

# HOUSE BILL 1359

C4

8lr2837

---

By: **Delegate Impallaria**

Introduced and read first time: February 8, 2008

Assigned to: Economic Matters

---

## A BILL ENTITLED

1 AN ACT concerning

2 **Insurance – Motor Vehicle Damages – Claims for Repairs and Repair Service**  
3 **Facilities**

4 FOR the purpose of altering the effect of certain provisions of law on insurers in  
5 connection with claims for repairs to motor vehicles; authorizing a claimant or  
6 insured to choose any repair service facility for the repair or replacement of  
7 property damage to a motor vehicle; requiring certain repair service facilities to  
8 make a certain disclosure to a claimant or insured at a certain time; expanding  
9 the application of certain prohibited actions to agents of an insurer; altering a  
10 certain prohibition; prohibiting an insurer, an adjuster, an appraiser, or an  
11 insurance producer, agent, or employee of an insurer from taking certain  
12 actions; altering the application of a certain penalty; establishing a certain  
13 penalty; establishing the liability of an insurer that accepts financial  
14 responsibility for a certain civil penalty; and generally relating to claims for  
15 repairs to motor vehicles and repair service facilities.

16 BY repealing and reenacting, without amendments,  
17 Article – Insurance  
18 Section 10–501  
19 Annotated Code of Maryland  
20 (2003 Replacement Volume and 2007 Supplement)

21 BY repealing and reenacting, with amendments,  
22 Article – Insurance  
23 Section 10–502, 10–503, and 10–504  
24 Annotated Code of Maryland  
25 (2003 Replacement Volume and 2007 Supplement)

26 BY adding to  
27 Article – Insurance  
28 Section 10–503.1

---

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland  
2 (2003 Replacement Volume and 2007 Supplement)

3 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
4 MARYLAND, That the Laws of Maryland read as follows:

5 **Article – Insurance**

6 10–501.

7 In this subtitle, “adjuster” or “appraiser” means a person that:

8 (1) is employed by an insurer as, solicits business as, or represents to  
9 an insurer that the person is an adjuster or appraiser of claims for loss or damage  
10 covered by a motor vehicle insurance policy; or

11 (2) under a contract, performs adjustments or appraisals for loss or  
12 damage covered by another form of security provided for under § 17–103(a)(2) of the  
13 Transportation Article.

14 10–502.

15 This subtitle does not:

16 (1) require an insurer to pay an amount for motor vehicle repair  
17 services or repair products necessary to properly and fairly repair a motor vehicle that  
18 is greater than the **SUBSTANTIATED** usual and customary charges for equivalent  
19 services or products charged by similar contractors or repair shops **THAT:**

20 **(I) ARE NOT UNDER CONTRACT WITH THE INSURER IN A**  
21 **DIRECT REPAIR PROGRAM OR OTHER SIMILAR PROGRAM; AND**

22 **(II) ARE LOCATED** within a reasonable geographic or trade area  
23 of the address of the **REPAIR SERVICE FACILITY CHOSEN BY THE** claimant or  
24 insured; or

25 (2) prohibit an insurer from [requiring] **OFFERING AN OPTION FOR** a  
26 claimant or an insured to obtain an appraisal by driving a damaged motor vehicle to a  
27 facility that is owned or leased by or under contract to the insurer and is used  
28 exclusively for damage appraisals, **UNLESS THE CLAIMANT OR INSURED HAS**  
29 **RECEIVED A WRITTEN ESTIMATE FROM OR ENTERED INTO AN AGREEMENT WITH**  
30 **ANOTHER FACILITY FOR REPAIR OF THE DAMAGE.**

31 10–503.

1           **(A) (1) A CLAIMANT OR INSURED MAY CHOOSE ANY REPAIR SERVICE**  
2 **FACILITY FOR THE REPAIR OR REPLACEMENT OF PROPERTY DAMAGE TO A**  
3 **MOTOR VEHICLE.**

4           **(2) BEFORE PROVIDING A REPAIR SERVICE OR REPAIR PRODUCT**  
5 **TO A CLAIMANT OR INSURED, A REPAIR SERVICE FACILITY THAT HAS A**  
6 **CONTRACTUAL RELATIONSHIP WITH AN INSURER UNDER A DIRECT REPAIR**  
7 **PROGRAM OR OTHER SIMILAR PROGRAM SHALL DISCLOSE THE RELATIONSHIP**  
8 **TO THE CLAIMANT OR INSURED.**

9           **[(a)] (B) An adjuster, appraiser, or insurance producer, AGENT, or**  
10 **employee of an insurer may not:**

11           (1) recommend the use of a specific repair service or source for the  
12 repair or replacement of property damage to a motor vehicle without informing the  
13 claimant or insured that the claimant or insured does not have to use the  
14 recommended repair service or source;

