

HOUSE BILL NO. 1212

Introduced by

Representatives Martinson, Carlisle

1 A BILL for an Act to create and enact a new section to chapter 26.1-40 and a new section to
2 chapter 51-07 of the North Dakota Century Code, relating to automobile insurance repair
3 coverage and automobile repair; to amend sections 26.1-40-01, 51-08.1-01, and 51-08.1-03 of
4 the North Dakota Century Code, relating to the definition of automobile repair and price fixing;
5 and to provide a penalty.

6 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

7 **SECTION 1. AMENDMENT.** Section 26.1-40-01 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **26.1-40-01. Definitions - Limitations.** As used in sections 26.1-40-02 through
10 26.1-40-12:

- 11 1. "Automobile repair" includes glass replacement or repair services.
12 2. "Declination" means the refusal of an insurer to issue a policy upon receipt of a
13 written nonbinding application or written request for coverage from its agent or an
14 applicant. The offering of insurance coverage with a company within an insurance
15 group which is different from the company requested on the nonbinding application
16 or written request for coverage, or the offering of policy coverage or rates
17 substantially less favorable than requested in the nonbinding application or written
18 request for coverage, is a declination.
19 ~~2.~~ 3. "Nonpayment of premium" means failure of the insured to discharge when due any
20 of the insured's obligations in connection with the payment of premium on a policy,
21 or any installment of the premium, whether the premium is payable directly to the
22 insurer or its agent or indirectly under any premium finance plan or extension of
23 credit.

1 ~~3.~~ 4. "Policy" means any automobile policy which includes automobile liability coverage,
2 uninsured motorist coverage, underinsured motorist coverage, automobile medical
3 payments coverage, basic or optional excess no-fault benefits, or automobile
4 physical damage coverage, delivered or issued for delivery in this state, insuring as
5 the named insured an individual residing in this state, and under which the insured
6 vehicles designated in the policy are of the following types only:

- 7 a. A motor vehicle of the private passenger or station wagon type that is not
8 used as a public or livery conveyance, nor rented to others.
9 b. Any four-wheel motor vehicle with a load capacity of one thousand five
10 hundred pounds [680.39 kilograms] or less which is not used in the
11 occupation, profession, or business of the insured, nor used as a public or
12 livery conveyance, nor rented to others.
13 c. Any motorcycle as that term is defined in section 39-01-01 that is not used as
14 a public or livery conveyance, nor rented to others.

15 "Policy" does not include any policy that has been in effect less than sixty days at
16 the time notice of cancellation is mailed or delivered by the insurer unless it is a
17 renewal policy; any policy issued under the North Dakota assigned risk plan; any
18 policy insuring more than six motor vehicles; any policy covering the operation of a
19 garage, automobile sales agency, repair shop, service station, or public parking
20 place; any policy providing insurance only on an excess basis; or any other
21 contract providing insurance to a named insured even though the contract may
22 incidentally provide insurance with respect to such motor vehicles.

23 ~~4.~~ 5. "Renewal" or "to renew" means:

- 24 a. The issuance and delivery by an insurer of a policy replacing, at the end of the
25 previous policy period, a policy previously issued and delivered by the same
26 insurer;
27 b. The issuance and delivery of a certificate or notice extending the term of a
28 policy beyond its policy period or term; or
29 c. The extension of the term of a policy beyond its policy period or term pursuant
30 to a provision for extending the policy by payment of a continuation premium.

Any policy with a policy period or term of less than six months must be considered as if written for a policy period or term of six months except in case of termination under any of the circumstances specified in subsection 2 of section 26.1-40-05.

Any policy written for a term longer than one year or any policy with no fixed expiration date must be considered as if written for successive policy periods or terms of one year and any termination by an insurer effective on an anniversary date of the policy is deemed a failure to renew.

~~5- 6.~~ "Termination" means either a cancellation or nonrenewal of automobile insurance coverage in whole or in part. A cancellation occurs during the policy term. A nonrenewal occurs at the end of the policy term. An insurer's substitution of insurance upon renewal which results in substantially equivalent coverage is not a termination.

SECTION 2. A new section to chapter 26.1-40 of the North Dakota Century Code is created and enacted as follows:

Prohibited automobile repair practices. An insurer that issues or renews a policy may not:

1. Require a person insured under the policy to use a particular repair company or location for automobile repair;
2. Engage in any act or practice of intimidation, coercion, or threat against an insured person to use a particular repair company or location for automobile repair;
3. Establish an agreement with any person to act as a broker for the insurer under which the broker sets a price that must be met by the repair company as a condition for doing automobile repair; and
4. Establish an agreement with any person requiring a repair company to bill through that person as a condition of doing automobile repair.

SECTION 3. A new section to chapter 51-07 of the North Dakota Century Code is created and enacted as follows:

Automobile repair.

1. A person engaging in automobile repair, including the sale, repair, or replacement of automobile glass, may:

a. Advertise or promise to provide or offer any coupon, credit, or rebate to pay any part of an insurance deductible under an insurance policy covering an automobile;

b. Pay a sum or incentive for directing automobile repair, including glass replacement or repair services; and

c. Advertise services and address quality, service, and safety.

2. A person may not manage, handle, or arrange automobile repair, including glass replacement or repair work, for which a person retains a set fee, or charges a percentage of the claim paid by the insurer. Violation of this subsection is a class B misdemeanor.

SECTION 4. AMENDMENT. Section 51-08.1-01 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

51-08.1-01. Definitions. As used in this chapter:

1. ~~"Person" means an individual, corporation, limited liability company, business trust, partnership, association, or any other legal entity.~~

2. "Price controlling, fixing, or maintaining" includes an agreement to:

a. Adhere to a price book;

b. Engage in cooperative price advertising;

c. Standardize credit terms offered to purchasers;

d. Use uniform trade-in allowances;

e. Use standard cash downpayment requirements;

f. Limit discounts;

g. Discontinue free service;

h. Use a specific method of quoting prices;

i. Use a multiple basing point pricing system;

j. Adhere to previously announced prices and terms of sale;

k. Establish uniform costs and markups;

l. Impose mandatory surcharges;

m. Specify price differentials between grades of a product; or

n. Adopt common classifications of customers entitled to discounts and the percentage of functional discounts.

1 2. "Relevant market" means the geographical area of actual or potential competition
2 in a line of commerce, all or any part of which is within this state.

3 **SECTION 5. AMENDMENT.** Section 51-08.1-03 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **51-08.1-03. Establishment, maintenance, or use of monopoly.** The establishment,
6 maintenance, or use of a monopoly, or an attempt to establish a monopoly, of trade or
7 commerce in a relevant market by any person, for the purpose of excluding competition or
8 controlling, fixing, or maintaining prices, is unlawful. An agreement between competitors
9 regarding price is considered price controlling, fixing, or maintaining, and is unlawful.