

House Bill 1420

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 provide
3 for original equipment manufacturer repair procedures for repairs under motor vehicle
4 liability insurance policies; to provide for unfair claims settlement practices; to provide for
5 definitions; to provide for rules and regulations; to provide for related matters; to repeal
6 conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

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

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

14 (A) The failure to designate whether the healthcare plan is subject to the exclusive
15 jurisdiction of the Employee Retirement Income Security Act of 1974, 29 U.S.C. Sec.
16 1001, et seq.;

17 (B) The failure to directly pay the provider or facility within 15 working days for
 18 electronic claims or 30 calendar days for paper claims any moneys due under Code
 19 Section 33-20E-4 or 33-20E-5; or

20 (C) The failure to pay a resolution organization as required under Code
 21 Section 33-20E-16; ~~and~~

22 (16) Failure to comply with any insurer requirement relating to emergency services or
 23 care in Article 4 of Chapter 11 of Title 31, Article 1 of Chapter 20A of this title,
 24 Chapter 20E of this title, Chapter 21A of this title, Code Section 33-24-59.27, and
 25 Chapter 30 of this title; and

26 (17) Failure to comply with any insurer requirement relating to original equipment
 27 manufacturer repair procedures under motor vehicle liability insurance policies as
 28 provided under Code Section 33-34-10."

29 **SECTION 2.**

30 Chapter 34 of said title, relating to motor vehicle accident reparations, is amended by adding
 31 a new Code section to read as follows:

32 "33-34-10.

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

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

40 (2) 'Motor vehicle liability insurance' means motor vehicle insurance that covers the use
 41 of a motor vehicle and its operating equipment; covers liability, collision, comprehensive,
 42 personal injury protection or medical payments, or uninsured or underinsured motorist
 43 protection; or provides the mandatory minimum limits required under this chapter for the

44 personal use of a private passenger automobile. Such term includes coverage provided
45 through an approved plan or certificate of self-insurance to the extent recognized under
46 state law as satisfying such minimum limits.

47 (3) 'Original equipment manufacturer repair procedure' means any written, electronic,
48 or published repair standard, procedure, specification, or directive issued by a motor
49 vehicle's original equipment manufacturer, including, but not limited to, body, frame,
50 structural, mechanical, electronic, scanning, calibration, and refinishing operations.

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

53 (b) All policies of motor vehicle liability insurance shall provide for all repairs to be made
54 in accordance with the applicable original equipment manufacturer repair procedures.

55 (c) No insurer that issues, delivers, issues for delivery, or renews a motor vehicle liability
56 insurance policy shall require a claimant to deviate from or deny, omit, or disregard
57 original equipment manufacturer repair procedures.

58 (d) An insurer that issues, delivers, issues for delivery, or renews a motor vehicle liability
59 insurance policy shall:

60 (1) Approve any original equipment manufacturer repair procedure that is documented
61 in a written estimate or supplemental estimate from a repair facility or in a written request
62 from a repair facility or claimant when the applicable original equipment manufacturer
63 service publication, position statement, or procedure is identified; and

64 (2) Only deny reimbursement for a documented original equipment manufacturer repair
65 procedure if, within three business days of receipt of the written estimate, supplemental
66 estimate, or written request provided for in paragraph (1) of this subsection, such insurer
67 provides to the claimant:

68 (A) A written itemized explanation for such denial, including, but not limited to, policy
69 coverage limitations, prior payment, duplication, or unrelated to loss, specific to the
70 original equipment manufacturer repair procedure; and

71 (B) Notice that such denial might constitute an unfair claims settlement practice under
72 state law.

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

76 (f) The Commissioner shall promulgate rules and regulations necessary to implement this
77 Code section."

78 **SECTION 3.**

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