15           (2) require that an appraisal or repair be made in a specific repair  
16 shop;

17           (3) require that a claimant or insured use a specific contractor or  
18 repair shop for a repair service or repair product; [or]

19           (4) intimidate, coerce, or threaten a claimant or insured to use **OR**  
20 **NOT TO USE** a specific contractor or repair shop for a repair service or repair product;

21           **(5) SLANDER, DEFAME, OR MAKE FALSE REPRESENTATIONS**  
22 **ABOUT A CONTRACTOR OR REPAIR SHOP IN ORDER TO PERSUADE A CLAIMANT**  
23 **OR INSURED NOT TO USE THE CONTRACTOR OR REPAIR SHOP FOR A REPAIR**  
24 **SERVICE OR REPAIR PRODUCT;**

25           **(6) IF A CLAIMANT OR INSURED HAS INDICATED AN INTENT TO**  
26 **USE A PARTICULAR CONTRACTOR OR REPAIR SHOP, RECOMMEND ANOTHER**  
27 **CONTRACTOR OR REPAIR SHOP TO THE CLAIMANT OR INSURED; OR**

28           **(7) DELAY, OR REPRESENT THAT THERE WILL BE A DELAY, IN**  
29 **PROCESSING A CLAIM OR COMPLETING A REPAIR SERVICE SOLELY BECAUSE A**  
30 **CLAIMANT OR INSURED DID NOT CHOOSE A CONTRACTOR OR REPAIR SHOP**  
31 **RECOMMENDED BY THE ADJUSTER, APPRAISER, OR INSURANCE PRODUCER,**  
32 **AGENT, OR EMPLOYEE OF THE INSURER.**

33           **[(b)] (C) An adjuster or appraiser may not accept a gratuity or other form of**  
34 **remuneration from a repair service for recommending that repair service to a claimant**  
35 **or insured.**

1 **10-503.1.**

2 **AN INSURER MAY NOT:**

3 (1) USE A PUBLISHED ESTIMATING MANUAL, INCLUDING  
 4 AUDATEX, MITCHELL, CCC/MOTOR, OR ANY OTHER INDUSTRY ACCEPTED  
 5 ESTIMATING MANUAL, WITHOUT USING THE ESTIMATING MANUAL'S  
 6 ESTIMATING SYSTEM IN ITS ENTIRETY TO APPRAISE A MOTOR VEHICLE OR  
 7 DETERMINE REIMBURSEMENT FOR A REPAIR SERVICE OR REPAIR PRODUCT;

8 (2) REFUSE TO PAY ADEQUATE COMPENSATION FOR BODY  
 9 REPAIR AND PAINT MATERIALS USED IN A MOTOR VEHICLE REPAIR IF THE  
 10 CHARGES FOR THE MATERIALS CAN BE SUBSTANTIATED THROUGH USE OF AN  
 11 INDUSTRY ACCEPTED MATERIAL CALCULATOR; OR

12 (3) REFUSE TO PAY, LIMIT, OR DISCOUNT CHARGES FOR REPAIRS  
 13 MADE BY A REPAIR SERVICE FACILITY CHOSEN BY A CLAIMANT OR INSURED  
 14 THAT ARE DETERMINED USING AN INDUSTRY ACCEPTED ESTIMATING MANUAL'S  
 15 SYSTEM IN ITS ENTIRETY BASED ON THE CHARGES THAT WOULD HAVE BEEN  
 16 INCURRED IF THE REPAIRS HAD BEEN MADE BY A REPAIR SERVICE FACILITY  
 17 UNDER CONTRACT WITH OR RECOMMENDED BY THE INSURER.

18 **10-504.**

19 (A) [A person] AN ADJUSTER, APPRAISER, OR INSURANCE PRODUCER,  
 20 AGENT, OR EMPLOYEE OF AN INSURER that intentionally violates this subtitle is  
 21 subject to:

22 (1) a civil penalty not exceeding \$1,000 for each violation; and

23 (2) denial, suspension, or revocation of any license held under this  
 24 article.

25 (B) AN INSURER THAT INTENTIONALLY VIOLATES THIS SUBTITLE IS  
 26 SUBJECT TO:

27 (1) A CIVIL PENALTY NOT EXCEEDING \$5,000 FOR EACH  
 28 VIOLATION; AND

29 (2) DENIAL, SUSPENSION, OR REVOCATION OF ANY LICENSE HELD  
 30 UNDER THIS ARTICLE.

1           **(C) AN INSURER THAT ACCEPTS FINANCIAL RESPONSIBILITY FOR A**  
2 **CIVIL PENALTY IMPOSED UNDER SUBSECTION (A) OF THIS SECTION SHALL BE**  
3 **LIABLE FOR THREE TIMES THE AMOUNT OF THE CIVIL PENALTY.**

4           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
5 October 1, 2008.