



New South Wales

Motor Vehicle Repairs (Anti-steering) Bill 2006

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to regulate the activities of insurers and repairers in relation to the repair of motor vehicles that are insured against accident damage.

Outline of provisions

Part 1 Preliminary

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on 1 June 2006.

Clause 3 defines certain words and expressions used in the proposed Act.

Clause 4 provides for the proposed Act to bind the Crown.

Part 2 Regulation of the motor vehicle repair industry

Division 1 Coverage under an insurance policy

Clause 5 invalidates the use, in insurance policies, of provisions that require the use of particular parts or products in the repair of the insured's motor vehicle, restrict the insured's choice of repairer or impose additional charges on an insured for choosing their own repairer.

Clause 6 invalidates the use, in agreements between insurers and repairers, of provisions that require the repairer to offer discounted prices for parts or products to be paid for by the insurer or that entitle the insurer to direct that particular motor vehicles be repaired by that repairer.

Division 2 Offences

Clause 7 prohibits an insurer from "steering" an insured towards a particular repairer, accepting kickbacks for steering an insured towards a particular repairer, requiring a repairer to use particular parts or products or making arrangements for an insured's motor vehicle to be towed to the insurer's preferred repairer.

Clause 8 prohibits an insurer from "steering" a third party claimant towards a particular repairer or requiring a third party claimant to choose particular parts or products for use in the repair of the claimant's motor vehicle.

Clause 9 allows an insurer to suggest or advise the use of a particular repairer if an insured so requests, provided that the suggestion or advice is in the form of a list of repairers from which the insured is free to choose.

Clause 10 prohibits the practice of obtaining the insured's authority to request quotations for the repair of the insured's motor vehicle, or to find and engage a repairer to repair the insured's motor vehicle, prior to the motor vehicle being towed from the scene of an accident.

Part 3 Disclosure requirements

Clause 11 requires an insurer to provide the insured with a disclosure notice, in a form to be prescribed by regulations under the proposed Act, when the insured first enters into an insurance policy with the insurer, on each occasion the policy is renewed and whenever the insured makes a claim under the policy.

Clause 12 requires an insurer to provide a third party claimant with a disclosure notice, in a form to be prescribed by regulations under the proposed Act, when the third party claimant makes a claim against the insurer.

Clause 13 prohibits an insurer from preventing a repairer from disclosing to an insured or to a third party claimant any information about the parts and products the repairer has used to repair a motor vehicle, and requires the repairer to disclose that information to an insured or third party claimant.

Part 4 Ownership interests in motor vehicle repair businesses

Clause 14 provides that, as of 1 September 2006, an insurer is prohibited from holding or acquiring an ownership interest in any motor vehicle repair business in New South Wales.

Clause 15 provides that, during the period between the commencement of the proposed Act and 1 September 2006, an insurer that has an ownership interest in a repairer must disclose that information in any disclosure notice issued by it under proposed section 11 or 12.

Part 5 Miscellaneous

Clause 16 enables the Governor to make regulations for the purposes of the proposed Act.



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New South Wales

Motor Vehicle Repairs (Anti-steering) Bill 2006

No. , 2006

A Bill for

An Act to regulate aspects relating to the repair of an insured motor vehicle following damage to the vehicle; and for other purposes.

The Legislature of New South Wales enacts: 1

Part 1 Preliminary 2

1 Name of Act 3

This Act is the *Motor Vehicle Repairs (Anti-steering) Act 2006*. 4

2 Commencement 5

This Act commences on 1 June 2006. 6

3 Definitions 7

In this Act: 8

disclosure notice means a notice referred to in section 11 or 12. 9

insurance policy means any contract of insurance between an insurer and an owner of a motor vehicle in respect of damage to that motor vehicle. 10
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insured means an owner of a motor vehicle who has entered into a contract of insurance with an insurer in respect of damage to that motor vehicle. 13
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insurer means any insurer writing motor vehicle insurance in a State or Territory and includes an insurer's affiliates, employees, agents, representatives and any other person authorised to act on its behalf. 16
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motor vehicle means a motor vehicle (other than a light rail vehicle) or trailer within the meaning of the *Road Transport (General) Act 2005*. 19
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motor vehicle accident means an accident involving one or more motor vehicles. 21
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motor vehicle repair business means a business whose main activity is the repair of motor vehicles. 23
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ownership interest, in relation to a motor vehicle repair business, means any interest in the business that gives the holder of the interest any control in the way the business operates or any share in the profits of the business. 25
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repair has the same meaning as in the *Motor Vehicle Repairs Act 1980*, and includes examine, detect faults in, adjust, carry out maintenance on, overhaul, replace, alter and paint. 29
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repairer means a person who carries on the business of repairing motor vehicles pursuant to a licence under the *Motor Vehicle Repairs Act 1980*. 32
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third party claimant means a person who makes a claim against an insured for property damage arising from a motor vehicle accident. 35
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tow has the same meaning as in the *Tow Truck Industry Act 1998*. 37

tow truck operator has the same meaning as in the *Tow Truck Industry Act 1998*.

