HOUSE BILL NO. 273

INTRODUCED BY DOLEZAL, GAGE, CHRISTIAENS, RYAN, T. NELSON, WYATT, SCHYE, FRANKLIN, WILSON, PAVLOVICH, TUSS, R. JOHNSON, DRISCOLL, WALLIN, TVEIT, S. RICE, DOWELL, BARNHART, MCCULLOCH, GALVIN, WANZENRIED, MCCAFFREE, STRIZICH, DOHERTY

IN THE HOUSE

JANUARY 20, 1993 INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT.

FIRST READING.

- FEBRUARY 17, 1993 COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
- FEBRUARY 18, 1993 PRINTING REPORT.

SECOND READING, DO PASS AS AMENDED.

FEBRUARY 19, 1993 ENGROSSING REPORT.

- FEBRUARY 23, 1993 THIRD READING, PASSED. AYES, 100; NOES, 0.
- FEBRUARY 24, 1993 TRANSMITTED TO SENATE.

IN THE SENATE

MARCH 1, 1993 INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY.

FIRST READING.

MARCH 17, 1993 COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.

MARCH 18, 1993 SECOND READING, CONCURRED IN.

MARCH 19, 1993 THIRD READING, CONCURRED IN. AYES, 46; NOES, 1.

RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 1, 1993 SECOND READING, AMENDMENTS NOT CONCURRED IN.

APRIL 2, 1993	ON MOTION, FREE CONFERENCE COMMITTEE REQUESTED AND APPOINTED.
	IN THE SENATE
APRIL 5, 1993	ON MOTION, FREE CONFERENCE COMMITTEE REQUESTED AND APPOINTED.
	IN THE HOUSE
APRIL 7, 1993	FREE CONFERENCE COMMITTEE REPORTED.
	IN THE SENATE
APRIL 12, 1993	SECOND READING, FREE CONFERENCE COMMITTEE REPORT ADOPTED.
APRIL 13, 1993	THIRD READING, FREE CONFERENCE COMMITTEE REPORT ADOPTED.
	IN THE HOUSE
APRIL 15, 1993	SECOND READING, FREE CONFERENCE COMMITTEE REPORT ADOPTED.
APRIL 16, 1993	THIRD READING, FREE CONFERENCE COMMITTEE REPORT ADOPTED.
	SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

....

HOUSE BILL NO. 1 INTRODUCED BY A BILL FOR AN INSUREDS INSURAN RECTING (IMAZENRIE) Mr. CAULLE COMPANIES Ugo. LOCATIONS FOR AUTOMOBILE GLASS SPECIFIC 6 7 REPLACEMENT, REPAIR SERVICE, OR PRODUCTS: PROHIBITING THE 8 ESTABLISHMENT OF AN AGREEMENT WITH A COMPANY TO ARRANGE 9 PAYMENT THROUGH A THIRD PARTY FOR AUTOMOBILE GLASS REPLACEMENT OR REPAIR SERVICE; PROHIBITING A COMPANY FROM 10 11 ACTING AS AGENT FOR AN INSURANCE COMPANY WHEN EITHER THE AGENT OR INSURANCE COMPANY SETS A PRICE THAT MUST BE MET BY 12 13 A REPAIR SHOP AS A CONDITION TO DOING REPAIR WORK : PROHIBITING THE ESTABLISHMENT OF A PRICE TO BE MET BY A 14 15 REPAIR SHOP THAT IS BELOW THE LOWEST PREVAILING MARKET PRICE; PROHIBITING PERSONS WHO SELL, REPLACE, OR REPAIR 16 17 AUTOMOBILE GLASS FROM OFFERING CREDITS AGAINST INSURANCE 18 DEDUCTIBLES: PROVIDING PENALTIES FOR VIOLATIONS; AND 19 AMENDING SECTIONS 30-14-222, 30-14-223, AND 30-14-224, MCA." 20

21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

<u>NEW SECTION.</u> Section 1. Designation of specific repair
 shops prohibited -- lists allowed. (1) (a) An insurance
 company, including its agents and adjusters, that issues or
 renews a policy of insurance in this state covering, in

ontana Legislative Counci

whole or part, a motor vehicle may not require or recommend
 that a person insured under the policy use a particular
 company or location for providing automobile glass
 replacement, repair services, or products insured in whole
 or part by the policy.

6 (b) An insurance company, including its agents and 7 adjusters, may not engage in any act or practice of 8 intimidation, coercion, threat, incentive, or inducement for 9 or against an insured person to use a particular company or 10 location to provide automobile glass replacement, repair 11 services, or products.

12 (2) (a) An insurance company may provide an insured 13 with a list that includes the names of particular companies 14 or locations providing automobile glass replacement, repair 15 services, or products if the listed companies or locations 16 are reasonably close and convenient to the insured and if 17 none of the companies or locations on the list have entered 18 into an arrangement with any other company or location on 19 the list with respect to prices or other aspects of 20 furnishing services or products. The insurance company may 21 restrict the list to those companies or locations that meet 22 reasonable standards of quality, service, and safety.

(b) If a list is provided, the insurance company or its
agents or adjusters shall, when a claim wholly or partially
reimbursable under the insurance policy is made by the

-2-

INTRODUCED

1 insured, provide oral and written disclosure that a nonlisted company or location may be used at the insured's 2 sole discretion and that the insurance company will fully з 4 and promptly pay, at no less than the lowest prevailing market price as defined in [section 2], for the cost of 5 automobile glass replacement, repair services, or products - 6 provided, less any deductible under the terms of the policy. 7 8 If the insured elects to use a nonlisted company or location, the insurance company may not impose upon the 9 10 insured any requirements, including obtaining written estimates, not required if the insured elects to use a 11 12 listed company or location.

13 (3) Notwithstanding the provisions of subsections (1)
14 and (2), an insurance company may agree to pay the full cost
15 of glass replacement or repair.

NEW SECTION. Section 2. Lowest 16 prevailing market price. For purposes of [sections 1 and 3], "lowest 17 18 prevailing market price" means the lowest market price in a local area for similarly situated companies or locations 19 20 providing comparable automobile glass replacement, repair services, or products without taking into consideration 21 22 companies or locations that have arrangements with one another with respect to prices or other aspects of 23 furnishing glass replacement, repair services, or products. 24 25 The lowest prevailing market price may not be less than cost

1 as provided in 30-14-209.

2 <u>NEW SECTION.</u> Section 3. Prohibited activities. (1) It 3 is unlawful for an insurance company, individually or with 4 others, to directly or indirectly:

5 (a) establish an agreement with a company to manage,
6 handle, or arrange automobile glass replacement or repair
7 work;

8 (b) establish an agreement with a company to act as an 9 agent for the insurance company under which the insurance 10 company or the agent sets a price that must be met by a 11 repair shop as a condition for doing glass replacement or 12 repair work for the insurance company;

13 (c) establish an agreement with any company that
14 requires a repair shop to bill through the company as a
15 condition of doing glass replacement or repair work; or

(d) establish a price that must be met by a repair shop
as a condition for doing glass replacement or repair work
that is below the lowest prevailing market price as provided
in [section 2].

(2) A company may not manage, handle, or arrange
automobile glass replacement or repair work for which the
company retains a percentage of the claim paid by the
insurance company to the repair shop or bills the insurance
company for an amount in excess of the amount paid to the
repair shop.

-3-

م٢

LC 0934/01

-4-

<u>NEW SECTION.</u> Section 4. Rebates prohibited - advertising allowed. (1) A person engaged in the sale,
 repair, or replacement of automobile glass may not
 advertise, promise to provide, or offer any coupon, credit,
 or rebate to pay all or part of an insurance deductible
 under a casualty or property insurance policy.

7 (2) A person or association of persons engaged in the
8 sale, repair, or replacement of automobile glass may
9 advertise services as to quality, service, and safety.

Section 5. Section 30-14-222, MCA, is amended to read: 10 11 "30-14-222. Injunctions -- damages -- production of 12 evidence. (1) Any A person, if injured thereby by an act, or 13 the attorney general may maintain an action to enjoin a continuance of an act in violation of 30-14-205 through 14 15 30-14-218 or [sections 1 through 4] and for the recovery of 16 damages. If in such the action the court finds that the 17 defendant is violating or has violated any of the provisions 18 of 30-14-205 through 30-14-218 or (sections 1 through 4), it 19 shall enjoin the defendant from a continuance thereof of the 20 violation. It is not necessary to allege or prove actual 21 damages to the plaintiff.

(2) In addition to such injunctive relief, the
plaintiff is entitled to recover from the defendant three
times the amount of actual damages sustained.

25 (3) A defendant in an action brought under this section

1 may be required to testify under the Montana Rules of Civil
2 Procedure. In addition, the books and records of any--such
3 the defendant may be brought into court and introduced into
4 evidence by reference. No--information Information so
5 obtained may not be used against the defendant as a basis
6 for a misdemeanor prosecution under 30-14-205 through
7 30-14-218, (sections 1 through 4), or and 30-14-224."

8 Section 6. Section 30-14-223, MCA, is amended to read:

9 "30-14-223. Department to institute suit. Upon the 10 third violation of any of the provisions of 30-14-205 11 through 30-14-218 or [sections 1 through 4] by any a 12 business, the department shall institute proper suits or quo 13 warranto proceedings in a court of competent jurisdiction 14 for the forfeiture of its charter, rights, franchises or 15 privileges, and powers exercised by such the business and to 16 permanently enjoin it from transacting business in this 17 state. If in such the action the court finds that the 18 business is violating or has violated any of the provisions 19 of 30-14-205 through 30-14-218 or [sections 1 through 4], it 20 shall enjoin the business from doing business in this state 21 permanently or for such a time as the court orders or shall 22 annul the charter or revoke the franchise of such the 23 business."

Section 7. Section 30-14-224, MCA, is amended to read:
"30-14-224. Penalties. (1) Except as otherwise provided

-5-

-6-

in this section, a person, whether as principal, agent, officer, or director, who violates any of the provisions of 30-14-206 through 30-14-218 or [sections 1 through 4] is guilty of a misdemeanor for each single violation and upon conviction thereof shall be fined not less than \$100 or more than \$1,000 or imprisoned for a term not to exceed 6 months, or both.

