

BILL ANALYSIS

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S.B. 1300
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In May 2010, the Texas Department of Insurance (TDI) conducted a survey of the top five personal automobile insurers in Texas. The survey was designed to gather from the companies updated information regarding automobile claim payments. Of particular interest were direct repair facilities and/or preferred repair shops.

Based on the survey results, the percentage of initial automobile claims with repairs made at direct repair facilities in 2009, ranged from 18 percent to 50 percent. Current Texas law, in the Insurance Code and the Administrative Code, addresses prohibited acts in connection with the repair of motor vehicles and outlines notice requirements and claimants' rights concerning motor vehicle repairs.

However, TDI still receives complaints that insurers steer claimants to preferred repair shops, and this practice can restrict consumer discretion. According to TDI, current law does not provide consistent regulation among insurers. County mutual insurers, for example, which represent approximately 45 percent of the Texas personal automobile insurance market, are not required to comply with the statutes and rules regarding the repair of motor vehicles.

As part of its *Biennial Report of the Texas Department of Insurance to the 82nd Legislature*, TDI recommends certain remedies, each of which are included in S.B. 1300, including requiring insurers to provide written notice to claimants outlining its policies and procedures for claims and repair processes performed at direct repair facilities and non-direct repair facilities, including how those procedures, processes, and claims payments may differ; making county mutual insurers subject to Sections 1952.301 through 1952.307, Insurance Code; and requiring insurers to provide a written disclosure upon request to automobile repair facilities outlining the requirements to become a contracted direct repair facility.

As proposed, S.B. 1300 amends current law relating to insurer restrictions regarding repair of a motor vehicle covered under an insurance policy.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioner of insurance in SECTION 2 (Section 1952.304, Insurance Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 1952.301(a), Insurance Code, as follows:

(a) Prohibits an insurer, except as provided by rules adopted by the commissioner of insurance (commissioner), under an automobile insurance policy that is delivered, issued for delivery, or renewed in this state, from directly or indirectly limiting the insurer's coverage under a policy covering damage to a motor vehicle by:

- (1) specifying the brand, type, kind, age, vendor, supplier, or condition of parts or products that may be used to repair the vehicle;
- (2) specifying maximum labor charges for the repair of the vehicle; or

(3) limiting the beneficiary of the policy to selecting a repair person or facility to repair damage to the vehicle from a list provided to the beneficiary by the insurer, rather than limiting the beneficiary of the policy from selecting a repair person or facility to repair damage to the vehicle.

SECTION 2. Amends Section 1952.304, Insurance Code, as follows:

Sec. 1952.304. PROVISION OF INFORMATION REGARDING REPAIRS. (a) Requires the insurer, at the time a motor vehicle is presented to an insurer, insurance adjuster, or other person in connection with a claim for damage repair, to provide the claimant with written notice describing the insurer's policies and procedures for repair processes and claims payments for direct repair facilities and nondirect repair facilities. Requires that the notice include an explanation of how the insurer's policies and procedures for repair processes and claims payments for direct repair facilities and nondirect repair facilities differ.

(b) Creates this subsection from existing text. Makes no further changes to this subsection.

(c) Authorizes the commissioner to adopt rules establishing the method or methods insurers are required to use to comply with this section.

SECTION 3. Amends Subchapter G, Chapter 1952, Insurance Code, by adding Sections 1952.308 and 1952.309, as follows:

Sec. 1952.308. APPLICABILITY OF SUBCHAPTER. Provides that this subchapter applies to an insurer authorized to write automobile insurance in this state, including an insurance company, reciprocal or interinsurance exchange, mutual insurance company, capital stock company, county mutual insurance company, Lloyd's plan, or other entity.

Sec. 1952.309. DISCLOSURE TO AUTOMOBILE REPAIR FACILITY. Requires an insurer to provide an automobile repair facility that submits a written request with a written disclosure explaining the requirements to become a contracted direct repair facility with that insurer not later than the 30th day after the date the insurer receives the request.

SECTION 4. (a) Makes application of Section 1952.301 (Limitation on Parts, Products, or Repair Persons or Facilities Prohibited), Insurance Code, as amended by this Act, prospective to an automobile insurance policy delivered, issued for delivery, or renewed on or after the effective date of this Act.

(b) Provides that to the extent Section 1952.301, Insurance Code, as amended by this Act, applies to an insurer under Section 1952.308, Insurance Code, as added by this Act, to whom Section 1952.301 did not apply immediately before the effective date of this Act, Section 1952.301 applies only to a policy delivered, issued for delivery, or renewed by the insurer on or after the effective date of this Act.

(c) Provides that to the extent Section 1952.303, Insurance Code, applies to an insurer under Section 1952.308, Insurance Code, as added by this Act, to whom Section 1952.303 did not apply immediately before the effective date of this Act, Section 1952.303 applies only to a contract entered into by the insurer on or after the effective date of this Act.

SECTION 5. Effective date: September 1, 2011.