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towing authorisation has the same meaning as in the *Tow Truck Industry Act 1998*.

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4 Act to bind Crown

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This Act binds the Crown in right of New South Wales and, in so far as the legislative power of the Parliament of New South Wales permits, the Crown in all its other capacities.

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Part 2	Regulation of the motor vehicle repair industry	1
Division 1	Coverage under an insurance policy	2
5	Prohibited limitations on coverage under an insurance policy	3
(1)	An insurer must not directly or indirectly limit its coverage under an insurance policy:	4
(a)	by specifying the brand, type, kind, age, vendor, supplier or condition of parts or products that may be used to repair the motor vehicle, or	5
(b)	by restricting the insured from choosing a repairer to repair any damage to the motor vehicle that is covered under the policy, or	6
(c)	by imposing any additional charge on the insured for opting to choose their own repairer to repair any damage to the motor vehicle that is covered under the policy.	7
(2)	A provision of an insurance policy is void to the extent to which it contravenes subsection (1).	8
6	Agreements between insurers and repairers	9
(1)	A contract between an insurer and a repairer, including an agreement under which the repairer agrees to extend discounts for parts or labour to the insurer, must not include any provision that entitles the insurer to direct an insured's vehicle to that repairer.	10
(2)	A provision of a contract is void to the extent to which it contravenes subsection (1).	11
Division 2	Offences	12
7	Prohibition of referral fees and steering	13
	An insurer must not, in connection with the repair of a motor vehicle under an insurance policy:	14
(a)	suggest to or advise an insured to choose a particular repairer to repair the motor vehicle, or have a repairer prepare a quotation for the repair of a motor vehicle, otherwise than in accordance with section 9, or	15
(b)	solicit or accept a referral fee or gratuity in exchange for referring an insured to a specific repairer, or	16
(c)	state or suggest to an insured that a specific repairer must or should be used by the insured in order for the repair to be covered under the policy, or	17

(d)	require a repairer to use a particular brand, type, kind, age, vendor, supplier or condition of parts or products in the repair of the motor vehicle, or	1 2 3
(e)	restrict an insured's right to choose a repairer by requiring the insured to travel an unreasonable distance to have the motor vehicle repaired under the policy, or	4 5 6
(f)	without the consent of the insured, make arrangements with a tow truck operator to have the motor vehicle towed directly to a repairer chosen by the insurer.	7 8 9
	Maximum penalty: 1,000 penalty units (in the case of a first offence) or 1,500 penalty units or imprisonment for 12 months or both (in the case of a second or subsequent offence).	10 11 12
8	Prohibition on requiring third party claimants to use a particular repairer or parts	13 14
	An insurer must not, in connection with the repair of a motor vehicle owned by a third party claimant:	15 16
(a)	require the third party claimant to choose a particular repairer to repair the motor vehicle, or	17 18
(b)	require the third party claimant to choose a particular brand, type, kind, age, vendor, supplier or condition of parts or products in the repair of the motor vehicle.	19 20 21
	Maximum penalty: 1,000 penalty units (in the case of a first offence) or 1,500 penalty units or imprisonment for 12 months or both (in the case of a second or subsequent offence).	22 23 24
9	Advice to insured on use of a specific repairer	25
(1)	If, without any form of prompting by the insurer, an insured asks an insurer to suggest or advise a suitable repairer to repair damage to a motor vehicle covered under an insurance policy and:	26 27 28
(a)	there are at least 6 repairers operating a licensed motor vehicle repair business within a radius of 10 kilometres from either the home of the insured or some other place nominated by the insured that the insurer considers suitable to carry out the required repairs, the insurer must provide the insured with a list of at least 6 such repairers, or	29 30 31 32 33 34
(b)	there are fewer than 6 repairers operating a licensed motor vehicle repair business within a radius of 10 kilometres from either the home of the insured or some other place nominated by the insured that the insurer considers suitable to carry out the required repairs, the insurer must provide the insured with a list of all such repairers.	35 36 37 38 39 40