8 (2) A violation of 30-14-205 is punishable by
9 imprisonment in the county jail for a period not less than
10 24 hours or more than '1 year or by fine not exceeding
11 \$25,000, or both.

12 (3) When there is a violation of 30-14-216, in addition 13 to the penalty specified in subsection (1), the court before 14 which a conviction is had shall, within 10 days after 15 judgment of conviction is given, forward a certified copy of 16 the judgment to the department of agriculture and that 17 department shall revoke any license issued to the person so 18 convicted.-In-such-case-no. A new license may not be granted 19 to the person whose license is revoked or to anyone either 20 directly or indirectly engaged with him that person in such 21 that business for a period of 1 year."

22NEW SECTION.Section 8. Codificationinstruction.23[Sections 1 through 4] are intended to be codified as an24integral part of Title 30, chapter 14, part 2, and the25provisions of Title 30, chapter 14, part 2, apply to

LC 0934/01

[sections 1 through 4].

1

-End-

-7-

-8-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0273, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

The bill prohibits Montana motor vehicle insurance companies from directing insureds to specific companies or locations for automobile glass replacement repair service. It also prohibits the establishment of a price to be met by a repair shop that is below the lowest prevailing market price.

ASSUMPTIONS:

Department of Commerce

- 1. Assume that the Department will be required to investigate two cases alleging sales below cost established by section 30-14-209, MCA.
- 2. Assume that the Department will be requested to conduct two sales below cost hearings and surveys to establish the market price in the locality as set forth by section 30-14-209 through section 30-14-212, MCA.
- 3. Assume that the Department's final administrative order will be appealed to District Court in both cases; as provided in section 30-14-220, MCA.

FISCAL IMPACT:

	FY '94		FY '95			
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
Expenditures:						
Personal Services	0	20,052	20,052	0	20,052	20,052
Operating Costs	0	3,393	3,393	0	3,393	3,393
Total	0	23,445	23,445	0	23,445	23,445
Funding:						
General Fund	0	23,445	23,445	0	23,445	23,445

2-10-93

DAVID LEWIS, BUDGET DIRECTOR DATE Office of Budget and Program Planning

			2-1	1-93
EDWARD	DOLEZAL,	PRIMARY	SPONSOR	DATE
Fiscal	Note for	HB0273.	as introdu	uced

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0273. second reading

<u>DESCRIPTION OF PROPOSED LEGISLATION</u>: An act prohibiting motor vehicle insurance companies from directing insureds to specific companies or locations for automobile glass replacement, repair service, or products; prohibiting the establishment of an agreement with a company to arrange payment through a third party for automobile glass replacement or repair service; prohibiting a company from acting as glass broker for an insurance company when the glass broker sets a price that must be met by a repair shop as a condition to doing repair work; defining glass broker; prohibiting the establishment of a price to be met by a glass repair shop as a condition to doing glass replacement or glass repair work when the price is below the lowest prevailing market price; prohibiting persons who sell, replace, or repair automobile glass from offering incentives; providing penalties for violation; granting enforcement authority to the insurance commissioner.

ASSUMPTIONS :

State Auditor's Office:

- 1. The commissioner of insurance will conduct two violation investigations per year. Both will result in cease and desist orders and the associated hearings.
- 2. Existing staff will conduct the compliance investigations.
- 3. Agency legal services will be used for legal assistance during the hearing process.
- 4. Hearing costs will be paid for by the commissioner of insurance.

	FY '94		FY '95			
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
<u>Expenditures:</u> Operating Costs	0	10,000	10,000	0	10,000	10,000
<u>Funding:</u> General Fund	0	10,000	10,000	0	10,000	10,000

FISCAL IMPACT:

DAVID LEWIS, BUDGET DIRECTOR DATE Office of Budget and Program Planning

EDWARD DOLEZAL. PRIMARY SPONSOR

Fiscal Note for <u>HB0273</u>, second reading HB273, # 1

2

3

4

5

6

7

8

9

HOUSE BILL NO. 273 INTRODUCED BY DOLEZAL, GAGE, CHRISTIAENS, RYAN, T. NELSON, WYATT, SCHYE, FRANKLIN, WILSON, PAVLOVICH, TUSS, R. JOHNSON, DRISCOLL, WALLIN, TVEIT, S. RICE, DOWELL, BARNHART, MCCULLOCH, GALVIN, WANZENRIED, MCCAFFREE, STRIZICH, DOHERTY A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING MOTOR VEHICLE INSURANCE COMPANIES FROM DIRECTING INSUREDS TO SPECIFIC COMPANIES OR LOCATIONS FOR AUTOMOBILE GLASS

10 REPLACEMENT, REPAIR SERVICE, OR PRODUCTS; PROHIBITING THE ESTABLISHMENT OF AN AGREEMENT WITH A COMPANY TO ARRANGE 11 PAYMENT THROUGH A THIRD PARTY FOR AUTOMOBILE GLASS 12 13 REPLACEMENT OR REPAIR SERVICE; PROHIBITING A COMPANY FROM 14 ACTING AS AGENT GLASS BROKER FOR AN INSURANCE COMPANY WHEN 15 EITHER THE AGENT--OR-INSURANCE-COMPANY GLASS BROKER SETS A 16 PRICE THAT MUST BE MET BY A REPAIR SHOP AS A CONDITION TO 17 DOING REPAIR WORK: DEFINING GLASS BROKER; PROHIBITING THE ESTABLISHMENT OF A PRICE TO BE MET BY A GLASS REPAIR SHOP 18 19 THAT AS A CONDITION TO DOING GLASS REPLACEMENT OR GLASS REPAIR WORK WHEN THE PRICE IS BELOW THE LOWEST PREVAILING 20 MARKET PRICE; PROHIBITING PERSONS WHO SELL, REPLACE, OR 21 REPAIR AUTOMOBILE GLASS FROM OFFERING CREDITS---AGAINST 22 INSURANCE--DEDUCTIBLES INCENTIVES; PROVIDING PENALTIES FOR 23 24 VIOLATIONS; AND AMENDING-SECTIONS-30-14-2227-30-14-2237--AND 30-14-2247---MEA GRANTING ENFORCEMENT AUTHORITY TO THE 25

INSURANCE COMMISSIONER."

1

2

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

<u>NEW SECTION.</u> Section 1. Designation of specific repair
shops prohibited -- lists allowed. (1) (a) An insurance
company, including its agents and adjusters, that issues or
renews a policy of insurance in this state covering, in
whole or part, a motor vehicle may not:

9 (A) require or recommend that a person insured under 10 the policy use a particular company or location for 11 providing automobile glass replacement, repair services, or 12 products insured in whole or part by the policy τ ; OR

(b) An-insurance--company7--including--its--agents--and
adjusters7--may--not engage in any act or practice of
intimidation, coercion, threat, incentive, or inducement for
or against an insured person to use a particular company or
location to provide automobile glass replacement, <u>GLASS</u>
repair services, or <u>GLASS</u> products <u>INSURED IN WHOLE OR IN</u>
PART UNDER THE TERMS OF AN INSURANCE POLICY.

(2) (a) An insurance company may provide an insured
with a list that includes the names of particular companies
or locations providing automobile glass replacement, <u>GLASS</u>
repair services, or <u>GLASS</u> products if <u>SOME OF</u> the listed
companies or locations are reasonably close and convenient
to the insured and-if-none-of-the-companies-or-locations-on



-2-

the-list-have-entered-into-an--arrangement--with--any--other company--or--location--on-the-list-with-respect-to-prices-or other--aspects--of--furnishing--services--or--products. The insurance company may restrict the list to those companies or locations that meet reasonable standards of quality, service, and safety.

(b) If-a-list-is-providedy-the-insurance-company-or-its 7 8 agents-or-adjusters-shall;-when-a-claim-wholly-or--partially 9 reimbursable--under--the-insurance-policy-is-made-by-the THE insured;--provide--oral--and--written--disclosure---that---a 10 11 nonlisted--company--or--location--may--be--used MAY USE A NONLISTED SHOP OR LOCATION at the insured's sole discretion, 12 13 and that SUBJECT TO THE PROVISIONS OF SUBSECTIONS (2)(C) AND 14 (3), the insurance company will fully and promptly payr-at 15 no-less-than-the-lowest-prevailing-market-price--as--defined 16 in---{section---2}, for the cost of automobile glass 17 replacement, GLASS repair services, or GLASS products 18 provided, less any deductible under the terms of the policy. 19 If--the--insured--elects--to--use--a--nonlisted--company--or 20 location_--the--insurance--company--may--not-impose-upon-the 21 insured--any--requirements--including---obtaining---written 22 estimatesy--not--required--if--the--insured--elects-to-use-a 23 listed-company-or-location-24 (C) IF THE INSURED DOES NOT USE A LIST AS PROVIDED IN

25 SUBSECTION (2)(A), THE INSURER MAY REQUIRE THE INSURED TO

-3-

HB 273

1 OBTAIN NOT MORE THAN THREE COMPETITIVE BIDS TO ESTABLISH THE 2 COST OF AUTOMOBILE GLASS REPLACEMENT, GLASS REPAIR SERVICES, 3 OR GLASS PRODUCTS PROVIDED. (3) THIS SECTION DOES NOT REQUIRE AN INSURER TO PAY 4 MORE FOR AUTOMOBILE GLASS REPLACEMENT, GLASS REPAIR 5 6 SERVICES, OR GLASS PRODUCTS THAN THE LOWEST PREVAILING 7 MARKET PRICE AS DEFINED IN [SECTION 2]. 8 (3)(4) Notwithstanding the provisions of subsections 9 (1) and +7? THROUGH (3), an insurance company may agree to 10 pay the full cost of glass replacement or repair. 11 NEW SECTION. Section 2. Lowest prevailing market 12 price. For purposes of [sections 1 and 3], "lowest 13 prevailing market price" means the lowest market price in a 14 local area for--similarly--situated-companies-or-locations 15 providing-comparable-automobile--glass--replacement7--repair 16 services7--or--products--without--taking--into-consideration 17 companies-or--locations--that--have--arrangements--with--one 18 another---with---respect--to--prices--or--other--aspects--of 19 furnishing-glass-replacementy-repair-servicesy-or--products. 20 The lowest prevailing market price may not be less than cost 21 as provided in 30-14-209.

