

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1427

2001 HOUSE JUDICIARY

HB 1427

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1427

House Judiciary Committee

☐ Conference Committee

Hearing Date 01-31-01

Tape Number	Side A	Side B	Meter #
TAPE I		X	644 to 4979
Committee Clerk Signature <i>Joan Reed</i>			

Minutes: Chairman DeKrey opened the hearing on HB 1427. Relating to prohibition of insurance claims for excessive charges.

Rep Wald: District 37 Dickinson. This a bill has to do with glass shops. These shops cannot waive the deductible. What they are trying to do with the auto insurance with comprehensive coverage, they are passing on the cost to all consumers and we don't think that is right. You enter into a contract with the insurance company and you cannot have the company waive that deductible.

Rep Mahoney: This bill has a penalty section, this bill adds the words incentive and I don't see how this works under current law.

Rep Wald: We are trying to accomplish that they cannot give rebates.

Rep Mahoney: How are they are accomplishes that?

Rep Wald: I might suggest some amendments. On line 7 change the word may to shall and on line 10 after the word pay we should insert or waive all or part of the deductible.

Kent Olson: Executive Director of North Dakota Professional Insurance Association. Represents about 200 agencies around the state. Passed out handouts - Heidi Heitkamp letter, and also Private Passenger Auto Insurance State Comprehensive Premium Trends. He refers to the chart and explains the rest of the handout and the increase of costs of insurance. He support the bill with amendments. Had an additional amendment of changing the and to or.

Rep Klemm: Rep Wald suggested a couple of amendments, do you have any comment?

Kent Olson: we support those amendments.

Rep Delmore: What about other states, are they allowing this type of thing to happen?

Kent Olson: I am not familiar with other states, I believe they are putting a dollar cap on it.

Chairman DeKrey: Not other questions, thank you for appearing.

Larry Mislotsky: Senior analyst for and insurance company, here in support of the bill. Talked about the rising cost of insurance.

Rep Mahoney: Do other states have laws like we are talking about putting in place.

Larry Mislotsky: I don't know about other states. Minnesota has put a dollar cap on. I haven't done a study on the other states.

Rep Mahoney: There must be something in other states that people come up with a promotional scheme. The other side of it is should the insurance companies have this much control.

Larry Mislotsky: If you look around what started out as a \$20.00 dinner no longer is. The deductible is up to \$500.00.

Vice Chair Kretschmar: Asked for clarification with an example, how do they get money from the insurance company?

Larry Mislotsky: I can't speak to that.

Vice Chair Kretschmar: That is generally what this bill is trying to prohibit.

Larry Mislotsky: Yes.

Rep Mahoney: How can the company get money from the insurance company by waiving the deductible. Isn't that up to the shop?

Larry Mislotsky: Yes. Generally I would agree with that concept. I would agree with small incentives. But you can get into very large numbers.

Rep Delmore: How would you feel if we did something like they did in Minnesota with a dollar cap?

Larry Mislotsky: We would be in favor of that.

Chairman DeKrey: No further questions, thank you for appearing. Anyone else wishing to appear.

Scott Heintzman: President of the North Dakota Auto Body Association (see attached testimony)

Chairman DeKrey: I see you are located in Steele, how many members do you have?

Scott Heintzman: The secretary and treasurer are located in Steele, we have about 230 members.

Rep Mahoney: How can someone get more from the insurance company and apply that to the deductible.

Scott Heintzman: My business is 95% collision, what is happening they are falsifying the retail price of the glass, the insurance companies regulate what they will pay and we regulate what they will charge is what I have been told. On the collision, the problem is bidding for the stuff and then not doing it or padding the bill.

Rep Mahoney: Is there fraud in the bids, also is there a difference in the type of glass that is being used?

Scott Heintzman: I can't speak to the difference between the glass, but there are different levels.

What is the difference I don't know.

Rep Maragos: Would you say its true that a business can establish the value of their service? You all don't charge the same price.

Scott Heintzman: The collision is pretty much cut and dried. There are three ways to come to the price of replacing.

Rep Maragos: Why aren't you all the same.

Scott Heintzman: we have nation wide standards. We try to be consistent with the industry standard.

Rep Nichols: District 15. One of the prime sponsors of the bill and speaks in support of HB 1427.

Chairman DeKrey: How are they getting paid, how are they getting the money from the insurance companies.

Scott Heintzman: I don't understand it either, the shop files the paperwork on the glass, the customer doesn't even see the bill.

Rep Mahoney: This bill would wipe out the incentive, would it be a fair compromise to have \$35.00 as in the Minnesota law.

Scott Heintzman: In a worse case, yes. But the bill was intended to eliminate that.

Chairman DeKrey: Thank you for appearing.

Lane Quamt: auto body shop in Minot, chairman of the North Dakota Auto Body Association. Spoke in favor of the bill. Spoke to closing the loopholes, gave handouts showing shops that have the large waivers. It is supposed to be against the law for incentives.

Page 5
House Judiciary Committee
Bill/Resolution Number HB 1427
Hearing Date 01-31-01

Chairman DeKrey: Thank you for appearing. Is there anyone in opposition. We will close the hearing on HB 1427.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1427a

House Judiciary Committee

☐ Conference Committee

Hearing Date 01-31-01

Tape Number	Side A	Side B	Meter #
TAPE II		x	1870 to 2608
Committee Clerk Signature <i>Joan D. [unclear]</i>			

Minutes: Chairman DeKrey called the committee to order and took up HB 1427. Discussion was held on the bill.

COMMITTEE ACTION

Rep Eckre moved the amendments 10661.0102. Rep Maragos seconded the amendments.

A voice was taken, the amendments pass.

Discussion was held on the bill.

Rep Maragos move a DO PASS as amended and Rep Delmore seconded the motion. The clerk will call the roll on a DO PASS as amend on HB 1427.

Rep Klemin moved to further amend the bill, seconded by Rep Delmore. A voice vote was taken, the motion passes.

The clerk will call the roll. The DO PASS as amend passes with 14 YES, 0 NO and 1 ABSENT.

Carrier is Rep Mahoney.

