

SENATE BILL No. 443

September 9, 2015, Introduced by Senator ZORN and referred to the Committee on Insurance.

A bill to amend 1956 PA 218, entitled
"The insurance code of 1956,"
(MCL 500.100 to 500.8302) by adding section 2110c.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 2110C. (1) AN ADJUSTER OR INSURER OR A DIRECTOR, OFFICER,
2 BROKER, AGENT, ATTORNEY-IN-FACT, EMPLOYEE, OR OTHER REPRESENTATIVE
3 OF AN INSURER SHALL NOT DO ANY OF THE FOLLOWING WITH RESPECT TO A
4 CLAIM UNDER AN INSURANCE POLICY FOR COLLISION DAMAGE TO AN
5 AUTOMOBILE:

6 (A) COMPEL OR COERCE THE INSURED OR CLAIMANT TO CHOOSE A
7 PARTICULAR REPAIR FACILITY, CLAIM CENTER, OR OTHER SIMILAR FACILITY
8 FOR PRESENTING THE CLAIM OR AUTOMOBILE FOR LOSS ADJUSTMENT,
9 INSPECTION, OR REPAIR, REGARDLESS OF WHETHER THE REPAIR FACILITY,
10 CLAIM CENTER, OR OTHER SIMILAR FACILITY IS UNDER THE INSURER'S
11 DIRECT CONTROL. A VIOLATION OF THIS SUBDIVISION IS A VIOLATION OF

1 SECTION 2110B(1). THIS SUBDIVISION DOES NOT PROHIBIT AN INSURER
2 FROM REQUESTING THE INSURED OR CLAIMANT TO PRESENT THE CLAIM OR
3 AUTOMOBILE FOR LOSS ADJUSTMENT OR INSPECTION AT A PARTICULAR REPAIR
4 FACILITY, CLAIM CENTER, OR OTHER SIMILAR FACILITY AFTER INFORMING
5 THE INSURED OR CLAIMANT THAT THE INSURED OR CLAIMANT IS NOT UNDER
6 AN OBLIGATION TO DO SO.

7 (B) FAIL TO INFORM THE INSURED OR CLAIMANT THAT THE INSURED OR
8 CLAIMANT HAS THE FREEDOM TO USE A REPAIR FACILITY OF THE INSURED'S
9 OR CLAIMANT'S CHOOSING, OR FAIL TO INFORM THE INSURED OR CLAIMANT
10 OF THE INSURER'S OWNERSHIP INTEREST IN, OR AGREEMENT WITH, A REPAIR
11 FACILITY, CLAIM CENTER, OR OTHER SIMILAR FACILITY AS REQUIRED BY
12 SECTION 2110B(2).

13 (C) ATTEMPT TO REVISE OR ALTER, THROUGH FORCE, INTIMIDATION,
14 FEAR, AUTHORITY, OR A BOYCOTT, AN ESTIMATE FOR REPAIRS OF A DAMAGED
15 AUTOMOBILE THAT WAS WRITTEN BY A LICENSED REPAIR FACILITY.

16 (D) ATTEMPT TO SECURE, EXCEPT IN THE INSTANCE OF IMMINENT
17 IRREPARABLE HARM AND INJURY, THE INSURED'S OR CLAIMANT'S SIGNATURE
18 AUTHORIZING THE PERSON SECURING THE SIGNATURE TO ACT IN BEHALF OF
19 THE INSURED OR CLAIMANT IN SELECTING A REPAIR FACILITY OR CLAIM
20 CENTER.

21 (E) COMMUNICATE THE NEED TO DELAY THE COMMENCEMENT OF REPAIR
22 TO ALLOW THE INSURER TO INSPECT THE AUTOMOBILE FOR MORE THAN 1 FULL
23 BUSINESS DAY FROM WHEN THE INSURED OR CLAIMANT PRESENTED THE CLAIM
24 OR AUTOMOBILE FOR LOSS ADJUSTMENT OR INSPECTION.