22 <u>NEW SECTION.</u> Section 3. Prohibited activities -- GLASS
 23 <u>BROKER DEFINED.</u> (1) It is unlawful for an insurance company,
 24 individually or with others, to directly or indirectly:

25 fal--establish--an--agreement--with-a-company-to-manager

-4-

1	handley-or-arrange-automobile-glassreplacementorrepair	1
2	work?	2
3	<pre>(b)(A) establish an agreement with a company to act as</pre>	2
4	an-agent A GLASS BROKER for the insurance company under	3
5	which the insurance-company-or-the-agent GLASS BROKER sets a	4
6	price that must be met by a <u>GLASS</u> repair shop as a condition	5
7	for doing glass replacement or <u>GLASS</u> repair work for the	6
8	insurance company;	7
9	(c) (B) establish an agreement with any company that	8
10	requires a <u>GLASS</u> repair shop to bill through the company as	9
11	a condition of doing glass replacement or <u>GLASS</u> repair work;	10
		11
12	or (d) (C) establish a price that must be met by a <u>GLASS</u>	12
13		13
14	repair shop as a condition for doing glass replacement or	14
15	GLASS repair work that is below the lowest prevailing market	15
16	price as provided in [section 2].	16
17	(2) A company may not manage, handle, or arrange	17
18	automobile glass replacement or <u>GLASS</u> repair work for which	18
19	the company retains a percentage of the claim OR A SET PEE	19
20	paid by the insurance company to the <u>GLASS</u> repair shop or	20
21	billstheinsurance-company for an amount in excess of the	21
22	amount paid to the <u>GLASS</u> repair shop.	
23	(3) AS USED IN THIS SECTION, "GLASS BROKER" MEANS AN	23
24	AUTONOBILE GLASS COMPANY THAT ACTS AS A THIRD-PARTY AGENT	24
25	FOR THE INSURER FOR THE PURPOSE OF ENTERING INTO AGREEMENTS	
		25
	-5- HB 273	

1	WITH OTHER AUTOMOBILE GLASS DEALERS TO PERFORM GLASS
2	REPLACEMENT OR GLASS REPAIR WORK.
3	NEW SECTION. Section 4. Rebates AND INCENTIVES
4	prohibited advertising allowed. (1) A person engaged in
5	the sale, repair, or replacement of automobile glass may
6	not:
7	(A) advertise, promise to provide, or offer any coupon,
8	credit, or rebate to pay all or part of an insurance
9	deductible under a casualty or property insurance policy; OR
10	(B) PAY A SUM OR INCENTIVE TO AN INDIVIDUAL OR ENTITY
11	FOR DIRECTING GLASS REPLACEMENT OR REPAIR OR THE PURCHASE OF
12	A GLASS PRODUCT.
13	(2) A person or association of persons engaged in the
14	sale, repair, or replacement of automobile glass may
15	advertise services as to quality, service, and safety.
16	Section-5:Section-30-14-2227-MCAy-is-amended-to-read;
17	"30-14-222Injunctionsdamagesproductionof
18	evidence
19	theattorneygeneralmaymaintainan-action-to-enjoin-a
20	continuance-of-an-actinviolationof30-14-205through
21	30-14-218 or-factions-1-through-4] and-for-the-recovery-of
22	damages-ff-in-such the action-the-court-finds-that-the
23	defendant-is-violating-or-has-violated-any-of-the-provisions
24	of-30-14-205-through-30-14-210 <u>or-(sections-1-through-4)</u> y-it
25	shall-enjoin-the-defendant-from-a-continuance-thereof of-the

-6-

13

or-both-

1	violation
2	damages-to-the-plaintiff.
3	f2;Inadditiontosuchinjunctiverelief;the
4	plaintiffisentitledto-recover-from-the-defendant-three
5	times-the-amount-of-actual-damages-sustained.
6	<pre>{3}A-defendant-in-an-action-brought-under-this-section</pre>
7	may-be-required-to-testify-under-the-Montana-Rules-ofCivil
8	ProcedureInadditiony the-books-and-records-of-any-such
9	the defendant-may-be-brought-into-court-and-introducedinto
10	evidencebyreferenceNoinformation <u>Information</u> so
11	obtained-may <u>not</u> be-used-against-the-defendantasabasis
12	foramisdemeanorprosecutionunder30-14-205through
13	38-14-218 <u>y-factions-1-through-4]y-or</u> and-38-14-224.*
14	Section-6Section-30-14-223-MCA7-is-amended-to-read;
15	#30-14-223+Bepartmenttoinstitutesuit+Uponthe
16	third-violationofanyoftheprovisionsof30-14-205
17	through30-14-210 orfsections1through41 byany a
18	businessy-the-department-shall-institute-proper-suits-or-quo
19	warranto-proceedings-in-a-courtofcompetentjurisdiction
20	fortheforfeitureofits-chartery-rightsy-franchises-or
21	privileges, and powers exercised by such the business and to
22	permanently-enjoin-itfromtransactingbusinessinthis
23	stateIfinsuch the actionthecourt-finds-that-the
24	business-is-violating-or-has-violated-any-of-theprovisions
25	of-30-14-205-through-30-14-218 <u>or-fsections-1-through-47</u> 7-it

1	shallenjoin-the-business-from-doing-business-in-this-state
2	permanently-or-for-such a time-as-the-court-orders-orshall
3	annulthecharterorrevokethefranchiseof-such the
4	business.*
5	Section-7Section-30-14-224,-MCA,-is-amended-to-read:
6	#30-14-224Penalties(1)-Except-as-otherwise-provided
7	in-this-sectiony-apersonywhetherasprincipalyagenty
8	officeryor-directory-who-wiciates-any-of-the-provisions-of
9	30-14-206-through-30-14-210 <u>or-fsections1through4]</u> is
10	guilty-ofa-misdemeanor-for-each-single-violation-and-upon
11	conviction-thereof-shall-be-fined-not-less-than-\$100-or-more
12	than-917000-or-imprisoned-for-a-term-not-to-exceed-6-months7

14	(2)Aviolationof30-14-205ispunishableby
15	imprisonmentinthe-county-jail-for-a-period-not-less-than
16	24-hours-or-more-than1yearorbyfinenotexceeding
17	\$2570007-or-both.
18	t3)When-there-is-a-violation-of-30-14-2167-in-addition
19	to-the-penalty-specified-in-subsection-(l)y-the-court-before
20	whichaconvictionishadshall;withinl0-days-after
21	judgment-of-conviction-is-giveny-forward-s-certified-copy-of
22	the-judgment-tothedepartmentofagricultureandthat
23	departmentshall-revoke-any-license-issued-to-the-person-so
24	convictedIn-such-case-no:-A new-license-may not be-granted

25 to-the-person-whose-license-is-revoked-or-to--anyone--either

-8-

BB 273

HB 0273/02

-7-

1 directly-or-indirectly-engaged-with-him that-person in-such 2 that business-for-a-period-of-1-year." NEW SECTION. SECTION 5. DESIST ORDERS FOR PROHIBITED 3 PRACTICES. VIOLATIONS OF [SECTIONS 1 THROUGH 4] ARE SUBJECT 4 5 TO CEASE AND DESIST ORDERS OF THE COMMISSIONER ISSUED UNDER 6 33-18-1004. NEW SECTION. Section 6. Codification instruction. (1) 7 8 [Sections 1 through 4] are intended to be codified as an 9 integral part of Title 30 33, chapter 14 18, part 2, and the 10 provisions of Title 30 33, chapter 14 18, part 2, apply to 11 [sections 1 through 4]. 12 (2) [SECTION 5] IS INTENDED TO BE CODIFIED AS AN 13 INTEGRAL PART OF TITLE 33, CHAPTER 18, PART 10, AND THE 14 PROVISIONS OF TITLE 33, CHAPTER 18, PART 10, APPLY TO

15 [SECTION 5].

-End-

HOUSE BILL NO. 273 1 2 INTRODUCED BY DOLEZAL, GAGE, CHRISTIAENS, RYAN, T. NELSON, WYATT, SCHYE, PRANKLIN, WILSON, PAVLOVICH, TUSS, R. JOHNSON, 3 DRISCOLL, WALLIN, TVEIT, S. RICE, DOWELL, BARNHART, MCCULLOCH, 4 GALVIN, WANZENRIED, MCCAFFREE, STRIZICH, DOHERTY 5 6 A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING MOTOR 7 VEHICLE INSURANCE COMPANIES FROM DIRECTING INSUREDS TO 8 SPECIFIC COMPANIES OR LOCATIONS FOR AUTOMOBILE GLASS 9 REPLACEMENT, REPAIR SERVICE, OR PRODUCTS; PROHIBITING THE 10 11 ESTABLISHMENT OF AN AGREEMENT WITH A COMPANY TO ARRANGE PAYMENT THROUGH A THIRD PARTY FOR AUTOMOBILE GLASS 12 REPLACEMENT OR REPAIR SERVICE: PROHIBITING A COMPANY FROM 13 ACTING AS AGENT GLASS BROKER FOR AN INSURANCE COMPANY WHEN 14 BITHER THE AGENT--OR-INSURANCE-COMPANY GLASS BROKER SETS A 15 PRICE THAT MUST BE MET BY A REPAIR SHOP AS A CONDITION TO 16 DOING REPAIR WORK; DEFINING GLASS BROKER; PROHIBITING THE 17 ESTABLISHMENT OF A PRICE TO BE MET BY A GLASS REPAIR SHOP 18 THAT AS A CONDITION TO DOING GLASS REPLACEMENT OR GLASS 19 REPAIR WORK WHEN THE PRICE IS BELOW THE LOWEST PREVAILING 20 21 MARKET PRICE; PROHIBITING PERSONS WHO SELL, REPLACE, OR REPAIR AUTOMOBILE GLASS FROM OFFERING CREDITS---AGAINST 22 INSURANCE--BEBUCTIBLES INCENTIVES; PROVIDING PENALTIES FOR 23 VIOLATIONS; AND AMENDING-SECTIONS-30-14-2227-30-14-2237-AND 24 30-14-2247---MCA GRANTING ENFORCEMENT AUTHORITY TO THE 25

1 INSURANCE COMMISSIONER."

2

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

4 <u>NEW SECTION.</u> Section 1. Designation of specific repair 5 shops prohibited -- lists allowed. (1) tay An insurance 6 company, including its agents and adjusters, that issues or 7 renews a policy of insurance in this state covering, in 8 whole or part, a motor vehicle may not:

9 (A) require or recommend that a person insured under
10 the policy use a particular company or location for
11 providing automobile glass replacement, <u>GLASS</u> repair
12 services, or <u>GLASS</u> products insured in whole or part by the
13 policy; OR

(b) An--insurance--companyr--including--its--agents-and
adjustersr--may--not engage in any act or practice of
intimidation, coercion, threat, incentive, or inducement for
or against an insured person to use a particular company or
location to provide automobile glass replacement, <u>GLASS</u>
repair services, or <u>GLASS</u> products <u>INSURED IN WHOLE OR IN</u>
PART UNDER THE TERMS OF AN INSURANCE POLICY.

