

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

400D0328

SENATE COMMERCE COMMITTEE ENGROSSED NO. **SB33** - 1/14/00

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 If, for any portion of the vehicle's damage that the insurer has a duty to repair, the paintless
21 dent repair method is inappropriate, the insurer shall compensate the insured for the amount
22 necessary to complete the repairs in the local market area of the insured. The insurer may not
23 require the insured to travel an unreasonable distance to obtain a repair estimate or to have the
24 vehicle repaired. The insurer may not name a repair shop as payee on a compensation check or
25 draft unless agreed to by the insured.

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.