

SUBJECT: Prohibiting insurers from requiring repair work at certain body shops

COMMITTEE: Insurance — committee substitute recommended

VOTE: 9 ayes — Smithee, Van de Putte, Averitt, Bonnen, Burnam, Eiland, G.
Lewis, Olivo, Wise

0 nays

WITNESSES: *(On original version of HB 423):*
For — Durward Curlee and Nela Gilbert, Texas Collision Association; Greg
Green, Texas Glass Association; David Ford, Automotive Service
Association of Texas; Joe Castillo

Against — Joe R. Naylor and Robert Watkins, State Farm Insurance Co.;
Jay Thompson, Association of Fire Casualty Co. of Texas

On — Lyndon Anderson, Texas Department of Insurance

BACKGROUND : The 72nd Legislature amended the Insurance Code to prohibit insurance
companies from limiting coverage by specifying the brand, type, kind, age
or condition of parts or products to be used in repairing a damaged vehicle
or limiting the beneficiary from selecting a person or shop to make the
repairs.

DIGEST: *(Floor substitute to be offered by Rep. Farrar):*
The author's floor substitute to CSHB 423 would prohibit an insurer from
requiring that a third-party claimant have repairs made by a particular person
or facility. The bill also would prohibit insurers from requiring the use of a
particular brand, type, kind, age, vendor, supplier, or condition of parts or
products and from soliciting or accepting a referral fee or gratuity in
exchange for referring a beneficiary to a repair facility.

An insurer could not suggest either orally or in writing to a beneficiary that a
specific repair facility on a preferred list must be used in order to obtain
coverage, or from restricting a beneficiary's right to choose a facility by
requiring travel to an unreasonable distance to repair the damage.

The floor substitute would also prohibit contracts between an insurer and a repair facility that would result in reduced coverage under the insured's auto insurance policy. Insurers could not prohibit a repair facility from providing a beneficiary or third-party claimant with information regarding the description, manufacturer, or source of the parts used and the amounts charged to the insurer for the parts and labor.

The insurer would have to provide notice of these provisions to the beneficiary or third-party claimant in accordance with rules adopted by the Insurance Commissioner. Any person, including a repair person, could submit a written complaint of violations to the Texas Department of Insurance. The commissioner could adopt rules on fraudulent activity.

The bill would take effect September 1, 1997.

**SUPPORTERS
SAY:**

The floor substitute to HB 423 is a compromise approach to strengthening and clarifying current provisions of the Insurance Code regarding the right of a beneficiary or claimant to select a repair facility and replacement parts. Most consumers are not aware of their right to choose a repair shop or the brand, type or condition of the parts used to repair the vehicle. Consumers may not be complaining because most are unaware of their rights under the law and may not know substandard parts are being used to repair their vehicles.

True customer choice in many cases is precluded because some customers are led to believe that they have to use a repair shop on a preferred list because the insurance company otherwise will not guarantee the work or because other shops do not meet certain standards. The use of preferred lists by insurance companies also inhibits competition because only the shops on the list get the bulk of the repair work. Three major insurance companies have almost 80 percent of the insurance market.

In addition, some companies have blackballed body shops for telling the consumer that the insurance company is only willing to pay for aftermarket parts that do not fit as well as the original manufacturer's parts. Because of their honesty, these body shops never get another insurance job. The floor substitute would address this problem by stating that an insurer may not

prohibit a repair person or facility from providing the beneficiary with information describing the parts used and the amounts charged.

The floor substitute would further protect Texas consumers by prohibiting kickbacks for repair referrals, contracts between insurers and repair shops that result in sub-standard repairs, and implications from insurers that only repairs performed at preferred shops located at unreasonable distances are covered under a policy.

The floor substitute also would offer protections to insurers that are honestly trying to provide efficient and economical service. The bill as originally filed would have prohibited an insurance company from suggesting a certain shop to a consumer even if the consumer requested information regarding body shops in the area. The floor substitute would simply prohibit an insurer from suggesting that a certain shop on a preferred list must be used in order for the repairs to be covered by the policy.

The original version of the bill and the committee substitute would have defined a violation of this chapter as an unfair method of competition or a deceptive act under article 21.21 of the Insurance Code, which would have opened the door to class action suits and possibly inconsistent court interpretations that could eventually lead to an increase in premiums for the consumer. The floor substitute would simply authorize the commissioner to adopt rules under 21.21 to enforce this bill. The floor substitute also would not prohibit an insurer from guaranteeing any work performed by any particular body shop.

**OPPONENTS
SAY:**

This bill may be unnecessary because relatively few consumers are complaining about the current system. Most complaints are coming from auto body repair shops and glass shops that do not meet quality standards and therefore are not on the “preferred lists” of insurance companies.