10661.0102
Title.0200

Adopted by the Judiciary Committee
January 31, 2001

VR
2/1/01

HOUSE AMENDMENTS TO HB 1427 HOUSE JUDICIARY 02-01-01

Page 1, line 10, after "pay" insert "or waive"

Page 1, line 19, after "not" Insert "knowingly"

Renumber accordingly

Date: 01-31-01
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1427

House JUDICIARY Committee

☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass as amended

Motion Made By Rep Maragos Seconded By Rep Delmore

Representatives	Yes	No	Representatives	Yes	No
CHR - Duane DeKrey	✓				
VICE CHR -- Wm E Kretschmar	✓				
Rep Curtis E Brekke	✓				
Rep Lois Delmore	✓				
Rep Rachael Disrud	✓				
Rep Bruce Eckre	✓				
Rep April Fairfield	✓				
Rep Bette Grande	✓				
Rep G. Jane Gunter	✓				
Rep Joyce Kingsbury	✓				
Rep Lawrence R. Klemin	✓				
Rep John Mahoney	✓				
Rep Andrew G Maragos	✓				
Rep Kenton Onstad	✓				
Rep Dwight Wrangham	✓				

Total (Yes) 14 No 0

Absent 1

Floor Assignment Rep Mahoney

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
February 1, 2001 2:07 p.m.

Module No: HR-18-2120
Carrier: Mahoney
Insert LC: 10661.0102 Title: .0200

REPORT OF STANDING COMMITTEE

HB 1427: Judiciary Committee (Rep. DeKrey, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1427 was placed on the Sixth order on the calendar.

Page 1, line 10, after "pay" insert "or waive"

Page 1, line 19, after "not" insert "knowingly"

Renumber accordingly

2001. SENATE INDUSTRY, BUSINESS AND LABOR

HB 1427

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1427

Senate Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date March 13, 2001.

Tape Number	Side A	Side B	Meter #
1		x	7.8 to end
2	x		0 to 7.5
(3/14/01) 1		x	9.7 to 29.7
Committee Clerk Signature <i>Doris E. Perez</i>			

Minutes:

The meeting was called to order. All committee members present. Hearing was opened on HB 1427 relating to prohibition of insurance claims for excessive charges.

Representative Eugene Nicholas, District 15, cosponsor. This bill will prohibit insurance claims for excessive charges. If you go to replace a windshield, you will be asked whether or not you have insurance, if you don't a different scale will apply. This bill will help rectify that. There were a couple of changes: line 7, section 1, "may" be stricken and replace with "shall", same thing in line 19.

Kent Olson, Executive Director, NDPIA, in favor. We are agents who market auto/property insurance. Distributed yellow, blue and pink handouts to illustrate how payment of deductibles is hidden. Distributed copies of Table 6: State Comprehensive Premium Trends to illustrate rise of premium rates in ND. Distributed copies of letter sent by the Attorney General's office to Sen. O'Connell highlighting in page 3 section that refers to actual payment of money and not waiver

of amount owed. We are trying to eliminate problem with deductibles, and not use insurance contract as an incentive. Maybe penalty needs to be addressed, maybe only an infraction not a misdemeanor.

Senator Every: Maybe this increase of premiums is connected with the many disaster declarations ND has had during the last few years.

Senator Mutch: Doesn't the insurance company require bids?

K Olson: General business practice has been to do the repair first and then bring the bill to the insurance company. Getting a number of different estimates would raise costs.

Scott Heintzman, President, ND Auto Body Assn. In support of this bill, it will close loopholes that permit waiver of payment of deductibles. Urge do pass.

Lane Quant, Chairman ND Auto Body Assn. Legislative Committee. It is time to put an end to offers of payment or waiver of deductibles, we hope this bill will close the loopholes that are allowing that. Urge do pass.

Elton Christopher, body shop owner in Williston, urge do pass. Written testimony attached.

Larry Maslowsky, ND Ins. Dept. Practice of discounts or waivers of deductibles affects premiums on this basis we support this bill.

Leah Coughland, American Ins. Assn. Support this bill.

Leo Renner, ND Autobody Assn. In favor.

Terry Barnes, Barnes Auto Glass, in opposition. There is no excessive charges here. I have to sign contract with insurance company to do their work, have to give them their discount, government tells me what kind of glass I have to use and how to install it. We are not making a lot of money. I advertise to pay or waive deductible. If this bill passes I might stop advertising

Page 3
Senate Industry, Business and Labor Committee
Bill/Resolution Number HB 1427
Hearing Date March 14, 2001.

but nobody can tell me what to do with my money, I might get your money and give it back to you or might get your check and break it.

No further testimony. Hearing closed.

03/14/01 Tape 1-B- 9.7 to 29.7.

Committee reconvened. All members present. Discussed amendments submitted by Representative Nicholas.

Senator Klein: Body shops have contracts with insurance companies that say what they can charge. The problem is the advertising of the illusion consumers are going to get their money back.

Senator Mutch: What does the amendment do?

Senator Krebsbach: Puts what they are trying to do in stronger language, give it more teeth.

Senator Krebsbach: Motion: adopt amendments. **Senator Every:** Second.

Roll call vote: 7 yes; 0 no. Motion carried.

Senator Every: Motion: do pass as amended. **Senator Krebsbach:** Second.

Roll call vote: 7 yes; 0 no. Motion carried. Floor assignment: **Senator Every.**

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1427

Page 1, line 7, after "services" insert "paid for by the consumer from proceeds of an insurance policy that provides coverage for physical damage to automobiles"

Page 1, line 8, remove "as an incentive" and overstrike ", paid for by"

Page 1, overstrike line 9

Page 1, line 10, overstrike "for physical damage to automobiles, and to" and insert immediately thereafter "as an incentive,"

Page 1, line 11, after "deductible" insert an underscored comma and overstrike the first "to"

Renumber accordingly

Date: 3/14/00
Roll Call Vote #: 1

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1427

Senate Industry, Business and Labor

Committee

☐ Subcommittee on _____
or _____

☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken Adopt amendments

Motion Made By Rob Drake Seconded By Barney

[illegible]

Total (Yes) 1 No 0

Absent 1

Floor Assignment

If the vote is on an amendment, briefly indicate intent:

Date: 3/14/01
Roll Call Vote #: 2

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1427

Senate Industry, Business and Labor

Committee

☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass as amended

Motion Made By Sen Every Seconded By Sen Krebsbach

Senators	Yes	No	Senators	Yes	No
Senator Mutch - Chairman	✓		Senator Every	✓	
Senator Klein - Vice Chairman		✓	Senator Mathern	✓	
Senator Espgaard	✓				
Senator Krebsbach	✓				
Senator Tollefson	✓				

Total (Yes) 6 No 1

Absent 0

Floor Assignment Sen Every

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1427, as engrossed: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). Engrossed HB 1427 was placed on the Sixth order on the calendar.

