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H.462

Introduced by Representative Gage of Rutland City

Referred to Committee on

Date:

Subject: Insurance; automobile; claims; fair market value

Statement of purpose of bill as introduced: This bill proposes to require an insurance company, when settling an automobile insurance claim, to base the settlement on the reasonable and necessary cost of the repair, regardless of whether the claimant elects to repair the vehicle or accept a cash award.

An act relating to automobile insurance

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 8 V.S.A. § 4203 is amended to read:

§ 4203. REQUIRED CONDITIONS

Each policy so issued and delivered shall contain in substance the following conditions:

* * *

(7) The company shall use the reasonable and necessary cost of the repair when settling a motor vehicle insurance claim, regardless of whether the insured elects to repair the vehicle or accept a cash payment.

1 Sec. 2. 8 V.S.A. § 4724(9) is amended to read:

2 (9) Unfair claim settlement practices. Committing or performing with
3 such frequency as to indicate a business practice any of the following:

4 * * *

5 (M) failing to promptly provide a reasonable explanation on the basis
6 in the insurance policy in relation to the facts or applicable law for denial of a
7 claim or for the offer of a compromise settlement;

8 (N) failing to settle an automobile insurance claim based on the
9 reasonable and necessary cost of the repair as required under section 4203
10 of this title; or sponsoring any appraiser; directing, advising, or otherwise
11 suggesting that any person do business with any independent or
12 dealer-franchised automotive repair shop; exercising control over the activities
13 of any appraiser; and fixing or otherwise controlling the prices charged by
14 automotive repair shops for the repair of damage to a motor vehicle or for
15 labor in connection therewith, by use of a flat rate.

16 Sec. 3. 8 V.S.A. § 4726 is amended to read:

17 § 4726. POWER OF COMMISSIONER; ENFORCEMENT

18 (a) The Commissioner shall have the power to examine and investigate any
19 person engaged in the business of insurance in this State in order to determine
20 whether that person has been or is engaged in any unfair method of
21 competition or in any unfair or deceptive act or practice.

1 (b) Any person violating any of the provisions of this chapter may be
2 subject to an administrative penalty of not more than \$1,000.00 for each
3 violation. The Commissioner may impose an administrative penalty of not
4 more than \$10,000.00 each for those violations the Commissioner finds were
5 wilful. The Commissioner may suspend or revoke the license of any insurer or
6 organization for any violation of this chapter or the failure to comply with an
7 order of the Commissioner issued under this chapter.

8 (c) The powers vested in the Commissioner by this chapter shall be in
9 addition to any other powers to enforce any penalties, fines, or forfeitures
10 authorized by law with respect to the methods, acts, and practices hereby
11 declared to be unfair or deceptive.

12 (d) In addition to the aforementioned enforcement powers of the
13 Commissioner specified in this section, a claimant to a policy of automobile
14 insurance who is unreasonably denied a claim for coverage or payment of
15 benefits by an insurer in violation of section 4203 of this title or in violation of
16 subdivision 4724(9)(N) of this title may bring an action in the Civil Division of
17 the Superior Court to recover the actual damages sustained, together with the
18 costs of the action, including reasonable attorney's fees and litigation costs,
19 and exemplary damages not exceeding three times the value of the actual
20 damages. Nothing in this subsection shall be construed to supersede or limit

1 the authority of the Office of the Attorney General or a State's Attorney to
2 bring civil actions for antitrust violations under 9 V.S.A. § 2453.

3 Sec. 4. EFFECTIVE DATE

4 This act shall take effect on passage.