(2) (a) An insurance company may provide an insured
 with a list that includes the names of particular companies
 or locations providing automobile glass replacement, <u>GLASS</u>
 repair services, or <u>GLASS</u> products if <u>SOME OF</u> the listed
 companies or locations are reasonably close and convenient



-2-

to the insured and-if-none-of-the-companies-or-locations--on the--list--have--entered--into-an-arrangement-with-any-other company-or-location-on-the-list-with-respect--to--prices--or other--aspects--of--furnishing--services--or--products. The insurance company may restrict the list to those companies or locations that meet reasonable standards of quality, service, and safety.

8 (b) If-a-list-is-providedy-the-insurance-company-or-its 9 agents--or-adjusters-shall;-when-a-claim-wholly-or-partially reimbursable-under-the-insurance-policy-is-made-by--the THE 10 11 insuredy---provide---oral--and--written--disclosure--that--a 12 nonlisted--company--or--location--may--be--used MAY USE A 13 NONLISTED SHOP OR LOCATION at the insured's sole discretion, and that SUBJECT TO THE PROVISIONS OF SUBSECTIONS (2)(C) AND 14 15 (3), the insurance company will fully and promptly payr-at 16 no--less--than-the-lowest-prevailing-market-price-as-defined 17 in--{section--2}, for the cost of automobile glass replacement, GLASS repair services, or GLASS products 18 19 provided, less any deductible under the terms of the policy. 20 If--the--insured--elects--to--use--a--nonlisted--company--or 21 tocationy-the-insurance-company--may--not--impose--upon--the insured---any---requirementsy--including--obtaining--written 22 23 estimatesy-not-required-if--the--insured--elects--to--use--a listed-company-or-location; 24

25 (C) IF THE INSURED DOES NOT USE A LIST AS PROVIDED IN

-3-

HB 273

1 SUBSECTION (2)(A), THE INSURER MAY REQUIRE THE INSURED TO 2 OBTAIN NOT MORE THAN THREE COMPETITIVE BIDS TO ESTABLISH THE COST OF AUTOMOBILE GLASS REPLACEMENT, GLASS REPAIR SERVICES, 3 OR GLASS PRODUCTS PROVIDED. 4 (3) THIS SECTION DOES NOT REQUIRE AN INSURER TO PAY 5 MORE FOR AUTOMOBILE GLASS REPLACEMENT. 6 GLASS REPAIR SERVICES, OR GLASS PRODUCTS THAN THE LOWEST PREVAILING 7 8 MARKET PRICE AS DEFINED IN [SECTION 2]. 9 (3)(4) Notwithstanding the provisions of subsections 10 (1) and -+(2) THROUGH (3), an insurance company may agree to 11 pay the full cost of glass replacement or repair. 12 NEW SECTION. Section 2. Lowest prevailing market 13 price. For purposes of [sections 1 and 3], "lowest 14 prevailing market price" means the lowest market price in a 15 local area for-similarly--situated--companies--or--locations 16 providing--comparable--automobile--glass-replacementy-repair 17 servicesy-or--products--without--taking--into--consideration 18 companies--or--locations--that--have--arrangements--with-one 19 another--with--respect--to--prices--or--other---aspects---of 20 furnishing--glass-replacementy-repair-servicesy-or-products. 21 The lowest prevailing market price may not be less than cost 22 as provided in 30-14-209. NEW SECTION. Section 3. Prohibited activities -- GLASS 23

23 <u>NEW SECTION.</u> Section J. Prohibited activities -- GLASS
 24 <u>BROKER DEFINED</u>. (1) It is unlawful for an insurance company,
 25 individually or with others, to directly or indirectly:

-4-

HB 273

HB 0273/03

1 ta)--establish-an-agreement-with-a--company--to--manage; 2 handle;--or--arrange--automobile-glass-replacement-or-repair; 3 work;

4 (b)(A) establish an agreement with a company to act as 5 an--agent <u>A GLASS BROKER</u> for the insurance company under 6 which the insurance-company-or-the-agent <u>GLASS BROKER</u> sets a 7 price that must be met by a <u>GLASS</u> repair shop as a condition 8 for doing glass replacement or <u>GLASS</u> repair work for the 9 insurance company;

10 (e)(B) establish an agreement with any company that 11 requires a <u>GLASS</u> repair shop to bill through the company as 12 a condition of doing glass replacement or <u>GLASS</u> repair work; 13 or

14 (d)(C) establish a price that must be met by a <u>GLASS</u>
15 repair shop as a condition for doing glass replacement or
16 <u>GLASS</u> repair work that is below the lowest prevailing market
17 price as provided in [section 2].

18 (2) A company may not manage, handle, or arrange
19 automobile glass replacement or <u>GLASS</u> repair work for which
20 the company retains a percentage of the claim <u>OR A SET FEE</u>
21 paid by the insurance company to the <u>GLASS</u> repair shop or
22 bills-the-insurance-company for an amount in excess of the
23 amount paid to the <u>GLASS</u> repair shop.

24(3) AS USED IN THIS SECTION, "GLASS BROKER" MEANS AN25AUTOMOBILE GLASS COMPANY THAT ACTS AS A THIRD-PARTY AGENT

1 FOR THE INSURER FOR THE PURPOSE OF ENTERING INTO AGREEMENTS

2 WITH OTHER AUTOMOBILE GLASS DEALERS TO PERFORM GLASS

3 REPLACEMENT OR GLASS REPAIR WORK.

4 <u>NEW SECTION.</u> Section 4. Rebates <u>AND INCENTIVES</u> 5 prohibited -- advertising allowed. (1) A person engaged in 6 the sale, repair, or replacement of automobile glass may 7 not:

8 (A) advertise, promise to provide, or offer any coupon,
9 credit, or rebate to pay all or part of an insurance
10 deductible under a casualty or property insurance policy; OR
11 (B) PAY A SUM OR INCENTIVE TO AN INDIVIDUAL OR ENTITY
12 FOR DIRECTING GLASS REPLACEMENT OR REPAIR OR THE PURCHASE OF
13 A GLASS PRODUCT.

14 (2) A person or association of persons engaged in the
15 sale, repair, or replacement of automobile glass may
16 advertise services as to quality, service, and safety.

Section-5:--Section-30-14-222;-MEA;-is-amended-to-read;
 #30-14-222;--Injunctions-----damages-----production-of
 evidence:-(i)-Any <u>A</u> person;-if-injured-thereby <u>by-an-act</u>;-or
 the-attorney-general-may-maintain--an--action--to--enjoin--a

21 continuance--of--an--act--in--violation-of-30-14-205-through

23 damages --- if -- in -- such the action - the court - finds - that - the

30-14-218 or-(sections-1-through-4) and-for-the-recovery--of

24 defendant-is-violating-or-has-violated-any-of-the-provisions

25 of-30-14-205-through-30-14-218 or-(sections-1-through-4); -it

-5-

HB 273

22

-6-

1 shall-enjoin-the-defendant-from-a-continuence-thereof of-the 2 Violation;-It-is-not-necessary-to--allege--or--prove--actual з damages-to-the-plaintiff. 4 t2)--In---addition---to---such--injunctive--reliefy--the 5 plaintiff-is-entitled-to-recover-from--the--defendant--three 6 times-the-amount-of-actual-damages-sustained-7 t37--A-defendant-in-an-action-brought-under-this-section 8 may--be-required-to-testify-under-the-Montana-Rules-of-Civil 9 Procedurer-In-additiony the-books-and-records--of--any--such 10 the defendant-may-be-brought-into-court-and-introduced-into 11 evidence--by--reference---No--information Information 50 12 obtained--may not be-used-against-the-defendant-as-a-basis 13 for--a--misdemeanor--prosecution--under--30-14-205---through 14 30-14-2187-fsections-1-through-477-or and-30-14-224-# Section-6---Section-30-14-223y-MCAy-is-amended-to-read-15 16 #38-14-223---Department--to--institute--suit---Upon--the 17 third--violation--of--any--of--the--provisions--of-30-14-205 18 through-30-14-218 or--{sections--1--through--4} by--any a 19 businessy-the-department-shall-institute-proper-suits-or-guo 20 warranto--proceedings--in-a-court-of-competent-jurisdiction 21 for-the-forfeiture-of-its--chartery--rightsy--franchises--or 22 privilegesy-and-powers-exercised-by-such the business-and-to permanently--enjoin--it--from--transacting--business-in-this 23 24 state--If-in-such the action--the--court--finds--that--the business--is-violating-or-has-violated-any-of-the-provisions 25