Page 1, line 7, after "services" insert "paid for by the consumer from proceeds of an insurance policy that provides coverage for physical damage to automobiles"

Page 1, line 8, remove "as an incentive" and overstrike ", paid for by"

Page 1, overstrike line 9

Page 1, line 10, overstrike "for physical damage to automobiles, and to" and insert immediately thereafter "as an incentive,"

Page 1, line 11, after "deductible" insert an underscored comma and overstrike the first "to"

Renumber accordingly

2001 TESTIMONY

HB 1427



Heidi Heitkamp
ATTORNEY GENERAL

STATE OF NORTH DAKOTA
OFFICE OF ATTORNEY GENERAL

STATE CAPITOL
600 E BOULEVARD AVE
BISMARCK ND 58505-0040
(701) 328-2210 FAX (701) 328-2226

10/11/1998

August 11, 1998

The Honorable Frank Wald
State Representative
PO Box 330
Dickinson, ND 58601

RE: N.D.C.C. § 51-07-24

Dear Representative Wald:

I have received your recent note with attachments from Alfred G. Hektner regarding application of N.D.C.C. § 51-07-24 to businesses providing automobile glass replacement services.

As you are aware, there are significant problems involved in the enforcement of N.D.C.C. § 51-07-24. I have enclosed for your information copies of recent letters to Representative Rick Berg and Senator David O'Connell outlining many of these problems. It is apparent that N.D.C.C. § 51-07-24 did not accomplish what people thought it would when the statute was enacted by the 1997 Legislative Assembly.

Many persons believe that the statute prohibits repair companies from offering financial incentives to insured persons for their business when those incentives have the effect of reducing the cost of the repair to the insured and increase the expense of the repair to the insurer, despite the contractual commitment of the insured to pay a deductible for any covered repairs. Examples of the type of activity N.D.C.C. § 51-07-24 was intended to prohibit are paying rebates or deductibles, charging significantly more than other businesses for the same services, or paying a generous salvage price for a broken windshield that is relatively worthless.

The legislation as passed, however, prohibits none of these things. Rather, because subdivisions 1(a) and 1(b) of N.D.C.C. § 51-07-24 are worded in the conjunctive, a repair company can advertise and pay such incentives as long as the amount charged for the repair is the repair company's usual high rate for the repair.

I believe that you have had discussions concerning this statute with members of my office's Consumer Protection Division. That division,

The Honorable Frank Wald
August 11, 1998
Page 2

as well as members of our legal staff, have reviewed many questions concerning this statute, the Texas law upon which the North Dakota law is based, and similar laws of other states.

It appears from the legislative history that, proponents of N.D.C.C. § 51-07-24 also sought to address situations where a company, which provided automobile glass replacement services, would quote one price to a customer and then bill the insurance company for a much higher price. By doing so, the company would, in effect, collect a sum of money which would cover not only the cost of the service but, also, take into account the customer's insurance deductible.

Other states have attempted to address this problem in a manner somewhat different from Texas, the state which adopted a statute upon which the North Dakota statute is based. Legislation might be patterned after these other states to allow a greater possibility of enforcement of the statute.

In addition, if the concern is that the customer is being deceived based upon a price quote and the insurance company is being asked to pay a price for the service over and above the quoted price, it would certainly be possible that a requirement be imposed, in lieu of N.D.C.C. § 51-07-24, that any automobile service or repair over a certain dollar limit be subject to the submission of a written estimate to the customer. Before any work could be commenced on the vehicle, the written estimate would have to be submitted to the insurer or the insurer's agent for review and approval. This requirement could be specifically waived by the insurer or the insurer's agent if the insurer or the agent was verbally notified of the estimate. The written estimate would still have to be provided to the customer for later submission to the insurer or its agent. Should any work be performed on the vehicle in excess of the authorized estimate amount, an amended written estimate would have to be provided if the work exceeded a certain dollar amount with that written estimate also forwarded to the insurer or agent prior to approval for the repair or the service. Again, as in the case of the original estimate, the requirement of receipt of the amended written estimate could be waived by the insurer or the insurer's agent upon oral notification of the estimate amount.

This type of legislation would make sure that a customer would be fully advised of the full cost of repairing the vehicle. In addition, the insurer would have notice, prior to approval for work on the vehicle, of the cost of the repair. The insurer or its agent could then make a note of the approval cost with later submission of the written estimate from the customer/insured.

The Honorable Frank Wald
August 11, 1998
Page 3

This written estimate could be required whether or not an insurance claim would be submitted by the customer.

These are several options which may be available to meet the concerns expressed during the last legislative session to provide some criminal or civil enforcement of the statute's provision.

I was somewhat disturbed by comments made by Mr. Hektner in which reference is made to me and enforcement of this law. This opinion is inconsistent with current attitudes that government overly intrudes into the private and business affairs of the citizens of this state and country. In response, I would also note that the problems with some glass companies could be solved very easily by the insurance companies themselves and without government interference. Insurance companies can enforce their own contracts or rewrite the contract provisions to ensure that payment is not being made in excess of what may be reasonable or authorized. If the insurance agent receives a bill that the insurance agent believes is an overcharge, the agent can refuse to pay the bill until the reasonableness of the charge can be determined.

In short, it appears that a solution to this "problem" could be fashioned without government involvement.

Sincerely,

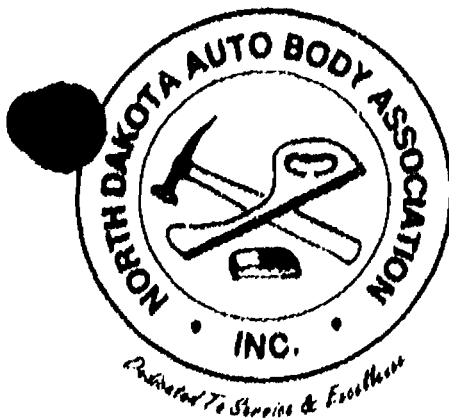


Heidi Heitkamp
ATTORNEY GENERAL

rpb/vkk

Enclosures

cc: Alfred G. Hektner, Far North Insurance, Inc.
Insurance Commissioner Glenn Pomeroy
Representative Rick Berg
Senator David O'Connell



NORTH DAKOTA AUTO BODY ASSOCIATION, INC.

BOX 139 - STEELE, ND 58482 - (701) 475-2830

Members of the North Dakota Insurance Industry:

The North Dakota Auto body Association would like to enlist your help in solving a problem that we feel affects both the collision repair industry and the insurance industry in North Dakota. The problem is the practice of "covering deductibles".

