

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 1538
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Business & Commerce
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Background:

Under current Section 1952.301, Insurance Code, an insurer is not required to use a particular part, product, or repair process in the effort to return an insured's motor vehicle to its pre-damaged condition after damage to the motor vehicle. There is considerable debate about the varying degree of quality and safety of parts, products, and repair processes between those of an original equipment manufacturer and the aftermarket and when a particular part, product, or repair process should be used.

Solution:

Given that the goal of these repairs is to return the motor vehicle to its pre-damaged condition, protect the motoring public, and meet the insured's expectations, S.B. 1538 seeks to require the use of an original equipment manufacturer's part, product, and repair process on a motor vehicle with an unexpired original equipment manufacturer's warranty. This provision will create a bright line test for the repair industry and prevent jeopardizing an insured's warranty on the motor vehicle. The bill also provides that if a covered repair requires an original equipment manufacturer's part or product that is no longer manufactured to restore the motor vehicle to its pre-damaged condition, the insurer must approve a part or product that is of like kind and quality to the original equipment manufacturer's manufactured part or product.

(Original Author's/Sponsor's Statement of Intent)

C.S.S.B. 1538 amends current law relating to insurer restrictions and duties regarding repair of a motor vehicle covered under an insurance policy.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

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

Sec. 1952.301. New heading: LIMITATIONS AND DUTIES REGARDING REPAIR OF MOTOR VEHICLE. (a) Defines "new motor vehicle" and "non-original equipment."

(b) Provides that, under an automobile insurance policy that is delivered, issued for delivery, or renewed in this state, for damage to a motor vehicle that has been owned by the insured for 36 months or less and that was a new motor vehicle when delivered to the insured, an insurer:

(1) is required to require that a part, product, or repair process used to repair the vehicle be the original equipment manufacturer's or distributor's part, product, or repair process, unless the insured opts to use non-original equipment in accordance with Subsection (f); and

(2) is prohibited from limiting the beneficiary of the policy from selecting a repair person or facility to repair damage to the vehicle.

(c) Creates this subsection from existing text. Prohibits an insurer, 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 that has been owned by the insured for more than 36 months by:

(1) specifying the brand, type, kind, age, vendor, supplier, or condition of parts or products or the repair process that are authorized to be used to repair the vehicle; or

(2) makes no changes to this subdivision.

Deletes existing text creating an exception as provided by rules adopted by the commissioner of insurance.

(d) Provides that, in settling a liability claim by a third party against an insured for property damage claimed by the third party for damage to the third party's motor vehicle that has been owned by the third party for 36 months or less and that was a new motor vehicle when delivered to the third party, an insurer:

(1) is required to require that a part, product, or repair process used to repair the vehicle be the original equipment manufacturer's or distributor's part, product, or repair process, unless the third-party claimant opts to use non-original equipment in accordance with Subsection (f); and

(2) is prohibited from requiring the third-party claimant to use a particular repair person or facility to repair damage to the vehicle.

(e) Creates this subsection from existing text. Prohibits an insurer, in settling a liability claim by a third party against an insured for property damage claimed by the third party to a motor vehicle that has been owned by the insured for more than 36 months, from requiring the third-party claimant to have the motor vehicle repairs made by a particular repair person or facility or to use a particular brand, type, kind, age, vendor, supplier, or condition of parts or products or a particular repair process.

(f) Authorizes an insured or third-party claimant to opt to accept the use of non-original equipment in the repair of the insured's or claimant's motor vehicle by signing a written disclosure. Requires that the disclosure:

(1) be signed before repair of the motor vehicle begins;

(2) be delivered as an attachment to a written estimate provided for the repair of the vehicle;

(3) be written in at least a 12-point font; and

(4) include certain language as set forth in this subdivision.

(g) Prohibits an insurer that delivers, issues for delivery, or renews an automobile insurance policy in this state from requiring or requesting that a repair person or facility use any specific percentage of non-original equipment in the repair of a motor vehicle.

SECTION 2. Makes application of this Act prospective to January 1, 2022.

SECTION 3. Effective date: September 1, 2021.