1 of-38-14-205-through-30-14-210 or-isections-1-through-417-it 2 shall-enjoin-the-business-from-doing-business-in-this--state 3 permanently--or-for-such a time-as-the-court-orders-or-shall annul-the-charter-or--revoke--the--franchise--of--such the 4 5 business." 6 Section-7---Section-30-14-2247-MCA7-is-amended-to-read: 7 *30-14-224---Penalties--(1)-Except-as-otherwise-provided in--this--section--a--person--whether-as-principal-agenty 8 9 officery-or-directory-who-violates-any-of-the-provisions--of 10 30-14-206--through--30-14-210 or--{sections-1-through-4} is 11 guilty-of-a-misdemeanor-for-each-single-violation--and--upon 12 conviction-thereof-shall-be-fined-not-less-then-Si00-or-more 13 than-\$17000-or-imprisoned-for-a-term-not-to-exceed-6-months, 14 or-both-15 +2)--A---Violation---of---30-14-205---is--punishable--bv imprisonment-in-the-county-jail-for-a-period-not--less--than 16 17 24--hours--or--more--than--1--year--or-by-fine-not-exceeding 18 92570007-0r-both-19 (3)--When-there-is-a-violation-of-30-14-2167-in-addition 20 to-the-penalty-specified-in-subsection-(1)7-the-court-before 21 which-a-conviction--is--had--shally--within--l0--days--after 22 judgment-of-conviction-is-givenz-forward-a-certified-copy-of 23 the--judgment--to--the--department--of--agriculture-and-that 24 department-shall-revoke-any-license-issued-to-the-person--so 25 convicted -- In-such-case-not-A new-license-may not be-granted

-8-

-7-

HB 273

HB 0273/03

HB 273

to--the--person-whose-license-is-revoked-or-to-anyone-either
 directly-or-indirectly-engaged-with-him <u>that-person</u> in--such
 that business-for-a-period-of-l-year."

<u>NEW SECTION. SECTION 5. DESIST ORDERS FOR PROHIBITED</u>
 <u>PRACTICES. VIOLATIONS OF (SECTIONS 1 THROUGH 4) ARE SUBJECT</u>
 <u>TO CEASE AND DESIST ORDERS OF THE COMMISSIONER ISSUED UNDER</u>
 33-18-1004.

8 <u>NEW SECTION.</u> Section 6. Codification instruction. (1) 9 [Sections 1 through 4] are intended to be codified as an 10 integral part of Title 30 <u>33</u>, chapter 14 <u>18</u>, part 2, and the 11 provisions of Title 30 <u>33</u>, chapter 14 <u>18</u>, part 2, apply to 12 [sections 1 through 4].

13(2) [SECTION 5] IS INTENDED TO BE CODIFIED AS AN14INTEGRAL PART OF TITLE 33, CHAPTER 18, PART 10, AND THE15PROVISIONS OF TITLE 33, CHAPTER 18, PART 10, APPLY TO16(SECTION 5).

-End-

-9-

SENATE STANDING COMMITTEE REPORT

Page 1 of 2 March 16, 1993

MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration House Bill No. 273 (first reading copy -- blue), respectfully report that House Bill No. 273 be amended as follows and as so amended be concurred in.

Signed: ynch, Chair Senator

That such amendments read:

1. Title, line 10.
Following: "REPLACEMENT,"
Insert: "GLASS"
Following: "OR"
Insert: "GLASS"

2. Title, line 13. Following: "OR" Insert: "GLASS"

3. Title, line 16. Following: "BY A" Insert: "GLASS"

4. Title, line 17. Following: "DOING" Insert: "GLASS"

5. Title, page 2, line 1. Following: "COMMISSIONER" Insert: "AND THE DEPARTMENT OF COMMERCE"

6. Page 2, line 6.
Pollowing: "its"
Strike: "agents"
Insert: "producers"

7. Page 2, line 9. Strike: "or recommend"

8. Page 2, line 16. Following: "coercion," Insert: "or" Following: "threat" Strike: ", incentive, or inducement"

 / Amd. Coord.
 (1002)

 Sec. of Senate
 Senatof Carrying Bill

591525SC.San

9. Page 3, line 13. Strike: "SHOP" Insert: "company" 10. Page 5, line 4. Strike: "a company" Insert: "any person" 11. Page 5, line 10. Strike: "company" Insert: "person" 12. Page 5, line 11. Strike: "the company" Insert: "that person" 13. Page 5, lines 18 through 23. Strike: Subsection (2) in its entirety Renumber: subsequent subsection 14. Page 6, lines 4 and 5. Strike: "Rebates AND INCENTIVES prohibited" Insert: "Prohibited practices" 15. Page 6, following line 16. Insert: "(3) A person may not manage, handle, or arrange automobile glass replacement or glass repair work for which the person retains a percentage of the claim or a set fee paid by the insurance company to the glass repair shop for an amount in excess of the amount paid to the glass repair shop." 16. Page 9, lines 5, 9, and 12. Strike: "4" Insert: "3" 17. Page 9, following line 12. Insert: "(2) [Section 4] is intended to be codified as an integral part of Title 30, chapter 14, part 2, and the provisions of Title 30, chapter 14, part 2, apply to [section 4].

-END-

Renumber: subsequent subsection

SENATE HB 273 591525SC.San

Page 2 of 2

March 16, 1993

22

23

24

25

НВ 0273/04

HB 0273/04

HOUSE BILL NO. 273 1 INTRODUCED BY DOLEZAL, GAGE, CHRISTIAENS, RYAN, T. NELSON, 2 WYATT, SCHYE, FRANKLIN, WILSON, PAVLOVICH, TUSS, R. JOHNSON, 3 DRISCOLL, WALLIN, TVEIT, S. RICE, DOWELL, BARNHART, MCCULLOCH, 4 GALVIN, WANZENRIED, MCCAFFREE, STRIZICH, DOHERTY 5 6 "AN ACT PROHIBITING MOTOR A BILL FOR AN ACT ENTITLED: 7 VEHICLE INSURANCE COMPANIES FROM DIRECTING INSUREDS TO 8 SPECIFIC COMPANIES OR LOCATIONS FOR AUTOMOBILE GLASS 9 REPLACEMENT, GLASS REPAIR SERVICE, OR GLASS PRODUCTS; 10 PROHIBITING THE ESTABLISHMENT OF AN AGREEMENT WITH A COMPANY 11 TO ARRANGE PAYMENT THROUGH A THIRD PARTY FOR AUTOMOBILE 12 GLASS REPLACEMENT OR GLASS REPAIR SERVICE; PROHIBITING A 13 COMPANY FROM ACTING AS AGENT GLASS BROKER FOR AN INSURANCE 14 COMPANY WHEN BITHER THE AGENT--OR--INSURANCE--COMPANY GLASS 15 BROKER SETS A PRICE THAT MUST BE MET BY A GLASS REPAIR SHOP 16 AS A CONDITION TO DOING GLASS REPAIR WORK; DEFINING GLASS 17 BROKER; PROHIBITING THE ESTABLISHMENT OF A PRICE TO BE MET 18 BY A GLASS REPAIR SHOP THAT AS A CONDITION TO DOING GLASS 19 REPLACEMENT OR GLASS REPAIR WORK WHEN THE PRICE IS BELOW THE 20 LOWEST PREVAILING MARKET PRICE; PROHIBITING PERSONS WHO 21

SELL, REPLACE, OR REPAIR AUTOMOBILE GLASS FROM OFFERING

CREDITS--AGAINST-INSURANCE-DEDUCTIBLES INCENTIVES; PROVIDING PENALTIES FOR VIOLATIONS; AND AMENDING--SECTIONS--30-14-2227 30-14-2237-AND-30-14-2247-MCA GRANTING ENFORCEMENT AUTHORITY

Montana Legislative Council

THE INSURANCE COMMISSIONER AND THE DEPARTMENT OF 1 TO 2 COMMERCE.*

3

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 4

5 NEW SECTION. Section 1. Designation of specific repair 6 shops prohibited -- lists allowed. (1) (a) An insurance company, including its agents PRODUCERS and adjusters, that 7 8 issues or renews a policy of insurance in this state covering, in whole or part, a motor vehicle may not: 9

(A) require or--recommend that a person insured under 10 11 the policy use a particular company or location for providina 12 automobile glass replacement, GLASS repair 13 services, or GLASS products insured in whole or part by the 14 policy;; OR

15 (b) An--insurance--company7--including--its--agents-and 16 adjusters,--may--mot engage in any act or practice of 17 intimidation, coercion, OR threat7-incentive7-of--inducement 18 for or against an insured person to use a particular company 19 or location to provide automobile glass replacement, GLASS 20 repair services, or GLASS products INSURED IN WHOLE OR IN 21 PART UNDER THE TERMS OF AN INSURANCE POLICY.

