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House BILL NO. 543

INTRODUCED BY *Seemingly, Kase Strong, W. Ryan Reed, Keenan Brinnard, Paul Foster, Chris Wagner, Amy...*

A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING AN INSURANCE COMPANY FROM REQUIRING AN INSURED PERSON TO USE A SPECIFIC AUTOMOBILE BODY REPAIR SHOP; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

*McClure, Emer, Kase, Wood, Wells, Bookout*

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

*Projet*

**NEW SECTION. Section 1. Designation of specific automobile body repair shops prohibited. (1)**

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

- (a) require that a person insured under the policy use a particular automobile repair business or location; or
- (b) engage in any act or practice that intimidates, coerces, or threatens an insured person or provides an incentive or inducement for an insured person to use a particular automobile repair business or location. For the purpose of this section, an insurance company's reference to a warranty issued by an automobile body repair service is not considered an incentive or inducement.

(2) If an insurance company, including its producers and adjusters, provides an insured with a list of particular automobile repair businesses or locations, in addition to the prohibition in subsection (1)(b), the insurance company may not state, suggest, or imply that an automobile body repair service not on the list does not:

- (a) provide prompt, dependable, or quality service;
- (b) provide warranties or guarantees on work quality; or
- (c) have adequate equipment or trained personnel.

(3) The insured may use a company or location at the insured's sole discretion, and subject to subsection (4), the insurance company shall promptly pay for the cost of the automobile body repair services for covered damages, less any deductible under the terms of the policy.

(4) This section does not require an insurer to pay more for automobile body repair services than the lowest prevailing market price, as defined in 33-18-222.

1           (5) For purposes of this section, "automobile repair business or location" does not include a  
2 business or location that provides automobile glass replacement, glass repair services, or glass products.

3

4           NEW SECTION. **Section 2. Codification instruction.** [Section 1] is intended to be codified as an  
5 integral part of Title 33, chapter 18, part 2, and the provisions of Title 33, chapter 18, part 2, apply to  
6 [section 1].

7

8           NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval.

9

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0543, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act prohibiting an insurance company from requiring an insured person to use a specific automobile body repair shop.

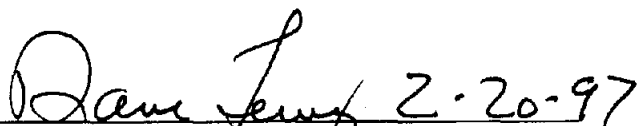
ASSUMPTIONS:

1. The State Auditor's Office (SAO) will conduct five violation investigations per year. Two of these investigations will result in cease and desist orders and the associated hearings each year.
2. Existing staff will conduct the compliance investigations.
3. Agency legal services will be used for legal assistance during the hearing process.
4. The costs of the two hearings each year will be paid by the SAO.

FISCAL IMPACT:

State Auditor's Office:

	<u>FY98</u>	<u>FY99</u>
<u>Expenditures:</u>	<u>Difference</u>	<u>Difference</u>
Operating Expenses	8,100	8,100
<u>Funding:</u>		
General fund (01)	8,100	8,100

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

TRUDI SCHMIDT, PRIMARY SPONSOR      DATE  
Fiscal Note for HB0543, as introduced

**HB 543**

## 1 HOUSE BILL NO. 543

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16 (a) require that a person insured under the policy use a particular automobile repair business or  
17 location; or

18 (b) engage in any act or practice that intimidates, coerces, or threatens an insured person or  
19 provides an incentive or inducement for an insured person to use a particular automobile repair business  
20 or location. ~~For the purpose of this section, an insurance company's reference to a warranty issued by an~~  
21 ~~automobile body repair service is not considered an incentive or inducement.~~

22 ~~(2) If an insurance company, including its producers and adjusters, provides an insured with a list~~  
23 ~~of particular automobile repair businesses or locations, in addition to the prohibition in subsection (1)(b),~~  
24 ~~the insurance company may not state, suggest, or imply that an automobile body repair service not on the~~  
25 ~~list does not:~~

26 ~~(a) provide prompt, dependable, or quality service;~~

27 ~~(b) provide warranties or guarantees on work quality; or~~

28 ~~(c) have adequate equipment or trained personnel.~~

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

30 (A) PROVIDING AN INSURED PERSON OR A CUSTOMER WITH A LIST OF ALL ESTABLISHED

1 AUTOMOBILE REPAIR BUSINESSES OR LOCATIONS REASONABLY CLOSE TO THE INSURED PERSON OR  
 2 CUSTOMER THAT OFFER A WARRANTY FOR THE AUTOMOBILE REPAIR SERVICES PROVIDED BY THE  
 3 BUSINESSES OR LOCATIONS;

4 (B) PROVIDING AN INSURED PERSON OR A CUSTOMER WITH A LIST OF PARTICULAR BODY  
 5 SHOPS MEETING REASONABLE STANDARDS OF QUALITY, SERVICE, AND SAFETY WHEN THE LIST IS  
 6 REQUESTED BY THE INSURED PERSON OR CUSTOMER; OR

7 (C) REFERRING TO A WARRANTY ISSUED BY AN AUTOMOBILE REPAIR BUSINESS OR LOCATION.

8 (3) The insured may use a ~~company~~ BUSINESS or location at the insured's sole discretion, and  
 9 ~~subject to subsection (4),~~ the insurance company shall ~~promptly~~ pay for the REASONABLE AND  
 10 NECESSARY cost of the automobile body repair services for covered damages, less any deductible under  
 11 the terms of the policy. THIS SECTION DOES NOT REQUIRE AN INSURER TO PAY MORE FOR  
 12 AUTOMOBILE BODY REPAIR SERVICES THAN THE LOWEST PREVAILING MARKET PRICE, AS DEFINED  
 13 IN 33-18-222.

14 ~~(4) This section does not require an insurer to pay more for automobile body repair services than~~  
 15 ~~the lowest prevailing market price, as defined in 33-18-222.~~

16 (4) IF THE INSURED PERSON USES AN AUTOMOBILE REPAIR BUSINESS OR LOCATION NOT ON  
 17 A LIST PROVIDED UNDER SUBSECTION (2)(A) OR (2)(B), THE INSURANCE COMPANY MAY NOT BE HELD  
 18 LIABLE TO ANY REPAIR WORK PERFORMED BY THE AUTOMOBILE REPAIR BUSINESS OR LOCATION  
 19 THAT THE INSURED PERSON CHOOSES TO USE.

20 (5) IT IS UNLAWFUL FOR AN AUTOMOBILE REPAIR BUSINESS OR LOCATION TO CHARGE OR  
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23 (6) AN INSURANCE COMPANY THAT CONTRACTS WITH AN INDEPENDENT ADJUSTER MAY  
 24 NOT BE HELD LIABLE TO THE INDEPENDENT ADJUSTER'S FAILURE TO COMPLY WITH THE TERMS OF  
 25 THIS SECTION.

26 ~~(6)(7)~~ For purposes of this section, "automobile repair business or location" does not include a  
 27 business or location that EXCLUSIVELY provides automobile glass replacement, glass repair services, or  
 28 glass products.

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 30 NEW SECTION. Section 2. Codification instruction. [Section 1] is intended to be codified as an

1 integral part of Title 33, chapter 18, part 2, and the provisions of Title 33, chapter 18, part 2, apply to  
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