As most of us realize, deductibles exist to limit the policyholder from filing a claim for every minor dent and scratch that they have on their vehicle. In the case of windshields, the deductible will probably help them to choose to have a chipped windshield repaired instead of replaced. When a repair facility offers to "cover the deductible", these restraints are lost. As a policy holder, why not get that small dent fixed or why fix that chip. If it will cost me nothing out of pocket? If it costs me the same, I would want that dent fixed or that windshield replaced. Also, why would I buy an insurance policy with no deductible, when the higher deductible policy has the less expensive premium, and my deductible would be covered anyway?

In the past the NDABA put considerable effort into helping pass a law in North Dakota to make covering or waiving deductibles, or paying rebates of the deductibles illegal in North Dakota. Now it would appear that some companies have found loopholes in the law, and are doing business as usual. We have seen ads on television and in papers offering to cover the deductibles, some even offering to cover up to \$500.00. They seem to be making a mockery of the law.

We know that all companies cover their costs by passing them on the customer. In this case, these costs would seem to be covered by the insurance industry and ultimately, the honest policyholders. This is a no-win situation.

Not only does this practice violate the spirit if not the letter of the new law, we feel it violates the individual insurance policies we have seen. Many policies state that the deductible is to be paid first by the policyholder, before the insurance company pays the rest of the claim. We feel also that this practice has the odor of bribery and collusion about it.

We have the following suggestions on how you could help remedy this illegal activity.

1. Contact shops that work on your policyholder's vehicles. Notify them that your company considers the act of covering or waiving deductibles illegal.
2. Notify your policyholders that this act is in violation of their policy.
3. If you suspect any shop of charging for parts or services that they did not provide, have the car inspected, and confront the shop. This is how some of those deductibles are covered.

We in the business of repairing vehicles have no authority in enforcing this law. We can only police our trade to a point, so we need your help with this problem.

The NDABA was started in part to promote professionalism and honesty in the collision repair industry. While we feel that most in our industry are just that, with your help, we can make sure all are.

Thank you for your consideration.

Sincerely,

Board of Directors, NDABA

Scott Heintzman, President
Dave Englehart, 1st VP
Duane Cleir, 2nd VP
Larry Graf, Treasurer
Eddie Graf, Secretary
Jeff Pfau, Past President
Tom Ose, Lisbon
Chuck German, Ludden
Elton Christopherson, Williston
Paul Mohagen, Grafton
Ed Barnhardt, Washburn
Lane Quandt, Velva
Bryce Hancock, Medicine Lake, MT
Neil Krueger, Fargo
Miles Doll, Bismarck
Ron Moen, Grand Forks
Scott Sjol, Minot

HOUSE BILL NO. 1427

Mr Chairman and Members of the Committee:

My name is Lane Quandt. I am the manager of a body shop in Minot and the Chairman of the North Dakota Auto Body Association's Legislative Committee.

How many of you would take a loved one, or go yourself, to a doctor or hospital that needed your business so desperately that they would offer to waive or pay your insurance deductible? Or, maybe better yet, give you a couple of free steak dinners, flush your radiator, and put a new set of tires on your car? Why would it be any different than when you chose a body or glass shop to repair the car your family rides in every day?

It is against the law for a doctor or hospital, in N.D. , to cover or waive deductibles, and it is my understanding that it is supposed to be against the law for glass and body shops to cover them also. But, apparently there are some loopholes in the existing law that, hopefully, House Bill 1427 will close up.

You know, it used to be that customers would quietly ask if somehow their deductible could be worked into the estimate, (which by the way is insurance fraud), but there is nothing quiet about that any more. Now there are big billboards saying, "We Will Waive Your Deductible!", radio ads that say, "We will flush your radiator and put a new set of tires on your car!", and half page ads in the yellow pages, and signs on the sides of buildings that declare, "We Pay Insurance Deductibles up to \$500!" It is time to put an end to this nonsense. It is an insult to the lawmakers and taxpayers of North Dakota.

Facts Sheet on burying, covering, or waiving the deductibles.

About five or six years ago, we had a young lady bring a 94 Geo Metro to our shop. She told us that she had the hail damage on her car repaired, at another shop, because she did not have the \$250.00 deductible, and that that shop said they would waive or pay it. She said that after the repairs were made, everything seemed fine at first, but now whenever she washes her car there seems to be little puddles of water that sit on the hood and roof of her car. The reason for the puddles: The hood, (which was supposed to have been replaced), and the roof, still had many dents on them that were deep enough to hold water. In all honesty, there was still probably \$2000.00 damage on her car, but, she did save her \$250.00 deductible.

This young ladies experience is one of many that proves House Bill 1427 is a bill to protect the consumer and I would ask that you please pass it!

Thank you for your time and consideration.

