

# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

400D0328

## HOUSE ENGROSSED NO. **SB33** - 2/15/00

Introduced by: The Committee on Commerce at the request of the Department of Commerce  
and Regulation

1 FOR AN ACT ENTITLED, An Act to define the duty of insurers and rights of consumers with  
2 regard to auto insurance damage claims.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 58-12 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 For the purposes of this Act, paintless dent repair is any auto body repair that removes minor  
7 dents by using specifically designed tools to manipulate and flex the metal from the backside of  
8 the dent without the necessity of sanding, priming, or painting.

9 Section 2. That chapter 58-12 be amended by adding thereto a NEW SECTION to read as  
10 follows:

11 Any insurer providing commercial or personal motor vehicle insurance in this state  
12 responsible for repairing a damaged vehicle for which it is liable shall provide sufficient  
13 compensation to the insured to restore the vehicle to substantially the same physical condition  
14 as prior to the damage, regardless of whether the insured actually chooses to repair the vehicle.  
15 The insurer may adjust claims based in whole or in part upon the paintless dent repair method  
16 if:

- 1 (1) The damage is such that the paintless dent repair method is likely to place the  
2 damaged area or a portion thereof in substantially the same condition as prior to the  
3 damage;
- 4 (2) A paintless dent repair shop holding a South Dakota sales tax license is willing to  
5 perform the work as estimated within a reasonable time frame in the local market area  
6 of the insured; and
- 7 (3) The written estimate provided to the insured prominently discloses the following:
  - 8 (a) That the repair estimate is based in whole or in part upon the paintless dent  
9 repair method. Each item of damage adjusted using that method shall be  
10 identified;
  - 11 (b) That paintless dent repair may not be the appropriate repair method for all  
12 types of damage;
  - 13 (c) That, if the insurer is liable for the damage listed on the estimate, the insurer  
14 shall provide sufficient compensation to restore the vehicle to substantially the  
15 same physical condition; and
  - 16 (d) That for any damage which paintless dent repair is appropriate, the insured may  
17 choose not to repair the vehicle or to have the vehicle repaired using a different  
18 method of repair. If the insured chooses either of these options, the insurer is  
19 liable only for the cost of the paintless dent repair method.

20 However, if the insurer pays the claim based upon the paintless dent repair method and  
21 paintless dent repair was attempted but was unsuccessful, the insurer is liable for any repairs  
22 necessary to the area repaired by paintless dent repair, using the conventional method of repair,  
23 to restore the vehicle to substantially the same physical condition as prior to the damage.

24 Section 3. If, for any portion of the vehicle's damage that the insurer has a duty to repair, the  
25 paintless dent repair method is inappropriate, the insurer shall compensate the insured for the

1 amount necessary to complete the repairs in the local market area of the insured. The insurer may  
2 not require the insured to travel an unreasonable distance to obtain a repair estimate or to have  
3 the vehicle repaired. The insurer may not name a repair shop as payee on a compensation check  
4 or draft unless agreed to by the insured.

5 Section 4. An insurer may comply with section 2 of this Act by entering into an agreement  
6 with a repairer that guarantees repairs and by notifying the insured of such an agreement.

1 **BILL HISTORY**

2 1/11/00 First read in Senate and referred to Commerce. S.J. 20

3 1/13/00 Scheduled for Committee hearing on this date.

4 1/13/00 Commerce Do Pass Amended, Passed, AYES 5, NAYS 0. S.J. 36

5 1/13/00 Commerce Place on Consent Calendar.

6 1/18/00 Senate Do Pass Amended, Passed, AYES 33, NAYS 1. S.J. 75

7 1/19/00 First read in House and referred to Commerce. H.J. 151

8 2/3/00 Scheduled for Committee hearing on this date.

9 2/3/00 Commerce Do Pass, Passed, AYES 13, NAYS 0. H.J. 403

10 2/3/00 Commerce Place on Consent Calendar.

11 2/7/00 House of Representatives Deferred to another day. H.J. 470

12 2/8/00 House of Representatives Deferred to another day. H.J. 512

13 2/9/00 House of Representatives Deferred to another day. H.J. 550

14 2/10/00 House of Representatives Deferred to another day. H.J. 594

15 2/11/00 House of Representatives Deferred to another day. H.J. 622

16 2/14/00 Motion to Amend, Passed. H.J. 641

17 2/14/00 House of Representatives Do Pass Amended, Passed, AYES 66, NAYS 1. H.J. 642