



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB0416

Introduced 1/26/2005, by Rep. Thomas Holbrook

SYNOPSIS AS INTRODUCED:

215 ILCS 5/155.42 new

215 ILCS 5/155.43 new

815 ILCS 505/2Z

from Ch. 121 1/2, par. 262Z

Amends the Illinois Insurance Code. Requires automobile insurers to allow policyholders to choose repair facilities. Allows the insurer to recommend facilities so long as the insurer informs the insured or claimant at the same time of the insured's or claimant's right to choose the facility. Prohibits the adjuster for the motor vehicle from being employed by the facility or having any direct authority over the facility's recommendations or decisions relating to the repair of the motor vehicle if the insurer owns an interest in that facility. Provides for civil penalties. Makes a violation a violation of the Consumer Fraud and Deceptive Business Practices Act and amends the Consumer Fraud and Deceptive Business Practices Act to include the violations. Requires repair facilities in which an insurer owns an interest to file an annual report delineating the number of repairs and the dollar amount when the motor vehicle owner was an insured or claimant of the insurer with the ownership interest, and those repairs as a percentage of the total repairs. Requires the Secretary to maintain the information in the reports as confidential.

LRB094 05494 LJB 35541 b

1 AN ACT concerning insurance.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Insurance Code is amended by adding
5 Sections 155.42 and 155.43 as follows:

6 (215 ILCS 5/155.42 new)

7 Sec. 155.42. Choice of repair facility; penalties; unfair
8 trade practice.

9 (a) No insurer shall require that a motor vehicle be
10 repaired at a specific repair facility, as defined in
11 subsection (b) of Section 155.29 of this Code, except as
12 provided in Section 143.30 of this Code.

13 (b) If an insurer provides information or makes a
14 recommendation to an insured or claimant about a repair
15 facility, the insurer shall at the same time inform the insured
16 or claimant of the right of the insured or claimant to go to
17 the repair facility of his or her choice.

18 (c) If an insurer has an ownership interest in the repair
19 facility that the insured or claimant selects to repair the
20 insured's or claimant's motor vehicle, the adjuster for the
21 motor vehicle shall not be employed by the repair facility or
22 have any direct authority over that facility's recommendations
23 or decisions relating to the repair of the insured's or
24 claimant's motor vehicle.

25 (d) Any person who engages in any activity that violates
26 this Section is liable to the State for a civil penalty to be
27 determined by the Secretary of up to \$1,000 for each violation,
28 but not to exceed an aggregate penalty of \$10,000. If the act
29 or practice is willful, the Secretary may impose a civil
30 penalty of up to \$5,000 for each violation, but not to exceed
31 an aggregate penalty of \$50,000 in any 6-month period.

32 (e) A violation of this Section shall be considered an

1 unfair trade practice under the Consumer Fraud and Deceptive
2 Business Practices Act and shall be subject to the penalties
3 contained in that Act.

4 (215 ILCS 5/155.43 new)

5 Sec. 155.43. Affiliated repair facility reports.

6 (a) On or before January 10 of each year, a repair facility
7 in which an insurer owns an interest in the repair facility and
8 that engages in the business of repairing or replacing the
9 nonmechanical exterior or interior body parts of a damaged
10 motor vehicle shall file with the Secretary:

11 (1) a statement delineating the number of motor
12 vehicles repaired and the dollar value of those repairs by
13 the repair facility for the previous calendar year for
14 which the motor vehicle owners were insured by or claimants
15 of the insurer that owns an interest in the repair
16 facility; and

17 (2) a statement delineating the information required
18 in paragraph (1) as a percentage of the total number of
19 motor vehicles repaired or the total dollar value of
20 repairs in that repair facility for the previous calendar
21 year.

22 (b) The Department shall maintain the information received
23 pursuant to subsection (a) as confidential information, except
24 that the Department shall make this information available to
25 the President of the Senate and the Speaker of the House of
26 Representatives upon request.

27 Section 10. The Consumer Fraud and Deceptive Business
28 Practices Act is amended by changing Section 2Z as follows:

29 (815 ILCS 505/2Z) (from Ch. 121 1/2, par. 262Z)

30 Sec. 2Z. Violations of other Acts. Any person who knowingly
31 violates the Automotive Repair Act, the Home Repair and
32 Remodeling Act, the Dance Studio Act, the Physical Fitness
33 Services Act, the Hearing Instrument Consumer Protection Act,

1 the Illinois Union Label Act, the Job Referral and Job Listing
2 Services Consumer Protection Act, the Travel Promotion
3 Consumer Protection Act, the Credit Services Organizations
4 Act, the Automatic Telephone Dialers Act, the Pay-Per-Call
5 Services Consumer Protection Act, the Telephone Solicitations
6 Act, the Illinois Funeral or Burial Funds Act, the Cemetery
7 Care Act, the Safe and Hygienic Bed Act, the Pre-Need Cemetery
8 Sales Act, the High Risk Home Loan Act, subsection (a) or (b)
9 of Section 3-10 of the Cigarette Tax Act, subsection (a) or (b)
10 of Section 3-10 of the Cigarette Use Tax Act, the Electronic
11 Mail Act, paragraph (6) of subsection (k) of Section 6-305 of
12 the Illinois Vehicle Code, ~~or~~ the Automatic Contract Renewal
13 Act, or Section 155.42 of the Illinois Insurance Code commits
14 an unlawful practice within the meaning of this Act.

15 (Source: P.A. 92-426, eff. 1-1-02; 93-561, eff. 1-1-04; 93-950,
16 eff. 1-1-05.)