Are There any questions

Sincerely,
Lane Quandt
701-838-7218

Ta

Private Passenger Automobile Insurance

State Comprehensive Premium Trends

1994 - 1998

State	1998 Average Premium	1998 Rank	1997 Average Premium	1997 Rank	1996 Average Premium	1996 Rank	1995 Average Premium	1995 Rank	1994 Average Premium	1994 Rank	197-95 Percent Change	197-95 Rank	194-95 Percent Change	194-95 Rank
Alabama	110.72	36	105.38	35	101.97	34	104.77	30	108.51	29	5.07%	29	1.44%	29
Alaska	135.25	19	131.41	19	130.26	17	125.24	18	122.14	19	2.92%	32	10.75%	32
Arizona	160.18	12	156.96	11	146.44	12	135.27	13	124.18	18	2.06%	38	28.99%	38
Arkansas	127.16	23	115.45	27	110.58	29	106.71	29	106.42	29	10.15%	2	19.49%	2
California (1)	120.90	25	121.04	22	128.91	19	131.30	17	130.41	14	-0.12%	45	-7.30%	45
Colorado	187.56	3	178.58	3	175.72	3	166.73	3	163.63	3	5.03%	21	14.63%	21
Connecticut	118.10	28	117.38	26	112.01	28	107.46	28	107.65	27	0.61%	42	9.70%	42
Delaware	92.64	46	89.00	46	84.84	46	78.91	46	81.62	45	4.09%	27	13.50%	27
District of Columbia (2)	222.85	1	206.45	1	192.18	2	188.38	2	178.18	2	7.94%	5	25.07%	5
Florida	111.37	33	110.78	30	106.86	31	100.42	33	93.20	35	0.53%	43	19.49%	43
Georgia	140.08	18	134.04	18	129.24	18	122.37	20	114.99	22	4.51%	23	21.82%	23
Hawaii	103.79	41	97.16	42	101.24	37	99.60	34	96.08	32	6.83%	10	8.03%	10
Idaho	111.24	34	104.07	38	98.57	39	96.70	37	94.69	34	6.89%	9	17.48%	9
Illinois (3)	109.39	38	114.33	28	114.17	26	110.24	27	109.79	24	-4.32%	51	-0.37%	51
Indiana	97.44	45	97.32	41	95.16	41	90.02	43	90.66	40	0.13%	44	7.45%	44
Iowa	105.09	40	100.69	39	97.33	40	92.64	40	92.97	36	4.37%	15	13.04%	15
Kansas	179.63	6	170.25	6	159.79	6	151.47	7	142.78	7	5.51%	16	25.81%	16
Kentucky	99.77	42	96.07	44	93.73	42	92.14	41	86.12	43	3.86%	29	15.85%	29
Louisiana	156.69	14	148.29	14	135.44	16	134.18	14	128.30	16	5.66%	15	22.13%	15
Maine	83.23	50	79.00	51	74.18	51	72.83	49	72.30	51	5.35%	17	15.12%	17
Maryland	117.06	29	113.03	29	109.92	30	102.88	31	92.78	37	3.56%	30	26.17%	30
Massachusetts (4)	121.75	24	110.54	31	113.11	27	117.21	23	106.93	28	10.15%	2	13.87%	2
Michigan	157.60	13	146.09	15	139.24	14	132.49	18	136.69	12	7.85%	6	18.23%	6
Minnesota	129.01	21	125.46	20	120.34	22	113.37	24	111.56	23	2.83%	33	15.62%	33
Mississippi	154.45	15	143.73	16	128.82	22	122.51	19	118.24	21	7.23%	8	20.62%	8
Missouri	118.25	27	118.89	23	115.07	25	112.27	25	109.42	25	-0.53%	41	9.08%	41
Montana	164.20	9	160.71	8	153.43	9	147.38	10	138.35	10	2.17%	36	18.45%	36
Nebraska	163.36	10	157.11	10	149.36	11	140.53	12	131.60	13	3.13%	26	29.61%	26
Nevada	119.47	26	117.40	25	120.39	21	117.48	22	120.86	20	1.74%	39	1.11%	39
New Hampshire	83.77	49	84.17	48	77.83	49	76.80	48	79.07	47	-0.13%	46	6.22%	46
New Jersey	183.70	5	177.44	5	168.47	5	155.53	5	141.54	4	3.40%	24	22.67%	24
New Mexico	160.54	11	158.49	9	150.16	8	147.12	11	137.51	11	1.74%	39	1.11%	39
New York (5)	185.14	2	194.73	2	193.07	1	190.52	1	187.63	1	3.94%	20	0.82%	20
North Carolina	98.48	44	92.54	48	74.69	50	71.06	51	75.12	49	6.21%	11	21.17%	11
North Dakota	164.66	8	152.76	13	140.81	13	131.93	14	125.07	17	6.21%	11	21.17%	11

Facts on Burying the deductibles

From time to time all body shop operators are faced with requests from car owners to "bury the deductible" where automobile damage is covered by collision insurance.

At this point, the car owner should be advised that before he takes his car around the corner "to a guy who will", he should consider the following points:

1. Conspiring to "bury the deductible" is committing a fraud upon an insurance company and is against the law.
2. Insurance company appraisers know the cost of repairs, as well as body shops, and cannot be fooled by inflated estimates.
3. If a shop agrees to "bury the deductible" it has to take short cuts in making the repairs, and the owner will get a second-rate job which depreciates the value of the car at trade-in time.
4. A body shop willing to cheat an insurance company will be equally willing to cheat the car owner. A body shop never really absorbs the deductible, The value is taken right out of the job, and it is the car owner who still take the loss.
5. If the body shop decides to cut corners on the job and it ends up second rate, the owner has no one to complain to if he conspired to "bury the deductible".

The smart thing for an owner to do is to protect his investment by getting a first-class job from a first-class shop and to be glad that all he has to pay is the deductible.

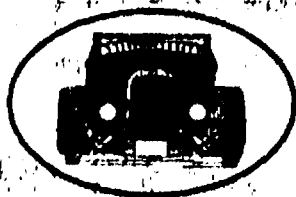
IT IS THE ONLY WAY HE CAN WIN.



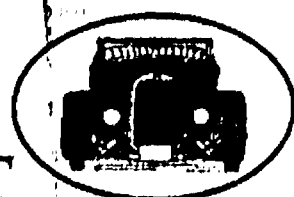
We Pay Insurance Deductibles up to \$500!

GUARANTEE ALL WORK & COLOR MATCH -

JOHN'S AUTOBODY



839-8896



4121 S BROADWAY • MINOT
JOHN ERICKSON - OWNER

AUCTIONEERS

ADAM AUCTIONEERS
7110 County Road 12 W Minot **852-3839**
BEARMAN JOHN AUCTIONEER
Ofc 1016 S Broadway Minot **838-8245**
Or **852-0503**

DENNIS BILISKE AUCTIONEERS
Complete Auction Service
"Consistently, This Area's Auction Leader Since 1985"

Now Open: 42,000 sq ft Indoor Heated
Auction Facility at Buxton, ND
www.biliskeauctioneers.com

Toll Free **1-800-726-1655**

2397 Domers Av Ste D **701-746-5305**
Grand Forks **701-663-2131**
Mandan Office **701-662-5305**
Devils Lake Office

HUSTON AUCTION SERVICE

11985 ND 5 Crosby Toll Free **1-888-579-0579**
Kongslio Lynn Auction Service
45 54th St NE Towner 537-5594
Lien Auction & Realty Service
915 Lincoln Av Harvey 324-4401
Northern Auction Co
3035 Valley St Minot 838-3733

STEFFES AUCTIONEERS INC

www.steffesauctioneers.com
28 Westrac Dr Fargo **1-800-726-8609**
Toll Free

UDIO-VISUAL EQUIPMENT SUPPLIES & PARTS

Northwest Projector
1419 2nd Ave SW Minot 838-0753
United Rentals
1200 N Broadway Minot 701-746-1200

AUDIOLOGISTS

Martin Larry MA CCC-A
101 3rd Ave SW #203 Minot 857-5562
Medical Arts Clinic PC
400 Burdick Expy E Minot 857-7954

PROFESSIONAL HEARING SERVICES

Jerry Knapp
Andrea Kelsor

MA/CCC-A - FAAA ASHA Certified Audiologists

- Hearing aid sales & service
- Hearing evaluations for infants, children & adults
- Industrial noise measurements & employee testing
- Hearing protection devices & custom earmolds