22 (2) (a) An insurance company may provide an insured 23 with a list that includes the names of particular companies 24 or locations providing automobile glass replacement, GLASS 25 repair services, or GLASS products if SOME OF the listed

> -2-REFERENCE BILL AS AMENDED

companies or locations are reasonably close and convenient 1 to the insured and-if-none-of-the-companies-or-locations--on 2 the--list--have--entered--into-an-arrangement-with-any-other 3 company-or-location-on-the-list-with-respect--to--prices--or Δ other--aspects--of--furnishing--services--or--products. The 5 insurance company may restrict the list to those companies б or locations that meet reasonable standards of quality, 7 service, and safety. 8

(b) If-a-list-is-provided, the insurance company or its 9 agents--or-adjusters-shall;-when-a-claim-wholly-or-partially 10 reimbursable-under-the-insurance-policy-is-made-by--the THE 11 insuredy---provide---oral--and--written--disclosure--that--a 12 nonlisted-company-or-location-may-be--used MAY USE A 13 NONLISTED SHOP COMPANY OR LOCATION at the insured's sole 14 SUBJECT TO THE PROVISIONS OF discretion, and that 15 SUBSECTIONS (2)(C) AND (3), the insurance company will fully 16 and promptly pays-at-no--tess--than--the--towest--prevailing 17 market--price--as--defined--in--fsection-277 for the cost of 18 automobile glass replacement, GLASS repair services, or 19 GLASS products provided, less any deductible under the terms 20 of the policy. If--the--insured-elects-to-use-a-nonlisted 21 company-or-location,-the-insurance-company--may--not--impose 22 upon--the--insured--any--requirements,--including--obtaining 23 written-estimatesy-not-required-if-the-insured-elects-to-use 24 a-listed-company-or-location; 25

1 (C) IF THE INSURED DOES NOT USE A LIST AS PROVIDED IN 2 SUBSECTION (2)(A), THE INSURER MAY REQUIRE THE INSURED TO 3 OBTAIN NOT MORE THAN THREE COMPETITIVE BIDS TO ESTABLISH THE COST OF AUTOMOBILE GLASS REPLACEMENT, GLASS REPAIR SERVICES, 4 5 OR GLASS PRODUCTS PROVIDED. 6 (3) THIS SECTION DOES NOT REQUIRE AN INSURER TO PAY 7 MORE FOR AUTOMOBILE GLASS REPLACEMENT, GLASS REPAIR â SERVICES, OR GLASS PRODUCTS THAN THE LOWEST PREVAILING 9 MARKET PRICE AS DEFINED IN [SECTION 2]. 10 (3)(4) Notwithstanding the provisions of subsections 11 12 pay the full cost of glass replacement or repair. NEW SECTION. Section 2. Lowest 13 prevailing market 14 price. For purposes of [sections 1 and 3], "lowest 15 prevailing market price" means the lowest market price in a 16 local area for-similarly-situated--companies--or--locations 17 providing--comparable--automobile--glass-replacementy-repair 18 servicesy-or--products--without--taking--into--consideration 19 companies--or--locations--that--have--arrangements--with-one 20 another--with--respect--to--prices--or--other---aspects---of 21 furnishing--qlass-replacementy-repair-servicesy-or-products. 22 The lowest prevailing market price may not be less than cost 23 as provided in 30-14-209.

24 <u>NEW SECTION.</u> Section 3. Prohibited activities -- GLASS
 25 <u>BROKER DEFINED</u>. (1) It is unlawful for an insurance company,

-4-

-3-

HB 273

HB 273

HB 0273/04

1 individually or with others, to directly or indirectly:
2 ta;--establish-an-agreement-with-a--company--to--manage;
3 handle;--or--arrange--automobile-glass-replacement-or-repair
4 work;

5 (b)(A) establish an agreement with a-company ANY PERSON 6 to act as an-agent A GLASS BROKER for the insurance company 7 under which the insurance-company-or-the-agent GLASS BROKER 8 sets a price that must be met by a GLASS repair shop as a 9 condition for doing glass replacement or GLASS repair work 10 for the insurance company;

11 (c)(B) establish an agreement with any company <u>PERSON</u>
12 that requires a <u>GLASS</u> repair shop to bill through the
13 company <u>THAT PERSON</u> as a condition of doing glass
14 replacement or <u>GLASS</u> repair work; or

15 (d)(C) establish a price that must be met by a <u>GLASS</u> 16 repair shop as a condition for doing glass replacement or 17 <u>GLASS</u> repair work that is below the lowest prevailing market 18 price as provided in (section 2).

19(2)--A--company--may--not--manager--handler--or--arrange20automobile--glass-replacement-or GLASS repair-work-for-which21the-company-retains-a-percentage-of-the-claim OR-A--SET--PEE22paid--by--the--insurance-company-to-the GLASS repair-shop-or23bills-the-insurance-company-for-an-amount-in-excess--of--the24amount-paid-to-the GLASS repair-shop-

25 (3)(2) AS USED IN THIS SECTION, "GLASS BROKER" MEANS AN

-5-

HB 273

AUTOMOBILE GLASS COMPANY THAT ACTS AS A THIRD-PARTY AGENT 1 2 FOR THE INSURER FOR THE PURPOSE OF ENTERING INTO AGREEMENTS 3 WITH OTHER AUTOMOBILE GLASS DEALERS TO PERFORM GLASS REPLACEMENT OR GLASS REPAIR WORK. 4 5 NEW SECTION. Section 4. Rebates AND INCENTIVES prohibited PROHIBITED PRACTICES -- advertising allowed. (1) 6 7 A person engaged in the sale, repair, or replacement of 8 automobile glass may not: 9 (A) advertise, promise to provide, or offer any coupon, 10 credit, or rebate to pay all or part of an insurance deductible under a casualty or property insurance policy; OR 11 (B) PAY A SUM OR INCENTIVE TO AN INDIVIDUAL OR ENTITY 12 13 FOR DIRECTING GLASS REPLACEMENT OR REPAIR OR THE PURCHASE OF 14 A GLASS PRODUCT. 15 (2) A person or association of persons engaged in the 16 sale, repair, or replacement of automobile glass may 17 advertise services as to quality, service, and safety. 18 (3) A PERSON MAY NOT MANAGE, HANDLE, OR ARRANGE AUTOMOBILE GLASS REPLACEMENT OR GLASS REPAIR WORK FOR WHICH 19 THE PERSON RETAINS A PERCENTAGE OF THE CLAIM OR A SET FEE 20 21 PAID BY THE INSURANCE COMPANY TO THE GLASS REPAIR SHOP FOR AN AMOUNT IN EXCESS OF THE AMOUNT PAID TO THE GLASS REPAIR 22 23 SHOP. 24 Section-5---Section-30-14-2227-MCA7-is-amended-to-read+ 25 #30-14-222---Injunctions-----damages-----production-of

HB 0273/04

-6-

1	evidence(1)-Any A person7-if-injured-thereby by-an_acty-or
2	the-attorney-general-may-maintainanactiontoenjoina
3	continuanceofanactinviolation-of-30-14-205-through
4	30-14-218 or-{sections-1-through-4] and-for-the-recoveryof
5	damagesIfinsuch <u>the</u> action-the-court-finds-that-the
6	defendant-is-violating-or-has-violated-any-of-the-provisions
7	of-30-14-205-through-30-14-218 <u>or-fsections-1-through-4}</u> y-it
8	shall-enjoin-the-defendant-from-a-continuance-thereof of-the
9	<u>violation</u> It-is-not-necessary-toallegeorproveactual
10	damages-to-the-plaintiff.
11	{2}Inadditiontosuchinjunctiverelief;the
12	plaintiff-is-entitled-to-recover-fromthedefendantthree
13	times-the-amount-of-actual-damages-sustained.
14	(3) A-defendant-in-an-action-brought-under-this-section
15	maybe-required-to-testify-under-the-Montana-Rules-of-Eivil
16	ProcedureIn-addition7 the-books-and-recordsofanysuch
17	the defendant-may-be-brought-into-court-and-introduced-into
18	evidencebyreferenceNoinformation <u>Information</u> so
19	obtainedmay <u>not</u> be-used-against-the-defendant-as-a-basis
20	foramisdemeanorprosecutionunder30-14-205through
21	30-14-218 <u>7-fsections-1-through-477-or</u> and-30-14-224."
22	Section-6Section-30-14-223,-MCA;-is-amended-to-read:
23	#38-14-223BepartmenttoinstitutesuitUponthe
24	thirdviolationofanyoftheprovisionsof-30-14-205
25	through-30-14-218 <u>or{sectionslthrough4}</u> byany <u>a</u>

-7-

•

1 businessy-the-department-shall-institute-proper-suits-or-quo 2 warranto--proceedings--in--a-court-of-competent-jurisdiction for-the-forfeiture-of-its--charter7--rights7--franchises--or 3 privilegesy-and-powers-exercised-by-such the business-and-to 4 permanently--enjoin--it--from--transacting--business-in-this 5 6 7 business--is-violating-or-has-violated-any-of-the-provisions of-30-14-205-through-30=14-218 or-factions-1-through-41v-it 8 shall-enjoin-the-business-from-doing-business-in-this--state 9 10 permanently--or-for-such a time-as-the-court-orders-or-shall 11 annul-the-charter--or--revoke--the--franchise--of--such the 12 business." 13 Section-7---Section-30-14-2247-MCA7-is-amended-to-read-14 #30-14-224---Penalties--(1)-Except-as-otherwise-provided in--this--section7--a--person7--whether-as-principal7-agent7 15 16 officery-or-directory-who-wielates-any-of-the-provisions--of 30-14-206--through--30-14-210 or--{sections-1-through-4} is 17 18 guilty-of-a-misdemeanor-for-each-single-violation--and--upon conviction-thereof-shall-be-fined-not-less-than-\$100-or-more 19 20 than-91,000-or-imprisoned-for-a-term-not-to-exceed-6-months; 21 or-both. 22 (2)--A---violation---of---30-14-205---is--punishable--by 23 imprisonment-in-the-county-jail-for-a-period-not--less--than 24 24--hours--or--more--than--1--year--or-by-fine-not-exceeding 25 92570007-or-both7