25 (F) DISPUTE COVERAGE OF THE LOSS WITHOUT PERFORMING A PHYSICAL
26 INSPECTION OF THE AUTOMOBILE.

27 (G) SPECIFY A NONORIGINAL EQUIPMENT MANUFACTURER AFTERMARKET

1 CRASH PART TO REPLACE A STRUCTURAL COMPONENT OF AN AUTOMOBILE,
2 INCLUDING, BUT NOT LIMITED TO, A BUMPER REINFORCEMENT, RADIATOR OR
3 CORE SUPPORT, OR ANY OTHER PART THAT AFFECTS THE STRUCTURAL
4 INTEGRITY OR AIRBAG TIMING OF THE AUTOMOBILE.

5 (H) SPECIFY A NONORIGINAL EQUIPMENT MANUFACTURER AFTERMARKET
6 CRASH PART IN THE REPAIR OF THE DAMAGED AUTOMOBILE IF THE PART IS
7 NOT CERTIFIED BY A NATIONAL TESTING BOARD TO GUARANTEE QUALITY,
8 FIT, AND CRASHABILITY.

9 (I) SPECIFY THE USE OF A PARTICULAR VENDOR TO PROCURE A PART
10 OR OTHER MATERIAL NECESSARY FOR THE SATISFACTORY REPAIR OF THE
11 AUTOMOBILE. THIS SUBDIVISION DOES NOT REQUIRE AN INSURER TO PAY
12 MORE THAN A REASONABLE MARKET PRICE FOR PARTS.

13 (J) UNILATERALLY OR ARBITRARILY DISREGARD A REPAIR OPERATION
14 OR COST IDENTIFIED BY AN ESTIMATING SYSTEM THAT THE INSURER AND
15 REPAIR FACILITY HAVE AGREED TO USE IN DETERMINING THE COST OF
16 REPAIR.

17 (K) PLACE A LIMIT ON THE MAXIMUM COST OF PAINT OR OTHER
18 MATERIALS REQUIRED TO REPAIR THE DAMAGED AUTOMOBILE. THIS
19 SUBDIVISION DOES NOT REQUIRE AN INSURER TO PAY MORE THAN A
20 REASONABLE MARKET PRICE FOR PAINT AND MATERIALS.

21 (L) DISREGARD A REPAIR FACILITY'S POSTED LABOR RATE WITHOUT
22 PROOF OF THE RANGE OF POSTED DOOR RATES AVAILABLE TO THE PUBLIC IN
23 THE MARKET.

24 (2) AN INSURED, CLAIMANT, REPAIR FACILITY OWNER, POTENTIAL
25 REPAIR FACILITY OWNER, OR PERSON AGGRIEVED BY THIS ACT MAY BRING A
26 CIVIL ACTION AGAINST AN INSURER FOR A VIOLATION OF THIS SECTION. A
27 PLAINTIFF WHO PREVAILS IN AN ACTION UNDER THIS SUBSECTION MAY

1 RECOVER BOTH OF THE FOLLOWING:

2 (A) DAMAGES IN THE AMOUNT OF 3 TIMES THE ACTUAL LOSS OR
3 \$500.00, WHICHEVER IS GREATER.

4 (B) ACTUAL ATTORNEY FEES AND COSTS.

5 (3) A COURT SHALL LIBERALLY CONSTRUE THIS SECTION TO ALLOW 1
6 OR MORE PERSONS AFFECTED BY THE VIOLATION OF THIS SECTION TO
7 COMMENCE A CLASS ACTION UNDER THE COURT RULES.

8 (4) A REMEDY PROVIDED BY THIS SECTION IS IN ADDITION TO ANY
9 OTHER RIGHT OR REMEDY AT LAW OR OTHERWISE.

10 (5) AS USED IN THIS SECTION, "NONORIGINAL EQUIPMENT
11 MANUFACTURER AFTERMARKET CRASH PART" MEANS THAT TERM AS DEFINED IN
12 SECTION 2 OF THE AFTERMARKET CRASH PARTS ACT, 1991 PA 158, MCL
13 257.1362.