315 S Main Minot **852-6565**
Or Toll Free **1-800-735-5866**

AUTOMOBILE ACCESSORIES - CAR & TRUCK

Advanced Auto Audio & Accessories
910 24th Ave SW Minot 839-2115

AUTOMOBILE AIR CONDITIONING

Advanced Auto Audio & Accessories
910 24th Ave SW Minot 839-2115

AUTOMOBILE AIR CONDITIONING SERVICE & REPAIR

HARRY'S TIRE SERVICE

811 S Broadway Minot **838-1823**
Minot Radiator Service
202 Central Ave E
Bismarck

AUTOMOBILE ALARMS & SECURITY SYSTEMS

VIPER AUTO SECURITY
SECURITY SYSTEMS MANUFACTURER
DIRECTED

Hornet-Python-Sidewinder Alarms

Toll Free **1-800-677-1361**

AUTOMOBILE APPEARANCE & PROTECTION

Chip Guy The
1911 2nd St SE Minot 852-6444

AUTOMOBILE - AUTOMATIC & REMOTE STARTERS

Advanced Auto Audio & Accessories
910 24th Ave SW Minot 839-2115
Kaiser's Alignment & Auto Repair
1512 S Broadway Minot 852-5566

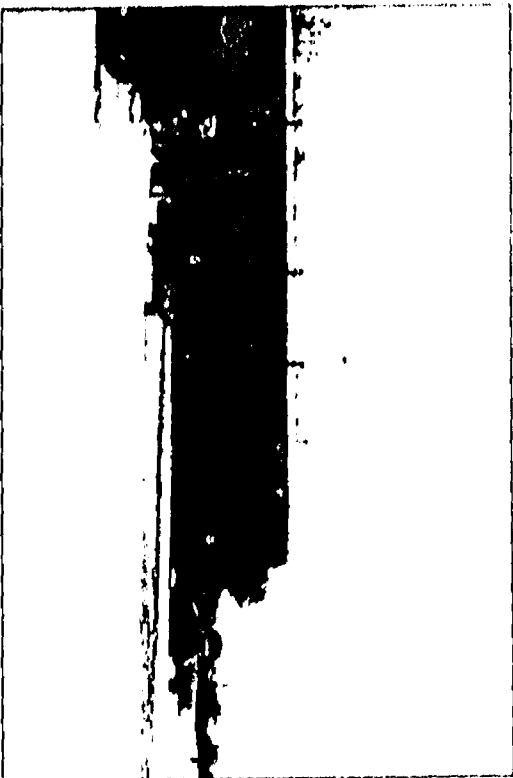
AUTOMOBILE BODY REPAIRING & PAINTING

Broadway Body Shop
1118 S Broadway Minot 839-6915
(See Ad Page 24)

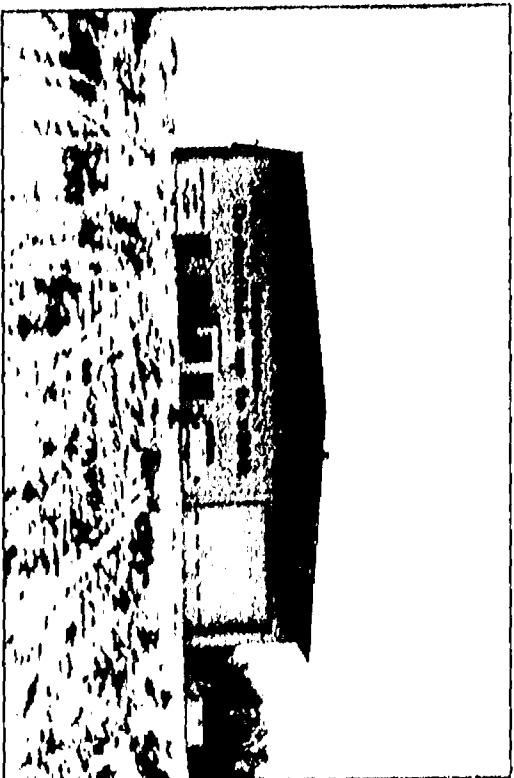
COLLISION REPAIR & PAINTING

Industrial Park Mohall **756-7150**
(Continued On Next Page)

**FIND ANYTHING YOU NEED
IN THE YELLOW PAGES**



01/26/2001: EST01:



01/26/2001: EST01:

TERRY BARNES AUTO GLASS, INC.
1030 SOUTH 22ND STREET
P.O. BOX 1681
BISMARCK, ND 58502

NOV 20 REC'D

Invoice: 16590

Date: 11/19/98

Voice: 701-222-8646
Fax: 701-255-1394

Insurance Company / Agent

Insured / Customer

INSURANCE
, ND

J.
2 .Y AVE NO
BISMARCK, ND 58501
(701) 258-1

Net Due

11/19/98

1.00	DW1176SS WINDSHIELD LIST	1,065.75	1,065.75
	\$2131.50 50% DISCOUNT		
1.00	LABOR	45.00	45.00
1.00	2-PART FAST CURE URETHANE KIT	49.90	49.90
1.00	WFS D1176 W/S MOULDING	24.75	24.75

Vehicle

Serial #

Loss Date:

Age:

Policy or Claim #

I do authorize that payment be made directly to Terry Barnes Auto Glass, Inc., P.O. Box 1681, Bismarck, ND 58502, for the amount shown above.

Date

Customer Signature

Subtotal

1,185.40

Sales Tax

68.42

Total Invoice Amount

\$1,253.82

Less Deductible -

500.00

Total Due:

\$753.82

11/19/98

STATEMENT OF LOSS

SURED

POLICY NUMBER

PA - 204 854

[illegible]



Heidi Heitkamp
ATTORNEY GENERAL

STATE OF NORTH DAKOTA
OFFICE OF ATTORNEY GENERAL

STATE CAPITOL
600 E BOULEVARD AVE
BISMARCK ND 58505-0040
(701) 328-2210 FAX (701) 328-2226

July 10, 1998

The Honorable David O'Connell
State Senator
2531 County Road 30
Lansford, ND 58750

Dear Senator O'Connell:

Thank you for your letter concerning N.D.C.C. § 51-07-24, which prohibits certain actions pertaining to insurance claims for physical damage to automobiles.

