CHAPTER 767

An Act to amend and reenact § 38.2-517 of the Code of Virginia, relating to unfair insurance settlement practices.

[H 1342]

Approved April 12, 2004

Be it enacted by the General Assembly of Virginia:

1. That § 38.2-517 of the Code of Virginia is amended and reenacted as follows:

§ 38.2-517. Unfair settlement practices; replacement and repair; penalty.

A. No person shall:

1. Require an insured or claimant to utilize designated replacement or repair facilities or services, or the products of designated manufacturers, as a prerequisite to settling or paying any claim arising under a policy or policies of insurance;

2. Engage in any act of coercion or intimidation causing or intended to cause an insured or claimant to utilize designated replacement or repair facilities or services, or the products of designated manufacturers, in connection with settling or paying any claim arising under a policy or policies of insurance;

3. Fail to disclose to the insured or claimant, prior to being referred to a third party representative in connection with a glass claim arising under a motor vehicle insurance policy, that the third party representative is not the insurer and is acting on behalf of the insurer;

~~3~~ *4.* Fail to disclose to the insured or claimant, at such time as ~~it~~ *the insurer or its third party representative* recommends the use of a designated motor vehicle replacement or repair facility or service, or products of a designated manufacturer, in connection with settling or paying any claim arising under a policy or policies of insurance, that the insured or claimant is under no obligation to use the replacement or repair facility or service or products of the manufacturer recommended by the insurer or by a representative of the insurer; or

~~4~~ *5.* Fail to disclose to the insured or claimant, at such time as it *or its third party representative* recommends the use of a designated motor vehicle replacement or repair facility in connection with settling or paying any claim arising under a policy or policies of insurance, that the insurer *or its third party representative* has a financial interest in such replacement or repair facility, if the insurer *or its third party representative* has such an interest.

B. This section shall not be construed to require an insurer to pay an amount for motor vehicle repair services or repair products necessary to properly and fairly repair the vehicle to its pre-loss condition that is greater than the prevailing competitive charges for equivalent services or products charged by similar contractors or repair shops within a reasonable geographic or trade area of the address of the repair facility. Offering an explanation of the extent of an insurer's obligation under this section to its policyholder or ~~third-party~~ *third party* claimant shall not constitute a violation of this section.

C. Any person violating this section shall be subject to the injunctive, penalty, and enforcement provisions of Chapter 2 (§ 38.2-200 et seq.) of this title. The Commission shall investigate, with the written authorization of the insured or the claimant, any written complaints received pursuant to this section, regardless of whether such written complaints are submitted by an individual or a repair facility. For the purpose of this ~~subsection~~ *section*, any insurance company utilizing a third party *representative* shall be held accountable for any violation of this section by such third party *representative*.