

House Bill 1421

By: Representatives Franklin of the 160th, Stephens of the 164th, Ridley of the 6th, Gullett of the 19th, Gambill of the 15th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapters 6 and 34 of Title 33 of the Official Code of Georgia Annotated, relating
2 to unfair trade practices and motor vehicle accident reparations, respectively, so as to prohibit
3 improper steering to repair facilities under motor vehicle liability insurance policies; to
4 provide for unfair claims settlement practices; to provide for the selection of a repair facility;
5 to provide for payment for repairs; to provide for certain disclosures and notifications; to
6 provide for definitions; to provide for rules and regulations; to provide for related matters;
7 to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Chapter 6 of Title 33 of the Official Code of Georgia Annotated, relating to unfair trade
11 practices, is amended by revising paragraphs (15) and (16) in Code Section 33-6-34, relating
12 to unfair claims settlement practices, as follows:

13 "(15) Failure to comply with any insurer requirement in Chapter 20E of this title, the
14 'Surprise Billing Consumer Protection Act,' including:

- 15 (A) The failure to designate whether the healthcare plan is subject to the exclusive
 16 jurisdiction of the Employee Retirement Income Security Act of 1974, 29 U.S.C. Sec.
 17 1001, et seq.;
- 18 (B) The failure to directly pay the provider or facility within 15 working days for
 19 electronic claims or 30 calendar days for paper claims any moneys due under Code
 20 Section 33-20E-4 or 33-20E-5; or
- 21 (C) The failure to pay a resolution organization as required under Code Section
 22 33-20E-16; **and**
- 23 (16) Failure to comply with any insurer requirement relating to emergency services or
 24 care in Article 4 of Chapter 11 of Title 31, Article 1 of Chapter 20A of this title, Chapter
 25 20E of this title, Chapter 21A of this title, Code Section 33-24-59.27, and Chapter 30 of
 26 this title; and
- 27 (17) Failure to comply with any insurer requirement relating to steering to repair
 28 facilities under motor vehicle liability insurance policies as provided under Code Section
 29 33-34-6."

30 **SECTION 2.**

31 Chapter 34 of said title, relating to motor vehicle accident reparations, is amended by
 32 revising Code Section 33-34-6, relating to selection of motor vehicle repair facility, as
 33 follows:

34 "33-34-6.

35 ~~(a) Subject to the provisions of subsection (b) of this Code section, no insurer shall~~
 36 ~~represent to a person making a claim under a motor vehicle insurance policy that the use~~
 37 ~~of or the failure to use a particular repair facility or particular repair facilities may result~~
 38 ~~in the nonpayment of a claim.~~

39 ~~(b) No insurer shall require a person making a claim under a motor vehicle insurance~~
 40 ~~policy to use a particular repair facility or particular repair facilities in order to settle a~~

41 ~~claim if the person making the claim can obtain the repair work on the motor vehicle at the~~
42 ~~same cost from another source.~~

43 (a) As used in this Code section, the term:

44 (1) 'Claimant' means either a first-party claimant or insured or a third-party claimant who
45 asserts a claim for payment, benefits, reimbursement, or damages under a motor vehicle
46 liability insurance policy arising out of, based on, or in any way related to a motor vehicle
47 collision, loss, ownership, maintenance, or use. Such term includes any assignee,
48 subrogee, or legal representative of a first-party claimant or third-party claimant to the
49 extent such assignee, subrogee, or legal representative asserts the claim.

50 (2) 'Financial interest' means any stake of monetary value, direct or indirect, in an entity.
51 Such term includes any ownership interest, direct repair program, affiliation agreement,
52 favored facility agreement, labor rate agreement, parts agreement, or service level
53 agreement.

54 (3) 'Motor vehicle liability insurance' means motor vehicle insurance that covers the use
55 of a motor vehicle and its operating equipment; covers liability, collision, comprehensive,
56 personal injury protection or medical payments, or uninsured or underinsured motorist
57 protection; or provides the mandatory minimum limits required under this chapter for the
58 personal use of a private passenger automobile. Such term includes coverage provided
59 through an approved plan or certificate of self-insurance to the extent recognized under
60 state law as satisfying such minimum limits.

61 (4) 'Repair facility' means a motor vehicle dealer, garage, body shop, or other
62 commercial entity which undertakes the repair or replacement of parts of a motor vehicle.

63 (b) All policies of motor vehicle liability insurance shall allow a claimant under such
64 policy to select the repair facility to provide repairs covered under such policy. No insurer
65 shall require a claimant under such policy to use a repair facility in which such insurer has
66 a financial interest. No insurer shall represent to a claimant under such policy that the use
67 of or the failure to use a particular repair facility or particular repair facilities may result

68 in nonpayment or delayed or reduced payment of a claim or less quality or timeliness of
69 repair under a claim. The amount determined to be payable under a motor vehicle liability
70 insurance policy shall be paid regardless of the repair facility selected by a claimant.

71 (c) No insurer shall recommend the use of a particular repair facility without clearly
72 informing a claimant under a motor vehicle liability insurance policy of the following:

73 (1) The claimant is under no obligation to use the recommended repair facility;

74 (2) The claimant may use a repair facility of the claimant's choice;

75 (3) The amount determined by the insurer to be payable under such policy will be paid
76 regardless of whether or not the claimant uses the recommended repair facility; and

77 (4) Whether or not the insurer has a financial interest in the recommended repair facility.

78 (d) A violation of this Code section that occurs with such frequency as to constitute a
79 general business practice shall be a violation of Article 2 of Chapter 6 of this title, the
80 'Unfair Claims Settlement Practices Act.'

81 (e) The Commissioner shall promulgate rules and regulations necessary to implement this
82 Code section."

83 **SECTION 3.**

84 All laws and parts of laws in conflict with this Act are repealed.