N.D.C.C. § 51-07-24 provides:

1. A person who sells goods or services may not:
 - a. Advertise or promise to provide a good or service, paid for by the consumer from proceeds of an insurance policy that provides coverage for physical damage to automobiles, and to pay all or part of any applicable insurance deductible or to pay a rebate in an amount equal to all or part of any applicable insurance deductible; and
 - b. Knowingly charge an amount for the good or service that exceeds the usual and customary charge by that person for the good or service by an amount equal to or greater than all or part of the applicable insurance deductible paid by that person on behalf of an insured or remitted to an insured by that person as a rebate.
2. A person who is insured under an insurance policy that provides coverage for physical damage to automobiles may not submit a claim under the policy based on charges that are in violation of subsection 1 or may not knowingly allow a claim in violation of subsection 1 to be submitted, unless the person promptly notifies the insurer of the excessive charges.
3. A violation of this section is a class B misdemeanor.

This office recently issued an opinion regarding this statute. 1998 N.D. Op. Att'y Gen. L-___ (April 22 letter to Rick Berg). After

The Honorable David O'Connell
July 10, 1998
Page 2

receiving a copy of this opinion, you have asked several further questions about the conduct prohibited by N.D.C.C. § 51-07-24.

Before responding specifically to your questions, I want to add a caveat to the opinions expressed in this letter. Several of your questions are phrased in terms of "[w]hat actions constitute" I cannot give you a complete, exhaustive answer to these questions because there are an indefinite number of factual situations that could be prohibited by N.D.C.C. § 51-07-24. By attempting to describe all the specific actions that would be prohibited by this statute, I might leave out other actions that could also violate the statute and give the impression that any action not listed in this letter is not a violation of N.D.C.C. § 51-07-24. Instead, I will respond to your questions with some general criteria that can be applied to a set of facts to determine if a violation of N.D.C.C. § 51-07-24 has occurred.

In addition, as explained in my earlier opinion on this statute and in the Texas Attorney General's opinion cited in the opinion, criminal statutes are construed strictly in favor of the defendant and against the government, and due process requires that criminal statutes give fair notice of the activity that is prohibited. Thus, any vagueness in the language of N.D.C.C. § 51-07-24 would be resolved in favor of the person submitting the insurance claim or providing the good or service.

You first ask who falls within the class of persons who sell goods or services under this section. As generally used throughout the North Dakota Century Code, the term "person" means "an individual, organization, government, political subdivision, or government agency or instrumentality." N.D.C.C. § 1-01-42. "'Organization' includes a foreign or domestic association, business trust, corporation, enterprise, estate, joint venture, limited liability company, limited liability partnership, limited partnership, partnership, trust, or any legal or commercial entity." *Id.* Thus, N.D.C.C. § 51-07-24 applies equally to individuals and business organizations.

The phrase "sells goods or services" is not limited to sales in the normal course of a person's business. When viewed in context, the phrase is limited to sales of goods or services that are paid for from proceeds of an insurance policy covering physical damage to an automobile.

You next ask what type of activity would constitute advertising or promising to provide a good or service and to pay a deductible or a rebate of a deductible. These terms are not defined in N.D.C.C. § 51-07-24 and must be given their plain and ordinary meaning. N.D.C.C. § 1-02-02. An advertisement is "[a] notice designed to attract public attention or patronage." The American Heritage Dictionary 82 (2d coll. ed. 1991). "Promise" is a broader term, and simply means a commitment assuring that the person selling

the goods or services will do something. Id. at 991. "Deductible" is defined as the "portion of an insured loss to be borne by the insured before [the insured] is entitled to recovery from the insurer." Black's Law Dictionary 413 (6th ed. 1990). Thus, N.D.C.C. § 51-07-24 refers to a commitment expressed by the seller, whether or not it is publicized, to provide a good or service and to pay 1) all or part of the portion of an insured loss for which an insured is responsible or 2) a rebate of any portion of a insured loss paid by an insured.

You also ask what a "rebate" is as used in N.D.C.C. § 51-07-24. "Rebate" is defined as "[a] deduction from an amount to be paid or a return of part of an amount given in payment." The American Heritage Dictionary 1031. This definition would appear to cover both a seller's payment of money and a seller's waiver of an amount owed to the seller by the insured. However, statutory terms must also be interpreted in context. N.D.C.C. § 1-02-03. "Rebate" is used in two places in N.D.C.C. § 51-07-24: an advertisement or promise to "pay a rebate" and an amount "remitted to an insured . . . as a rebate." It is my opinion that the use of these underlined terms, in conjunction with the plain meaning of "rebate," indicates that N.D.C.C. § 51-07-24 applies to actual payments of money (and does not include a "waiver" of an amount owed by an insured to a seller. This conclusion is consistent with comments in the recent opinion to Representative Berg and the Texas Attorney General's opinion indicating that the "rebate" language in N.D.C.C. § 51-07-24 does not include waiving or declining to seek payment of all or part of an amount owed to a seller.

You next ask what type of activity would constitute knowingly charging an amount that exceeds the seller's usual and customary charge. This question was answered in the recent opinion to Representative Berg, which stated:

Under subsection 1(b) of N.D.C.C. § 51-07-24, it must be established that the person who is providing the good or service charges more than that person customarily and usually charges for the good or service. This is not an industry average or what other persons in the community may charge for the same good or service. The fact that another person in the community might charge less for the good or service is irrelevant to what that person who is providing the good and service is charging.

Whether a seller's advertisement or promise to "waive" a deductible is inaccurate, because a deductible is actually an obligation of an insured person to an insurance company which cannot be waived by a seller, raises legal issues independent of the provisions of N.D.C.C. § 51-07-24. 1998 N.D. Op. Att'y Gen. at L-__ (April 22 letter to Rick Berg at pp. 2-3).

If the person who is selling a good or service usually and customarily charges \$200 or \$300 more for the good or service than other establishments and the charge to the customer does not exceed the business person's usual high charges, the fact that the payment of a deductible or rebate was advertised or promised will not result in a violation of the statute.

1998 N.D. Op. Att'y Gen. at L-___ (April 22 letter to Rick Berg at p. 2).

Your next two questions pertain to the actions of an insured that are prohibited in subsection 2 of N.D.C.C. § 51-07-24:

A person who is insured under an insurance policy that provides coverage for physical damage to automobiles may not submit a claim under the policy based on charges that are in violation of subsection 1 or may not knowingly allow a claim in violation of subsection 1 to be submitted, unless the person promptly notifies the insurer of the excessive charges.

This subsection describes two alternate offenses: an insured who submits a claim based on charges prohibited in subsection one, and an insured who knowingly allows a claim to be submitted based on charges prohibited in subsection one.