-8-

HB 273

HB 0273/04

ta a sha a sa a sa a sa a sa a sa a

HB 273

1	<pre>{3}When-there-is-a-violation-of-30-14-2167-in-addition</pre>
2	to-the-penalty-specified-in-subsection-(1);-the-court-before
3	which-a-convictionishadshall;withinl0daysafter
4	judgment-of-conviction-is-given7-forward-a-certified-copy-of
5	thejudgmenttothedepartmentofagriculture-and-that
6	department-shall-revoke-any-license-issued-to-the-personso
7	convicted τ -In-such-case-no τ -A new-license-may not be-granted
8	totheperson-whose-license-is-revoked-or-to-anyone-either
9	directly-or-indirectly-engaged-with-him <u>that-person</u> insuch
10	that business-for-a-period-of-1-year-"
11	NEW SECTION. SECTION 5. DESIST ORDERS FOR PROHIBITED
12	PRACTICES. VIOLATIONS OF [SECTIONS 1 THROUGH 4 3] ARE
13	SUBJECT TO CEASE AND DESIST ORDERS OF THE COMMISSIONER
14	ISSUED UNDER 33-18-1004.
15	NEW SECTION. Section 6. Codification instruction. (1)
15 16	<u>NEW SECTION.</u> Section 6. Codification instruction. (1) [Sections 1 through 4 3] are intended to be codified as an
16	[Sections 1 through 4 $\underline{3}$] are intended to be codified as an
16 17	[Sections 1 through 4 3] are intended to be codified as an integral part of Title 30 33, chapter $\frac{14}{18}$, part 2, and the
16 17 18	[Sections 1 through 4 3] are intended to be codified as an integral part of Title 30 33, chapter $\frac{14}{18}$, part 2, and the provisions of Title 30 33, chapter $\frac{14}{18}$, part 2, apply to
16 17 18 19	[Sections 1 through 4 $\underline{3}$] are intended to be codified as an integral part of Title 30 $\underline{33}$, chapter $\underline{14}$ 18, part 2, and the provisions of Title 30 $\underline{33}$, chapter $\underline{14}$ 18, part 2, apply to [sections 1 through 4 $\underline{3}$].
16 17 18 19 20	[Sections 1 through 4 <u>3</u>] are intended to be codified as an integral part of Title 30 <u>33</u> , chapter <u>14</u> <u>18</u> , part 2, and the provisions of Title 30 <u>33</u> , chapter <u>14</u> <u>18</u> , part 2, apply to [sections 1 through 4 <u>3</u>]. (2) [SECTION 4] IS INTENDED TO BE CODIFIED AS AN
16 17 18 19 20 21	[Sections 1 through 4 $\underline{3}$] are intended to be codified as an integral part of Title 30 $\underline{33}$, chapter $\underline{14}$ <u>18</u> , part 2, and the provisions of Title 30 $\underline{33}$, chapter $\underline{14}$ <u>18</u> , part 2, apply to [sections 1 through 4 $\underline{3}$]. (2) [SECTION 4] IS INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF TITLE 30, CHAPTER 14, PART 2, AND THE
16 17 18 19 20 21 22	[Sections 1 through 4 <u>3</u>] are intended to be codified as an integral part of Title 30 <u>33</u> , chapter <u>14</u> <u>18</u> , part 2, and the provisions of Title 30 <u>33</u> , chapter <u>14</u> <u>18</u> , part 2, apply to [sections 1 through 4 <u>3</u>]. <u>(2) [SECTION 4] IS INTENDED TO BE CODIFIED AS AN</u> <u>INTEGRAL PART OF TITLE 30, CHAPTER 14, PART 2, AND THE</u> <u>PROVISIONS OF TITLE 30, CHAPTER 14, PART 2, APPLY TO</u>
16 17 18 19 20 21 22 23	[Sections 1 through 4 <u>3</u>] are intended to be codified as an integral part of Title 30 <u>33</u> , chapter <u>14</u> <u>18</u> , part 2, and the provisions of Title <u>30</u> <u>33</u> , chapter <u>14</u> <u>18</u> , part 2, apply to [sections 1 through 4 <u>3</u>]. <u>(2) [SECTION 4] IS INTENDED TO BE CODIFIED AS AN</u> <u>INTEGRAL PART OF TITLE 30, CHAPTER 14, PART 2, AND THE</u> <u>PROVISIONS OF TITLE 30, CHAPTER 14, PART 2, APPLY TO [SECTION 4].</u>

-9-

1

ĸ

HB 0273/04

- 1 PROVISIONS OF TITLE 33, CHAPTER 18, PART 10, APPLY TO
- 2 [SECTION 5].

-End-

-10-

Free Conference Committee on House Bill 273 Report No.1, April 7, 1993

Page 1 of 1

Mr. Speaker and Mr. President:

We, your Free Conference Committee met and considered House Bill 273 and recommend as follows:

1. Title, line 24. Strike: "AND"

2. Title, page 2, line 2. Following: "COMMERCE" Insert: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

3. Page 10, following line 2. Insert: "<u>NEW SECTION.</u> Section 7. Effective date. [This act] is effective on passage and approval."

And this Free Conference Committee report be adopted.

For the House:

Doleza

For the Senate:

Sen.

Sen. Wilson

Rep

Sen

F.C.C.#1 HB 273 781312CC.Hpf

ADOPT

Rep.

REJECT

1	HOUSE BILL NO. 273	1	TO THE INSURANCE COMMISSIONER AND THE DEPARTMENT OF
2	INTRODUCED BY DOLEZAL, GAGE, CHRISTIAENS, RYAN, T. NELSON,	2	COMMERCE; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."
3	WYATT, SCHYE, FRANKLIN, WILSON, PAVLOVICH, TUSS, R. JOHNSON,	3	
4	DRISCOLL, WALLIN, TVEIT, S. RICE, DOWELL, BARNHART, MCCULLOCH,	4	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
5	GALVIN, WANZENRIED, MCCAFFREE, STRIZICH, DOHERTY	5	NEW SECTION. Section 1. Designation of specific repair
6		6	shops prohibited lists allowed. (1) (a) An insurance
7	A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING MOTOR	7	company, including its agents <u>PRODUCERS</u> and adjusters, that
8	VEHICLE INSURANCE COMPANIES FROM DIRECTING INSUREDS TO	8	issues or renews a policy of insurance in this state
9	SPECIFIC COMPANIES OR LOCATIONS FOR AUTOMOBILE GLASS	9	covering, in whole or part, a motor vehicle may not:
10	REPLACEMENT, GLASS REPAIR SERVICE, OR GLASS PRODUCTS;	10	(A) require orrecommend that a person insured under
11	PROHIBITING THE ESTABLISHMENT OF AN AGREEMENT WITH A COMPANY	11	the policy use a particular company or location for
12	TO ARRANGE PAYMENT THROUGH A THIRD PARTY FOR AUTOMOBILE	12	providing automobile glass replacement, GLASS repair
13	GLASS REPLACEMENT OR GLASS REPAIR SERVICE; PROHIBITING A	13	services, or <u>GLASS</u> products insured in whole or part by the
14	COMPANY FROM ACTING AS AGENT GLASS BROKER FOR AN INSURANCE	14	policy : OR
15	COMPANY WHEN EITHER THE AGENTORINSURANCECOMPANY GLASS	15	(b) Aninsurancecompany,includingitsagents-and
16	BROKER SETS A PRICE THAT MUST BE MET BY A GLASS REPAIR SHOP	16	adjustersymaynot engage in any act or practice of
17	AS A CONDITION TO DOING GLASS REPAIR WORK; DEFINING GLASS	17	intimidation, coercion, <u>OR</u> threat , incentive, or - inducement
18	BROKER; PROHIBITING THE ESTABLISHMENT OF A PRICE TO BE MET	18	for or against an insured person to use a particular company
19	BY A GLASS REPAIR SHOP THAT AS A CONDITION TO DOING GLASS	19	or location to provide automobile glass replacement, GLASS
20	REPLACEMENT OR GLASS REPAIR WORK WHEN THE PRICE IS BELOW THE	20	repair services, or GLASS products INSURED IN WHOLE OR IN
21	LOWEST PREVAILING MARKET PRICE; PROHIBITING PERSONS WHO	21	PART UNDER THE TERMS OF AN INSURANCE POLICY.
22	SELL, REPLACE, OR REPAIR AUTOMOBILE GLASS FROM OFFERING	22	(2) (a) An insurance company may provide an insured
23	CREDITSAGAINST-INSURANCE-DEDUCTIBLES <u>INCENTIVES</u> ; PROVIDING	23	with a list that includes the names of particular companies
24	PENALTIES FOR VIOLATIONS; AND AMBNDINGSECTIONS30-14-2227	24	or locations providing automobile glass replacement, GLASS
25	30-14-2237-AND-30-14-2247-MEA GRANTING ENFORCEMENT AUTHORITY	25	repair services, or <u>GLASS</u> products if <u>SOME</u> OF the listed
	Δ		-2- нв 273

Contana Legislative Council

HB 273 REFERENCE BILL: Includes Free Conference Committee Report Dated 4-7-93 -2-

companies or locations are reasonably close and convenient 1 to the insured and-if-none-of-the-companies-or-locations-on 2 3 the--list--have--entered--into-an-arrangement-with-any-other company-or-location-on-the-list-with-respect--to--prices--or 4 5 other--aspects--of--furnishing--services--or--products. The insurance company may restrict the list to those companies 6 or locations that meet reasonable standards of quality, 7 8 service, and safety.

(b) If-a-list-is-providedy-the-insurance-company-or-its 9 10 agents--or-adjusters-shall;-when-a-claim-wholly-or-partially reimbursable-under-the-insurance-policy-is-made-by--the THE 11 insured_---provide---oral--and--written--disclosure--that--a 12 nonlisted--company--or--location--may--be--used MAY USE A 13 NONLISTED SHOP COMPANY OR LOCATION at the insured's sole 14 discretion, and that SUBJECT TO THE PROVISIONS OF 15 SUBSECTIONS (2)(C) AND (3), the insurance company will fully 16 and promptly pay-at-no--less-than-the--lowest--prevailing 17 market--price--as--defined--in--{section-2}; for the cost of 18 automobile glass replacement, GLASS repair services, or 19 GLASS products provided, less any deductible under the terms 20 of the policy. If--the--insured-elects-to-use-a-nonlisted 21 company-or-location;-the-insurance-company--may--not--impose 22 upon--the--insured--any--requirements;--including--obtaining 23 written-estimatesy-not-required-if-the-insured-elects-to-use 24 a-listed-company-or-location-25

HB 0273/05

1	(C) IF THE INSURED DOES NOT USE A LIST AS PROVIDED IN
2	SUBSECTION (2)(A), THE INSURER MAY REQUIRE THE INSURED TO
3	OBTAIN NOT MORE THAN THREE COMPETITIVE BIDS TO ESTABLISH THE
4	COST OF AUTOMOBILE GLASS REPLACEMENT, GLASS REPAIR SERVICES,
5	OR GLASS PRODUCTS PROVIDED.
6	(3) THIS SECTION DOES NOT REQUIRE AN INSURER TO PAY
7	MORE FOR AUTOMOBILE GLASS REPLACEMENT, GLASS REPAIR
8	SERVICES, OR GLASS PRODUCTS THAN THE LOWEST PREVAILING
9	MARKET PRICE AS DEFINED IN [SECTION 2].
10	<pre>f3+<u>(4)</u> Notwithstanding the provisions of subsections</pre>
11	 and(2) <u>THROUGH (3)</u>, an insurance company may agree to
12	pay the full cost of glass replacement or repair.
13	<u>NEW SECTION.</u> Section 2. Lowest prevailing market
14	<pre>price. For purposes of [sections l and 3], "lowest</pre>
15	prevailing market price" means the lowest market price in a
16	local area for-similarlysituatedcompaniesorlocations
17	providingcomparableautomobileglass-replacementrepair
18	services,-orproductswithouttakingintoconsideration
19	companiesorlocationsthathavearrangementswith-one
20	anotherwithrespecttopricesorotheraspectsof
21	furnishingglass-replacement;-repair-services;-or-products.
22	The lowest prevailing market price may not be less than cost
23	as provided in 30-14-209.

