

SUBJECT: Allowing insurance companies to recover for personal injuries

COMMITTEE: Insurance — committee substitute recommended

VOTE: 8 ayes — Smithee, Seaman, Eiland, Isett, B. Keffer, Taylor, Thompson,
Van Arsdale

0 nays

1 absent — Oliveira

WITNESSES: For — None

Against — Steve Mostyn, Texas Trial Lawyers Association

BACKGROUND: Insurance Code, Art. 5.06-3(a), requires an automobile liability insurance policy to include personal injury protection coverage unless the named insured rejects such coverage in writing. Under subsec.(c), personal injury protection benefits are payable whether or not the named insured was at fault for the accident. An insurer who pays such benefits has no right of subrogation and may not attempt to recover those benefits from any other person or insurer based on the alleged fault of the other driver in causing the accident in which the insured was injured.

DIGEST: CSHB 1572 would give an insurer who had paid personal injury protection benefits a right of subrogation and to allow such an insurer to file a claim against the driver responsible for the accident if the driver was uninsured at the time of the accident.

The bill also would allow an insurer that sued an uninsured driver relating to a vehicle accident for which that driver was responsible to recover the costs of bringing the suit, including reasonable attorney's fees, in addition to recovering payments made by the insurer to the insured.

The bill would take effect September 1, 2005.

- SUPPORTERS SAY:** Under current law, an insurer who pays personal injury protection benefits to one of its insured drivers may not attempt to recover any of those funds from an uninsured driver who was at fault for the accident. Uninsured drivers should not be able to escape liability for their reckless actions, and CSHB 1572 would ensure that they would not.
- OPPONENTS SAY:** People who drive without insurance are typically low-income workers who cannot afford to purchase auto insurance. Allowing an insurance company to sue such a person to recover damages and attorney's fees would put an unbearable burden on a person who could not afford even a small monthly payment for insurance.
- NOTES:** HB 1572 as introduced would have allowed an insurer to recover the costs of providing personal injury protection coverage benefits if the driver who caused or contributed to the accident was insured by an insurer not authorized to engage in business in Texas.