

## **BILL ANALYSIS**

Senate Research Center

H.B. 423  
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Economic Development  
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Engrossed

### **DIGEST**

Currently, Article 5.07-1 of the Insurance Code prohibits 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 policyholder from selecting a person or shop to make the repairs. Most consumers are unaware of their right to choose a repair shop or the type of parts used to repair their vehicle. Consumers may also be led to believe that they have to use a repair shop on a preferred list because the insurance company will not guarantee the work or other shops do not meet certain standards. This bill would prohibit an insurer from limiting coverage under a motor vehicle policy by specifying the vendor or supplier that may be used or limiting the beneficiary from selecting a repair person or facility. Additionally, this bill would require insurers to provide notice of the beneficiary or third-party claimant in accordance with rules adopted by the commissioner of insurance.

### **PURPOSE**

As proposed, H.B. 423 prohibits an insurer from limiting coverage under a motor vehicle policy by specifying the vendor or supplier that may be used or limiting the beneficiary from selecting a repair person or facility. This bill requires insurers to provide notice to the beneficiary or third-party claimant in accordance with rules adopted by the commissioner of insurance.

### **RULEMAKING AUTHORITY**

Rulemaking authority is granted to the commissioner of insurance in SECTION 1 (Articles 5.07-1(a), (e), and (i), Insurance Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Article 5.07-1, Insurance Code, as follows:

Art. 5.07-1. New heading: REPAIR OF MOTOR VEHICLES; DISCLOSURE OF CONSUMER INFORMATION. (a) Prohibits an insurer, except as provided by rules duly adopted by the commissioner of insurance (commissioner), rather than the board of insurance, under an auto insurance policy that is delivered, issued for delivery, or renewed in this state, from limiting its coverage under a policy covering damage to a motor vehicle by specifying, among other items, the vendor or supplier of parts or products that may be used to repair the vehicle or by limiting the beneficiary of the policy from selecting a repair person or facility to repair damage to the motor vehicle covered under the policy.

(b) Prohibits an insurer, an employee of an insurer, an agent of an insurer, a solicitor of insurance for an insurer, an insurance adjuster, or an entity that employs a insurance adjuster, in connection with the repair of damage to a motor vehicle covered under an auto insurance policy, from soliciting or accepting a referral fee or gratuity in exchange for referring a beneficiary or third-party claimant to a repair person or facility to repair damage; from stating or suggesting to a beneficiary that a specific repair person or facility or a repair person or facility identified on a preferred list compiled by an insurers must be used by a beneficiary in order for the damage repair or parts replacement to be covered by the policy; or from restricting a beneficiary's or third-party claimant's right to choose a repair person or facility by requiring the beneficiary or third-party claimant to travel an

unreasonable distance to repair the damage.

(c) Prohibits a contract between an insurer and a repair person or facility from resulting in a reduction of coverage under the insured's auto insurance policy.

(d) Prohibits an insurer from prohibiting a repair person or facility from providing a beneficiary or third-party claimant with information that states the description, manufacturer, or source of the parts used and the amounts charged to the insurer for the parts and related labor.

(e) Requires the insurer or insurance adjuster or other person, at the time the vehicle is presented to an insurer or an insurance adjuster or other person in connection with a claim for damage repair, to provide to the beneficiary or third-party claimant notice of the provisions of this article. Requires the commissioner to adopt a rule establishing the method or methods insurers shall use to comply with the notice provisions in this subsection.

(f) Authorizes any beneficiary, third-party claimant, or repair person or facility to submit a written, documented complaint to the Texas Department of Insurance with respect to an alleged violation of this article.

(g) Prohibits an insurer, in the settlement of liability claims by a third party against an insured for property damage claimed by the third party, from requiring the third-party claimant to have 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.

(h) Authorizes the commissioner to exercise the rule-making authority under Article 21.21-2 of this code with respect to any fraudulent activity of any part of an agreement described by Subsection (c) of this article.

(i) Makes conforming changes.

SECTION 2. Effective date: September 1, 1997.

SECTION 3. Emergency clause.