; or

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7 (ii) Engage in any act or practice that
8 intimidates, coerces, or threatens a claimant or that
9 provides an incentive or inducement for a claimant to use a
10 particular automobile body repair business or location.

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12 (b) An insurer that issues or renews a policy of
13 insurance in this state covering, in whole or in part, a
14 motor vehicle may have access to the motor vehicle for
15 purposes of preparing a competitive estimate.

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17 (c) Upon request, an insurer shall provide, without
18 prejudice or bias, the claimant with a list that includes
19 all automobile body repair businesses or locations that are
20 reasonably close or convenient to the claimant and willing
21 to provide services and that meet the insurer's criteria
22 regarding whether the automobile body repair business or
23 location:

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1 (i) Possesses the equipment necessary to
2 undertake repairs;

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4 (ii) Undertakes training of management and
5 technical personnel with respect to repair information and
6 the claims process;

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8 (iii) Agrees to perform quality repairs at the
9 prevailing competitive labor rate and that meet reasonable
10 industry repair standards;

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12 (iv) Agrees to warrant the quality of work,
13 including refinishing, in writing to the claimant, for a
14 period of not less than one (1) year from the date of
15 repair;

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17 (v) Agrees to inspection of its repairs and
18 services by the insurer and agrees that the insurer may
19 terminate the direct repair program with the automobile
20 body repair business or location if the repairs and
21 services are below the standards of quality required by the
22 insurer; and

23

1 (vi) If requested, agrees to execute an
2 agreement with the insurer that may contain additional
3 criteria that are not designed to unfairly limit the number
4 of automobile body repair businesses or locations with whom
5 the insurer maintains direct repair programs. The
6 additional criteria may include criteria determined to be
7 necessary by the insurer and designed to ensure that the
8 automobile body repair business or location has the
9 necessary estimating systems and programs and equipment to
10 communicate electronically with the insurer and that the
11 automobile body repair business or location has taken steps
12 to ensure the privacy of the insurer and the claimant.

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14 (d) An insurer may limit the number of automobile
15 body repair businesses or locations participating in the
16 insurer's direct repair program to those automobile body
17 repair businesses or locations that comply with the
18 provisions of subsection (c) of this section. An insurer is
19 not required to establish a direct repair program in a
20 particular market area in which the insurer's number of
21 policyholders does not support establishing a direct repair
22 program with any automobile body repair business or
23 location.

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1 (e) If the claimant requests the list provided for in
2 subsection (c) of this section, the insurer shall inform
3 the claimant that the claimant may use an automobile body
4 repair business or location at the sole discretion of the
5 claimant.

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7 (f) For the purposes of this section, an incentive or
8 inducement does not include:

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10 (i) Providing a claimant with the list provided
11 for in subsection (c) of this section; or

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13 (ii) Referring to a warranty issued by an
14 automobile body repair business or location.

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16 (g) The claimant may use an automobile body repair
17 business or location at the claimant's sole discretion, and
18 the insurer shall pay for the reasonable and necessary cost
19 of the automobile body repair services for covered damages,
20 less any deductible under the terms of the policy. The
21 deductible shall not be used to pay for any cost that is
22 not covered under the terms of the policy. This subsection
23 does not require an insurer to pay more for automobile body
24 repair services than the lowest prevailing market rate.

1 All necessary covered parts shall be paid for at list
2 price. In the event the insurer and the automobile body
3 repair business or location are unable to agree on the
4 charge to be paid for a repair, the matter may by agreement
5 of the parties be submitted to arbitration. If so
6 submitted, the following shall apply:

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8 (i) Arbitration shall proceed only if all
9 parties agree in advance and submit the dispute to
10 arbitration, and the decision of the arbitrators shall be
11 final and binding if so agreed upon by the parties in
12 advance of the arbitrator's proceedings;

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14 (ii) The dispute shall be submitted to a panel
15 of three (3) arbitrators, one (1) of which shall be
16 selected by the insurer within thirty (30) days after the
17 parties have agreed to arbitrate, one (1) of which shall be
18 selected by the automobile body repair business or location
19 within thirty (30) days after the parties have agreed to
20 arbitrate, and one (1) of which shall be selected by
21 agreement of those two (2) arbitrators within ten (10) days
22 after both parties have selected arbitrators pursuant to
23 this paragraph;

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1 (iii) The arbitration shall proceed in
2 accordance with law within thirty (30) days after the
3 selection of the arbitration panel has been completed;

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5 (iv) The cost of the arbitration shall be borne
6 equally by the parties. The decision of a majority of the
7 arbitrators shall be final and binding on the parties if so
8 agreed upon in advance by the parties. The arbitrators
9 shall not be permitted to award punitive damages and are
10 bound to apply the terms and provisions of the insurance
11 policy not in conflict with this section.

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13 (h) If the claimant uses an automobile body repair
14 business or location that is not on a list provided for in
15 subsection (c) of this section, the insurer may not be held
16 liable for any repair work performed by the automobile body
17 repair business or location chosen by the claimant.

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19 (j) It is unlawful for an automobile body repair
20 business or location to charge or agree to charge a
21 claimant more than an uninsured customer for any automobile
22 body repair service.

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1 (k) An insurer that contracts with an independent
2 adjuster may be held liable for the independent adjuster's
3 failure to comply with the terms of this section.

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5 (m) As used in this section:

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7 (i) "Automobile body repair business or
8 location" does not include a business or location that
9 exclusively provides automobile glass replacement, glass
10 repair services or glass products;

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12 (ii) "Claimant" means the person seeking repair
13 of a motor vehicle whether that person is the insured
14 person or a third party making a claim against the insurer.

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16 (iii) "Lowest prevailing market rate" means the
17 lowest market rate in a local area. The lowest prevailing
18 market rate may not be less than the actual cost to the
19 business to provide the repair.

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21 **Section 2.** This act is effective July 1, 2009.

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(END)