There is no culpability requirement specified in N.D.C.C. § 51-07-24 for an insured who files a claim based on excessive charges. A criminal offense that is not included in N.D.C.C. title 12.1, and for which a culpability requirement is not specified, is a strict liability offense. State v. Nygaard, 447 N.W.2d 267, 270 (N.D. 1989). Thus, it is my opinion that a violation of N.D.C.C. § 51-07-24 has occurred if an insured submits a claim which is later determined to be based on charges that violate subsection one.

The second offense in subsection two requires that an insured "knowingly" allow a claim based on excessive charges to be submitted on the insured's behalf. A person acts "knowingly," for purposes of a criminal offense, when the person knows or has a firm belief, unaccompanied by substantial doubt, that the person is performing the act. N.D.C.C. § 12.1-02-02(1)(b). Thus, for there to be a violation of subsection two when a claim containing excessive charges has been submitted to an insurer by a person other than the insured, the insured must know or have a firm belief that 1) the claim has been submitted and 2) the amount of the claim exceeds the seller's usual and customary charge for the good or service.

Whether a person has notified an insurer "promptly" is a question of fact which I cannot answer in this opinion. Subsection two

The Honorable David O'Connell
July 10, 1998
Page 5

distinguishes between claim and charges: "claim" refers to a request submitted to an insurer for payment of a seller's charges; "charges" refers to the amounts charged by a seller that are in violation of subsection one. Therefore, whether an insured has promptly notified his or her insurer is based on when the insured knew of the excessive charges and not when the insured knew that a claim had been submitted to the insurer. Accordingly, it is my opinion that an insured must notify the insurer promptly if the insured knows a seller's charges are excessive under N.D.C.C. § 51-07-24, even if a claim based on those charges has not yet been submitted to the insurer.

Your last question asks whether any North Dakota prosecutors have filed charges under N.D.C.C. § 51-07-24. This office has not prosecuted any charges under N.D.C.C. § 51-07-24, and we are not aware of any prosecutions by county state's attorneys or assistant state's attorneys under that section. However, this office is not notified of all criminal prosecutions in this state, so it is possible (although unlikely) that criminal charges have been filed for violation of N.D.C.C. § 51-07-24.

I have attempted to respond as specifically as I can to the questions you have raised. Feel free to contact my office again if you have further questions.

Sincerely,



Heidi Heitkamp
ATTORNEY GENERAL

jcf/vkk

Owner: TEST PHOTOS,

Appraiser: LANE QUANDT

1989 CAD I FLEETWOOD 8-4.5L-FI 2D Int:

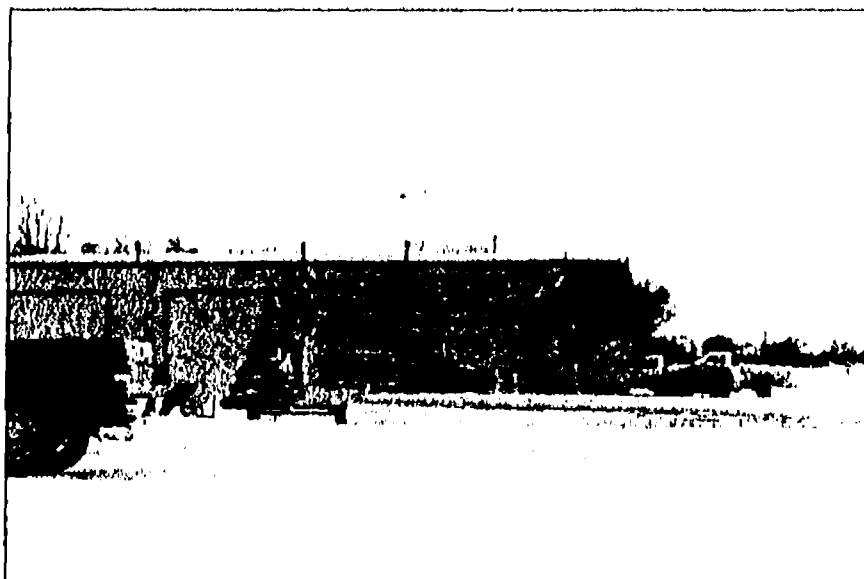
NYBAKKEN BODY SHOP

619 3RD ST NE

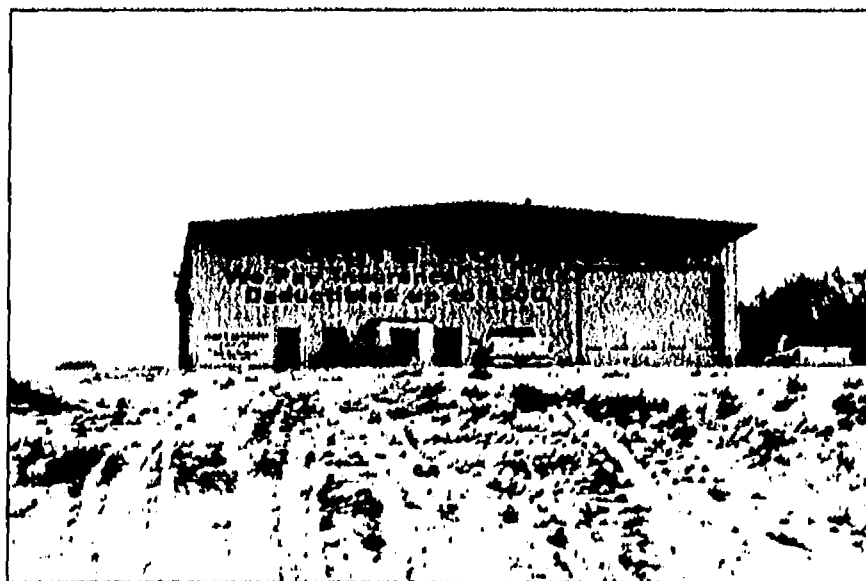
MINOT, ND 58703

Business: (701)839-1007

IMAGE REPORT



01/26/2001: EST01:



01/26/2001: EST01:

Mr. Chairman & Members of the Committee:

My name is Elton Christopherson. I am the owner of a body shop in Williston and a board member of the ND Auto Body Association.

In the state of ND, ~~the law says~~ it is against the law to waive or cover insurance deductibles. The fact is, there ^{are} no "free rides". Someone pays for that "covered-deductible", and it ends up being the consumer, with higher insur. prem..

A due pass on bill no. 1427 will close up the loopholes and will save the insurance companies & the consumer money.