24 <u>NEW SECTION.</u> Section 3. Prohibited activities -- GLASS
 25 <u>BROKER DEFINED.</u> (1) It is unlawful for an insurance company,

-3-

HB 273

-4-

HB 273

1 individually or with others, to directly or indirectly: 2 tay--establish-an-agreement-with-a--company--to--manage7 3 handle_--or--arrange--automobile-glass-replacement-or-repair 4 work: 5 (A) establish an agreement with a-company ANY PERSON 6 to act as an-agent A GLASS BROKER for the insurance company under which the insurance-company-or-the-agent GLASS BROKER 7 8 sets a price that must be met by a GLASS repair shop as a 9 condition for doing glass replacement or GLASS repair work 10 for the insurance company; 11 tct(B) establish an agreement with any company PERSON 12 that requires a GLASS repair shop to bill through the 13 company THAT PERSON as a condition of doing glass 14 replacement or GLASS repair work; or 15 (d)(C) establish a price that must be met by a GLASS repair shop as a condition for doing glass replacement or 16 17 GLASS repair work that is below the lowest prevailing market 18 price as provided in [section 2].

19 (2)--A--company-may-not--manage7--handie7--or--arrange automobile--glass-replacement-or <u>GLASS</u> repair-work-for-which 21 the-company-retains-a-percentage-of-the-claim <u>OR-A--SET--PEE</u> 22 paid--by--the--insurance-company-to-the <u>GLASS</u> repair-shop-or 23 bills-the-insurance-company-for-an-amount-in-excess--of--the 24 amount-paid-to-the GLASS repair-shop:

25 (++++++)(2) AS USED IN THIS SECTION, "GLASS BROKER" MEANS AN

-5-

1 AUTOMOBILE GLASS COMPANY THAT ACTS AS A THIRD-PARTY AGENT 2 FOR THE INSURER FOR THE PURPOSE OF ENTERING INTO AGREEMENTS 3 WITH OTHER AUTOMOBILE GLASS DEALERS TO PERFORM GLASS 4 REPLACEMENT OR GLASS REPAIR WORK. NEW SECTION. Section 4. Rebates 5 "AND"---- INCENTIVES prohibited PROHIBITED PRACTICES -- advertising allowed. (1) б 7 A person engaged in the sale, repair, or replacement of 8 automobile glass may not: 9 (A) advertise, promise to provide, or offer any coupon, 10 credit, or rebate to pay all or part of an insurance 11 deductible under a casualty or property insurance policy; OR 12 (B) PAY A SUM OR INCENTIVE TO AN INDIVIDUAL OR ENTITY 13 FOR DIRECTING GLASS REPLACEMENT OR REPAIR OR THE PURCHASE OF 14 A GLASS PRODUCT. 15 (2) A person or association of persons engaged in the 16 sale. repair, or replacement of automobile glass may 17 advertise services as to quality, service, and safety. 18 (3) A PERSON MAY NOT MANAGE, HANDLE, OR ARRANGE 19 AUTOMOBILE GLASS REPLACEMENT OR GLASS REPAIR WORK FOR WHICH 20 THE PERSON RETAINS A PERCENTAGE OF THE CLAIM OR A SET FEE 21 PAID BY THE INSURANCE COMPANY TO THE GLASS REPAIR SHOP FOR 22 AN AMOUNT IN EXCESS OF THE AMOUNT PAID TO THE GLASS REPAIR 23 SHOP.

- 24 Section-5:--Section-30-14-222;-MEA;-is-amended-to-read:
- 25 #30-14-222:--Injunctions-----damages-----production-of

HB 273

HB 0273/05

-6-

1	evidence{1}-Any A persony-if-injured-thereby by-an-act;-or
2	the-attorney-general-may-maintain-anactiontoenjoina
3	continuanceofanactinviolation-of-30-14-205-through
4	30-14-210 or-fsections-1-through-41 and-for-the-recoveryof
5	damagesIfinsuch the action-the-court-finds-that-the
6	defendant-is-violating-or-has-violated-any-of-the-provisions
7	of-30-14-205-through-30-14-218 or-{sections-1-through-4};-it
8	shall-enjoin-the-defendant-from-a-continuance-thereof of-the
9	violationIt-is-not-necessary-toallegeorproveactual
10	damages-to-the-plaintiff.

11 (2)--In---addition---to---such--injunctive--relief;--the 12 plaintiff-is-entitled-to-recover-from--the--defendant--three 13 times-the-amount-of-actual-damages-sustained;

(3)--A-defendant-in-an-action-brought-under-this-section 14 15 may--be-required-to-testify-under-the-Montana-Rules-of-Civil Procedure -- In-addition; the-books-and-records--of--any--such 16 the defendant-may-be-brought-into-court-and-introduced-into 17 evidence--by--reference---No--information Information so 18 obtained--may not be-used-against-the-defendant-as-a-basis 19 20 for--a--misdemeanor--prosecution--under--30-14-205---through 21 30-14-218y-{sections-1-through-4}y-or and-30-14-224-"

22 Section-6---Section-30-14-223y-MCA7-is-amended-to-read:
23 #30-14-223---Department--to--institute--suit:--Upon--the
24 third--violation--of--any--of--the--provisions--of-30-14-205
25 through-30-14-210 or--fsections--1--through--4; by--any a

HB 0273/05

1	business7-the-department-shall-institute-proper-suits-or-quo
2	warrantoproceedingsina-court-of-competent-jurisdiction
3	for-the-forfeiture-of-itscharter7rights7franchisesor
4	privileges;-and-powers-exercised-by-such the business-and-to
5	permanentlyenjoinitfromtransactingbusiness-in-this
6	stateIf-in-such the actionthecourtfindsthatthe
7	businessis-violating-or-has-violated-any-of-the-provisions
8	of-30-14-205-through-30-14-210 <u>or-factions-1-through-41</u> 7-it
9	shall-enjoin-the-business-from-doing-business-in-thisstate
10	permanentlyor-for-such a time-as-the-court-orders-or-shalt
11	annul-the-charter-orrevokethefranchiseofsuch <u>the</u>
1 2	business."
13	Section-7Section-30-14-2247-MCA7-is-amended-to-read:
14	#30-14-224Penalties(1)-Except-as-otherwise-provided
15	inthissection;aperson;whether-as-principal;-agent;
16	officer;-or-director;-who-violates-any-of-the-provisionsof
17	30-14-206through30-14-210 orfsections-1-through-4] is
18	guilty-of-a-misdemeanor-for-each-single-violationandupon
19	conviction-thereof-shall-be-fined-not-less-than-\$l00-or-more
20	than- $$17000-or-imprisoned-for-a-term-not-to-exceed-6-months7$
21	or-both.
22	(2)Aviolationof30-14-205ispunishableby
23	imprisonment-in-the-county-jail-for-a-period-notlessthan
24	24hoursormorethan1yearor-by-fine-not-exceeding
25	\$2570007-or-both-

-7-

HB 273

-8-

1	(3)When-there-is-a-violation-of-30-14-2167-in-addition
2	to-the-penalty-specified-in-subsection-(1);-the-court-before
3	which-a-convictionishadshall;withinl0daysafter
4	judgment-of-conviction-is-given;-forward-a-certified-copy-of
5	thejudgmenttothedepartmentofagriculture-and-that
6	department-shall-revoke-any-license-issued-to-the-personso
7	convicted In-such-case-no A new-license-may not be-granted
8	totheperson-whose-license-is-revoked-or-to-anyone-either
9	directly-or-indirectly-engaged-with-him <u>that-person</u> insuch
10	that business-for-a-period-of-1-year."
11	NEW SECTION. SECTION 5. DESIST ORDERS FOR PROHIBITED
12	PRACTICES. VIOLATIONS OF [SECTIONS 1 THROUGH 4 3] ARE
13	SUBJECT TO CEASE AND DESIST ORDERS OF THE COMMISSIONER
14	ISSUED UNDER 33-18-1004.
15	NEW SECTION, Section 6. Codification instruction. (1)
16	[Sections 1 through 4 3] are intended to be codified as an
17	integral part of Title 30 33, chapter $\frac{14}{18}$, part 2, and the
18	provisions of Title 30 33, chapter 14 18, part 2, apply to
19	[sections 1 through 4 3].
20	(2) (SECTION 4) IS INTENDED TO BE CODIFIED AS AN
21	INTEGRAL PART OF TITLE 30, CHAPTER 14, PART 2, AND THE
22	PROVISIONS OF TITLE 30, CHAPTER 14, PART 2, APPLY TO
23	[SECTION 4].
24	(2)(3) [SECTION 5] IS INTENDED TO BE CODIFIED AS AN
25	INTEGRAL PART OF TITLE 33, CHAPTER 18, PART 10, AND THE
	-9- НВ 273

.

PROVISIONS OF TITLE 33, CHAPTER 18, PART 10, APPLY TO

2 [SECTION 5].

1

3 NEW SECTION. SECTION 7. EFFECTIVE DATE. [THIS ACT] IS

4 EFFECTIVE ON PASSAGE AND APPROVAL.

-End-

-10-

HB 273

HB 0273/05