- (2) If an insurer requires a second quotation for the repair of a motor vehicle, such a quotation may be obtained: 1
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- (a) from a repairer of the insured's choice, or 3
 - (b) if, without any form of prompting by the insurer, the insured asks the insurer to suggest or advise a suitable repairer to prepare the quotation, from a list of repairers provided by the insurer in accordance with subsection (1) (a) or (b), as the case requires. 4
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- 10 Prohibition on obtaining authority or agreement to repair vehicle or to prepare a quotation** 8
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- (1) A person must not obtain or attempt to obtain from another person the other person's authority or agreement: 10
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- (a) for the preparation of a quotation for the repair of a motor vehicle that has been involved in an accident, or 12
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 - (b) to find and engage a repairer to repair a motor vehicle that has been involved in an accident, 14
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- before the motor vehicle has been towed to the destination specified in the towing authorisation or to another destination in accordance with the *Tow Truck Industry Act 1998*. 16
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- (2) Subsection (1) (a) applies regardless of on whose behalf the offering, obtaining or attempting is done. 19
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- Maximum penalty: 50 penalty units (in the case of a first offence) or 100 penalty units or imprisonment for 12 months or both (in the case of a second or subsequent offence). 21
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Part 3	Disclosure requirements	1
11	Requirement to provide insured with a disclosure notice	2
(1)	An insurer must provide the insured with a disclosure notice in the prescribed form:	3
(a)	within 5 business days of the date on which the insured enters into an insurance policy with the insurer, and	4
(b)	within 5 business days of the date of the renewal of the insurance policy, and	5
(c)	at the time the insured makes a claim under the insurance policy.	6
	Maximum penalty: 50 penalty units (in the case of a first offence) or 100 penalty units or imprisonment for 12 months or both (in the case of a second or subsequent offence).	7
(2)	An insurer is taken to have complied with subsection (1) (c) if:	8
(a)	in the case of a claim made in person, the insurer provides the insured with a disclosure notice at the time the claim is made, or	9
(b)	in the case of a claim made over the telephone, the insurer:	10
(i)	reads the following disclosure statement to the insured at the time the claim is made:	11
	<i>“By law, you have the right to select where your vehicle is repaired and the parts used for repairs. However, we are not required to pay more than a reasonable amount for those repairs and parts.”</i> , and	12
(ii)	provides the insured with a disclosure notice within 5 business days of the claim being made, or	13
(c)	in the case of a claim made in writing, the insurer provides the insured with a disclosure notice within 5 business days of the claim being made.	14
12	Requirement to provide third party claimant with a disclosure notice	15
(1)	An insurer must provide a third party claimant with a disclosure notice in the prescribed form at the time the third party claimant makes a claim against the insurer.	16
	Maximum penalty: 50 penalty units (in the case of a first offence) or 100 penalty units or imprisonment for 12 months or both (in the case of a second or subsequent offence).	17
(2)	An insurer is taken to have complied with subsection (1) if:	18
(a)	in the case of a claim made in person, the insurer provides the third party claimant with a disclosure notice at the time the claim is made, or	19

- (b) in the case of a claim made over the telephone, the insurer: 1
 - (i) reads the following disclosure statement to the third party 2
claimant at the time the claim is made: 3
*“By law, you have the right to select where your vehicle is 4
repaired and the parts used for repairs. However, we are 5
not required to pay more than a reasonable amount for 6
those repairs and parts.”*, and 7
 - (ii) provides the third party claimant with a disclosure notice 8
within 5 business days of the claim being made, or 9
- (c) in the case of a claim made in writing, the insurer provides the 10
third party claimant with a disclosure notice within 5 business 11
days of the claim being made. 12

13 Information about repairs 13

- (1) An insurer must not prohibit a repairer from disclosing to an insured or 14
a third party claimant information about the parts or products the 15
repairer has used in the repair of the insured’s or third party claimant’s 16
motor vehicle and a repairer must disclose to an insured or third party 17
claimant such information about parts or products the repairer has used 18
in the repair of the insured’s or third party claimant’s motor vehicle. 19
Maximum penalty: 50 penalty units (in the case of a first offence) or 100 20
penalty units or imprisonment for 12 months or both (in the case of a 21
second or subsequent offence). 22
- (2) For the purposes of subsection (1), the information that must be 23
disclosed includes a description of the parts or products, the 24
manufacturer of the parts or products, the source of the parts or products 25
and the amounts charged to the insurer for the parts or products and 26
associated labour. 27

Part 4	Ownership interests in motor vehicle repair businesses	1
		2
14	Prohibition on the holding or acquiring of an ownership interest in a motor vehicle repair business	3
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	From 1 September 2006, an insurer may not hold or acquire any ownership interest in a motor vehicle repair business located in New South Wales.	5
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	Maximum penalty: 1,000 penalty units (in the case of a first offence) or 1,500 penalty units or imprisonment for 12 months or both (in the case of a second or subsequent offence).	8
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15	Transitional arrangements for insurers holding an ownership interest in a motor vehicle repair business	11
		12
(1)	This section applies during the period that commences on the commencement of this Act and ends at the beginning of 1 September 2006.	13
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(2)	If an insurer holds an ownership interest in any motor vehicle repair business in New South Wales, the insurer:	16
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(a)	must disclose its interest to the insured in any disclosure notice provided to the insured in accordance with this Act, and	18
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(b)	must not stipulate the sources from which that motor vehicle repair business must obtain parts or products, and	20
		21
(c)	must not supply parts to that motor vehicle repair business, and	22
(d)	must not offer an incentive or provide compensation to a person in exchange for the person referring an insured to that motor vehicle repair business.	23
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	Maximum penalty: 1,000 penalty units (in the case of a first offence) or 1,500 penalty units or imprisonment for 12 months or both (in the case of a second or subsequent offence).	26
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Clause 16 Motor Vehicle Repairs (Anti-steering) Bill 2006

Part 5 Miscellaneous

Part 5 Miscellaneous

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16 Regulations

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The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

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